

ITEM 9
FINAL STAFF ANALYSIS
PROPOSED PARAMETERS AND GUIDELINES

Education Code Section 76300

California Code or Regulations, Title 5, Sections 58501-58503;
58611- 58613, 58620, 58630

Enrollment Fee Collection and Waivers (99-TC-13 and 00-TC-15)

Los Rios and Glendale Community College Districts, Claimants

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Enrollment Fee Collection and Waivers (99-TC-13 and 00-TC-15)

Los Rios and Glendale Community College Districts, Claimants

EXECUTIVE SUMMARY

On April 24, 2003, the Commission adopted the Statement of Decision for *Enrollment Fee Collection and Waivers (99-TC-13 and 00-TC-15)*. The Commission found that the test claim legislation constitutes a new program or higher level of service and imposes a reimbursable state-mandated program upon community college districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.¹ Accordingly, the Commission approved this test claim for the following reimbursable activities:

- Calculating and collecting the student enrollment fee for each student enrolled except for nonresidents, and except for special part-time students cited in section 76300, subdivision (f). (Ed. Code, § 76300, subs. (a) & (b); Cal. Code Regs., tit. 5, §§ 58501, 58502 & 58503.)
- Waiving student fees in accordance with the groups listed in Education Code section 76300, subdivisions (g) and (h).
- Waiving fees for students who apply for and are eligible for Board of Governors' (BOG) fee waivers. (Cal. Code Regs., tit. 5, §§ 58612, 58613 & 58620.)
- Reporting to the Community Colleges Chancellor (CCC) the number of and amounts provided for BOG fee waivers. (Cal. Code Regs., tit. 5, § 58611.)
- Adopting procedures that will document all financial assistance provided on behalf of students pursuant to chapter 9 of title 5 of the California Code of Regulations; and including in the procedures the rules for retention of support documentation which will enable an independent determination regarding accuracy of the district's certification of need for financial assistance. (Cal. Code Regs., tit. 5, § 58630, subd. (b).)

¹ Exhibit B.

The Commission found that all other test claim statutes and regulations not cited above do not impose reimbursable state-mandated activities within the meaning of article XIII B, section 6 and Government Code section 17514.

Discussion

Staff reviewed the claimant's proposed parameters and guidelines and the comments received. Non-substantive, technical changes were made for purposes of clarification, consistency with language in recently adopted parameters and guidelines, and conformity to the Statement of Decision and statutory language. Substantive changes were made to Section IV. Reimbursable Activities, Section V. Claim Preparation and Submission, and Section VII. Offsetting Savings and Reimbursements.

These are the outstanding issues:

Training

The claimants proposed reimbursement for training district staff on the procedures for collection and waiver of enrollment fees. Department of Finance recommended that the training language be narrowed to specify that only new directors, managers, coordinators, and officers in charge of the day-to-day operations of the financial aid office be trained, and that training be limited to the training offered by the Chancellor's Office. Staff agreed to the changes. On January 4, 2005, the claimant responded to the training restrictions, stating that they were too narrow, and prohibit reimbursement for training some of the employees who implement the mandate.

Staff reviewed the Chancellor's Office website and the 2005-2006 Board of Governor's Fee Waiver Program and Special Programs Manual.² The Chancellor's office provides training twice per year to community college staff on the enrollment fee and enrollment waiver programs. The language in the Chancellor's manual requires new directors/managers/coordinators/officers in charge of day-to-day operations to attend this training. The manual also encourages assistant directors and other management, supervisory or professional staff to attend this training.

The manual indicates that staff below the professional level are not trained. Therefore, by limiting the language in the parameters and guidelines as the Department of Finance recommends, reimbursement for *all* employees who implement the mandate would not be allowed. Since staff finds that providing training once per employee is reasonably necessary to carry out the mandate, we removed the restrictive language, and instead stated that reimbursement is allowed for all employees who implement the mandate.

Offsetting Savings

Staff included language to describe the offsets that claimants would be required to take when filing reimbursement claims. The claimant stated that changes to the language were necessary to clarify that some of the offsets became effective prior to July 5, 2000 and some became effective after July 5, 2000. Staff made these clarifying changes. The Chancellor's Office website indicates the existence of additional budget augmentations that community college districts

² <http://www.cccco.edu/divisions/ss/financial_assist/attachments/bogfw_manual_0506.doc> as of January 13, 2006. This language in the 2005-2006 fee waiver manual is the same as in the 2001-2002 fee waiver manual already in the record for the Statement of Decision.

received for the enrollment waiver program. Therefore, staff added these augmentations as additional offsetting savings.³

Staff Recommendation

Staff recommends that the Commission adopt the proposed parameters and guidelines, as modified by staff, beginning on page 9.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

³ <http://www.cccco.edu/divisions/ss/financial_assist/attachments/bfap_sfaa_form2.doc> as of January 13, 2006.

Claimants

Los Rios and Glendale Community College Districts

Chronology

- 08/30/02 Commission on State Mandates (Commission) issues notice to consolidate test claims⁴
- 04/24/03 Commission adopted Statement of Decision
- 05/09/03 Claimant submitted proposed parameters and guidelines
- 02/13/04 The Department of Finance (DOF) submitted comments
- 06/22/05 Claimant submitted request to proceed without uniform cost allowance
- 12/23/05 Draft staff analysis issued
- 01/04/06 Claimant submits comments on the draft staff analysis
- 01/13/06 Final staff analysis and proposed parameters and guidelines issued

Summary of the Mandate

On April 24, 2003, the Commission adopted the Statement of Decision for *Enrollment Fee Collection and Waivers* (99-TC-13 and 00-TC-15). The Commission found that the test claim legislation constitutes a new program or higher level of service and imposes a reimbursable state-mandated program upon community college districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.⁵ Accordingly, the Commission approved this test claim for the following reimbursable activities:

- Calculating and collecting the student enrollment fee for each student enrolled except for nonresidents, and except for special part-time students cited in section 76300, subdivision (f). (Ed. Code, § 76300, subs. (a) & (b); Cal. Code Regs., tit. 5, §§ 58501, 58502 & 58503.)
- Waiving student fees in accordance with the groups listed in Education Code section 76300, subdivisions (g) and (h).
- Waiving fees for students who apply for and are eligible for Board of Governors' (BOG) fee waivers. (Cal. Code Regs., tit. 5, §§ 58612, 58613 & 58620.)
- Reporting to the Community Colleges Chancellor (CCC) the number of and amounts provided for BOG fee waivers. (Cal. Code Regs., tit. 5, § 58611.)
- Adopting procedures that will document all financial assistance provided on behalf of students pursuant to chapter 9 of title 5 of the California Code of Regulations; and including in the procedures the rules for retention of support documentation which will enable an independent determination regarding accuracy of the district's certification of need for financial assistance. (Cal. Code Regs., tit. 5, § 58630, subd. (b).)

⁴ Exhibit A.

⁵ Exhibit B.

The Commission found that all other test claim statutes and regulations not cited above do not impose reimbursable state-mandated activities within the meaning of article XIII B, section 6 and Government Code section 17514.

Discussion

Staff reviewed the claimant's proposed parameters and guidelines⁶ and the comments received. Non-substantive, technical changes were made for purposes of clarification, consistency with language in recently adopted parameters and guidelines, and conformity to the Statement of Decision and statutory language.

Substantive changes were made to the following sections of the claimant's proposed parameters and guidelines:

IV. Reimbursable Activities

One-Time Activities

- *Policies and Procedures.* The claimant proposed that the activities of preparing and updating policies and procedures be reimbursable activities. Staff found that preparing policies and procedures is reasonable to comply with the mandate. However, staff finds that updates to the policies and procedures would be subject to changes in the community college district's policy rather than state law, and would not be reimbursable. Therefore, staff modified this section to delete updating the policies and procedures and to specify that preparation of policies and procedures is a one-time activity.
- *Training.* The claimant proposed the activity of training district staff on the procedures for the collection and waiver of enrollment fees to be reimbursable. In their comments, DOF recommended modifications to the language to identify the staff to be trained and specify that the training be offered by the Chancellor's Office. Staff accepted DOF's language. The claimant responds in its comments submitted on January 4, 2006, that while the Chancellor's Office requires some employees to attend training, it does not train all of the staff that implement the mandate. Therefore, if the training language were restricted to directors and managers, reimbursement for all of the employees who implement the mandate would not be allowed. In addition, because the Chancellor's Office cannot offer training to all personnel, restricting reimbursement for training by the Chancellor's Office would also result in the community college districts not being reimbursed for training all employees who implement the mandate.

Staff finds that, considering the complexity of the program activities, training is warranted for both enrollment fee collection and waivers as a one-time activity per employee, and therefore, is the most reasonable method to comply with the mandate.⁷

Staff reviewed the Chancellor's Office website, the Community College Board of Governor's Fee Waiver Program and Special Programs, 2000-2001⁸ and 2005-2006 Program Manual⁹ on

⁶ Exhibit C.

⁷ California Code of Regulations, title 2, section 1183.12, subdivision (b)(2).

⁸ Exhibit E.

enrollment fee waivers. The Chancellor's office provides training twice a year to community college staff on the enrollment fee and enrollment waiver programs. The language in the Chancellor's manual requires new directors/managers/coordinators/officers in charge of day-to-day operations to attend this training. The manual also encourages assistant directors and other management, supervisory or professional staff to attend this training. Lower level employees are not trained. Staff agrees with claimant that by limiting the language in the parameters and guidelines to that found in the Chancellor's manual, reimbursement for *all* employees who implement the mandate would not be allowed.

Therefore, staff removed the restrictive language.

For both the policies and procedures and training activities, the claimant proposed using the phrase "and for the implementation of the mandate." In comments dated February 13, 2004, DOF requested that this phrase be removed because it is unclear what this language would include.¹⁰ Staff agreed that this language is vague, and deleted it accordingly.

Ongoing Activities

- *Enrollment Fee Collection.* The claimant proposed several activities that are typically required for complying with the activity of calculating and collecting the student enrollment fee. No comments were received objecting to most of these activities. Staff also found that the activities appear to be reasonably necessary to comply with the mandate. Therefore, staff retained the activities as proposed by the claimant, except as noted below:
 - The claimant proposed reimbursement for providing written notice to students of the prevailing enrollment fee payment requirements. Staff finds that this activity is undefined, potentially over broad, and there is nothing currently in the record to explain why it is reasonably necessary to carry out the mandate. Therefore, staff deleted the activity.
 - In its proposed activity for calculating the total enrollment fee to be collected, the claimant includes processing credit card and other non-cash payment transactions as reimbursable activities. Staff finds that the staff time for accepting any kind of payment is reimbursable. However, the payment methods the community college districts choose to accept is at their discretion and not a requirement in statute or regulations. The cost of processing credit card and other non-cash payment transactions is a normal cost of doing business. Therefore, staff modified the language to specify that any bank or credit cards fees imposed on community college districts for using credit cards are not reimbursable.
 - The claimant also proposed that answering student questions or referring students to the appropriate person for an answer is a reimbursable activity. DOF suggested language limiting this activity to only fee collection and fee waivers issues to limit reimbursement to the activities approved in the Statement of Decision. Staff agreed

⁹ <http://www.cccco.edu/divisions/ss/financial_assist/attachments/bogfw_manual_0506.doc> as of January 13, 2006. This language in the 2005-2006 fee waiver manual is the same as in the 2001-2002 fee waiver manual already in the record for the Statement of Decision.

¹⁰ Exhibit D.

with DOF and listed this “question answering” activity separately under both the Enrollment Fee Collection and Enrollment Fee Waiver sections.

Moreover, the claimant’s proposal included language describing offsetting savings. Staff deleted this language from the reimbursable activities section and moved it to Section VII, Offsetting Savings and Reimbursements.

- *Enrollment Fee Waiver.* The claimant’s proposal did not include the specific activity identified in the Statement of Decision regarding adopting procedures that document all financial assistance provided on behalf of students. Therefore, staff inserted this activity.

As a separate activity, the claimant proposed reimbursement for recording and maintaining records that document all of the financial assistance provided to students for the payment of waiver of enrollment fees in order to enable an independent determination of the district’s certification of the need for financial assistance. DOF recommended deleting this activity, stating that record retention is an ineligible activity as a result of the claimant’s request to withdraw the *Board of Governor’s Fee Waiver Program and Special Programs, 2000-2001 Program Manual* at the March 27, 2003 hearing on this test claim.

Staff notes that although the claimant withdrew this manual, record retention is included in the regulations that were approved by the Commission as part of the mandated program. California Code of Regulations, title 5, section 58630, subdivision (b), requires adoption of procedures to document all financial assistance provided on behalf of students, including rules for retention of support documentation that will enable an independent determination regarding accuracy of the district’s certification or need for financial assistance. Staff reviewed the Final Statement of Reasons from the regulation package submitted to Office of Administrative Law by the Chancellor’s Office for section 58630.¹¹ Staff finds that, in addition to adopting procedures to document all financial assistance provided on behalf of students, including rules for retention of supporting documents, the process of actually documenting the financial assistance and retaining supporting documentation is also reimbursable. Therefore, staff did not delete this activity. Staff did, however, remove it as an independent activity and integrated it into this section.

Under the Enrollment Fee Waiver section, the claimant proposed several activities that are typically required for complying with the activity of waiving student fees. No comments were received objecting to most of these activities. Staff also found that the activities appear to be reasonably necessary to comply with the mandate. Therefore, staff retained the activities as proposed by the claimant, except as noted below:

- As with Enrollment Fee Collection above, the claimant proposed reimbursement for providing written notice to students of the prevailing enrollment fee waiver requirements and the forms required to apply for a waiver. As above, staff finds that this activity is undefined, potentially over broad, and there is nothing currently in the record to explain why it is reasonably necessary to carry out the mandate. Therefore, staff deleted the activity.
- As explained above, staff added the “question answering” activity separately under both the Enrollment Fee Collection and Enrollment Fee Waiver sections.

¹¹ Exhibit F.

Moreover, the claimant's proposal included language describing offsetting savings. Staff deleted this language from the reimbursable activities section and moved it to Section VII, Offsetting Savings and Reimbursements.

Section V. Claim Preparation and Submission

At the public hearing on March 27 2003, the Commission directed staff to work on a uniform cost allowance for this program. As of June 22, 2005, the claimant had not obtained data that would allow for the development of a reasonable reimbursement methodology and requested the Commission to proceed with actual costs for this program.¹² Therefore, staff recommends that the parameters and guidelines for this program be based on actual costs. Accordingly, staff inserted language in this section consistent with language in recently adopted parameters and guidelines.

Section VII. Offsetting Savings and Reimbursements

The claimant's proposal included language under Enrollment Fee Collection and Enrollment Fee Waiver describing the offsetting savings for each of the programs. DOF suggested modifications to this language for clarification. To ensure an accurate explanation of the offsets, staff revised the language to track the statute and Statement of Decision and moved the language under this section.

The claimant stated in its response to the draft staff analysis, that changes to the language were necessary to clarify that some of the offsets became effective prior to July 5, 2000 and some became effective after July 5, 2000. Staff made these clarifying changes. The Chancellor's Office website indicates the existence of additional budget augmentations that community college districts received for the enrollment waiver program.¹³ Therefore, staff added these augmentations as additional offsetting savings.

Staff Recommendation

Staff recommends that the Commission adopt the proposed parameters and guidelines, beginning on page 9.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

¹² Exhibit G.

¹³ <http://www.cccco.edu/divisions/ss/financial_assist/attachments/bfap_sfaa_form2.doc> as of January 13, 2006.

**CLAIMANT'S PROPOSED PARAMETERS AND GUIDELINES,
AS MODIFIED BY STAFF**

Education Code Sections 76300

California Code of Regulations, Title 5, CCR, Sections 58501- 58503;

58611- 58613, 58620, 58630

Title 5, CCR, Section 58502

Title 5, CCR, Section 58503

Title 5, CCR, Section 58611

Title 5, CCR, Section 58612

Title 5, CCR, Section 58613

Title 5, CCR, Section 58620

Title 5, CCR, Section 58630

Statutes of 1995, Chapter 308

Statutes of 1996, Chapter 63

Statutes of 1999, Chapter 72

CSM 99-TC-13 & 00-TC-15

ENROLLMENT FEE COLLECTION AND WAIVERS

Enrollment Fee Collection and Waivers (99-TC-13 and 00-TC-15)

Los Rios and Glendale Community College Districts, Claimants

I. SUMMARY OF THE MANDATE

Per Statement of Decision Claimant Los Rios Community College District (LRCCD), submitted the Enrollment Fee Collection test claim (99-TC-13) in June 2000 alleging a reimbursable state mandate for community college districts by requiring specific new activities and costs related to collecting enrollment fees. Claimant Glendale Community College District (GCCD) submitted the Enrollment Fee Waivers (00-TC-15) test claim in May 2001 alleging a reimbursable state mandate for community college districts by requiring specific new activities and costs related to granting fee waivers, Board of Governor's (BOG) Grants and financial assistance to students. In August 2002, the Enrollment Fee Collection and Enrollment Fee Waiver test claims were consolidated.

On April 24, 2003, the Commission on State Mandates (Commission) adopted the Statement of Decision for the Enrollment Fee Collection and Waivers program. The Commission found that the test claim legislation constitutes a new program or higher level of service and imposes a reimbursable state-mandated program on community college districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. Accordingly, the Commission approved this test claim for the following reimbursable activities:

- Calculating and collecting the student enrollment fee for each student enrolled except for nonresidents, and except for special part-time students cited in section 76300, subdivision (f). (Ed. Code, § 76300, subs. (a) & (b); Cal. Code Regs., tit. 5, §§ 58501, 58502 & 58503.)

- Waiving student fees in accordance with the groups listed in Education Code section 76300, subdivisions (g) and (h).
- Waiving fees for students who apply for and are eligible for BOG fee waivers. (Cal. Code Regs., tit. 5, §§ 58612, 58613 & 58620.)
- Reporting to the Community Colleges Chancellor (CCC) the number of and amounts provided for BOG fee waivers. (Cal. Code Regs., tit. 5, § 58611.)
- Adopting procedures that will document all financial assistance provided on behalf of students pursuant to chapter 9 of title 5 of the California Code of Regulations; and including in the procedures the rules for retention of support documentation which will enable an independent determination regarding accuracy of the district's certification of need for financial assistance. (Cal. Code Regs., tit. 5, § 58630, subd. (b).)

The Commission found that all other test claim statutes and regulations not cited above do not impose reimbursable state-mandated activities within the meaning of article XIII B, section 6 and Government Code section 17514.

II. ELIGIBLE CLAIMANTS

Any community college districts which that incurs increased costs as a direct result of this reimbursable state mandated program is/are eligible to claim reimbursement of those costs.

III. PERIOD OF REIMBURSEMENT

Per Statement of Decision and Commission boilerplate. Reimbursement begins July 1998, except for the enrollment fee waiver process, which begins July 1999. Government Code section 17557 states that a test claim must be submitted on or before June 30 following a given fiscal year to establish eligibility for reimbursement for that fiscal year. The test claim for *Enrollment Fee Collection* (99-TC-13) was filed in June 2000, and the test claim for *Enrollment Fee Waivers* (00-TC-15) was filed in May 2001. Thus, costs incurred for compliance with *Enrollment Fee Collection* are reimbursable on or after July 1, 1998, and costs incurred for compliance with *Enrollment Fee Waivers* are reimbursable on or after July 1, 1999.

Actual costs for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Government Code section 17561, subdivision (d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the claiming instructions.

If the total costs for a given year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the

event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant, the following activities are eligible for reimbursement:

A. Enrollment Fee Collection (Reimbursement Period begins July 1, 1998)

1. One-Time Activities

1.a. Policies and Procedures

~~Prepare and update as necessary district policies and procedures for the collection of enrollment fees and the determination of which students are eligible for waiver of the enrollment fee, and for the implementation of the mandate.~~

1.b. Staff Training (One-time per employee)

~~Training district staff that implement the program on the procedures for the collection of enrollment fees and determination of which students are eligible for waiver of the enrollment fee, and for the implementation of the mandate.~~

2. On-Going Activities

- a. Calculating and ~~The entire process of collecting the student enrollment fee for each student enrolled, except for nonresidents, and except for special part-time students cited in section 76300, subdivision (f). (Ed. Code, §76300, subs. (a) & (b); Cal. Code Regs., tit. 5, §§ 58501, 58502 & 58503) (B.C. 76004).~~ The process may be different for each district, but typically This includes:

~~A. Providing written notice to students of the prevailing enrollment fee payment requirements:~~

- 1.i. Referencing student accounts and records to determine course workload, status of payments, and eligibility for fee waiver. Printing a list of enrolled courses.
- 1.ii. Calculating the total enrollment fee to be collected. Identifying method of payment. Collecting cash and making change as necessary. Processing credit card and other non-cash payment transactions (however, any fees that may be charged to a community college district by a credit card company or bank are not reimbursable). Preparing a receipt for payment received.

- ≡iii. Answering student's questions regarding enrollment fee collection or referring them to the appropriate person for an answer.
- ≡iv. Updating written and computer records for the enrollment fee information and providing a copy to the student. Copying and filing enrollment fee documentation.
- ≡v. Collecting delinquent enrollment fees, including written or telephonic collection notices to students, turning accounts over to collection agencies, or small claims court action.
- ≡vi. For students who establish fee waiver eligibility after the enrollment fee has been collected, providing a refund of enrollment fees paid and updating student and district records as required. (Refund process for change in program is not reimbursable).

~~The cost of this component is subject to an offset of two percent of the total enrollment fees waived as a credit calculated by the State Chancellor, but, only to the extent that this revenue continues to be received by the district from the state.~~

B. Enrollment Fee Waiver (BOG, et al.) (Beginning July 1999) (Reimbursement Period begins July 1, 1999):

1. One-Time Activities)

a. Policies and Procedures

Prepare district policies and procedures for determining which students are eligible for waiver of the enrollment fees.

b. Staff Training (One-time per employee)

Training district staff that implement the program on the procedures for determining which students are eligible for waiver of the enrollment fee.

2. Ongoing Activities

- a. Adopting procedures that will document all financial assistance provided on behalf of students pursuant to chapter 9 of title 5 of the California Code of Regulations; and including in the procedures the rules for retention of support documentation that will enable an independent determination regarding accuracy of the district's certification of need for financial assistance. (Cal. Code Regs., tit. 5, § 58630, subd. (b).)

Recording and maintaining records that document all of the financial assistance provided to students for the waiver of enrollment fees in a manner that will enable an independent determination of the district's certification of the need for financial assistance. (Cal. Code Regs., tit. 5, § 58630, subd. (b).)

- b. ~~Waiving student fees in accordance with groups listed in The entire process of determining eligibility for enrollment fee waivers as provided for by Education Code section 76300, (subdivisions (g), and (h), i, j, k, and l)~~ Waiving fees for students who apply for and are eligible for BOG fee waivers (Cal. Code Regs., tit.

~~588 58612, 58613 & 58620). The process may be different for each district, but typically~~This includes:

- ~~• Providing written notice to students of the prevailing enrollment fee waiver requirements and the forms required to apply for a waiver.~~
 - i. Answering student's questions regarding enrollment fee waivers or referring them to the appropriate person for an answer.
 - ii. Receiving of waiver applications from students by mail, fax, computer online access, or in person, or in the form of eligibility information processed by the financial aid office.
 - iii. Evaluating each application and verification documents (dependency status, household size and income, SSI and TANF/CalWorks, etc.) for compliance with eligibility standards utilizing information provided by the student, from the student financial aid records (e.g., Free Application for Federal Student Aid (FAFSA)), and other records.
 - iv. In the case of an incomplete application or incomplete documentation, notify the student of the additional required information and how to obtain that information. Hold student application and documentation in suspense file until all information is received.
 - v. In the case of an approved application, copy all documentation and file the information for further review or audit. Entering the approved application information into district records and /or notifying other personnel performing other parts of the process (e.g., cashier's office). Providing the student with proof of eligibility or an award letter, and file paper documents in the annual file.
 - vi. In the case of a denied application, reviewing and evaluating additional information and documentation provided by the student ~~when if~~ the denial is appealed by the student. Provide written notification to the student of the results of the appeal or any change in eligibility status.

~~The cost of this component is subject to an offset calculated by the State Chancellor as seven percent of the total enrollment fees collected prior to FY 1999-2000, and thereafter, \$.91 per credit unit of enrollment fee waived, but only to the extent that this revenue continues to be received by the district from the state.~~

5. Record Retention

~~Recording and maintaining records which document all of the financial assistance provided to students for the payment of waiver of enrollment fees in a manner which will enable an independent determination of the district's certification of the need for financial assistance.~~

3. State Reporting

Reporting to the CCC the number of and amounts provided for BOG fee waivers. (Cal Code Regs., tit. 5, § 58611.)~~Preparing and submitting financial and management information data and reports to the state agencies at specified times each year regarding the type and number of waivers approved and the amounts waived.~~

V. CLAIM PREPARATION AND SUBMISSION

~~Commission boilerplate for the rest of the document. Claimant will respond to current boilerplate when it is drafted into the document by the Commission staff.~~

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. Attach a copy of the contract to the claim. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the dates when services were performed and itemize all costs for those services.

4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1, Salaries and Benefits, for each applicable reimbursable activity.

6. Training

Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element A.1, Salaries and Benefits, and A.2, Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element A.3, Contracted Services.

B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

Community colleges have the option of using: (1) a federally approved rate, utilizing the cost accounting principles from the Office of Management and Budget Circular A-21, "Cost Principles of Educational Institutions"; (2) the rate calculated on State Controller's Form FAM-29C; or (3) a 7% indirect cost rate.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter¹ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

¹ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

VII. OFFSETTING SAVINGS AND REIMBURSEMENTS

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, services fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

Enrollment Fee Collection Program:

The costs of the Enrollment Fee Collection program are subject to an offset of two percent (2%) of the revenue from enrollment fees (Ed. Code, § 76000, subd. (c)).

Enrollment Fee Waiver Program:

The costs of the Enrollment Fee Waiver program are subject to the following offsets:

The cost of this component is subject to an offset of two percent of the total enrollment fees waived as a credit calculated by the State Chancellor, but, only to the extent that this revenue continues to be received by the district from the state.

The cost of this component is subject to an offset calculated by the State Chancellor as seven percent of the total enrollment fees collected prior to FY 1999-2000, and thereafter, \$.91 per credit unit of enrollment fee

July 1, 1999 to July 4, 2000:

• For low income students² or recipients of public assistance,³ or dependents or surviving spouses of National Guard soldiers killed in the line of duty,⁴ as defined:

- o an offset identified in Education Code section 76300, subdivision (m), that requires the Community College Board of Governors, from funds in the annual budget act, to allocate to community colleges two percent (2%) of the fees waived, under subdivisions (g) [low income students, as defined, or specified recipients of public assistance] and (h) [dependents or surviving spouses of

² "[A]ny student who demonstrates eligibility according to income standards established by the board of governors and contained in Section 58260 of Title 5 of the California Code of Regulations." (Ed. Code, § 76300, subd. (g)(2).)

³ "[A]ny student who, at the time of enrollment, is a recipient of benefits under the Temporary Assistance to Needy Families program, the Supplemental Security Income/State Supplementary Program, or a general assistance program or has demonstrated financial need in accordance with the methodology set forth in federal law or regulation for determining the expected family contribution of students seeking financial aid." (Ed. Code, § 76300, subd. (g)(1).)

⁴ "[A]ny student who, at the time of enrollment is a dependent, or surviving spouse who has not remarried, of any member of the California National Guard who, in the line of duty and while in the active service of the state, was killed, died of a disability resulting from an event that occurred while in the active service of the state, or is permanently disabled as a result of an event that occurred while in the active service of the state. "Active service of the state," for the purposes of this subdivision, refers to a member of the California National Guard activated pursuant to Section 146 of the Military and Veterans Code." (Ed. Code, § 76300, subd. (h).)

California National Guard soldiers killed in the line of duty, as defined] of section 76300; and

- For determination of financial need and delivery of student financial aid services, on the basis of the number of low income students (as defined) or recipients of public assistance (as defined), or dependents or surviving spouses of National Guard soldiers killed in the line of duty, for whom fees are waived:
 - from funds provided in the annual State Budget Act, the board of governors shall allocate to community college districts, pursuant to this subdivision, an amount equal to seven percent (7%) of the fee waivers provided pursuant to subdivisions (g) [low income students, as defined, or specified recipients of public assistance] and (h) [dependents or surviving spouses of California National Guard soldiers killed in the line of duty, as defined].⁵

Beginning July 5, 2000:

- For low income students (as defined, or recipients of public assistance (as defined) or dependents or surviving spouses of National Guard soldiers killed in the line of duty, for whom fees are waived (as defined):
 - an offset identified in Education Code section 76300, subdivision (m), that requires the Community College Board of Governors, from funds in the annual budget act, to allocate to community colleges two percent (2%) of the fees waived, under subdivisions (g) [low income students, as defined, or specified recipients of public assistance] and (h) [dependents of California National Guard soldiers killed in the line of duty as defined] of section 76300;
- For determination of financial need and delivery of student financial aid services, on the basis of the number of low income students (as defined) or recipients of public assistance (as defined) for whom fees are waived
 - requires -the Board of Governors to allocate from funds in the annual State Budget Act ninety-one cents (\$0.91) per credit unit waived pursuant to subdivisions (g) [low income students, as defined, or specified recipients of public assistance] and (h) [dependents of California National Guard soldiers killed in the line of duty as defined]
- Any budget augmentation received under the Board Financial Assistance Program Administrative Allowance, or any other state budget augmentation received for administering the fee waiver program.

⁵ These waiver provisions were subsequently expanded to waive fees for children of law enforcement personnel or firefighters killed in the line of duty (Ed. Code, § 76300, subd. (i)), or dependents of victims of the September 11, 2001 terrorist attacks (Ed. Code, § 76300, subd. (j)), but these parameters and guidelines do not include those waiver recipients because they were added by Statutes 2002, chapter 450 and are outside the scope of the Statement of Decision.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (d), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.

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COMMISSION ON STATE MANDATES

980 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
PHONE: (916) 323-3562
(916) 445-0278
E-mail: csmlinfo@csm.ca.gov



August 30, 2002

Mr. Keith Petersen, President
SixTen and Associates
5252 Balboa Avenue, Suite 807
San Diego, CA 92117

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

RE: **Notice of Consolidation of Test Claims**
Enrollment Fee Collection, 99-TC-13,
Los Rios Community College District, Claimant
Education Code Section 76300; Statutes 1984xx, Chapter 1, et al; California Code
of Regulations, Title 5, Sections 58500 – 58508

Enrollment Fee Waivers, 00-TC-15
Glendale Community College District, Claimant
Education Code Section 76300; Statutes 1984xx, Chapter 1, et al; California Code
of Regulations, Title 5, Sections 58600, 58601, 58610-58613, 58620, 58630.
Executive Orders of the California Community Colleges Chancellor's Office.

Dear Mr. Petersen:

Los Rios Community College District and Glendale Community College District have filed two test claims alleging reimbursable state mandates for activities performed by community college districts related to enrollment fee collection and fee waivers.

There is similarity and overlap between the two test claims, including shared Education Code sections. Accordingly, I am consolidating the two claims pursuant to my authority under title 2, section 1183.06 (c) of the Commission's regulations. For future correspondence and analysis, the test claims shall be collectively named 99-TC-13 and 00-TC-15, *Enrollment Fee Collection and Waivers*. If you disagree with this action, you may appeal the decision pursuant to title 2, section 1183.08 (d) of the Commission's regulations.

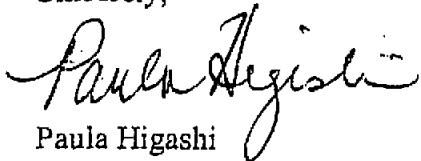
The Commission has already issued a draft staff analysis on the 99-TC-13 and is awaiting comments. The Commission has tentatively scheduled the combined test claim for hearing and determination. The hearing will be held in Sacramento on **November 21, 2002** at 9:30 a.m., in the State Capitol, Room 126. Please note: The Commission does not favor continuances. Requests for continuance must comply with Commission rules and will be granted only upon a clear showing of good cause.

Mr. Keith Petersen
August 30, 2002
Page 2

The new draft staff analysis will be issued on or about September 16, 2002, and comments will be due on October 8, 2002.

If you have any questions, please contact Eric Feller, Commission Counsel, at (916) 323-8221.

Sincerely,



Paula Higashi
Executive Director

cc: Mailing List
enclosure

J:\MANDATES\1999\tc\99tc13\consolidate.doc

MAILED: Mail List FAXED: _____
DATE: 8-30-02 INITIAL: CD
CHRON: _____ FILE: _____
WORKING BINDER: _____

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Education Code Section 76300; Statutes 1984xx, Chapter 1; Statutes 1984, Chapters 274 and 1401; Statutes 1985, Chapters 920 and 1454; Statutes 1986, Chapters 46 and 394; Statutes 1987, Chapter 1118; Statutes 1989, Chapter 136; Statutes 1991, Chapter 114; Statutes 1992, Chapter 703; Statutes 1993, Chapters 8, 66, 67, and 1124; Statutes 1994, Chapters 153 and 422; Statutes 1995, Chapter 308; Statutes 1996, Chapter 63; and Statutes 1999, Chapter 72; California Code of Regulations, Title 5, Sections 58500 – 58508.

Filed on June 22, 2000;

By Los Rios Community College District,
Claimant.

Education Code Section 76300; Statutes 1984xx, Chapter 1; Statutes 1984, Chapters 274 and 1401; Statutes 1985, Chapters 920 and 1454; Statutes 1986, Chapters 46 and 394; Statutes 1987, Chapter 1118; Statutes 1989, Chapter 136; Statutes 1993, Chapters 8, 66, 67, and 1124; Statutes 1994, Chapters 153 and 422; Statutes 1995, Chapter 308; Statutes 1996, Chapter 63; and Statutes 1999, Chapter 72; California Code of Regulations, Title 5, Sections 58600, 58601, 58610 – 58613, 58620, 58630;

Filed on June 4, 2001,

By Glendale Community College District,
Claimant.

No. 99-TC-13 and 00-TC-15

Enrollment Fee Collection

Enrollment Fee Waivers

STATEMENT OF DECISION PURSUANT
TO GOVERNMENT CODE SECTION 17500
ET SEQ.; CALIFORNIA CODE OF
REGULATIONS, TITLE 2, DIVISION 2,
CHAPTER 2.5, ARTICLE 7.

(Adopted on April 24, 2003)

STATEMENT OF DECISION

The Commission heard and decided this test claim on March 27, 2003, during a regularly scheduled hearing. Mr. Keith Petersen appeared for claimants, Los Rios and Glendale Community College Districts, and Ms. Alice Kwong appeared on behalf of Los Rios Community College District. Mr. Randy Katz, Ms. Susan Geanacou, and Deputy Attorney General Leslie Lopez appeared on behalf of the Department of Finance (DOF).

At the hearing, testimony was given; the test claim was submitted, and the vote was taken.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Education Code Section 76300; Statutes 1984xx, Chapter 1; Statutes 1984, Chapters 274 and 1401; Statutes 1985, Chapters 920 and 1454; Statutes 1986, Chapters 46 and 394; Statutes 1987, Chapter 1118; Statutes 1989, Chapter 136; Statutes 1991, Chapter 114; Statutes 1992, Chapter 703; Statutes 1993, Chapters 8, 66, 67, and 1124; Statutes 1994, Chapters 153 and 422; Statutes 1995, Chapter 308; Statutes 1996, Chapter 63; and Statutes 1999, Chapter 72; California Code of Regulations, Title 5, Sections 58500 – 58508.

Filed on June 22, 2000,

By Los Rios Community College District,
Claimant.

Education Code Section 76300; Statutes 1984xx, Chapter 1; Statutes 1984, Chapters 274 and 1401; Statutes 1985, Chapters 920 and 1454; Statutes 1986, Chapters 46 and 394; Statutes 1987, Chapter 1118; Statutes 1989, Chapter 136; Statutes 1993, Chapters 8, 66, 67, and 1124; Statutes 1994, Chapters 153 and 422; Statutes 1995, Chapter 308; Statutes 1996, Chapter 63; and Statutes 1999, Chapter 72; California Code of Regulations, Title 5, Sections 58600, 58601, 58610 – 58613, 58620, 58630;

Filed on June 4, 2001,

By Glendale Community College District,
Claimant.

No. 99-TC-13 and 00-TC-15

Enrollment Fee Collection

Enrollment Fee Waivers

STATEMENT OF DECISION PURSUANT
TO GOVERNMENT CODE SECTION 17500
ET SEQ.; CALIFORNIA CODE OF
REGULATIONS, TITLE 2, DIVISION 2,
CHAPTER 2.5, ARTICLE 7.

(Adopted on April 24, 2003)

STATEMENT OF DECISION

The attached Statement of Decision of the Commission on State Mandates is hereby adopted in the above-entitled matter.

This Decision shall become effective on April 25, 2003.


PAULA HIGASHI, Executive Director

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., and related case law.

The Commission partially approved this test claim by a 5-0 vote.¹

BACKGROUND

There are currently 72 community college districts governing 108 community colleges in California, serving over 2.9 million students.²

Claimant Los Rios Community College District (LRCCD) filed the *Enrollment Fee Collection* test claim (99-TC-13) on June 22, 2000. Originally enacted in 1984 and amended throughout the 1980s and 1990s, the original test claim legislation and regulations³ authorize and require community colleges to implement enrollment fees and adopt regulations for their collection. Although the amount of the enrollment fee has been amended various times, the two percent of the fee retained by the community colleges⁴ has remained constant.

Claimant Glendale Community College District (GCCD) filed the *Enrollment Fee Waivers* (00-TC-15) test claim in May 2001 in which claimant pled fee-waiver statutes and regulations⁵ that specify the groups of students for which fees are waived or exempted, and for whom Board of Governors Grants (BOG grants) are available. A BOG grant is an instrument used by a community college district to process financial assistance to a low-income student.⁶ In 1993, the Legislature altered the BOG grant program, changing it from a fee-offset grant program to a fee-waiver program⁷ (hereafter called BOG fee waivers). The regulations governing the program were left intact, and are part of this test claim.⁸ Unless indicated otherwise, any reference to a BOG grant in this analysis should be understood to apply to a BOG fee waiver.

¹ Included in the motion was a directive to staff to work with all parties, including DOF, Legislative Analyst's Office, and the Attorney General's Office to develop unit cost rates for consideration in the proposed parameters and guidelines.

² California Community College Chancellor's Office website <<http://www.cccco.edu>> [as of Jan. 7, 2003].

³ Education Code section 76300. Statutes 1984xx, chapter 1; Statutes 1984, chapters 274 and 1401; Statutes 1985, chapters 920 and 1454; Statutes 1986, chapters 46 and 394; Statutes 1987, chapter 1118; Statutes 1989, chapter 136; Statutes 1991, chapter 114; Statutes 1992, chapter 703; Statutes 1993, chapters 8, 66, 67, and 1124; Statutes 1994, chapters 153 and 422; Statutes 1995, chapter 308; Statutes 1996, chapter 63; and Statutes 1999, chapter 72. California Code of Regulations, title 5, sections 58500 - 58508.

⁴ Education Code Section 76300, subdivision (c). This is called a "revenue credit" by the Community College Chancellor's Office.

⁵ Education Code section 76300; California Code of Regulations, title 5, Sections 58600, 58601, 58610 - 58613, 58620, 58630, Board of Governors Fee Waiver Program and Special Programs, 2000-2001 Program Manual ("BOG Fee Manual").

⁶ California Code of Regulations, title 5, section 58601.

⁷ Statutes 1993, chapter 1124 (Assem. Bill No. 1561).

⁸ California Code of Regulations, title 5, sections 58600 to 58630.

In August 2002, the *Enrollment Fee Collection* (99-TC-13) and *Enrollment Fee Waiver* (00-TC-15) test claims were consolidated.⁹

Claimant's Position

Claimant contends that the test claim legislation constitutes a reimbursable state-mandated program pursuant to article XIII B, section 6 of the California Constitution and Government Code section 17514.

In the *Enrollment Fee Collection* (99-TC-13) test claim, claimant requests reimbursement for the following activities:

- (1) determining the number of credit courses for each student subject to the student enrollment fees;
- (2) calculating and collecting student enrollment fees for each nonexempt student enrolled, and providing a waiver of student enrollment fees for exempt students;
- (3) calculating, collecting, waiving or refunding student enrollment fees due to subsequent timely program changes or withdrawal from school;
- (4) entering the student enrollment fee collection and waiver information into the district cashier system and data processing and accounting systems;
- (5) processing all agency billings for students whose student enrollment fees are waived;
- (6) preparing and submitting reports on student enrollment fees collected and waived as required by the Board of Governors and other state agencies. Claimant states that failure to implement this mandate would reduce the total district revenue by up to ten percent pursuant to Education Code section 76300, subdivision (d).

In the *Enrollment Fee Waivers* (00-TC-15) test claim, claimant seeks reimbursement for:

- (1) determining and classifying students eligible for Board of Governors grants ("BOG grants") according to the eligibility criteria;
- (2) determining at the time of enrollment whether fees should be waived because the student is a recipient of benefits under the Aid to Families with Dependent Children (AFDC)¹⁰ program or the Supplemental Security Income/State Supplementary program (SSI/SSP) or a beneficiary under a general assistance program;

⁹ California Code of Regulations, title 2, section 1183.06.

¹⁰ On August 22, 1996, President Clinton signed into law H.R. 3734 -- The Personal Responsibility and Work Opportunity Reconciliation Act of 1996. This federal legislation eliminated the AFDC program and replaced it with the Temporary Assistance for Needy Families (TANF) program. This federal welfare reform offered states flexibility to redesign their programs, and subjected states to financial penalties for failing to meet work participation and other requirements. In response, California created the California Work Opportunity and Responsibility to Kids (CalWORKs) program—(Stats. 1997, ch. 270; Assen. Bill No. 1542, Ducheny, Ashburn, Thompson, and Maddy). The AFDC and TANF programs are both referenced in the test claim legislation, and are used interchangeably in this analysis.

- (3) determining at the time of enrollment whether fees should be waived for a student due to demonstration of financial need in accordance with federal methodology for determining expected family contribution of students seeking financial aid;
- (4) determining at the time of enrollment whether fees should be waived for a student because he or she is a dependent, or surviving spouse who has not remarried, of any member of the California National Guard who, in the line of duty and while in the active service of the state, was killed, died of a disability resulting from an event that occurred while in the active service of the state, or is permanently disabled as a result of an event that occurred while in active service to the state;
- (5) entering the enrollment fee waiver information into the district cashier system and data processing and accounting systems, and processing all agency billings for students whose fees are waived;
- (6) separately documenting and accounting for the funds allocated for collection of enrollment fees and financial assistance in order to enable an independent determination regarding the accuracy of the District's certification of need for financial assistance;
- (7) preparing and submitting reports regarding the number and amounts of the enrollment fees waived as required by the Board of Governors and other state agencies.

Claimant contends that state funds allocated pursuant to Education Code section 76300, subdivision (i), currently calculated at .91 per credit unit waived, are not sufficient to fund the mandate.¹¹

In its January 17, 2002 comments on the draft staff analysis, claimants stated general agreement with the analysis, except for the exclusion of the costs associated with collecting enrollment fees from nonresident students, which is discussed below.

Department of Finance's Position

DOF submitted separate comments on the *Enrollment Fee Collection* (99-TC-13) and *Enrollment Fee Waivers* (00-TC-15) test claims, and commented on the draft staff analysis on *Enrollment Fee Collection*, all of which are discussed in detail below.

In its most recent (2/25/03) comments on the draft staff analysis of *Enrollment Fee Collection* (99-TC-13) and the *Enrollment Fee Waivers* (00-TC-15) test claims, DOF concurs that calculating and collecting the student enrollment fee for each student who is not exempt from the fee is a state-mandated activity within the scope of the test claim. DOF also concurs that two activities are not state reimbursable mandated activities: (1) determining the number of credit courses for each student subject to the enrollment fees, and (2) preparing and submitting reports regarding enrollment fees collected. DOF disagrees with the remainder of the conclusions in the draft staff analysis, which is discussed in more detail below.

Community Colleges Chancellor's Office Position

In its comments on the *Enrollment Fee Collection* (99-TC-13), the CCC concludes that the test claim statute was "clearly a higher level of service for community colleges." The CCC provides (1) a bill analysis from the Legislative Analyst that concludes the two percent revenue credit is

¹¹ Declaration of Carrie Bray, Director of Accounting Services, Los Rios Community College District, June 22, 2000.

an insufficient reimbursement for the locally mandated fee-collection program, and (2) a letter from its president to the author of the fee legislation.

The CCC stresses that although the amount of the enrollment fee has varied, the two percent revenue credit for community colleges has remained constant. Finally, the CCC states that, for fiscal year 1998-99, the claimant LRCCD collected \$6.98 million in fees pursuant to Education Code section 76300, of which two percent, or \$139,610 was a revenue credit. Statewide, enrollment fees totaled over \$164 million, of which the two percent revenue credit totaled \$3.28 million.

The CCC did not provide comments on *Enrollment Fee Waivers* (00-TC-15).

COMMISSION FINDINGS

In order for the test claim legislation to impose a reimbursable state-mandated program under article XIII B, section 6 of the California Constitution and Government Code section 17514, the statutory language must mandate a new program or create an increased or higher level of service over the former required level of service. "Mandates" as used in article XIII B, section 6, is defined to mean "orders" or "commands."¹² The California Supreme Court has defined "program" subject to article XIII B, section 6 of the California Constitution as a program that carries out the governmental function of providing a service to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state.¹³ To determine if the "program" is new or imposes a higher level of service, a comparison must be made between the test claim legislation and the legal requirements in effect immediately before the enactment of the test claim legislation.¹⁴ Finally, the new program or increased level of service must impose "costs mandated by the state."¹⁵

This test claim presents the following issues:

- Is the test claim legislation subject to article XIII B, section 6 of the California Constitution?
- Does the test claim legislation impose a new program or higher level of service on community college districts within the meaning of article XIII B, section 6 of the California Constitution?
- Does the test claim legislation impose "costs mandated by the state" within the meaning of Government Code sections 17514 and 17556?

These issues are addressed as follows.

¹² *Long Beach Unified School District v. State of California* (1990) 225 Cal.App.3d 155, 174.

¹³ *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

¹⁴ *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 835.

¹⁵ Government Code section 17514.

Issue 1: Is the test claim legislation subject to article XIII B, section 6 of the California Constitution?

In order for the test claim legislation to be subject to article XIII B, section 6 of the California Constitution, the legislation must constitute a "program," which is defined as a program that carries out the governmental function of providing a service to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state.¹⁶ Only one of these findings is necessary to trigger article XIII B, section 6.¹⁷

The test claim legislation concerns collecting community college enrollment fees and determining eligibility for fee waivers and financial aid. Collecting enrollment fees and providing waivers and financial aid is a peculiarly governmental function administered by community college districts as part of their mission to provide educational services to the students. Moreover, the test claim legislation imposes unique fee collection, fee waiver, refund eligibility determination, reporting and accounting requirements on community college districts that do not apply generally to all residents or entities in the state. Therefore, the Commission finds that community college enrollment fees, fee waivers, and BOG grants constitute a "program" within the meaning of article XIII B, section 6 of the California Constitution.

Issue 2: Does the test claim legislation impose a new program or higher level of service on community college districts within the meaning of article XIII B, section 6 of the California Constitution?

Article XIII B, section 6 of the California Constitution states, "whenever the Legislature or any state agency *mandates* a new program or higher level of service on any local government, the state shall provide a subvention of funds." (Emphasis added.) This provision was specifically intended to prevent the state from forcing programs on local government that require them to spend their tax revenues.¹⁸ To implement article XIII B, section 6, the Legislature enacted Government Code section 17500 et seq. Government Code section 17514 defines "costs mandated by the state" as "any increased costs which a local agency or school district is *required* to incur . . . as a result of any statute . . . which *mandates* a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution." (Emphasis added.) "Mandates" as used in article XIII B, section 6 has been defined to mean "orders" or "commands."¹⁹ If the test claim legislation does not mandate the school district to perform a task, then compliance is within the discretion of the school district and a state-mandated program does not exist. The state has no duty under article XIII B, section 6 to reimburse the school district for costs of programs or services incurred as a result of the exercise of local discretion or choice.²⁰

¹⁶ *County of Los Angeles, supra*, 43 Cal.3d 46, 56.

¹⁷ *Carmel Valley Fire Protection Dist.*, (1987), 190 Cal.App.3d 521, 537.

¹⁸ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Los Angeles, supra*, 43 Cal.3d 46, 56; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1283-1284.

¹⁹ *Long Beach Unified School District, supra*, 225 Cal.App.3d 155, 174.

²⁰ *City of Merced v. State of California* (1984) 153 Cal.App.3d 777, 783.

To determine if the "program" is new or imposes a higher level of service, a comparison must be made between the test claim legislation and the legal requirements in effect immediately before the enactment of the test claim legislation.²¹

Collection of enrollment fees: Education Code section 76300 governs collection of enrollment fees as follows:²²

- Subdivision (a) requires the governing board of each community college district to charge each student a fee.
- Subdivision (b) sets the fee at \$12 per unit per semester for 1998-99, and \$11 per unit per semester effective fall 1999-2000,²³ and requires the chancellor to proportionally adjust the fee for term lengths based on a quarter system.
- Subdivision (c) requires the chancellor, for computing apportionments to districts, to subtract from the total revenue owed to each district, 98 percent of the revenues received by districts from charging the fee.
- Subdivision (d) requires the chancellor to reduce apportionments by up to 10 percent to any district that does not collect the fee.
- Subdivision (f) authorizes the governing board of a community college district to exempt special part-time students admitted pursuant to section 76001 from the enrollment fee.

Under preexisting law, community colleges were authorized but not required to impose various student fees for the following: physical education courses using nondistrict facilities,²⁴ health services,²⁵ parking services,²⁶ transportation services,²⁷ program changes,²⁸ and late applications.²⁹

As stated above, subdivision (f) authorizes but does not require the governing board of a community college district to exempt special part-time students admitted pursuant to Education Code section 76001 from the enrollment fee. This refers to students who attend a community college while in high school. The Commission finds that admitting these students and exempting their fees are discretionary activities, so collecting fees from them is not a new program or higher level of service within the meaning of article XIII B, section 6.

²¹ *Lucia Mar Unified School Dist. v. Honig, supra*, 44 Cal.3d 830, 835.

²² Waivers and exemptions pursuant to subdivisions (e), (g) and (h) will be discussed below.

²³ Statutes 1999, chapter 72 lowered the school year 1999-2000 fees from \$12 to \$11. Because chapter 72 became effective July 6, 1999 to be applied in fall 1999, it does not affect claimant's reimbursement period.

²⁴ Former Education Code section 72245 and current Education Code section 76395.

²⁵ Former Education Code section 72246 and current Education Code section 76355.

²⁶ Former Education Code section 72247 and current Education Code section 76360.

²⁷ Former Education Code section 72248 and current Education Code section 76361.

²⁸ Former Education Code sections 72250 - 72250.5 and current California Code of Regulations, title 5, section 58507.

²⁹ Former Education Code section 72251.

Additionally, prior to the test claim statute, there was no requirement to collect enrollment fees except for tuition from nonresident students.³⁰ Therefore, because it is not a new activity, the Commission finds that collecting fees from nonresident students is not a new program or higher level of service.

Claimant commented that although tuition fees were collected from nonresident students prior to 1975, that activity is not legally or factually relevant to the additional administrative procedures required to collect enrollment fees. Claimant points out there are no facts in the record that the fee collection procedures occur at the same time or location, are performed by the same staff members, or result in the same subsequent administrative burden (e.g., fees adjusted based on changes to class loads, student withdrawal, etc.). Therefore, according to claimant, the better conclusion of law would be that, to the extent that procedures for the collection of enrollment fees from nonresident students is different and exceeds the administrative tasks required to collect tuition fees from nonresident students, it is a new activity and a higher level of service.

In analyzing a test claim, the Commission identifies all the new activities or higher levels of service within the test claim legislation. If an activity in the test claim legislation appears to be the same or substantially the same as a pre-1975 activity, it does not qualify as a new program or higher level of service.³¹ There is no evidence in the record that collecting tuition fees from nonresident students prior to 1975 is different from collecting enrollment fees from nonresident students after 1975. Therefore, without evidence to the contrary, the Commission's conclusion remains the same regarding nonresident student tuition.

In sum, the Commission finds that collecting enrollment fees constitutes a new program or higher level of service within the meaning of article XIII B, section 6 for all students except for nonresidents, and except for special part-time students (pursuant to Ed. Code, § 76300, subd. (f)).

Refunds for program changes: California Code of Regulations, title 5, sections 58500 through 58508,³² also pertain to community college student fees. Section 58500 defines the enrollment fee, section 58501 states the semester, quarter or fractional unit fee, section 58501.1 discusses the differential enrollment fee, section 58502 states the enrollment fee shall be charged at the time of enrollment, and section 58503 requires students to be charged for variable unit classes at the time of enrollment, based on the number of units in which the college enrolls the student. Section 58507 authorizes students to add or drop classes during the term pursuant to district policy, and requires the enrollment fee to be adjusted accordingly. Section 58508 governs refunds for program changes made during the first two weeks of instruction for a primary term-length course, or by the 10 percent point of the length of the course for a short-term course.

Prior law did not address enrollment fee refunds because there were no fees. Prior law did, however, require community colleges to impose a fee of \$10 per course, not to exceed \$20, for a student program change consisting of dropping one or more courses any time after two weeks from the commencement of instruction in any term. In 1987, this fee was made permissive and was not to exceed one dollar (\$1) "for the actual pro rata cost for services relative to a program

³⁰ Education Code section 76140.

³¹ Subdivision (c) of section 6 of Article XIII B states that the Legislature may, but need not provide subvention of funds for mandates enacted prior to January 1, 1975.

³² California Code of Regulations, title 5, section 58509 was not pled by claimant. This analysis does not address section 58509.

change consisting of adding or dropping one or more courses any time after two weeks from the commencement of instruction in any term."³³

The Commission finds that refunding enrollment fees is not a new program or higher level of service.

In disputing that program changes constitute a new program or higher level of service, DOF points out that section 58507 of the regulations authorizes, but does not require community colleges to allow students to add or drop classes during the term. Section 58507 states:

A community college district may allow a student to add or drop classes during the term pursuant to district policy. The enrollment fee or differential enrollment fee shall be adjusted to reflect added or dropped courses as allowed by district policy.

The claimant argues that this regulation was adopted as a result of the establishment of enrollment fees, and the need to refund fees is a foreseeable consequence of collecting them. Claimant says it is properly an activity to be included in the cost mandated by the state subject to reimbursement.

The Commission agrees with DOF that allowing a student to add or drop courses is not required. Allowing the program changes pursuant to section 58507 is an activity that is not required. The statute states that a "community college may allow a student to add or drop classes" (emphasis added). Use of the word "may" is permissive.³⁴ Thus, changing programs is an activity within the discretion of the community college district to allow. The court of appeal has concluded that discretionary actions of local agencies are not new programs or higher levels of service within the meaning of article XIII B, section 6 of the California Constitution.³⁵ In *City of Merced*, the court found that the exercise of eminent domain was discretionary and therefore not a cost which plaintiff was required or mandated to incur. The same is true in section 58507, which authorizes but does not require community colleges to allow program changes. Therefore, the Commission finds that section 58507 of title 5 of the California Code of Regulations is not a new program or higher level of service because the community college district is authorized but not required to allow a student to add or drop classes.

Section 58508 provides:

- (a) A community college district governing board shall refund upon request any enrollment fee paid by a student pursuant to Sections 58501 or 58501.1 for program changes made during the first two weeks of instruction for a primary term-length course, or by the 10 percent point of the length of the course for a short-term course.
- (b) A student shall be allowed at least two weeks from the final qualifying date of the program change specified in Subsection (a) to request an enrollment fee refund.
- (c) A community college district shall not refund any enrollment fee paid by a student for program changes made after the first two weeks of instruction for a primary term-length course, or after the 10 percent point of the length of the course for a short-term

³³ Former Education Code sections 72250 and 72250.5. Both statutes excused the fee for changes initiated or required by the community college.

³⁴ Education Code section 75.

³⁵ *City of Merced v. State of California* (1984) 153 Cal.App.3d 777, 783.

course, unless the program change is a result of action by the district to cancel or reschedule a class or to drop a student pursuant to section 55202 (g) where the student fails to meet a prerequisite.

- (d) When refunding an enrollment fee pursuant to Subsection (a), a community college district may retain once each semester or quarter an amount not to exceed \$10.00.

The refund requirement of section 58508 is triggered by the district's discretionary decision to allow program changes pursuant to section 58507. Therefore, the Commission finds that issuing refunds for program changes pursuant to sections 58507 and 58508 of title 5 of the California Code of Regulations is not a new program or higher level of service.

Fee exemptions and waivers: The fee exemption and waiver provisions of Education Code section 76300 provide as follows:

- Subdivision (e) exempts the enrollment fee for (1) students enrolled in noncredit courses designated by section 84757; (2) California State University (CSU) or University of California (UC) students enrolled in remedial classes provided on a CSU or UC campus for whom the district claims an attendance apportionment pursuant to an agreement between the district and the CSU or UC; (3) students enrolled in credit contract education courses under certain conditions.
- Subdivision (f) authorizes (but does not require) fee exemption for special part-time students admitted pursuant to Education Code section 76001.
- Subdivision (g) requires fees to be waived for recipients of Aid to Families with Dependent Children (AFDC) or SSI/SSP, or a general assistance program, or those who demonstrate financial need in accordance with federal methodology. The fee waiver is also required for students who demonstrate eligibility according to income standards established by the Board of Governors and section 58620 of title 5 of the California Code of Regulations.
- Subdivision (h) requires a fee waiver for dependents or unmarried surviving spouses of members of the California National Guard who die or become permanently disabled as a result of an event that occurred during active service of the state.
- Subdivision (i) states legislative intent to fund fee waivers for students who demonstrate eligibility pursuant to subdivisions (g) and (h), and requires the Board of Governors to allocate to districts two percent of the fees waived pursuant to those subdivisions. Subdivision (i) also requires the Board of Governors, from funds provided in the annual Budget Act, to allocate to districts \$.91 per credit unit waived pursuant to subdivisions (g) and (h) for determination of financial need and delivery of student financial aid services.

Prior law did not require fee exemptions or waivers because there were no enrollment fees.

The Commission finds that exempting a student fee pursuant to subdivision (e) is not a new program or higher level of service, but waiving fees for student applicants is a new program or higher level of service.

The DOF, in its 9/25/01 comments, notes that the determinations for fee waiver eligibility required by Education Code section 76300, subdivisions (g) and (h) are alternative methods for determining student eligibility for BOG fee waivers and not additional requirements. As

students receive Board of Governors fee waivers without achieving any of the criteria listed above, by meeting income limits, an eligibility determination is not necessarily contingent on performance of any of these activities and they should not be considered higher levels of service. Furthermore, according to DOF the analysis of BOG grant determinations pursuant to California Code of Regulations, title 5, section 58620 focuses on every activity, requirement, and criteria for determining Board of Governors eligibility, so any costs identified with section 58620 would include these activities. Waiving fees pursuant to BOG fee waivers is discussed below.

In its 8/30/02 comments, DOF contends that waiving fees is not an "activity," but the preclusion of participation in the new program of collecting enrollment fees. DOF cites language in the Board of Governors Fee Waiver Program Manual for 2001/2002 ("BOG Fee Manual"), stating that waivers are simply a transaction in which no money is received. DOF argues that upon proof of eligibility for a waiver, the community colleges neither provide anything to, nor collect anything from, the student. DOF concludes that since fee waivers prohibit colleges from participation in the new program of enrollment fees, for this particular test claim, providing fee waivers for exempt students is not a state-mandated activity. DOF admits that the fee waiver is granted "upon proof of eligibility."³⁶

In its 2/25/03 comments, DOF states that section 76300, subdivision (e), specifies groups of students for which the fee requirement does not apply, which students are not required to have the fee waived as in subdivisions (g) and (h). Since these students³⁷ pay no enrollment fees, they have no need for waivers. DOF argues that since there is no waiver eligibility determination required, there is no mandated activity associated with section 76300, subdivision (e).

The Commission agrees that exempting fees pursuant to subdivision (e) does not constitute a new activity. Therefore, the Commission finds that granting an exemption for a fee waiver, pursuant to section 76300, subdivision (e), is not a new program or higher level of service.

DOF also states in its 2/25/03 comments that the burden of demonstrating fee waiver eligibility rests with the student, not the financial aid office. DOF quotes section 76300, subdivision (g), emphasizing the student's responsibility to demonstrate financial need and eligibility. There is nothing in section 76300, according to DOF, that requires the institution to establish the financial aid group to which the student belongs.

The Commission disagrees. A community college has no discretion to grant a fee waiver. If a student demonstrates eligibility pursuant to the test claim statute, he or she is entitled to the

³⁶ Education Code section 76300, subdivision (g) reads in pertinent part, "The governing board of a community college district also shall waive the fee requirements of this section for any student who demonstrates eligibility according to income standards established by the Board of Governors and contained in section 58620 of Title 5 of the California Code of Regulations." (Emphasis added.) Education Code section 76300, subdivision (i)(1) reads in pertinent part "It is the intent of the Legislature that sufficient funds be provided to support the provision of a fee waiver for every student who demonstrates eligibility pursuant to subdivisions (g) and (h), (Emphasis added.)

³⁷ Students specified in section 76300, subdivision (e) are those (1) enrolled in noncredit courses designated by section 84757; (2) CSU or UC students in remedial classes for whom the district claims an attendance apportionment pursuant to an agreement between the district and CSU or UC; and (3) students enrolled in credit contract education courses under certain conditions.

waiver. Payment of the fee or provision for its exemption or waiver is a transaction,³⁸ and as such, cannot be achieved unilaterally.

Community colleges must waive student fees required (not authorized) by section 76300, which lists the following groups, one of which a student must belong to in order qualify for the waiver.

- (1) A recipient of benefits under the AFDC, SSI/SSP, or a general assistance program, or has demonstrated financial need in accordance with the methodology set forth in federal law or regulation for determining the expected family contribution of students seeking financial aid.
- (2) A student who demonstrates eligibility according to income standards established by the Board of Governors and contained in section 58620 of title 5 of the California Code of Regulations (this section relates to BOG fee waivers, discussed below).
- (3) A student who, at the time of enrollment is a dependent, or surviving spouse who has not remarried, of any member of the California National Guard who, in the line of duty and while in the active service of the state (as defined), was killed, became permanently disabled, or died of a disability resulting from an event that occurred while in the active service of the state.

The Commission finds that waiving fees for each student applicant in accordance with the groups listed in Education Code section 76300, subdivisions (g) and (h), is a new program or higher level of service.

Eligibility for a Board of Governors fee waiver is included by reference³⁹ in Education Code section 76300, subdivision (g), which requires the governing board of a community college district to waive the fee "for any student who demonstrates eligibility according to income standards established by the Board of Governors and contained in Section 58620 of the California Code of Regulations." Since claimant also pled section 58620 of title 5 of the California Code of Regulations, it is discussed separately below.

Board of Governors Grants

BOG grant regulations: California Code of Regulations, title 5, sections 58600 - 58630 govern the distribution of a BOG grant, which is "an instrument used by a community college district to process the financial assistance provided to a low-income student."⁴⁰ In 1993, the Legislature altered the BOG grants program,⁴¹ changing it from a fee-offset grant program to a fee-waiver program. The regulations governing the program were left intact. Therefore, as stated above, references to BOG grants herein should be read to apply to BOG fee waivers.

³⁸ Section 7.3 of the BOG Fee Manual states that "waivers are simply a transaction in which no money is received." One definition of transaction is "a communicative action or activity involving two parties or two things reciprocally affecting or influencing each other." (Webster's 3d New Internat. Dict. (1993) p. 2425.)

³⁹ California Code of Regulations, title 5, section 58620.

⁴⁰ California Code of Regulations, title 5, section 58601.

⁴¹ Statutes 1993, chapter 1124 (Assem. Bill No. 1561). Herein referred to as a BOG fee-waiver.

Section 58611 of the regulations requires community college districts to report to the CCC the number of and amounts provided for BOG grants. Section 58612 requires a district to provide BOG grants "to all students who are eligible and who apply for this assistance." This section also states a presumption of student eligibility for the remainder of the academic year until the beginning of the following fall term, and states that nothing in the chapter prohibits community college districts from establishing an application deadline for BOG grants. Section 58613 requires BOG grants to be made in the amount of enrollment fees calculated after program changes (pursuant to section 58507, discussed above). Section 58620 lists the eligibility criteria for a BOG grant, which is California residency and one of the criteria under the rubric of either (1) income standards;⁴² (2) recipient of AFDC benefits described in Education Code section 76300, subdivision (g);⁴³ or (3) need-based financial aid eligibility.⁴⁴

⁴² The income standards are: (A) be single and independent student having no other dependents and whose total income in the prior year was equal to or less than 150% of the U.S. Department of Health and Human Services (HHS) Poverty Guidelines for a family of one. Or be a married, independent student having no dependents other than a spouse, whose total income of both student and spouse in the prior year was equal to or less than 150% of the HHS Poverty Guidelines for a family of two. (B) Be a student who is dependent in a family having a total income in the prior year equal to or less than 150% of the HHS Poverty Guidelines for a family of that size, not including the student's income, but including the student in the family size. (C) Provide documentation of taxable or untaxed income. (D) Be a student who is married or a single head of household in a family having a total income in the prior year equal to or less than 150% of the HHS Poverty Guidelines for a family of that size. (E) Be an independent student whose estimated family contribution as determined by federal methodology is equal to zero or a dependent student for whom the parent portion of the estimated family contribution as determined by federal methodology is equal to or less than zero. (F) For purposes of this subsection HHS Poverty guidelines used each year shall be the most recently published guidelines immediately preceding the academic year for which a fee waiver is requested.

⁴³ The benefits described in Education Code section 76300, subdivision (g) are for recipients of Aid to Families with Dependent Children, the general assistance program, or demonstration of financial need in accordance with the methodology set forth in federal law or regulation for determining the expected family contribution of students seeking financial aid. Subsection (2) also lists: (A) At the time of enrollment be a recipient of benefits under the Temporary Assistance to Needy Families (TANF) program. A dependent student whose parent(s) or guardian(s) are recipients of TANF shall be eligible if the TANF program grant includes a grant for the student or if the TANF grant is the sole source of income for the parent or guardian. (B) At the time of enrollment, be a recipient of benefits under the Supplemental Security Income (SSI) program. A dependent student whose parent(s) or guardian(s) are recipients of SSI shall be eligible if the SSI program grant is the sole source of income for the parent or guardian(s). (C) At the time of enrollment be a recipient of benefits under the General Assistance program. (D) Provide documentation that the student if [sic] a recipient of benefits under one of the programs identified in Education Code section 76300(g) and (h) at the time of enrollment. Documentation sufficient to meet the requirements of this subdivision shall provide official evidence of these benefits.

⁴⁴ Need-Based Financial Aid Eligibility means any student who has been determined financially eligible for federal and/or state needed [sic] based financial aid.

Prior law did not require community colleges to provide BOG grants to students.

In its 9/25/01 comments, DOF asserts that much of the infrastructure for determining whether a student is eligible to have fees waived already existed prior to 1975. For example, Education Code section 76355⁴⁵ requires the governing board of a community college district to adopt rules and regulations that either exempt low-income students from any health service fee or provide for the payment of the fee from other sources. Education Code section 69648 requires the community colleges to adopt rules and regulations to, among other activities, identify students who would be eligible for extended opportunity programs and services (EOPS) based on socioeconomic disadvantages. Both of these sections existed when enrollment fee waivers were implemented in 1984 and still exist. DOF argues that section 58620 of the California Code of Regulations merely clarifies the process for identifying low-income students and does not constitute a higher level of service.

Claimant rebuts DOF, arguing that the legislation enacting the health fee merely required adoption of rules and regulations that either exempt "low-income" students or provide for payment of fees from other sources. But the legislation provided no guidance or direction as to the method or means to determine whether a student was "low-income," and said nothing of the BOG grant factors of section 58620 of the California Code of Regulations. Claimant states that DOF's argument fails because there was no "infrastructure" to determine the specific requirements of section 58620 until 1987. Claimant also notes that the existence of "infrastructure," or lack thereof, is not one of the statutory exceptions set forth in Government Code section 17556, and therefore irrelevant.

The Commission finds that waiving student fees for students who apply for and are eligible for BOG fee waivers is a new program or higher level of service.

DOF's argument of 9/25/01 is unconvincing. The health fee promulgated in Education Code section 76355, cited by DOF, is not mandatory. Subdivision (b) states that the governing board "may decide whether the fee shall be mandatory or optional." Since the health fee program is optional, the "infrastructure" for determining eligibility for it that DOF cites is also optional. More importantly, nothing in the record indicates that a BOG fee waiver determination, or even a substantially similar determination, must be made for waiver of the optional health fee pursuant to section 76355, or the student's "social or economic disadvantages" to determine eligibility for the extended opportunity program pursuant to section 69648.⁴⁶

In its 2/25/03 comments, DOF states that with the passage of Assembly Bill No. 1561 (Stats. 1993, ch. 1124), the BOG grant program was replaced with the BOG fee-waiver program. Consequently, DOF argues that regulations pertaining to BOG grants are obsolete. Since the program no longer exists, DOF asserts that determining the eligibility for BOG grants is not a mandate. Alternatively, DOF argues that even if BOG grants were not obsolete, demonstrating eligibility is the responsibility of the student, not the institution.

⁴⁵ Former Education Code section 72246.

⁴⁶ Eligibility for EOPs is stated in title 5, section 56220 of the California Code of Regulations, which were adopted in 1987. Eligibility criteria include California residency, less than 70 units of degree-credit completion, eligibility for a BOG grant pursuant to section 58620 (1) or (2), and be educationally disadvantaged as determined by the EOPS director or designee, who must consider specific factors.

The Commission disagrees. The regulations pertaining to the BOG grants are not invalid. Regulations have a strong presumption of regularity.⁴⁷ Even though it was changed from a fee-offset grant program to a fee-waiver program by Statutes 1993, chapter 1124, the BOG fee program still exists. The BOG grant regulations, sections 58600 to 58630 of title 5 of the California Code of Regulations, cite to three statutes for their authority: Education Code sections 66700, 70901, and 72252. These statutes are still in effect, except that section 72252⁴⁸ has been amended and renumbered to section 76300.⁴⁹ With the authority for the regulations still in effect, the regulations are valid.⁵⁰

As to DOF's contention that documenting eligibility is the responsibility of the student, not the institution, the Commission disagrees. As with fee waivers discussed above, a community college has no discretion to grant a BOG fee waiver. A student requirement to demonstrate financial need triggers a duty on the part of the college to waive the fee. Awarding the BOG fee waiver is a transaction,⁵¹ and as such, cannot be achieved unilaterally.

Therefore, the Commission finds that waiving fees for students who apply for and are eligible for BOG fee waivers is a new program or higher level of service.

Districts are required to report to the CCC the number of and amounts provided for BOG fee waivers.⁵² Because this is a new requirement, the Commission also finds that this reporting is a new program or higher level of service. (Cal. Code Regs., tit. 5, § 58611).

District reporting and accountability: Claimant pled California Code of Regulations, title 5, section 58630. Subdivision (a) of this section requires districts to identify separately in district accounts dollars allocated for financial assistance. Subdivision (b) requires adoption of procedures to document all financial assistance provided on behalf of students pursuant to chapter 9 of title 5 of the California Code of Regulations. The procedures must include rules for retention of support documentation that will enable an independent determination regarding accuracy of the district's certification of need for financial assistance.

Prior to adoption of section 58630, there was no requirement for community colleges to account for financial assistance funds separately in district accounts.

⁴⁷ *Agricultural Labor Relations Board v. Superior Court* (1976) 16 Cal. 3d 392, 411.

⁴⁸ Section 76300 was enacted by Statutes 1995, chapter 308 due to the sunset of the prior section 76300. The community college fee statute has been at section 76300 since 1993 (Stats. 1993, ch. 8). Prior to that, it was in section 72252 since its enactment in 1984 (Stats. 1983-1984xx, ch. 1).

⁴⁹ A renumbered or restated statute is not a newly enacted provision. Education Code section 3 provides that "The provisions of this code, insofar as they are substantially the same as existing statutory provisions relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments." See also *In re Martin's Estate* (1908) 153 Cal. 225, 229, which held: "Where there is an express repeal of an existing statute, and a re-enactment of it at the same time, or a repeal and a re-enactment of a portion of it, the re-enactment neutralizes the repeal so far as the old law is continued in force. It operates without interruption where the re-enactment takes effect at the same time."

⁵⁰ *Agricultural Labor Relations Board v. Superior Court*, *supra*, 16 Cal. 3d 392, 401.

⁵¹ *Ante*, footnote 40.

⁵² This regulation states this pertains to BOG grants, but it would apply to BOG fee waivers now.

In its 2/25/03 comments, DOF argues that these activities relate to the administration of the funding mechanism for the obsolete BOG grant program, which was replaced by the BOG fee-waiver program in 1993. Since a fee waiver does not involve exchange of funds, the activities are no longer required.

The Commission agrees that identifying dollars for financial assistance in separate district accounts pursuant to subdivision (a) is not a new program or higher level of service due to the BOG grant program's conversion to a BOG fee-waiver program. Fee waivers do not require dollars to be identified in district accounts as BOG grants did.

As to the activities in section 58630, subdivision (b), the Commission disagrees. It is possible for colleges to comply with this subdivision by documenting financial assistance provided on behalf of students, including rules to retain support documentation that would enable an independent determination regarding accuracy of the district's certification of need for financial assistance.

Therefore, the Commission finds that the following activities constitute a new program or higher level of service pursuant to section 58630 of title 5 of the California Code of Regulations: adopting procedures that will document all financial assistance provided on behalf of students pursuant to chapter 9 of title 5 of the California Code of Regulations, and including in the authorized procedures rules for retention of support documentation which will enable an independent determination regarding accuracy of the district's certification of need for financial assistance.

BOG grant executive orders: Claimant originally alleged that the *Board of Governors Fee Waiver Program and Special Programs, 2000-2001 Program Manual* ("BOG Fee Manual")⁵³ is a state mandate. The BOG Fee Manual is issued by the CCC to assist community college financial aid staff.⁵⁴

The BOG fee manual was withdrawn by the claimant's representative at the hearing, so the Commission makes no finding on whether the activities listed therein constitute a new program or higher level of service.

In summary, the Commission concludes that the test claim legislation imposes new programs or higher levels of service on community college districts within the meaning of article XIII B, section 6 of the California Constitution for the following activities:

- Calculating and collecting the student enrollment fee for each student enrolled except for nonresidents, and except for special part-time students cited in section 76300, subdivision (f). (Ed. Code, § 76300, subs. (a) & (b); Cal. Code Regs., tit. 5, §§ 58501, 58502 & 58503.);
- Waiving student fees in accordance with the groups listed in Education Code section 76300, subdivisions (g) and (h);

⁵³ California Community Colleges Chancellor's Office, Board of Governors Fee Waiver Program and Special Programs, 2000-2001 Program Manual, effective July 1, 2000 – June 30, 2001.

⁵⁴ A copy of the BOG Fee Manual and other forms are available at the California Community College Chancellor's Office website: <<http://www.cccco.edu/divisions/ss/financial%20assistance/financial%5Fassistance.htm>> [as of Jan. 7, 2003].

- Waiving fees for students who apply for and are eligible for BOG fee waivers (Cal. Code Regs., tit. 5, §§ 58612, 58613 & 58620.);
- Reporting to the CCC the number of and amounts provided for BOG fee waivers. (Cal. Code Regs., tit. 5, § 58611.);
- Adopting procedures that will document all financial assistance provided on behalf of students pursuant to chapter 9 of title 5 of the California Code of Regulations; and including in the procedures the rules for retention of support documentation which will enable an independent determination regarding accuracy of the district's certification of need for financial assistance. (Cal. Code Regs., tit. 5, § 58630, subd. (b).)

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58630(b)

Additional activities pled by claimant include: "entering the student enrollment fee collection and waiver information into the district cashier system and data processing and accounting systems," and "determination of credit courses." These activities do not appear in the test claim statute or regulations and therefore would be more appropriately discussed in the parameters and guidelines.⁵⁵

Issue 3: Do the test claim legislation and regulations impose "costs mandated by the state" within the meaning of Government Code sections 17514 and 17556?

In order for the activities listed above to impose a reimbursable state-mandated program under article XIII B, section 6 of the California Constitution, the activities must impose costs mandated by the state,⁵⁶ and no statutory exceptions as listed in Government Code section 17556 can apply. Government Code section 17514 defines "costs mandated by the state" as follows:

...any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.

Government Code section 17556, subdivision (d) precludes finding costs mandated by the state if after hearing, the Commission finds that the "local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service."

Government Code section 17556, subdivision (e) precludes findings costs mandated by the state if the test claim statute provides for offsetting savings which result in no net costs, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund it.

Collection of enrollment fees (Ed. Code, § 76300, subs. (a) & (b); Cal. Code Regs., tit. 5, §§ 58501, 58502 & 58503.): In response to the *Enrollment Fee Collection* test claim, the DOF originally commented that it mostly agrees that the test claim statutes constitute a new program or higher level of service "because community college districts had not previously been required to collect enrollment fees from students." However, DOF concludes that reimbursement should be denied because the statutory scheme sets up a mechanism whereby community college

⁵⁵ Government Code section 17557; California Code of Regulations, title 2, section 1183.1.

⁵⁶ *Lucia Mar Unified School Dist.*, *supra*, 44 Cal.3d 830, 835; Government Code section 17514.

districts are automatically provided with funding for their costs of administering the program.⁵⁷ Since collection of enrollment fees is entwined with the entire admission process, DOF argues it would be extremely difficult or impossible to accurately isolate the tasks involved with collecting enrollment fees. DOF submits that the Legislature has validly determined that two percent of the revenue from fees is adequate to compensate community college districts for administering the test claim statutes.

In its response, claimant first quotes the CCC's comments, which like the test claim, note that colleges are compensated in the amount of two percent of the enrollment fees collected for the cost of collecting the enrollment fee. Claimant cites the legislative history provided by the CCC that quoted the Legislative Analyst's conclusion that the two percent revenue credit was an insufficient reimbursement. Claimant goes on to quote the applicable provisions of Government Code section 17556, subdivisions (d) and (e), as follows:

The Commission shall not find costs mandated by the state, as defined in section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the Commission finds that: [¶]...[¶]

(d) The local agency or school district has the authority to levy services charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.

(e) The statute or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate. (Emphasis added by claimant).

Claimant asserts these two Government Code subdivisions require the Commission to make findings of law and fact. Regarding subdivision (d), it can be determined that as a matter of law, neither the test claim statutes nor other laws provide the "authority to levy service charges, fees, or assessments" for the collection of enrollment fees. The "revenue credit" is not a service fee, charge, or assessment upon the consumer (student) of a service provided by the college district. Regarding subdivision (e), as a matter of law, the test claim statutes do not include "offsetting savings" which result in no net costs. A new program was added, and no other mandated program was removed by the statute. However, as a matter of law, the test claim statutes did include "additional revenue that was specifically intended to fund the costs of the mandate" in the form of the revenue credit. According to the claimant, this begs the question of fact of whether the additional revenue is "sufficient to fund the cost of the state mandate." The entire cost to implement the mandate will vary from district to district, so it cannot be determined as a matter of fact that the revenue credit is sufficient for any or all districts. The claimant notes the revenue credit can in the usual course of the mandate process be addressed by the annual claiming process whereby the claimants are required by law to report their cost of implementing the mandate from which they must deduct other reimbursement and funds, in this case, the two-percent revenue credit.

Regarding DOF's statement that the collection of enrollment fees is entwined with the entire admission process making it extremely difficult, if not impossible to accurately isolate the

⁵⁷ Education Code, section 76300, subdivision (c) states that for purposes of computing apportionments to community college districts, the Chancellor shall subtract 98% of the revenues received by districts from enrollment fees from the total revenue owed to each district.

specific tasks involved with collecting enrollment fees, claimant notes this is without foundation, and is neither a statutory exception to reimbursement of costs mandated by the state, nor a practical argument. The parameters and guidelines determine which activities are reimbursable and the cost accounting methods to be used, and the claimants have the burden of complying with the parameters and guidelines, not the state. Also, enrollment fee collection involves a high volume of uniform transactions (collecting the fee) comprised of identifiable direct costs (staff time and forms to collect the fee). After several years of data are accumulated, claimant asserts that this mandate would be a candidate for a uniform cost allowance.

The Commission finds the community colleges' revenue credit does not preclude reimbursement for the fee collection activities specified. Government Code section 17556, subdivision (d), by its express terms, only applies to "fees, or assessments sufficient to pay for the mandated program or increased level of service" (emphasis added). Likewise, subdivision (e) only applies to "revenue ... in an amount sufficient to fund the cost of the state mandate" (emphasis added). The record indicates that the revenue credit is insufficient to fund these activities.

The test claim statute reads in pertinent part as follows:

76300. (a) The governing board of each community college district shall charge each student a fee pursuant to this section. [¶]... [¶]

(c) For the purposes of computing apportionments to community college districts pursuant to Section 84750, the chancellor shall subtract from the total revenue owed to each district, 98 percent of the revenues received by districts from charging a fee pursuant to this section.

Claimant submitted a declaration that it incurred about \$677,640 (or \$4.60 per student) in staffing and other costs in excess of the two percent of the enrollment fees retained during July 1998 to June 1999.⁵⁸ The assertion of insufficient fee authority is supported by the LAO's legislative history submitted by the CCC.⁵⁹ Thus, the Commission finds that Government Code section 17556, subdivision (d) does not preclude reimbursement because the record indicates that the fee is not sufficient to pay for the program.

Similarly, the Commission finds that Government Code section 17556, subdivision (e) does not preclude reimbursement because there is nothing in the record to indicate that offsetting savings or additional revenue -- in this case the two percent revenue credit -- is sufficient to fund the mandate.⁶⁰

The Commission disagrees with DOF's assertion that the Legislature made a valid determination that two percent of the revenue from fees is adequate to compensate community college districts for administering the test claim statutes. DOF cites no authority for this proposition, nor is there statutory language in the test claim statute to support it.

⁵⁸ Declaration of Carrie Bray, Director, Accounting Services, Los Rios Community College District, June 22, 2000.

⁵⁹ Office of the Legislative Analyst, analysis of Assembly Bill No. 1 (1983-1984 2d Ex. Sess.) January 23, 1984, as submitted in the CCC comments.

⁶⁰ The two percent fee would be determined to be an offset in the parameters and guidelines per California Code of Regulations, title 2, section 1183.1, subdivision (a), paragraphs (8) and (9).

Even if the Legislature had expressly determined the fee adequate, the determination would not prevent finding the existence of a mandate. Two cases have held legislative declarations unenforceable that attempt to limit the right to reimbursement. In *Carmel Valley Fire Protection District v. State of California*,⁶¹ the court held that "Legislative disclaimers, findings and budget control language are no defense to reimbursement." The *Carmel Valley* court called such language "transparent attempts to do indirectly that which cannot lawfully be done directly."⁶² Similarly, in *Long Beach Unified School District v. State of California*,⁶³ the Legislature deleted requested funding from an appropriations bill and enacted a finding that the executive order did not impose a state-mandated local program. The court held that "unsupported legislative disclaimers are insufficient to defeat reimbursement. . . [The district,] pursuant to Section 6, has a constitutional right to reimbursement of its costs in providing an increased service mandated by the state. The Legislature cannot limit a constitutional right."⁶⁴ If the Legislature could not prevent a mandate explicitly as the authorities indicate, it could not prevent one implicitly.

In its 8/30/02 comments on the draft staff analysis on the *Enrollment Fee Collection* test claim, DOF asserts that the community colleges have sufficient fee authority pursuant to Education Code section 70902, subdivision (b) (9), for enrollment fee collection. This statute covers fees of a governing board "as it is required to establish by law," or "as it is authorized to establish by law." The fees in existing law that fall within the authorization provided in section 70902, subdivision (b) (9) are for the following purposes: apprenticeship courses, health, parking and transportation, instructional materials, course auditing, student body center building and operations, fees for classes not eligible for state apportionments, and fees for physical education courses requiring use of nondistrict facilities.⁶⁵

For fee authority pursuant to Education Code section 70902, subdivision (b) (9) to apply, it must be "required or authorized by law." There is nothing in the record to indicate the existence of any fee authority "required or authorized by law," for collecting enrollment fees other than that listed in Education Code section 76300. The record indicates this section 76300 authority is not "sufficient to pay for the mandated program" within the meaning of Government Code section 17556, subdivision (d). Therefore, the Commission finds that the fee authority in Education Code section 70902, subdivision (b) (9) does not preclude reimbursement under this test claim.

BOG fee waivers (Ed. Code, § 76300, subs. (g) & (h); Cal. Code Regs., tit. 5, §§ 58612, 58613 & 58620): DOF argues that costs associated with BOG fee waivers should not be included in this claim because a statutory compensation mechanism currently exists for those costs. Education Code section 76300, subdivision (i), states legislative intent to provide sufficient funds for fee waivers for every student who demonstrates eligibility pursuant to subdivisions (g) and (h) (referring to students who receive TANF, SSI/SSP or other general assistance or dependents or surviving spouses of members of the California National Guard who are killed or permanently disabled in the line of duty). This section also requires the Community Colleges Board of Governors, from funds in the annual budget act, to allocate to community

⁶¹ *Carmel Valley, supra*, 190 Cal. App. 3d at page 521.

⁶² *Id.* at page 541.

⁶³ *Long Beach Unified, supra*, 225 Cal. App. 3d 155.

⁶⁴ *Id.* at page 184.

⁶⁵ Education Code sections 76350 through 76395.

colleges two percent of the fees waived under subdivisions (g) and (h) of section 76300. Finally, this section requires the Board of Governors to allocate from funds in the annual budget act ninety-one cents (\$0.91) per credit unit waived pursuant to subdivisions (g) and (h) for determination of financial need and delivery of student financial aid services, on the basis of the number of students for whom fees are waived. Thus, DOF argues that costs associated with fee waivers should not be included in the test claim.

In its 9/25/01 comments on the *Enrollment Fee Waivers* test claim (00-TC-15), DOF argued that funding is provided to cover costs associated with determining eligibility for BOG fee waivers. DOF disputes the number of fee waiver determinations pled by claimant, estimating it to be roughly 36 percent of the number asserted by claimant. DOF also asserts that the average time to make a fee waiver is overstated by claimant, since students only need to demonstrate that they meet one of the seven criteria. DOF says it believes that the total cost of the BOG fee waiver determination is less than \$70,000, and that the Glendale Community College District received \$66,000 for Student Financial Aid Administration and \$22,888 for Fee Waiver Administration, both allocated as authorized by Education Code section 76300, subdivision (i). DOF believes that eligibility determination is fully funded and not a reimbursable mandate.

In its 11/12/01 rebuttal to DOF's comments on *Enrollment Fee Waivers* (00-TC-15), claimant objects to DOF's comments as legally incompetent and in violation of California Code of Regulations, title 2, section 1183.02(d) because (1) they are not signed under penalty of perjury by an authorized representative that they are true and complete to the best of the representative's personal knowledge or information and belief, and (2) they are not supported by documentary evidence authenticated by declarations under penalty of perjury (Cal. Code Regs., tit. 2, § 1183.02 (c)(2)). Claimant argues that DOF's comments constitute hearsay.

Claimant also disputes DOF's assertion of revenue sufficient to fund any requirements for determining eligibility for BOG fee waivers. Claimant asserts that Government Code section 17556, subdivision (e), indicates that test claim statutes must include the offsetting revenue in the same legislation, and that claimant already identified the offsetting revenue in the test claim as 7 percent of the fees waived from July 1, 1999 through July 4, 2000 and at ninety-one cents (\$0.91) per credit unit waived thereafter pursuant to Education Code section 76300, subdivision (i)(2). Claimant asserts that the cost to implement the mandate will vary from district to district so it cannot be determined if this identified revenue is sufficient for any or all of them.

The Commission finds that Education Code section 76300, subdivision (i), does not preclude finding a mandate for waiving fees pursuant to BOG fee waivers. Claimant's assertion in the record indicates that legislative allocations are not sufficient to pay for the waivers under the fee collection program. In sum, the Commission finds that neither Government Code section 17556, subdivisions (d) and (e), nor the statute's reimbursement mechanism, precludes reimbursement for costs associated with BOG fee waivers. Revenue as a result of Education Code section 76300, subdivision (i), or any other source, would be determined as offsetting revenue in the parameters and guidelines.⁶⁶

District reporting and accountability (Cal. Code Regs., tit. 5, § 58630.): In its 9/25/01 comments, DOF argues that the reporting and accounting activities do not constitute reimbursable mandates because claimant seeks reimbursement to document and account for funds allocated for collection of enrollment fees, but section 58630 only refers to identification

⁶⁶ California Code of Regulations, title 2, section 1183.1, subdivision (a), paragraphs (8) and (9).

and documentation of financial assistance, not enrollment fee collection. Therefore, any attempt to claim reimbursement for the accounting and documentation of enrollment fees should be denied. DOF also asserts that this activity receives funding from both the two percent funds for fee waiver administration and the seven percent fund for Student Financial Aid Administration.

DOF is correct in observing that section 58630 only pertains to financial assistance. As to prior receipt of funding, Education Code section 76300, subdivision (i)(2) states, "From funds provided in the annual Budget Act, the Board of Governors shall allocate to community college districts, pursuant to this subdivision, an amount equal to ninety-one cents (\$0.91) per credit unit waived pursuant to subdivision (g) and (h) for determination of financial need and delivery of student financial aid services, on the basis of the number of students for whom fees are waived." (Emphasis added.) This funding would be considered as an offset in the parameters and guidelines for this test claim.

In summary, there is nothing in the record to indicate that the Legislature repealed other programs or appropriated sufficient funds for enrollment fee collection or BOG fee waivers.

CONCLUSION

Based on the foregoing analysis, the Commission finds that the test claim legislation imposes a partial reimbursable state-mandated program on community college districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for the following activities:

- Calculating and collecting the student enrollment fee for each student enrolled except for nonresidents, and except for special part-time students cited in section 76300, subdivision (f). (Ed. Code, § 76300, subds. (a) & (b); Cal. Code Regs., tit. 5, §§ 58501, 58502 & 58503.);
- Waiving student fees in accordance with the groups listed in Education Code section 76300, subdivisions (g) and (h);
- Waiving fees for students who apply for and are eligible for BOG fee waivers (Cal. Code Regs., tit. 5, §§ 58612, 58613 & 58620.);
- Reporting to the CCC the number of and amounts provided for BOG fee waivers. (Cal. Code Regs., tit. 5, § 58611.);
- Adopting procedures that will document all financial assistance provided on behalf of students pursuant to chapter 9 of title 5 of the California Code of Regulations; and including in the procedures the rules for retention of support documentation which will enable an independent determination regarding accuracy of the district's certification of need for financial assistance. (Cal. Code Regs., tit. 5, § 58630, subd. (b).)

The Commission also finds that all other test claim statutes and regulations not cited above do not impose reimbursable state-mandated activities within the meaning of article XIII B, section 6 and Government Code section 17514.

DECLARATION OF SERVICE BY MAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

April 25, 2003, I served the:

Adopted Statement of Decision

Enrollment Fee Collection, 99-TC-13

Los Rios Community College District, Claimant

Education Code Section 76300, Statutes 1984xx, Chapter 1 et al.; California Code of Regulations, Title 5, Sections 58500 - 58508.

Enrollment Fee Waivers, 00-TC-15

Glendale Community College District, Claimant

Education Code Section 76300, Statutes 1984xx, Chapter 1 et al.; California Code of Regulations, Title 5, Sections 58600, 58601, 58610 - 58613, 58620, 58630

by placing a true copy thereof in an envelope addressed to:

Mr. Keith Petersen

SixTen and Associates


5252 Balboa Avenue, Suite 807

San Diego, CA 92117

State Agencies and Interested Parties (See attached mailing list);

and by sealing and depositing said envelope in the United States mail at Sacramento, California, with postage thereon fully paid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on April 25, 2003, at Sacramento, California.


VICTORIA SORIANO

SixTen and Associates

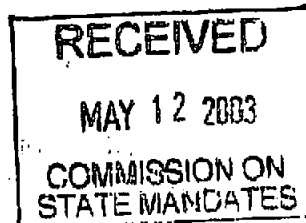
Mandate Reimbursement Services

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May 9, 2003

Paula Higashi, Executive Director
 Commission on State Mandates
 980 Ninth Street, Suite 300
 Sacramento, CA 95814



Re: 99-TC-13 Enrollment Fee Collection-Test Claim of Los Rios Community College
 00-TC-15 Enrollment Fee Waiver-Test Claim of Glendale Community College
 Education Code Section 76300, Title 5, CCR, Sections 58500-58508
Enrollment Fee Collection and Waivers

Dear Ms. Higashi:

Enclosed is the original and seven copies of the claimant's proposed parameters and guidelines for the above referenced test claim. All parts, except Part IV. Reimbursable Activities, generally defer to the Commission boilerplate which has recently been changing too often for a claimant to accurately provide language which would not be substantially altered by commission staff. If you wish me to attempt those parts, let me know.

I understand that the commission staff is responsible for including a unit cost allowance in the original parameters and guidelines. Since it is not possible for the claimants to prepare a cost study, circulate the questionnaires, and provide analyzed results within the 30 days allowed to prepare the claimants' proposed parameters and guidelines, we are unable to suggest a uniform cost allowance at this time.

However, the claimants support the use of a uniform cost allowance and will offer all the help they can to assist your staff in developing a unit cost allowance for these mandates. Please let me know how you wish to proceed.

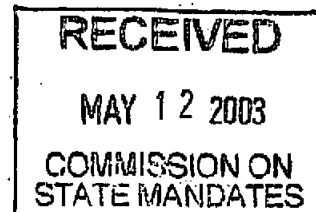
Sincerely,

Keith B. Petersen

C: Jon Sharpe, Vice-Chancellor, Los Rios Community College District
 Lawrence Serot, Vice-President, Glendale Community College District
 Dr. Carol Berg, Consultant, Education Mandated Cost Network

Parameters and Guidelines Drafted By:
Keith B. Petersen, SixTen and Associates
5252 Balboa Avenue, Suite 807 San Diego, CA 92117
Voice: (858) 514-8605 Fax: (858) 514-8645

DATED 5/9/2003



**CLAIMANT'S PROPOSED
PARAMETERS AND GUIDELINES**

Education Code Sections 76300
Title 5, CCR, Section 58501
Title 5, CCR, Section 58502
Title 5, CCR, Section 58503
Title 5, CCR, Section 58611
Title 5, CCR, Section 58612
Title 5, CCR, Section 58613
Title 5, CCR, Section 58620
Title 5, CCR, Section 58630

Statutes of 1995, Chapter 308
Statutes of 1996, Chapter 63
Statutes of 1999, Chapter 72

CSM 99-TC-13 & 00-TC-15

ENROLLMENT FEE COLLECTION AND WAIVERS

I. SUMMARY OF THE MANDATE

Per Statement of Decision

II. ELIGIBLE CLAIMANTS

Community college districts which incur increased costs as a result of this mandate are eligible to claim reimbursement.

III. PERIOD OF REIMBURSEMENT

Per Statement of Decision and Commission boilerplate. Reimbursement begins July 1998, except for the enrollment fee waiver process, which begins July 1999.

IV. REIMBURSABLE ACTIVITIES

For each eligible claimant, the following activities are eligible for reimbursement:

1. Policies and Procedures

Prepare and update as necessary district policies and procedures for the collection of enrollment fees and the determination of which students are eligible for waiver of the enrollment fee, and for the implementation of the mandate.

2. Staff Training

Training district staff on the procedures for the collection of enrollment fees and determination of which students are eligible for waiver of the enrollment fee, and for the implementation of the mandate.

3. Enrollment Fee Collection

The entire process of collecting the student enrollment fee, except for nonresident and special part-time students (E.C. 76001). The process may be different for each district, but typically includes:

- Providing written notice to students of the prevailing enrollment fee payment requirements.
- Referencing student accounts and records to determine course workload, status of payments, and eligibility for fee waiver. Printing a list of enrolled courses.
- Calculating the total enrollment fee to be collected. Identifying method of payment. Collecting cash and making change as necessary. Processing credit card and other non-cash payment transactions. Preparing a receipt for payment received.
- Answering student's questions or referring them to the appropriate person for an answer.
- Updating written and computer records for the enrollment fee information and providing a copy to the student. Copying and filing enrollment fee documentation.

- Collecting delinquent enrollment fees, including written or telephonic collection notices to students, turning accounts over to collection agencies, or small claims court action.
- For students who establish fee waiver eligibility after the enrollment fee has been collected, providing a refund of enrollment fees paid and updating student and district records as required. (Refund process for change in program is not reimbursable).

The cost of this component is subject to an offset of two-percent of the total enrollment fees waived as a credit calculated by the State Chancellor, but, only to the extent that this revenue continues to be received by the district from the state.

4. Enrollment Fee Waiver (BOG, et al.) (Beginning July 1999)

The entire process of determining eligibility for enrollment fee waivers as provided for by Education Code section 76300 (subdivision (g, h, i, j, k, and l) The process may be different for each district, but typically includes:

- Providing written notice to students of the prevailing enrollment fee waiver requirements and the forms required to apply for a waiver.
- Receiving of waiver applications from students by mail, fax, computer online access, or in person, or in the form of eligibility information processed by the financial aid office.
- Evaluating each application and verification documents (dependency status, household size and income, SSI and TANF/CalWorks, etc.) for compliance with eligibility standards utilizing information provided by the student, from the student financial aid records (e.g., FAFSA), and other records.
- In the case of an incomplete application or incomplete documentation, notify the student of the additional required information and how to obtain that information. Hold student application and documentation in suspense file until all information is received.
- In the case of an approved application, copy all documentation and file the information for further review or audit. Entering the approved application information into district records and /or notifying other personnel performing

other parts of the process (e.g., cashier's office). Providing the student with proof of eligibility or an award letter, and file paper documents in the annual file.

- In the case of a denied application, reviewing and evaluating additional information and documentation provided by the student when the denial is appealed by the student. Provide written notification to students of the results of the appeal or any change in eligibility status.

The cost of this component is subject to an offset calculated by the State Chancellor as seven percent of the total enrollment fees collected prior to FY 1999-2000, and thereafter, \$.91 per credit unit of enrollment fee waived, but only to the extent that this revenue continues to be received by the district from the state.

5. Record Retention

Recording and maintaining records which document all of the financial assistance provided to students for the payment or waiver of enrollment fees in a manner which will enable an independent determination of the district's certification of the need for financial assistance.

6. State Reporting

Preparing and submitting financial and management information data and reports to the state agencies at specified times each year regarding the type and number of waivers approved and amounts waived.

V. CLAIM PREPARATION AND SUBMISSION

Commission boilerplate for the rest of the document. Claimant will respond to current boilerplate when it is drafted into the document by the Commission staff.

Commission on State Mandates

Original List Date: 8/7/2000
Last Updated: 4/17/2003
List Print Date: 10/30/2003
Claim Number: 99-TC-13
Issue: Enrollment Fee Collection

Mailing Information: Other

Mailing List

Related Matter(s)

00-TC-15 Enrollment Fee Waivers

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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DEPARTMENT OF
FINANCE

ARNOLD SCHWARZENEGGER, GOVERNOR

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RECEIVED

February 13, 2004

FEB 18 2004

COMMISSION ON
STATE MANDATES

Ms. Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Dear Ms. Higashi:

The Department of Finance has reviewed the proposed Parameters and Guidelines for CSM 99-TC-13 "Enrollment Fee Collection" submitted by the Los Rios Community College District, and CSM 00-TC-15 "Enrollment Fee Waivers" submitted by the Glendale Community College District, which were consolidated by the Commission. Finance generally concurs with the proposed Parameters and Guidelines, with the following exceptions that are addressed below:

1. The inclusion of "Record Retention" within the proposed parameters and guidelines for enrollment fee waivers appears to be incorrect, as it is an ineligible activity as a result of the claimant's request to withdraw the *Board of Governors Fee Waiver Program and Special Programs, 2000-2001 Program Manual* at the March 27, 2003 hearing on this test claim. Withdrawal of that document as a source from which reimbursable activities are claimed renders record retention activities from being included in any cost allowances included in the parameters and guidelines for this test claim.
2. We recommend that the phrase "and implementation of the mandate" be deleted from Sections 1 and 2 of the proposed Parameters and Guidelines. It is unclear what this term refers to, as specific implementation activities are described in subsequent sections.
3. We recommend that Section 2, "Staff Training," be amended as follows, in order to conform to the Statement of Decision:

"Training district staff ~~new directors/managers/coordinators/officers in charge of day-to-day operations of the financial aid office within their first year of appointment~~ on the procedures for the collection of enrollment fees and determination of which students are eligible for waiver of the enrollment fee ~~by having them attend training offered by the Chancellor's Office, and for the implementation of the mandate.~~"
4. We recommend that the fourth bullet in Section 3 be limited to questions and referrals related only to fee collection and fee waivers, rather than to student questions generally, to explicitly limit reimbursement to the issues in the Statement of Decision.

5. The final paragraph of Section 3 should be amended as follows:

"The cost of this component is subject to an offset of two-percent of the total enrollment fees ~~waived-collected, an amount which is retained by each district.~~" ~~as a credit calculated by the Chancellor, but, only to the extent that this revenue continues to be received by the district from the state."~~

6. The final bullet of Section 4 should be amended as follows, in part: "In the case of a denied application, reviewing and evaluating additional information and documentation provided by the student ~~when~~ if the denial is appealed by the student..."

7. The final paragraph of Section 4 should be amended as follows:

"The cost of this component is subject to an offset calculated by the State Chancellor as seven percent of the total enrollment fees collected prior to FY 1999-2000, and thereafter, *two percent of the value of the fees waived plus \$.91 for each credit unit waived* ~~per credit unit of enrollment fee waived~~, but only to the extent that this revenue continues to be received by the district from the state.

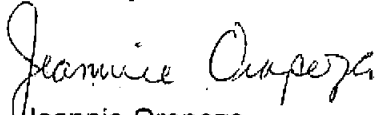
In addition to these issues, Finance notes that both claimants submitted an estimate of cost in each original test claim, but that the proposed parameters and guidelines letter of May 9, 2003, contains no estimate of costs. Instead, the letter indicates a desire to develop a uniform allowance for costs. The Commission on State Mandates recommended the use of a uniform cost allowance in its October 30, 2003 letter. The Department of Finance concurs that use of a uniform cost allowance for the activities cited in the proposed parameters and guidelines is appropriate. However, until the cost estimates of activities proposed to be included are known and made available to the Department of Finance, we will be unable to provide further comment.

Finance notes that Education Code Sections 76300(c) and 84751 provide community college districts with an amount equal to 2 percent of the value of enrollment fees collected, as a form of reimbursement for costs associated with the collection of this fee. The 2003-04 Budget Act provides approximately \$5.4 million statewide for this purpose. Finance also notes Education Code Section 76300 (i)(2) compensates community colleges for 2 percent of the value of fees waived, plus \$0.91 for each unit waived. The 2003-04 Budget Act provides approximately \$8.4 million statewide for this purpose. Both of these statutory reimbursement mechanisms reflect a mutual recognition by the State and community college districts of the costs associated with these activities. Similar amounts have historically been provided for enrollment fee collection and enrollment fee waivers in prior annual budget acts as well, and we concur with the claimant's intention that these annual resources offset any claimed costs.

As required by the Commission's regulations, we are including a "Proof of Service" indicating that the parties included on the mailing list which accompanied your January 8, 2002, letter have been provided with copies of this letter via either United States Mail or, in the case of other State agencies, Interagency Mail Service.

If you have any questions regarding this letter, please contact Pete Cervinka, Principal Program Budget Analyst, at (916) 445-0328 or Keith Gmeinder, State mandates claims coordinator for the Department of Finance, at (916) 445-8913.

Sincerely,


Jeannie Oropeza
Program Budget Manager

Attachments

Attachment A

DECLARATION OF PETE CERVINKA
DEPARTMENT OF FINANCE
CLAIM NOS. CSM 99-TC-13 and 00-TC-15

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.
2. We concur that the various statutes sections relevant to this claim are accurately quoted in the test claim submitted by claimants and, therefore, we do not restate them in this declaration.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.

2/6/2004

at Sacramento, CA



Pete Cervinka

PROOF OF SERVICE

Test Claim Names: Enrollment Fee Collection and Enrollment Fee Waivers
Test Claim Numbers: CSM 99-TC-13 and CSM 00-TC-15

I, Jennifer Nelson, declare as follows:

I am employed in the County of Sacramento, State of California, I am 18 years of age or older and not a party to the within entitled cause; my business address is 915 L Street, 7th Floor, Sacramento, CA 95814.

On February 13, 2004, I served the attached request of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and nonstate agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 915 L Street, 7th Floor, for Interagency Mail Service, addressed as follows:

A-16
Ms. Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

B-8
State Controller's Office
Division of Accounting & Reporting
Attention: Michael Havey
3301 C Street, Room 500
Sacramento, CA 95816

B-29
Legislative Analyst's Office
Attention Marianne O'Malley
925 L Street, Suite 1000
Sacramento, CA 95814

E-8
Department of Education
Attention: Gerry Shelton
School Fiscal Services
1430 N Street, Suite 2213
Sacramento, CA 95814

D-8
Office of the Attorney General
Attention: Leslie Lopez
1300 I Street, 17th Floor
Sacramento, CA 95814

B-8
State Controller's Office
Division of Audits
Attention: Jim Spano
300 Capitol Mall, Suite 518
Sacramento, CA 95814

Education Mandated Cost Network
Attention: Carol Berg, Ph.D.
1121 L Street, Suite 1060
Sacramento, CA 95814

MAXIMUS
Attention: Allan Burdick
4320 Auburn Blvd., Suite 2000
Sacramento, CA 95841

San Diego Unified School District
Attention: Arthur Palkowitz
4100 Normal Street, Room 3159
San Diego, CA 92103-8363

Santa Monica Community College District
Attention: Thomas J. Donner
1900 Pico Blvd.
Santa Monica, CA 90405-1628

San Jose Unified School District
Attention: William A. Doyle
1153 El Prado Drive
San Jose, CA 95120

Mandate Resource Services
Attention: Harmeet Barkschat
5325 Elkhorn Blvd. #307
Sacramento, CA 95842

Centration, Inc.
Attention: Andy Nichols
12150 Tributary Point Drive, Suite 140
Gold River, CA 95670

Mandated Cost Systems
Attention: Steve Smith
11130 Sun Center Drive, Suite 100
Rancho Cordova, CA 95670

Shields Consulting Group, Inc.
Attention: Steve Shields
1536 36th Street
Sacramento, CA 95816

Reynolds Consulting Group, Inc.
Attention: Sandy Reynolds
P.O. Box 987
Sun City, CA 92586

Mr. Mark Drummond
Chancellor, California Community Colleges
1102 Q Street, Suite 300
Sacramento, CA 95814

San Juan Unified School District
Attention: Diana Halpenny
3738 Walnut Avenue
Carmichael, CA 95608

Spector, Middleton, Young & Minney, LLP
Attention: Paul Minney
7 Park Center Drive
Sacramento CA 95825

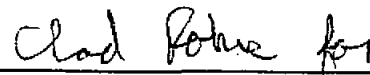
Centration, Inc.
Attention: Beth Hunter
8316 Red Oak Street, Suite 101
Rancho Cucamonga, CA 91730

SixTen & Associates
Attention: Keith B. Petersen
5252 Balboa Avenue, Suite 807
San Diego, CA 92117

Los Rios Community College District
Attention: Mr. Jon Sharpe
1919 Spanos Court
Sacramento, CA 95825

Glendale Community College District
Attention: Mr. Lawrence Serot
1500 N. Verdugo Road
Glendale, CA 91208

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on February 13, 2004, at Sacramento, California.



Jennifer Nelson

**California Community Colleges
Chancellor's Office**

**Board of Governors
Fee Waiver Program
And
Special Programs**

**2000-2001
PROGRAM
MANUAL**

*Effective:
July 1, 2000-June 30, 2001*

**California Community Colleges Chancellor's Office
Board of Governor's Fee Waiver Program
And Special Programs**

2000/2001

PROGRAM MANUAL

Effective July 1, 2000 - June 30, 2001

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**California Community Colleges Chancellor's Office
Board of Governor's Fee Waiver Program
And Special Programs**

2000/2001

PROGRAM MANUAL

Effective July 1, 2000 - June 30, 2001

1. INTRODUCTION

1.1 Program Purpose

The Board of Governors Fee Waiver Program is designed to ensure that the fee policies of the California Community Colleges (CCC) are not a financial barrier to education for any California resident. As of January 2000, the CCC fee charge is planned to be \$11 per unit for resident students in 2000/2001. (Fee levels are not final until the state budget is passed in June 2000.) Enrollment fees are waived for all needy students as defined in this program.

1.2 Program Description

1.2.1 Three-part eligibility

Students are determined eligible in one or more of the following three separate parts of the BOG Fee Waiver Program. Part A is for students receiving TANF, SSI and General Assistance. Part B is for students who meet strict low-income criteria. Part C provides fee waivers to every student who demonstrates financial need.

Note: The Title 5 regulations (Appendix 2) refer to these parts in a different manner:

Part A = Section 2

Part B = Section 1

Part C = Section 3

1.2.2 Relationship to other program eligibility and fee provisions

EOPS: Students who are eligible for Parts A and/or B are eligible to be referred to the Extended Opportunity Program and Services to be considered for support services such as counseling and tutoring. Part C recipients who also meet Part A or B criteria are eligible for referral.

HEALTH: Any student eligible for a BOG Fee Waiver is exempt from the health fee.

OTHER: Eligibility for a BOG Fee Waiver relates to several provisions of the fee policies of the Community Colleges. Please refer to the annual Fee Policy update from the CCCCCO Legal Department (sent to all Financial Aid Directors in December of each year).

1.3 Program Authority

1.3.1 The law

The Board of Governors Fee Waiver Program is authorized in California law in Section 76300 of the California Education Code. (See Appendix 1.)

1.3.2 The regulations

The Program is regulated through Title 5 of the California Code of Regulations, Sections 58600-58630. (See Appendix 2.)

1.3.3 Sub-regulatory guidance

Additional guidance on the administration of the BOG Fee Waiver Program is offered by the California Community College Chancellor's Office through this manual, program updates and training materials. This manual supercedes existing Q and A documents.

1.3.4 Annual cycle of the academic year: leader or trailer

For eligibility purposes, the campus may choose to make summer session a "leader" or a "trailer" to fit other program decisions. Thus, the eligibility criteria in this manual may be applied for summer 2000 through spring 2001 or for fall 2000 through summer 2001.

For reporting purposes (see Section 6 on Reporting Requirements), summer is always the leader. Reports for 2000/2001 will include summer 2000, not summer 2001.

1.4 Multi-Campus Districts

Districts are free to adopt district-wide policies or campus specific policies in the BOG Fee Waiver program.

2.0 APPLICATION PROCESS

2.1 The Basic Application for the BOG Fee Waiver Program

Any student may apply for a BOGFW using the Free Application for Federal Student Aid (FAFSA) or a separate, supplemental BOG Fee Waiver Application. The FAFSA is the basic application for the program. Whenever possible, students should not be required to complete a supplemental form to receive a fee waiver unless it is necessary or to the student's advantage to do so.

2.2 The BOG Fee Waiver Application

2.2.1 The Chancellor's Office BOG Fee Waiver Application

Each year the Chancellor's Office will produce a BOG Fee Waiver application that may be used by the colleges as a supplemental or separate form. Colleges may design and print their own forms as long as the information on the Chancellor's Office form is included.

2.2.2 The use of the BOG Fee Waiver Application

The supplemental or separate form may be used as a quick or short form to facilitate a fast eligibility process and/or as the sole application for students who choose not to file a FAFSA. The FAFSA application is preferable because the student will be evaluated for a full-range of financial assistance.

Colleges may use a locally-developed supplement to determine the source of untaxed income to demonstrate Part A eligibility because TANF and SSI are no longer specifically identified on the FAFSA. A separate BOGFW application is not required for this.

If a student is given the BOG Fee Waiver Application, the student should be strongly urged to complete a FAFSA as well. The BOG Fee Waiver Application tells students to consider filing a FAFSA, but colleges are encouraged to find additional means to publicize the FAFSA and encourage the application for full funding.

Students may be considered eligible under Parts A and B without filing a supplemental form. If the FAFSA demonstrates Part A and/or Part B eligibility no additional application form is required.

2.2.3 The 2000/2001 BOG Fee Waiver Application

The application is available electronically from the Chancellor's Office. The application is also included in the manual. (See Appendix 9.)

2.2.4 Applications in languages other than English

If the BOGFW application that is translated into other languages, the college is urged to share the form with the Chancellor's Office so it may be made available to other colleges.

2.2.5 Acceptable media

Colleges may provide a BOG Fee Waiver application in any format desired, as long as a paper format remains available for those students who do not have access to electronic media.

2.3 The Use of the FAFSA Output

2.3.1 SAR/ISIR available

A processed SAR/ISIR is acceptable for Parts B or C eligibility.

2.3.2 No SAR/ISIR available

If the college so chooses, the copy of the FAFSA may be evaluated and used as an eligibility document for fee waiver, without waiting for the receipt of the ISIR. Or a paper FAFSA may be evaluated and used as an eligibility document for fee waiver, without central processing.

3. ELIGIBILITY: NON-FINANCIAL

3.1 Residency

The student must be determined to be a California resident for fee purposes through the college's admissions process.

3.2 Enrollment in Credit Coursework

The BOG Fee Waiver is available for enrollment in credit coursework only. (Note: The distinction is between credit and noncredit *courses*. Students may take credit courses with a grading option of "credit/no credit". The grading choice is not relevant to fee waiver eligibility.)

3.3 Relation to Federal Non-Financial Requirements

In the eligibility situations noted below, students are eligible for BOG Fee Waiver assistance only. If it is possible for the student to overcome the particular obstacle (e.g., provide a social security number or take an ability to benefit test) the student should be counseled to do so in order to be considered for additional funds.

3.3.1 Social security number

A student may receive a BOG Fee Waiver without providing a social security number as long as the college permits students to receive regular services without providing the SSN.

3.3.2 Ability to benefit

A student who has not earned a HS diploma, GED or equivalent, but who is eligible for enrollment in credit coursework may receive a fee waiver without passing an ability to benefit test as required by the federal Title IV statutes.

3.3.3 Eligible program and educational goal

A student may receive a fee waiver for enrollment in any type of credit coursework without specifying an educational goal or participating in an eligible program.

3.3.4 High School Enrollment

High school students are not usually charged fees. However, in a case where a high school student is charged an enrollment fee the fee may be waived under the BOG Fee Waiver Program.

3.3.5 Enrollment level

A student may receive a fee waiver for enrollment in any number of credit units during a term. There is no minimum or maximum.

3.3.6 Citizenship

As long as the student is admitted as a California resident by the college the student may receive a fee waiver. Federal rules regarding citizenship do not apply.

3.3.7 Selective Service

Students who fail to register for the selective service in accordance with the law (50 USC App 451 et seq.) may receive a BOG fee waiver unless there are college policies that prohibit this service.

Each college is required under Section 66500 of the California Education Code to inform students of their obligation to register and to provide access to additional information. Students who are not registered in accordance with the law should be referred to the office that provides such information at the college.

3.3.8 Drug convictions

If the student's eligibility is suspended due to the federal Title IV drug conviction regulations the student remains eligible for a BOG Fee Waiver.

3.3.9 Loan default and grant repayment

Per the California Education Code (Section 66022) the governing board of each college must adopt policies regarding the withholding of services from students in default. (See Appendix 3.) Per Legal Opinion E 2000-01 of the Chancellor's Office, the BOG Fee Waiver is not an institutional service that may be withheld from students pursuant to E.C. Section 66022. (See Appendix 4.)

Colleges are encouraged to counsel students regarding the consequences of default and the procedures necessary to reestablish his/herself in good standing.

3.3.10 Satisfactory academic progress

As long as a student continues to be eligible to enroll in credit coursework, the student may remain eligible for a fee waiver.

4. ELIGIBILITY: FINANCIAL

4.1 Dependency Status

4.1.1 Independence

Students may qualify as financially independent for a BOG Fee Waiver using the federal criteria. In addition, students who do not qualify through these criteria may be considered independent of parent support for a *BOG Fee Waiver only* if they do not live with their parent(s) and were not claimed as a tax exemption by either or both parents in 1999.

4.1.2 Dependency overrides

The discretion provided in Article 480(d)(7) of the HEA of 1965 as amended to override the dependency status of an otherwise dependent student (See Appendix 5) shall apply to dependency status for the BOG Fee Waiver program including Parts A, B and C and subsequent EOPS eligibility.

In making such determinations, the college may apply more lenient or different criteria than might be applied for federal purposes for the same student, as long as the determination is made on a case-by-case basis and includes supporting documentation.

Other Student Services (EOPS, Counseling, DSPS, etc.), should be encouraged to *refer* students for consideration for dependency override if there is evidence that dependent status is inappropriate in a particular case; the *determination* of dependency override (and maintenance of supporting documentation) is a function of the Financial Aid Office.

4.1.3 Documentation of independence

If the student is independent under the federal and state criteria, the normal verification procedures of the college are sufficient.

If the student is independent only under the supplemental BOG Fee Waiver criteria, the college may require the student to submit a signed copy of the 1999 Federal Income Tax return of his or her parents (or tax documentation from both parents if the parents did not file jointly) to prove the student was not claimed. Or, if one or both of the parents did not file a 1999 Federal Income Tax Return, the parent(s) who did not file may be required to submit a non-filing statement. Or the college may accept the information on the signed application without requiring additional documentation.

4.2 Financial Eligibility for Part A

4.2.1 Types of public benefits

A dependent student is eligible for Part A if the parent(s) who are required to complete the FAFSA receive, or if the dependent student receives, the public benefits listed below at the time of enrollment

An independent student is eligible if the student (not the spouse) receives the public benefits listed below at the time of enrollment.

- **TANF:** Temporary Assistance to Needy Families. The monthly cash grant must include the dependent student and/or be the sole source of income for the family. Students/families receiving food stamps or CalWORKs services but no TANF cash grant are not eligible under Part A.

- **SSI/SSP:** Supplemental Security Income/State Supplemental Program. The benefits must include the dependent student and/or be the sole source of income for the family. Other associated public benefits such as Social Security Disability Income (SSDI) and regular Social Security retirement benefits do not qualify under Part A. These public benefits are not necessarily "need-based".
- **GA:** General Assistance. The receipt of General Assistance qualifies the student for a BOG Fee Waiver. Again, food stamp eligibility alone is not sufficient to qualify for Part A.

NOTE: Students who do not qualify under the strict criteria described above will often qualify under Part C. Encourage completion of the FAFSA.

4.2.2 Documentation for Part A

In order to qualify under Part A, the Financial Aid Office must document the public benefits listed above per Title 5 of the California Code of Regulations. (See Appendix 2.) The type of documentation is to be determined by local financial aid policies. The documentation must be sufficient to officially prove the individual(s) received the type of benefit listed above in the appropriate time period.

4.3 Financial Eligibility for Part B

4.3.1 Income standards

The 2000/2001 income standards are listed in Appendix 7. Students are eligible for Part B fee waivers if the total 1999 income is equal to or less than the amount on the chart for the relevant family size.

For a dependent student, "income" means all taxed and untaxed income received in the base year (1999) by the parent(s) who are required to complete the FAFSA. (Income received by the dependent student counts toward the calculation of an EFC but not toward the income standards for Part B.)

For a single independent student with no dependents, "income" means all taxed and untaxed income received in the base year (1999).

For a married independent student, "income" means all taxed and untaxed income received in the base year (1999) by the student and/or the student's spouse.

For an independent student with dependents other than a spouse, "income" means all taxed and untaxed income received in the base year (1999) by the student but not income received by the dependent(s).

NOTE: Students who do not qualify under the strict criteria described above will often qualify under Part C. Encourage completion of the FAFSA.

4.3.2 Zero EFC

If a student is determined to have a zero EFC, the student qualifies for a Part B referral to EOPS regardless of the income standards described above.

If the colleges chooses, a dependent student may also qualify for a Part B EOPS referral based only on the *parent contribution* of the EFC. (Federal Methodology calculates the PC and SC portions separately.)

4.3.3 Professional judgment for EOPS eligibility

A Part C eligible student with a zero EFC calculated as a result of the exercise of professional judgment as provided for in Section 479(a) of the HEA of 1965 as amended is also eligible for a Part B referral to EOPS. (See Appendix 7.)

Professional judgment cannot be used to amend the income standards for Part B eligibility.

4.3.4 Documentation for Part B

Title 5 of the California Code of Regulations requires documentation of those who are eligible under Part B. (See Appendix 2.) The college shall determine the method of documentation (which may include such methods as self certification, sampling or 100% verification).

4.4 Financial Eligibility for Part C

4.4.1 Financial eligibility for need-based aid

Any student who demonstrates financial eligibility for federal or state need-based student aid is eligible for a Part C fee waiver. Financial eligibility means a student with an EFC (9 month EFC) that is less than the Cost of Attendance (9 month budget) as determined for that individual student or for the group of students to which the student belongs (e.g. "at home" or "off campus").

4.4.2 Documentation for Part C

In order to be eligible for Part C, a student must complete a FAFSA. No other documentation is required.

4.4.3 Use of discretion

If the Financial Aid Office exercises the discretionary authority allowed in Section 479(a) of the HEA of 1965 as amended to change the data elements of the student's EFC or Cost of Attendance, the amended amounts used for federal funding must be used for Part C fee waiver eligibility as well, whether that action increases or decreases eligibility.

4.5 BOG Fee Waiver as a Resource in Packaging

The Cost of Attendance for each student shall include the enrollment fee as assessed per the California Education Code. The BOG Fee Waiver is considered an award in the package of financial aid to meet that cost. The amount to be listed on the offer letter is determined per college policy.

4.6 Federal Statute and Regulation Regarding Need Analysis

In the absence of specific guidance to the contrary, federal rules for need analysis shall be used in the BOG Fee Waiver program.

5. SPECIAL ELIGIBILITY

5.1 Dependents of National Guard

Per the California Education Code, Section 76300, fees are waived regardless of financial circumstance "for any student who, at the time of enrollment is a dependent, or surviving spouse who has not remarried, of any member of the California National Guard who, in the line of duty and while in the active service of the state, was killed, died of a disability resulting from an event that occurred while in the active service of the state, or is permanently disabled as a result of an event that occurred while in the active service of the state. "Active service of the state," for the purposes of this subdivision, refers to a member of the California National Guard activated pursuant to Section 146 of the Military and Veterans Code". (See Appendix 1.)

5.2 Other Dependents of Veterans

Section 32320 of the California Education Code, Plan B, provides that fees shall not be charged of children of veterans with service-connected disabilities and those killed in action, where the annual income of the child, including the value of support received from the parent, does not exceed \$8480 per year. The amount is updated annually. (See Appendix 8.)

6. PAYMENT POLICIES

6.1 Eligibility Established Prior to Start of the Term

If the student establishes eligibility prior to the start of a term and the college has sufficient time to notify the appropriate offices of that eligibility, the student should not be required to make payment of fees at the time of enrollment.

6.2 Eligibility Established After the Start of the Term or Eligibility Pending

If the student establishes eligibility after the start of a term or if the college does not have sufficient time to notify the appropriate offices of eligibility established before the start of the term, the college may:

- Require the student to pay fees and later reimburse the student for fees paid, OR

- Waive the student's fees pending completion of eligibility, with a student acknowledgement of the obligation to pay if the student is found to be ineligible, OR
- Require the student to pay fees and set a date beyond which fees will not be reimbursed if eligibility is not yet established.

6.3 Reimbursement of Fees Paid and Retroactive Reimbursement

If a student retroactively demonstrates eligibility for a fee waiver at any time during the academic year, the college may (but is not required to) reimburse the student for fees paid even if one or more terms has been completed.

Reimbursements may be paid to students only within the current academic year. There shall be no reimbursements after June 30 of the academic year.

6.4 Repayment of a BOG Fee Waiver

If a student becomes ineligible after receiving a BOG Fee Waiver, the college may pursue repayment or not, at its own discretion.

7. ALLOCATIONS

7.1 Board Financial Assistance Program (BFAP) Student Aid Administrative Allowance - "7% Fund".

7.1.1 Allocation Formula

Under Section 76300 of the Education Code (see Appendix 1) colleges are provided an administrative allowance to administer the BOG Fee Waiver Program. The statewide aggregate allowance for all colleges is determined by multiplying 7% of the enrollment fee for one credit at a value of no less than \$13 (\$0.91) times the estimated number of credit units to be waived in the year.

From the statewide aggregate allowance, each college is allocated a sum proportional to the number of students served by fee waivers in the last year for which verifiable data are available. Allocations will not be less than 90% of the previous year's allocation (if funding permits). No college receives less than \$12,500.

7.1.2 Allowable use of funds

Funds cannot be used for district operations nor may they be divided among colleges within a district in a manner that differs from the annual allocation to each campus.

The BFAP administrative allowance must be spent solely on financial aid professional, technical and/or clerical staffs who report directly to the financial aid director. Funds may not be used for salaries for personnel at the level of financial aid manager or above, for capital outlay, or office supplies. The funds may not cover expenditures made or liabilities incurred prior to July 1 of the applicable fiscal year.

On an exceptional basis funds may be allowed to cover student help and computer hardware or software if these expenditures are immediately necessary for the delivery of student aid services. Colleges should make a written request (letter, fax, email) to the Coordinator of SFA Programs at the Chancellor's Office. The request should include a description of the expenditures, the amount to be spent by exception and a brief statement describing the need for the request.

Funds must supplement, not supplant, on-going college expenditures for the administration of student aid.

7.2 Board Financial Assistance Program (BFAP) Fee Equalization Allocations - "2% Fund".

Colleges should not be disadvantaged in fee revenue by enrolling needy students. Each year the college receives an amount equal to 2% of the total fees waived to be used in the college general fund. This is similar funding to the 2% of fees actually paid that is kept by the college. These funds do not have to be spent on the administration of student aid.

7.3 BOG Fee Waivers are Entitlement Funding

There are no allocations for the actual student fee waivers. The waivers are simply a transaction in which no money is received (other than the eventual 2% noted above.) The waivers are available to all students who qualify regardless of the amount of fees thus waived and are thus an "entitlement" throughout the year.

8. CAMPUS REPORTING REQUIREMENTS

8.1 Estimates of Fee Waiver Activity: BFAP Reports 1A, 1B, and 1C

Twice per year (October and March) the college will be asked to provide an estimate of the total program activity for the current year. This will include an estimate of the number of students to be served in summer, fall, (winter), and spring as well as an estimate of the total dollar amount of fees to be waived in that time period. This information is used to develop estimates for the Department of Finance for the Governor's January Budget and for the May Revision of the Governor's Budget. These reports are called "BFAP Form 1A" and "BFAP Form 1B."

At the end of the year (usually in August) the college will be asked to report on the total actual activity (number of students served and dollar value of waivers) in the program. This is called "BFAP Form 1C".

8.2 Reallocation of Unused Administrative Allowance: BFAP Report 4

In the spring each year the college will be asked to report on the amount of administrative allowance that might not be utilized and to request additional amounts if needed. Unused funds will be reallocated to those colleges with need. Failure to release or utilize the BFAP administrative allowance will result in an allocation penalty. The penalty will equal unutilized funds in excess of one percent of the allocation for the applicable year and will be taken from the allocation for the fiscal year immediately following the year in which the underutilization is reported. The report is called "BFAP Report 4".

8.3 MIS Data: Annual October 1st Submission

The MIS data reporting requirements are contained in the manual available on line at www.cccco.edu or through the campus MIS office. MIS reporting for the Financial Aid data elements is on an annual basis, due October 1 each year.

8.4 Maintenance of Administrative Effort: BFAP Report 3

Colleges are asked to report annually on the amount of money spent to administer the student financial aid programs. The amount must be equal to or greater than the maintenance of effort required under the California Education Code (see Appendix 1). The maintenance of effort is equal to the 92/93 level of administrative effort updated for cost of living adjustments. This same report also provides information on the college's final expenditure of the BFAP Administrative Allowance. This report is called "BFAP Report 3".

8.5 Ad Hoc Reports

From time to time the Chancellor's Office may request additional information regarding the administration of student aid or regarding the student population served. Cooperation with special requests is appreciated.

9. PARTICIPATION BY NEW COLLEGES

Whenever a new college or district is officially approved by the Board of Governors, the students attending that college become eligible for BOG Fee Waivers and the student service division of that college becomes eligible to receive the minimum annual administrative allowance allocation of \$12,500 during the next available award cycle. Greater allocations will not be made until MIS data are available that support a greater share and until the college has at least one full-time employee devoted exclusively to the management of student financial aid.

10. SPECIAL PROGRAM: CHANCELLOR'S OFFICE TAX OFFSET PROGRAM (COTOP)

10.1 Program Description

The Chancellor's Office can act on behalf of local community college districts for the purpose of collecting outstanding student financial aid and specific non-financial aid obligations owed to the districts by former students through participation in the Franchise Tax Board's Interagency Tax Offset Program. The COTOP program requests the Franchise Tax Board to offset (deduct) the amount owed to a community college district from the student/debtor's personal state income tax, lottery winnings or other state refund.

Some of the types of outstanding liabilities recoverable under this program are defaulted Perkins loans, financial aid overpayments, campus emergency loans, EOPS grants and loans, non-resident tuition, enrollment fees, library fines, and personal checks written with non-sufficient funds.

10.2 Agreement

Each community college district interested in participating in the COTOP program must execute a contract with the Chancellor's Office. The contract is available within the COTOP contract packet, which is distributed by early June of each year. Also included are the data format specifications and the forms that are used throughout the processing year.

Debtor data is due to the Chancellor's Office by October 1 of each year. Additional data may also be submitted by the following January 15, if necessary.

10.3 Chancellor's Office Contact Person

Contact the COTOP Coordinator for additional information or to ask questions. Richard Quintana, COTOP Coordinator, may be reached via e-mail at rquintan@ccccco.edu or at (916) 324-0925.

11. COMMUNICATION AND HELP

11.1 Chancellor's Office

Any Financial Aid Office employee or other college staff person may contact the Chancellor's Office, Student Financial Assistance Unit for help.

- Coordinator: Mary Gill, 916.323.5951, mgill@ccccco.edu
- Specialist: Richard Quintana, 916.324.0925, rquintan@ccccco.edu
- Program Assistant: Brenda Fong, 916.322.7412, bfong@ccccco.edu
- Office Technician: Patty Falero, 916.323.6877, pfalero@ccccco.edu

In addition, policy inquires may also be directed to those who supervise the Student Financial Assistance Unit:

- Dean: Kaylene Hallberg, 916.324.2348, khallber@ccccco.edu
- Acting Vice Chancellor of Student Services: Patrick Lenz, Executive Vice Chancellor, 916.445.2738, plenz@ccccco.edu

11.2 Communication from the Chancellor's Office

Regular program updates and special notices are sent to each college using the Chancellor's Office "cfao alias list" system. Each district MIS person establishes the names of the "pointers" for this list. The pointers for the financial aid list should include all persons interested in financial aid policy and must include the director or manager of financial aid. If personnel changes, please contact the MIS office at the district level and ask for a change in pointers for the "cfao alias list."

11.3 Training

New directors/managers/coordinators/officers (whatever the title of the person in charge of the day-to-day operations of the financial aid office) are required to attend training offered by the Chancellor's Office within the first year of their appointment. Financial Aid Management Training is held twice per year in the fall and spring. Assistant Directors and other management or lead, supervisory or professional staff are encouraged to attend.

In addition, financial aid personnel are strongly encouraged to attend the periodic training offered by USDE, NASFAA, WASFAA, CASFAA, CSAC and CCCSFAAA.

11.4 Other Communication

Financial aid personnel are encouraged to use the CCCSFAAA listserv to communicate with one another on financial aid topics.

To subscribe to the CCCSFAAA listserv:

Send a message to majordomo@list.bctv.net

In the body of the message type **only**: SUBSCRIBE ccc-fin-aid

To post a message to the CCCSFAAA listserv:

Send a message to ccc-fin-aid@list.bctv.net

Additionally, financial aid people might want to be on these financial aid listserves:

CASFAA – state issues in financial aid

FINAID-L – national issues in financial aid

The following websites may be of value:

www.casfaa.org

www.cccsfaaa.org

www.cccco.edu (Student Services “under construction”)

11.5 Comments

All community college financial aid and student service personnel are welcome to make comments and suggestions about the contents of this manual, BOG Fee Waiver program policies and procedures or other student aid programs. Contact the Chancellor's Office with comments.

APPENDIX 1
BOG Fee Waiver Program: The Law

CALIFORNIA EDUCATION CODE
SECTION 76300

76300. (a) The governing board of each community college district shall charge each student a fee pursuant to this section.

(b) (1) The fee prescribed by this section shall be twelve dollars (\$12) per unit per semester, effective with the fall term of the 1998-99 academic year, and eleven dollars (\$11) per unit per semester effective with the fall term of the 1999-2000 academic year.

(2) The chancellor shall proportionately adjust the amount of the fee for term lengths based upon a quarter system and also shall proportionately adjust the amount of the fee for summer sessions, intersessions, and other short-term courses. In making these adjustments, the chancellor may round the per unit fee and the per term or per session fee to the nearest dollar.

(c) For the purposes of computing apportionments to community college districts pursuant to Section 84750, the chancellor shall subtract from the total revenue owed to each district, 99 percent of the revenues received by districts from charging a fee pursuant to this section.

(d) The chancellor shall reduce apportionments by up to 10 percent to any district that does not collect the fees prescribed by this section.

(e) The fee requirement does not apply to any of the following:

(1) Students enrolled in the noncredit courses designated by Section 84757.

(2) California State University or University of California students enrolled in remedial classes provided by a community college district on a campus of the University of California or a campus of the California State University, for whom the district claims an attendance apportionment pursuant to an agreement between the district and the California State University or the University of California.

(3) Students enrolled in credit contract education courses pursuant to Section 78021, if the entire cost of the course, including administrative costs, is paid by the public or private agency, corporation, or association with which the district is contracting and if these students are not included in the calculation of the average daily attendance of that district.

(f) The governing board of a community college district may exempt special part-time students admitted pursuant to Section 76001 from the fee requirement.

(g) The fee requirements of this section shall be waived for any student who, at the time of enrollment, is a recipient of benefits under the Aid to Families with Dependent Children program, the Supplemental Security Income/State Supplementary Program, or a general assistance program or has demonstrated financial need in accordance with the methodology set forth in federal law or

regulation for determining the expected family contribution of students seeking financial aid. The governing board of a community college district also shall waive the fee requirements of this section for any student who demonstrates eligibility according to income standards established by the board of governors and contained in Section 58620 of Title 5 of the California Code of Regulations.

(h) The fee requirements of this section shall be waived for any student who, at the time of enrollment is a dependent, or surviving spouse who has not remarried, of any member of the California National Guard who, in the line of duty and while in the active service of the state, was killed, died of a disability resulting from an event that occurred while in the active service of the state, or is permanently disabled as a result of an event that occurred while in the active service of the state. "Active service of the state," for the purposes of this subdivision, refers to a member of the California National Guard activated pursuant to Section 146 of the Military and Veterans Code.

(i) (1) It is the intent of the Legislature that sufficient funds be provided to support the provision of a fee waiver for every student who demonstrates eligibility pursuant to subdivisions (g) and (h).

(2) From funds provided in the annual Budget Act, the board of governors shall allocate to community college districts, pursuant to this subdivision, an amount equal to 2 percent of the fees waived pursuant to subdivisions (g) and (h). From funds provided in the annual Budget Act, the board of governors shall allocate to community college districts, pursuant to this subdivision, an amount equal to 7 percent of the fee waivers provided pursuant to subdivisions (g) and (h) for determination of financial need and delivery of student financial aid services, on the basis of the number of students for whom fees are waived. Funds allocated to a community college district for determination of financial need and delivery of student financial aid services shall supplement, and shall not supplant, the level of funds allocated for the administration of student financial aid programs during the 1992-93 fiscal year.

(j) The board of governors shall adopt regulations implementing this section.

APPENDIX 2

BOG Fee Waiver Program: The Regulations

TITLE 5. Education

Division 6. California Community Colleges

Chapter 9. Fiscal Support

Subchapter 7. Student Financial Aid

§58600. Scope.

As used in this chapter: Board of Governors Grant. An instrument used by a community college district to process the financial assistance provided to a low-income student pursuant to the terms of this chapter.

§58601. Definitions.

(a) The Chancellor shall estimate each community college district's need for Board of Governors Grants, and shall allocate funds to districts based on that anticipated need. (b) In estimating each district's need for these financial assistance funds the Chancellor shall consider the following factors: (1) The number of Pell Grant recipients in the district in the previous fiscal year; (2) The estimated number of students in the district who are eligible pursuant to Education Code section 72252(f). (3) The estimated number of low-income students in the district who are enrolled for fewer than six units. (c) The Chancellor shall apportion the allocations in the advanced apportionment certified by the Chancellor.

§58610. Allocations.

Districts shall report the number of and amounts provided for Board of Governors Grants. The Chancellors shall then adjust the financial assistance allocation in the First and Second Principal Apportionments to reflect each district's actual expenditure of funds allocated pursuant to this chapter. Any necessary additional adjustments shall be made in the applicable fiscal year recalculations.

§58611. Adjustments.

(a) A community college district shall provide Board of Governors Grants to all students who are eligible and who apply for this assistance. (b) A student who is determined to be eligible for a Board of Governors Grant may be presumed to be eligible for that assistance for the remainder of the academic year and until the beginning of the following fall term. (c) Nothing in this chapter shall prohibit a community college district from establishing a date beyond which it will not accept applications for this financial assistance.

§58612. Financial Assistance Awards.

Board of Governors Grants shall be made in the amount of the enrollment fee calculated pursuant to section 58507 of this division.

§58620. Student Eligibility: Board of Governors Grant.

To be eligible for a Board of Governors grant, a student must:

- (a) Be a California resident;
- (b) Meet one of the following criteria:
 - (1) Income Standards.

(A) Be a single and independent student having no other dependents and whose total income in the prior year was equal to or less than 150% of the US Department of Health and Human Services Poverty Guidelines for a family of one. Or be a married, independent student having no dependents other than a spouse, whose total income of both student and spouse in the prior year was equal to or less than 150% of the US Department of Health and Human Services Poverty Guidelines for a family of two.

(B) Be a student who is dependent in a family having a total income in the prior year equal to or less than 150% of the US Department of Health and Human Services Poverty Guidelines for a family of that size, not including the student's income, but including the student in the family size.

(C) Provide documentation of taxable or untaxed income.

(C) Be a student who is married or a single head of household in a family having a total income in the prior year equal to or less than 150% of the US Department of Health and Human Services Poverty Guidelines for a family of that size.

(D) Be an independent student whose Estimated Family Contribution as determined by Federal Methodology is equal to zero or a dependent student for whom the parent portion of the Estimated Family Contribution as determined by Federal Methodology is equal to or less than zero.

(E) For purposes of this subsection US Department of Health and Human Services Poverty Guidelines used each year shall be the most recently published guidelines immediately preceding the academic year for which a fee waiver is requested.

(2) Current recipient of benefits described in Education Code section 76300 (g).

(A) At the time of enrollment be a recipient of benefits under the Temporary Assistance to Needy Families (TANF) program. A dependent student whose parent(s) or guardian(s) are recipients of TANF shall be eligible if the TANF program grant includes a grant for the student or if the TANF grant is the sole source of income for the parent or guardian.

(B) At the time of enrollment be a recipient of benefits under the Supplemental Security Income (SSI) program. A dependent student whose parent(s) or guardian(s) are recipients of SSI shall be eligible if the SSI program grant is the sole source of income for the parent(s) or guardian(s).

(C) At the time of enrollment be a recipient of benefits under the General Assistance program.

(D) Provide documentation that the student is a recipient of benefits under one of the programs identified in Education Code section 76300 (g) and (h) at the time of enrollment. Documentation sufficient to meet the requirements of this subdivision shall provide official evidence of these benefits.

(3) Need-Based Financial Aid Eligibility. Any student who has been determined financially eligible for federal and/or state needed based financial aid.

§58621. Student Eligibility: Enrollment Fee Credit.

(a) Dollars allocated for financial assistance pursuant to this chapter shall be identified separately in district accounts.

§58630. District Reporting and Accountability.

(b) The governing board of each community college district shall adopt procedures that will document all financial assistance provided on behalf of students pursuant to this chapter. Authorized procedures shall include rules for retention of support documentation which will enable an independent determination regarding accuracy of the district's certification of need for financial assistance.

APPENDIX 3

The Law Regarding Students in Default

Section 66022 of the Education Code

66022. (a) The governing board of every community college district, the Trustees of the California State University, the Regents of the University of California, and the Board of Directors of the Hastings College of the Law shall adopt regulations providing for the withholding of institutional services from students or former students who have been notified in writing at the student's or former student's last known address that he or she is in default on a loan or loans under the Federal Family Education Loan Program. "Default," for purposes of this section, means the failure of a borrower to make an installment payment when due, or to meet other terms of the promissory note under circumstances where the guarantee agency finds it reasonable to conclude that the borrower no longer intends to honor the obligation to repay, provided that this failure persists for 180 days for a loan repayable in monthly installments, or 240 days for a loan repayable in less frequent installments. (b) The regulations adopted pursuant to subdivision (a) shall provide that the services withheld may be provided during a period when the facts are in dispute or when the student or former student demonstrates to either the governing board of the community college district, the Trustees of the California State University, the Regents of the University of California, or the Board of Directors of the Hastings College of the Law, as appropriate, or to the Student Aid Commission, or both the Student Aid Commission and the appropriate entity or its designee, that reasonable progress has been made to repay the loan or that there exists a reasonable justification for the delay as determined by the institution. The regulations shall specify the services to be withheld from the student and may include, but are not limited to, the following: (1) The provision of grades. (2) The provision of transcripts. (3) The provision of diplomas. The adopted regulations shall not include the withholding of registration privileges. (c) When it has been determined that an individual is in default on a loan or loans specified in subdivision (a), the Student Aid Commission shall give notice of the default to all institutions through which that individual acquired the loan or loans. (d) This section shall not impose any requirement upon the University of California or the Hastings College of the Law unless the Regents of the University of California or the Board of Directors of the Hastings College of the Law, respectively, by resolution, make this section applicable. (e) Guarantors, or those who act as their agents or act under their control, who provide information to postsecondary educational institutions pursuant to this section, shall defend, indemnify, and hold harmless the governing board of every community college district, the Trustees of the California State University, the Regents of the University of California, and the Board of Directors of the Hastings College of the Law from action resulting from compliance with this section when the action arises as a result of incorrect, misleading, or untimely information provided to the postsecondary educational institution by the guarantors, their agents, or those acting under the control of the guarantors.

APPENDIX 4

CCCCO Legal Opinion Regarding Default

To: Mary Gill
From: Paul Sickert

Opinion Number: E 2000-01

Mary,

You have asked whether a community college district can deny or withhold a Board of Governors grant to an otherwise eligible student because the student is in default on student loans.

As a form of student financial aid, Education Code, Section 76300(g) requires that the enrollment fee charged to each student attending a community college "shall be waived for any student who, at the time of enrollment" is a recipient of CalWORKs (formerly AFDC), SSI, public assistance, or has demonstrated financial need in the manner set forth in the statute and in Title 5, California Code of Regulations, Section 58620.

The Chancellor's Office provides the funds for the grant to each community college district through the apportionment process. (§§ 58610, 58611.) Section 58612 provides that "A community college district shall provide Board of Governors Grants to all students who are eligible and who apply for assistance."

Because the Education Code and Title 5 use the mandatory language, "shall be waived" and "shall be granted," a community college district is required to provide a waiver to all eligible students who apply for it. There is no provision that would deny an eligible student a Board of Governors grant because they were in default on student loans or had not repaid a federal or state student grant.

Education Code, Section 66022 requires a community college district governing board to adopt regulations "providing for the withholding of institutional services" from students who are in default on loans under the Federal Family Education Loan Program. Among the services mentioned which may be withheld are the provision of grades, transcripts, or diplomas. There may be other services withheld as well. However, Section 66022 specifically prohibits withholding registration privileges.

In addition, Education Code, Section 69507.5 prohibits students from receiving a grant or fellowship administered by the Student Aid Commission if the student has "previously defaulted on any student loan, or failed to repay a federal or state grant where required to do so."

Education Code, Section 69507.5 is in Part 42, Chapter 2, Article 1.5 of the Education Code. Education Code, Section 69504 provides that this article applies to all need-based student grants that are funded by the state or a public postsecondary educational institution. We previously opined that the provisions of Article 1.5 apply to the Board of Governors programs. (O 89-34.)

However, Section 69507.5 is a specific statute limited by its own terms to grants and fellowships administered by the Student Aid Commission. Under general principles of statutory construction, the specific provisions of a statute will control over a statute containing

general provisions. As a result, because the Board of Governors grant is administered by the Board of Governors and not the Student Aid Commission, Section 69507.5 does not apply.

Under the same principles, the specific requirements of Section 76300(h) prevail over the general requirements of Section 66022. As a result, while the districts actually award the grants to the students, and have some discretion in determining whether or not a student meets the need requirements for eligibility as specified in the code and regulations, they are otherwise required to award the grants to "all students who are eligible and who apply for this assistance."

CONCLUSION

The districts do not have the discretion to deny a grant on any basis other than eligibility as defined in the code and regulations. As a result, the Board of Governors grant is not part of a district's institutional services that may be withheld from students pursuant to Education Code, Section 66022.

Sincerely,

Paul Sickert
Assistant General Counsel

APPENDIX 5
Federal Law Regarding Dependency Overrides

Higher Education Act of 1965

Sec. 480

(d) INDEPENDENT STUDENT. - The term "independent", when used with respect to a student, means any individual who-

- (1) is 24 years of age or older by December 31 of the award year;
- (2) is an orphan or ward of the court or was a ward of the court until the individual reached the age of 18;
- (3) is a veteran of the Armed Forces of the United States (as defined in subsection (c)(1));
- (4) is a graduate or professional student;
- (5) is a married individual;
- (6) has legal dependents other than a spouse; or
- (7) is a student for whom a financial aid administrator makes a documented determination of independence by reason of their unusual circumstances.

APPENDIX 6
2000/2001 Income Standards

Family Size	1999 Income
1	12360
2	16590
3	20820
4	25050
5	29280
6	33510
7	37740
8	41970
Each Additional Family Member	4230

**EDUCATION CODE
SECTION 32320**

32320. No state-owned college, university, community college, or other school shall charge any tuition or fees, including enrollment fees, registration fees, differential fees, or incidental fees to any of the following:

(a) Any dependent eligible to receive assistance under Article 2 (commencing with Section 890) of Chapter 4 of Division 4 of the Military and Veterans Code.

(b) Any child of any veteran of the United States military who has a service-connected disability, has been killed in service, or has died of a service-connected disability, where the annual income of the child, including the value of any support received from a parent, does not exceed seven thousand dollars (\$7,000).

(c) Notwithstanding Section 893 of the Military and Veterans Code, the Department of Veterans Affairs may determine the eligibility for fee waivers for a child described in subdivision (b).

(d) Any dependent, or surviving spouse who has not remarried, of any member of the California National Guard who, in the line of duty, and while in the active service of the state, was killed, died of a disability resulting from an event that occurred while in the active service of the state, or is permanently disabled as a result of an event that occurred while in the active service of the state. "Active service of the state," for the purposes of this subdivision, means a member of the California National Guard activated pursuant to Section 146 of the Military and Veterans Code.

Nothing contained in this section shall prevent the Regents of the University of California from charging to, and collecting from, nonresident students an admission fee and rate of tuition, nor shall anything in this section prevent the charging and collecting of fees required of nonresident students admitted to a community college or to a state university under the jurisdiction of the Trustees of the California State University.

This section shall not apply to a dependent of a veteran within the meaning of paragraph (4) of subdivision (a) of Section 890 of the Military and Veterans Code.

(e) This section shall become operative on July 1, 1994.

FINAL STATEMENT OF REASONS

August 20, 1984

Chapter 7: Student Financial Aid

58600. Scope.

This chapter governs the administration of student financial aid allotted by the Board of Governors to community college districts.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 72252, Education Code; Reference: Section 72252 Education Code; Section 19, Chapter 1, Statutes of 1984.

No modifications have been made to this regulation from that proposed on April 10, 1984.

Chapter 1 of 1984 (AB 1XX) imposed for the first time an enrollment fee on students attending a California community college. Students who are recipients of certain specified public benefit programs are exempt from the fee. Section 19 of the bill appropriated \$52.5 million, over three and one-half years, for student financial aid for students who cannot afford to pay this fee and for reimbursing community college districts for the amount of fees lost due to the exemption from the fee of those students on the public benefit programs.

Thus, AB 1XX created a new financial aid program to be administered by the Chancellor. This program is distinct from other financial aid programs administered by agencies of the state and federal governments. However, Section 19(b) of the bill directs that the Chancellor consider the availability of these other sources of financial aid when allocating this aid to community college districts.

This section of the regulations identifies the scope of this chapter as "financial aid allocated by the Board of Governors to community college districts." It is necessary to inform the reader that the chapter applies only to this one financial aid program and not to all the other financial aid programs available to community college students from other sources.

No comments were received regarding this regulation.

58601. Definitions. As used in the Chapter:

(a) Board of Governors Grant. An instrument used by a community college district to process the financial assistance provided to a low-income student enrolled in six or more units and to record the transaction for billing the appropriate financial assistance fund pursuant to the terms of this chapter.

(b) Enrollment Fee Credit. An instrument used by a community college district to process the financial assistance provided to a low-income student enrolled in less than six units and to record the transaction for billing the appropriate financial assistance fund pursuant to the terms of this chapter.

(c) Enrollment Fee Waiver. An instrument used by a community college district to process the enrollment fee defrayed for students specified in Education Code Section 72252, and to record the transaction for reimbursement by the State pursuant to the terms of this chapter.

NOTE: Authority cited: Sections 66700, 71020, 71062, and 72252, Education Code; Reference: Section 72252 Education Code; Section 19, Chapter 1, Statutes of 1984.

This proposed regulation has been modified from that proposed on April 10, 1984, as follows:

58601. Definitions. As used in the Chapter:

(a) Board of Governors Grant. An ~~grant-made instrument~~ used by a community college district to process the financial assistance provided to a low-income student enrolled in six or more units and to record the transaction for billing the appropriate financial assistance fund pursuant to the terms of this chapter.

(b) Enrollment Fee Credit. An instrument used by a community college district to process the financial assistance provided to a low-income student enrolled in less than six units and to record the transaction for billing the appropriate financial assistance fund pursuant to the terms of this chapter.

(c) Enrollment Fee Waiver. An instrument used by a community college district to process the waiver of the enrollment fee defrayed for students specified in Education Code Section 72252, and to record the transaction for reimbursement by the State pursuant to the terms of this chapter.

Definitions distinguishing among the types of financial assistance provided under this chapter are included to keep them conceptually distinct. Three kinds of financial assistance are ~~needed~~ to separate the three groups of students who will receive this aid. The first group of students will receive an "enrollment fee waiver." These are students who are recipients of Aid

necessary additional adjustments shall be made in the applicable fiscal year recalculations.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 72252, Education Code. Reference: Sections 72252, 84322, 84324 and 84330, Education Code; Section 19, Chapter 1, Statutes of 1984.

This proposed regulation has been modified from that proposed on April 10, 1984, as follows:

58611. Adjustments.

Districts shall report the number of and amounts provided for enrollment fee waivers, Board of Governors' grants and enrollment fee credits. The Chancellor shall then adjust the financial assistance allocation in the First and Second Principal Apportionments to reflect each district's actual expenditure of funds allocated pursuant to this chapter. Any necessary additional adjustments shall be made in the applicable fiscal year recalculations.

This section provides that adjustments to a district's allocation will be made in the first and second principal apportionments. Adjustments will be necessary, as the Chancellor will not be able to predict each district's need for these funds with complete accuracy. Funds not used by one district will be recycled to other districts with need greater than their original allocation.

Again, adjustments, like the original allocation, will be made in the already ongoing processes through which the Chancellor apportions funds to community college districts and adjusts those apportionments based on the actual experience of the district in the given year. Final adjustments will be made after the end of the fiscal year, if necessary, again as part of the regular adjustment procedures. See Education Code sections 84322, 84324, and 84330.

An initial sentence was added to this proposed regulation to require that community college districts report the number and amounts of financial assistance that they award. This information is necessary for the Chancellor to make adjustments. It was implicit in the earlier proposal and was explicitly found in section 58630 as originally proposed.

Education Code references were added to clarify for the reader the meaning of the first and second principal apportionments and fiscal year recalculations.

58612. Financial Assistance Awards.

(a) A community college district shall grant enrollment fee

waivers, Board of Governors grants and enrollment fee credits to all students who are eligible and who apply for this assistance.

(b) A student who is determined to be eligible for an enrollment fee waiver may be presumed to be eligible for the enrollment fee waiver for the remainder of the semester or quarter.

(c) A student who is determined to be eligible for a Board of Governors grant or an enrollment fee credit may be presumed to be eligible for that assistance for the remainder of the academic year.

(d) Nothing in this chapter shall prohibit a community college district from establishing a date beyond which it will not accept applications for this financial assistance.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 72252, Education Code. Reference: Section 72252, Education Code; Section 19, Chapter 1, Statutes of 1984.

This proposed regulation has been modified from that proposed on April 10, 1984, as follows:

58612. Financial Assistance Awards.

(a) A community college district shall grant an enrollment fee waivers, Board of Governors grants and enrollment fee credits to all students who are eligible for the waiver and who apply for this assistance.

(b) A community college district shall grant an enrollment fee credit or Board of Governors grant to all students eligible for that assistance to the extent of the district's allocation of financial assistance. After the district has expended its allocation, it may continue to grant enrollment fee credits and Board of Governors' grants to eligible students, and may seek additional funds from the Chancellor as adjustments to its allocation.

(c) If the amount needed for all community college districts in any given fiscal year exceeds that appropriated by the Legislature, and the Chancellor is required to seek additional funds from the Department of Finance, the Chancellor shall notify community college districts of that fact.

(b) A student who is determined to be eligible for an enrollment fee waiver may be presumed to be eligible for the enrollment fee waiver for the remainder of the semester or quarter.

(c) A student who is determined to be eligible for a Board of Governors grant or an enrollment fee credit may be presumed to be eligible for that assistance for the remainder of the academic year.

(d) Nothing in this chapter shall prohibit a community college district from establishing a date beyond which it will not accept applications for this financial assistance.

This section defines the district's obligation to grant financial assistance. Questions have arisen as to the district's obligation to grant financial assistance in the event the funds appropriated by the Legislature are insufficient for the total needs of the state. This section clarifies the district's obligation to award financial assistance to all eligible students.

One commenter suggested that community college districts should have the discretion to determine whether they would participate in the Board of Governors grant or enrollment fee credit programs. This comment suggested that community college districts should have the option of limiting their participation in financial aid to students enrolled for six or more units if the district deemed that appropriate. This comment also suggested that districts should not have to risk the possibility that after their original financial aid allotment had been exhausted, additional funds might not be forthcoming to reimburse the district for its full cost.

This comment was rejected because Section 19(b) of Chapter 1 of the Statutes of 1984 requires that this financial aid program be implemented with uniformity throughout the state. A financially needy student must be eligible for financial assistance regardless of the district in which he or she resides and, therefore, attends community college. There are an estimated 150,000 financially needy students in California enrolled for fewer than six units. These students are not eligible for traditional financial aid. However, the policy of this statute is that these students should receive this financial assistance.

Review of the statute also reveals that the Director of the Department of Finance is obligated to supplement the allocation if the funds originally appropriated by the Legislature are insufficient. The Chancellor will be able to determine whether these funds are sufficient during the fall semester. This will enable the Chancellor to seek additional funds in time to protect community college districts from loss. Therefore, the regulation was rewritten to require community college districts to award financial assistance to all eligible students.

Questions were received asking whether districts would be required to seek reimbursement from students who had been awarded financial assistance at enrollment but during the term became ineligible. The regulation was clarified to state that eligibility need be determined but once each term for the financial aid waiver and once each year for the fee credit and Board of Governors grant.

Comments were also received stating that as the regulation was originally proposed, it would require a community college district to award a student financial assistance whether or not the student applied for that financial assistance in a timely manner. The regulation was not intended to impose this requirement. Therefore, the proposed regulation was changed to specify that the student must apply for the financial assistance in order to be eligible for that assistance and that a district may impose a reasonable deadline for those applications.

58613. Award Amounts.

Board of Governors grants and enrollment fee credits shall be made in the amount of the enrollment fee calculated pursuant to Section 58507 of this division or of the student's ~~unmet~~ need, whichever is less. The amount of the Board of Governors grant for a student who also receives a Pell Grant, shall be the difference between the increase in the Pell Grant due to the enrollment fee and the enrollment fee.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 72252, Education Code. Reference: Section 72252, Education Code; Section 19, Chapter 1, Statutes of 1984.

This proposed regulation has been modified from that proposed on April 10, 1984, as follows:

58613. Award Amounts.

Board of Governors grants and enrollment fee credits shall be made in the amount of the enrollment fee calculated pursuant to Section 58507 of this division or of the student's ~~unmet~~ need, whichever is less. The amount of the Board of Governors grant for a student who also receives a Pell Grant, shall be the difference between the increase in the Pell Grant due to the enrollment fee and the enrollment fee.

This section defines the amount the district is to award each needy student. It is necessary to ensure that no student receives more than his or her ~~unmet~~ need, so that as many students as possible can be served.

Several comments were received regarding this proposed regulation, stating that it was unclear whether the regulation required that the Pell Grant increase be considered prior to calculating the amount of the Board of Governors grant. One commenter stated that requiring that the Pell Grant increase be considered was unnecessarily burdensome. The proposed regulation has been clarified to explicitly state that the Pell Grant increase must be considered prior to calculating the enrollment fee. The comment that this was unduly burdensome was rejected because it is a fundamental

policy of these regulations and the Board's financial assistance plan that this aid be made available to the maximum number of students and that, wherever possible, federal aid first be used.

One commenter stated that the college financial aid coordinator should have the discretion to award some financial aid to students who do not qualify under the proposed rules. This comment was rejected as was the suggestion that financial aid be awarded as a block grant. That comment is discussed under section 58620 below.

58620. Student Eligibility: Board of Governors Grant.

To be eligible for a Board of Governors grant, a student must:

- (a) Be a California resident;
- (b) File the Student Aid Application for California, as prescribed by the Student Aid Commission and have demonstrated financial need pursuant to the Uniform Methodology of Need Analysis approved by the federal Department of Education;
- (c) Apply for and receive evidence of Pell Grant assessment;
- (d) Provide documentation necessary to verify financial status as determined by the district;
- (e) Enroll for at least six units of credit instruction.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 72252, Education Code. Reference: Section 72252, Education Code; Section 19, Chapter 1, Statutes of 1984.

This proposed regulation has been modified from that proposed on April 10, 1984, as follows:

58620. Student Eligibility: Board of Governors Grant.

To be eligible for a Board of Governors grant, a student must:

- (a) Be a California resident;
- (b) File the Student Aid Application for California, as prescribed by the Student Aid Commission and have demonstrated financial need pursuant to the Uniform Methodology of Need Analysis approved by the federal Department of Education;
- (c) Apply for and receive evidence of Pell Grant assessment;
- (d) Provide documentation necessary to verify financial status as determined by the district;
- (e) Enroll for at least six units of credit instruction.
- (f) ~~Declare an educational goal and maintain satisfactory academic progress according to district financial aid policies:~~

The purpose of this section is to identify which

students enrolled for six units or more are eligible for this financial assistance, and to encourage these students to apply for other financial aid and to utilize other financial aid funds as much as possible before these funds are utilized.

The requirement of subsection (a) that the student be a California resident is compatible with the intent of the Legislature as expressed in the Donahoe Higher Education Act at Education Code Sections 66011 and 66200 et seq., that all qualified residents of California be admitted to its institutions of higher education. This requirement is also compatible with requirements of other state financial aid, such as the Cal Grant program (see Education Code section 69535).

The requirement of subsection (b) that the student file the Student Aid Application for California is consistent with the requirements of Education Code Section 69534, which require that this form be used for all state funded financial aid programs.

One commenter objected to the use of the state Student Aid application for the Board of Governors grant. However, as noted above, this is required by Education Code section 69534. This commenter objected that requiring this application will work a hardship on the last-minute applicant who will have to pay the application fee and wait for the application to be processed. This is a problem already existent in financial aid, and is not a problem that is created by or which can be cured by these regulations.

The requirement that the student demonstrate financial need pursuant to the Uniform Methodology of Need Analysis approved by the federal Department of Education is intended to ensure that these funds are uniformly and equitably distributed. Consistent standards must be applied throughout the community college system. This methodology is that used presently by all community college districts for assessing eligibility for other financial aid, and is, therefore, both convenient and thoroughly tested.

The requirement of subsection (c) that the student apply for and receive evidence of Pell Grant assessment is intended to ensure that, to the maximum extent possible, Pell Grants, which are federal funds, are used to provide financial assistance to needy students. The Pell Grant is the only major program which is automatically adjusted to reflect the new enrollment fee. Not all students who are financially needy will be eligible for the Pell Grant, because Pell Grant eligibility depends on prior year income. Students who were not financially needy in the prior year, but who are financially needy in the current year, will be eligible for the Board of Governors Grant. Therefore, the proposed regulation does not limit the Board of Governors' Grant to students who receive Pell Grants.

The requirement of subsection (d) that the student provide documentation necessary to verify financial status is necessary to assess and verify the student's need for the financial assistance. Districts will be accountable for their disbursements of these funds and so must be able to document that the funds did indeed go to needy students.

The requirement of subsection (e) that the student enroll for at least six units is necessary as a means of dividing those students eligible for other aid from those who are not eligible for other aid, and to direct those students who might be eligible for other aid to that other aid. Students who enroll for less than six units may apply for the enrollment fee credit.

Finally, the requirement proposed in the original proposed regulations that the student maintain satisfactory academic progress, was deleted as this requirement is now imposed on all students by the Board's standards of scholarship found at Section 55750 et seq. and district implementing regulations.

The same commenter who objected to requiring the Student Aid Application, also objected to prescribing any eligibility requirements for the Board of Governors grant or fee credit. He argued that each community college district should receive a "block grant" to be dispensed at the discretion of the district financial aid officer. This comment was rejected because it violated the goal of the Financial Aid Plan and these regulations that students be treated equitably from district to district.

One comment received regarding this proposed regulation suggested combining Sections 58620 and 58621. This comment will be discussed under Section 58622.

58621. Student Eligibility: Enrollment Fee Credit.

To be eligible for an enrollment fee credit, a student must:

- (a) Be a California resident;
- (b) Be enrolled for fewer than six (6) credit units;
- (c) Meet one of the following criteria:
 - (1) Be a single and independent student having no other dependents and whose total income in the prior year was \$5,500 or less;
 - (2) Be a student who is dependent, married or a single head of household having a family consisting of two persons (including the student), in which the adjusted total income in the prior year was \$10,000 or less.
 - (3) Be a student who is dependent, married or a single head of household having a family consisting of three persons (including the student), in which the adjusted total income in the prior year was \$11,000 or less.
 - (4) Be a student who is dependent, married or a single head of household having a family consisting of four or more persons (including the student), in which the total income in the prior year was not more than \$12,000 plus \$1,000 for each person more than four.

For purposes of this section total income is defined as adjusted gross income and nontaxable income.

(d) Provide documentation of taxable or untaxed income.

(e) In addition to other documentation, the student (or parent or guardian) shall sign a statement under penalty of perjury on the fee credit document itself certifying that the income information is true and correct.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 72252, Education Code. Reference: Section 72252, Education Code; Section 19, Chapter 1, Statutes of 1984.

This proposed regulation has been modified from that proposed on April 10, 1984, as follows:

~~58622~~.58621. Student Eligibility: Enrollment Fee Credit.

To be eligible for an enrollment fee credit, a student must:

(a) Be a California resident;

~~(b) Apply for the enrollment fee credit in a form and manner prescribed by the Chancellor;~~

(b) Be enrolled for fewer than six (6) credit units;

(c) Meet one of the following criteria:

(1) ~~(3)~~ Be a single and independent student having no other dependents and whose total income in the prior year was \$5,500 or less;

(2) Be a student who is dependent, married or a single head of household having a family consisting of two persons (including the student), in which the adjusted total income in the prior year was ~~\$12,000~~ \$10,000 or less.

(3) Be a student who is dependent, married or a single head of household having a family consisting of three persons (including the student), in which the adjusted total income in the prior year was \$11,000 or less.

(4) Be a student who is dependent, married or a single head of household having a family consisting of four or more persons (including the student), in which the total income in the prior year was not more than \$12,000 plus \$1,000 for each person more than four.

For purposes of this section total income is defined as adjusted gross income and nontaxable income.

(d) Provide documentation of taxable or untaxed income.

(e) In addition to other documentation, the student (or parent or guardian) shall sign a statement under penalty of perjury on the fee credit document itself certifying that the income information is true and correct.

(Because of the complexity of changes made to this proposed regulation, strikeouts and underlining is approximate.)

This section, originally numbered 58622, was renumbered

58621, to follow the proposed regulation defining eligibility for the Board of Governors grant to aid the reader of the final regulations.

This section defines eligibility requirements for those students who are not beneficiaries of the public benefit programs, but who are financially needy, and who take less than six units. The requirements made in subsections (a) and (b) are explained above. The financial eligibility requirements imposed in subsection (c) are necessary for uniform and equitable award of the fee credit. The \$12,000 adjusted gross income for a dependent, married or head of household student, and the \$5,500 adjusted gross income for the independent single student, are taken from Table F, "Parents Contribution from Total Taxable Income," developed by the College Scholarship Service. A copy is attached. The Student Aid Commission contracts with the College Scholarship Service to have the Service process the Student Aid Application for California and to assess financial need. Their tables are used nationally by financial aid programs. According to these tables, the expected family contribution for a dependent student from a family of four is zero if the student's family has a gross income of \$12,000 or less. The maintenance level for a single independent student is set at \$5,500, so that a student with an adjusted gross income of \$5,500 or less has no funds to contribute to his or her education. In addition, the Chancellor's staff contacted the College Scholarship Service to confirm that students meeting these criteria would have at least \$50 in unmet need.

Finally, the requirement of subsection (d) that the student provide documentation is necessary, again, to assess and verify the student's financial need.

Comments were accepted which suggested that the adjusted income ceilings should be adjusted to reflect family size. Commenters pointed out that it was not equitable to allow a family of two to receive financial aid based on the standards set for a family of four, nor was it equitable for larger families to be subjected to these same standards. Therefore, income ceilings were adjusted \$1,000 per person up or down for a family of more or less than four persons.

Comments were also received which stated that these income ceilings were too low, that there were students who were unable to pay this fee, but whose income exceeded these amounts. These income ceilings are based on the College Scholarship Service tables for determining financial need. These tables are recognized and used for financial aid programs all over the country. Development of new standards for the

California community colleges would require costly and time-consuming study.

One commenter noted that "dependent" was not defined, and asked whether the state or federal definition of dependency would be applied. Where a definition is not imposed in these regulations (or elsewhere in law) discretion lies with the district. No definition of dependency was included for fee credit eligibility so that the district could determine dependency and, so, fee credit eligibility in the most expeditious manner possible. Were the definition of student dependency found in Sections 69506 and 69507 of the Education Code required, the goal of administering the fee credit with ease would be defeated.

One commenter suggested that Board of Governors grants and enrollment fee credits as proposed in these regulations be collapsed so that the regulations would only create a Board of Governors grant with eligibility requirements differing for students who take six units or more or who take six units or less. Collapsing the two types of aid under one label is more likely to create confusion than to reduce it, because the same label would apply to students who must file the Student Aid Application and to students who need not file this form. Therefore, this comment was rejected. The requirement, found in the regulations as first proposed, that the student apply in a form and manner determined by the Chancellor, was deleted, as the Chancellor will develop a form which will be recommended as one which will meet the requirements of these regulations. However, districts will not be required to use that form.

58622. Student Eligibility: Enrollment Fee Waiver.

To be eligible for an enrollment fee waiver, a student must:

(a) Be a California resident;

(b) At the time of enrollment be a recipient of benefits under one of the programs identified in Education Code Section 72252(f). A dependent student whose parent(s) or guardian(s) are recipients of benefits under the Aid to Families with Dependent Children program shall be eligible if the AFDC program grant includes a grant for the student.

(c) Provide documentation that the student is a recipient of benefits under one of the programs identified in Education Code Section 72252(f) at the time of enrollment. Documentation sufficient to meet the requirements of this subdivision shall include the untaxed income verification form used by the district in granting financial aid or a statement from the applicable program authorities that the student is a beneficiary of the program as of the date of enrollment. In addition to other documentation required, the student shall sign a statement under penalty of perjury on the waiver document itself certifying that the student is a recipient of benefits at the time of enrollment.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 72252, Education Code. Reference: Section 72252, Education Code; Section 19, Chapter 1, Statutes of 1984.

This proposed regulation has been modified from that proposed on April 10, 1984, as follows:

58621. 58622. Student Eligibility: Enrollment Fee Waiver.

To be eligible for an enrollment fee waiver, a student

must:

- (a) Be a California resident;
- ~~(b) Apply for the enrollment fee waiver in a form and manner specified by the Chancellor;~~
- ~~(c)~~ (b) At the time of enrollment be a recipient of benefits under one of the programs identified in Education Code Section 72252(f). A dependent student whose parent(s) or guardian(s) are recipients of benefits under the Aid to Families with Dependent Children program shall be eligible if the AFDC program grant includes a grant for the student.
- (c) Provide documentation that the student is a recipient of benefits under one of the programs identified in Education Code Section 72252(f) at the time of enrollment. Documentation sufficient to meet the requirements of this subdivision shall include the untaxed income verification form used by the district in granting financial aid or a statement from the applicable program authorities that the student is a beneficiary of the program as of the date of enrollment. In addition to other documentation required, the student shall sign a statement under penalty of perjury on the waiver document itself certifying that the student is a recipient of benefits at the time of enrollment.

This proposed regulation was renumbered, as was Section 58621, for the ease of the reader in locating requirements.

The requirement of subsection (a) that the student be a California resident is imposed with the same rationale that it was imposed for the Board of Governors grant.

The requirement of subsection (b) that the student be a recipient of the public benefit program at the time of enrollment clarifies the statute. It answers the questions whether a student who is a recipient at the time of pre-registration, but not enrollment, is eligible; whether a student who is a recipient at enrollment, and later loses benefits, is eligible; or whether a student who becomes a recipient of a public benefit program during the term is eligible. The time of enrollment was chosen as the appropriate time for making this determination, as this is when the enrollment fee is charged, and this may be the only time the registrar's office has contact with the student.

Subsection (b) also clarifies that a student who is dependent on a parent or guardian who receives AFDC on behalf of the student is eligible for the fee waiver. This is necessary because in this instance, although the AFDC payment is made to the parent or guardian, the program intends the student to be a beneficiary.

Subsection (c) specifies the kind of documentation that is needed to verify that the student is in fact a beneficiary of one of the public benefit programs which

makes the student eligible for the fee waiver. The untaxed income verification form is one of three standard forms already in use by financial aid officers. It is a form by which the student authorizes the agency providing him with income to verify that it is doing so, and the amount of that income. A copy of that form is attached. A statement from the applicable program authorities was also identified as acceptable documentation to cover those cases where the student is unable to use the untaxed income verification form. This will be especially important for recipients of general assistance, as that program varies from county to county, and there is no consistent documentation which can be identified as evidence that the student is a recipient of general assistance. Because administrative time lags cause difficulty in actually verifying that the student is a recipient of one of the public benefit programs at the time of enrollment, the requirement that the student sign a statement under penalty of perjury that the student is a recipient is added as a final check.

The requirement, found in the regulations initially proposed, that the student apply in a form and manner determined by the Chancellor, was deleted, as the form developed by the Chancellor will be recommended as one which will meet the requirements of these regulations, but which is not required.

Another commenter suggested that the Chancellor's Office work with the Department of Finance to develop a form which districts could use with the understanding that use of the form would meet the requirements of the regulations. This is being done.

The same commenter stated that the regulation should include language holding a district "harmless" if the documentation submitted by a student should be false or expired. This suggestion was rejected. If later audits reveal that a student submitted such documentation, each case will have to be judged on a case by case basis to determine whether the district acted reasonably in accepting the data.

One commenter asked that the regulations include a provision allowing the district to defer the enrollment fee until the student is able to gather the documents which evidence his or her eligibility for the fee waiver. These regulations do not prevent a district from adopting such a policy. However, staff is working with representatives from the Department of Social Services to identify documents which recipients of these benefits have readily available and typically carry with them. An example already identified is the Medi-Cal Card.

58630. District Reporting and Accountability.

(a) Dollars allocated for financial assistance pursuant to this chapter shall be identified separately in district accounts.

(b) The governing board of each community college district shall adopt procedures that will document all financial assistance provided on behalf of students pursuant to this chapter. Authorized procedures shall include rules for retention of support documentation which will enable an independent determination regarding the accuracy of the district's certification of need for financial assistance funds.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 72252, Education Code. Reference: Section 72252, Education Code; Section 19, Chapter 1, Statutes of 1984.

This proposed regulation has been modified from that proposed on April 10, 1984, as follows:

58630. District Reporting and Accountability.

(a) Dollars allocated for financial assistance pursuant to this chapter shall be identified separately in district accounts. ~~and amounts provided for fee waivers. Board of Governors grants, and fee credits shall be recorded.~~

(b) The governing board of each community college district shall adopt procedures that will document all financial assistance provided ~~to~~ on behalf of students pursuant to this chapter. Authorized procedures shall include rules for retention of support documentation which will enable an independent determination regarding the accuracy of the district's certification of need for financial assistance funds.

In order to insure that these funds are expended for the purposes for which they were intended, some district accountability requirements are necessary. These funds must be accounted for separately from the general funds of the district so that the expenditure of these funds can be tracked and the district's allotment and adjustments made. Support documentation must be maintained so that the expenditure of funds for the purposes intended can be verified.

Comments were received stating that requiring districts to report by individual category of aid the number and amount of aid awarded will be burdensome. However, this information is needed by the Chancellor in reporting the effect of the enrollment fee and in assessing the need for financial aid funds as required by statute. It is not required that these be ~~separately~~ recorded in the district fiscal accounting practices. The requirement of subsection (a) that amounts provided by recorded was

moved to section 58610⁷ addressing allocations for ease of the reader. That is the first section for which the need for this recording is apparent.

The Board of Governors of the California Community Colleges has determined that pursuant to Section 2231 of the Revenue and Taxation Code, no increased costs or new costs to local governments will result from these regulation changes. Furthermore, there are no direct costs or savings to any state agency or to the federal government or local agencies; nor is there any local mandate imposed. The proposed regulatory action will have no effect on housing costs; nor will it have adverse impact on small businesses, other businesses, or private persons.

SixTen and Associates

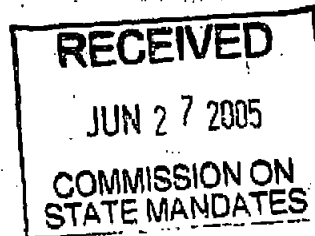
Mandate Reimbursement Services

EXHIBIT G

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June 22, 2005



Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Re: 99-TC-13 Enrollment Fee Collection-Test Claim of Los Rios Community College
00-TC-15 Enrollment Fee Waiver-Test Claim of Glendale Community College
Education Code Section 76300, Title 5, CCR, Sections 58500-58508
Enrollment Fee Collection and Waivers

Dear Ms. Higashi:

On May 9, 2003, I submitted the claimant's proposed parameters and guidelines for the above referenced merged test claims. The Commissioners requested the commission staff to come forward with a unit cost allowance for the original parameters and guidelines. Since it was not possible for the claimants to prepare a cost study, circulate the questionnaires, and provide analyzed results within the 30 days allowed by regulations to prepare the claimants' proposed parameters and guidelines, the claimant's May 9, 2003, proposed language was the usual "actual cost" format.

Thereafter, I prepared a unit cost questionnaire and distributed it to several of my college clients to "field test" prior to submitting it to the Commission staff for their use on a statewide basis. None of my clients was interested in participating in that process, for the reasons described in my April 9, 2003 memo to you, which anticipated this problem.

This letter requests that the Commission proceed with the claimant's May 9, 2003, proposed parameters and guidelines as soon as possible. The reimbursement period commences July 1998, so there will be at least seven years of claims to be filed at the initial filing which is more than adequate as a source of developing a unit cost rate for prospective use. The parameters and guidelines should specify the type of statistics to be collected for these initial periods to assist the Commission later in establishing the unit cost allowance.

Please contact me if you need additional information.

Sincerely,



Keith B. Petersen

- C: Jon Sharpe, Deputy Chancellor, Los Rios Community College District
- Lawrence Serot, Vice-President, Glendale Community College District
- Robert Miyashiro, Consultant, Education Mandated Cost Network
- Tom Donner, Esq. Chair, EMCN Community College Subcommittee
- Interim President, Santa Monica Community College District