

STATE OF CALIFORNIA

**CALIFORNIA COMMUNITY COLLEGES  
CHANCELLOR'S OFFICE**

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March 11, 2004

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

**RECEIVED**

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**COMMISSION ON  
STATE MANDATES**

Re: CSM 02-TC-31  
Santa Monica Community College District, Claimant  
Minimum Conditions for State Aid

Dear Ms. Higashi:

As an interested state agency, the Chancellor's Office has reviewed the above-referenced test claim in light of the following questions addressing key issues before the Commission:

Do the subject statutes or regulations result in a mandated new program or a mandated higher level of service within an existing program upon local entities within the meaning of section 6, article XIII B of the California Constitution and section 17514 of the Government Code? If so, are costs associated with the mandate reimbursable?

Do any of the provisions of Government Code section 17556 preclude the Commission from finding that the provisions of the subject statutes or regulations impose a reimbursable state-mandated program upon local entities?

Have funds been appropriated for this program (e.g., state budget) or are there any other sources of funding available? If so, what is the source?

This test claim ("Claim") alleges mandated costs reimbursable by the state for community college district activities related to complying with minimum conditions that are necessary for the receipt of state aid. Test Claimant Santa Monica Community College District ("Claimant") alleges that reimbursable mandated costs arise from a variety of Education Code sections and regulations that appear in title 5 of the California Code of Regulations.

Given the number of statutes and regulations that are invoked by Claimant, and the severe cutbacks suffered by this office, we are unable to provide a thorough response to this Claim. It is regrettable that the lack of funding to support mandate claim reviews could conceivably result in the payment of unwarranted claims. We can offer analytical assistance and provide some historic documentation, but regrettably, we must leave a comprehensive review of the issues to the Commission.

There are several bases for rejecting the Claim in its entirety, and various challenged sections raise other specific defenses to reimbursement.

1. If Claimant Has Complied With The Challenged Provisions In Order To Receive State Aid And Has Received State Aid, Claimant Has Already Been Compensated For Compliance, And No Further Reimbursement Is Warranted.

The provisions raised by Claimant are incorporated into a number of regulations that have been adopted by the Board of Governors for the California Community Colleges as minimum conditions for the receipt of state aid. The Board has long been legislatively required to promulgate such regulations.

If Claimant has not complied with the regulations, Claimant cannot raise an issue of reimbursement because Claimant has not taken action in response to a claimed mandate. If Claimant has complied with the regulations so as to collect state aid, Claimant is not eligible for further reimbursement. That is, funds have already been appropriated and paid for any required actions set out in the Claim.

The California Supreme Court recently addressed the conditions for reimbursement of claimed state mandates. (*Department of Finance v. Commission on State Mandates (Kern High School)* (2003) 30 Cal.4th 727, hereinafter referred to as "*Kern High School*."). The primary focus of the Court's analysis was that districts cannot voluntarily participate in programs, and then claim reimbursement for mandates. This is because there is no mandate under the law if a district has the option of not participating in a program or activity.

*Kern High School* pointed out that even if costs are incurred, they may be permissibly payable from funds that have already been obtained from the state. (*Id.*, at 747.) For the year 2001-2002, Claimant received state assistance in excess of \$133,000. Claimant can use the funds it has already received from the state to satisfy any costs of complying with the regulations that are the subject of this Claim. Claimant is supposed to satisfy the regulations in order to be eligible to collect state funding.

Because Claimant has already received state funding for the purposes of complying with the subject provisions, the Claim should be rejected in its entirety. We will not raise this general defense for each of the regulations assessed below, but by setting out the defense as to all minimum conditions, we incorporate this defense into each of the following analyses.

2. Claimant Is Not Required To Collect State Aid. To The Extent Claimant Chooses To Do So, That Choice Negates The Finding Of A State Mandate For Activities That Are Necessary To Make Claimant Eligible For State Aid.

As noted above, the California Supreme Court recently confirmed that reimbursement is not authorized where the Claimant voluntarily undertakes an activity. (See *Kern High School, supra.*) In *Kern High School*, the District sought reimbursement from the state for the costs of preparing notices and agenda items related to certain programs it offered. The Supreme Court found that the District chose to participate in the programs, and therefore the costs of the programs were also voluntarily assumed. No mandates exist where a district voluntarily participates in a program.

Although most community college districts seek state aid in the form of apportionment, districts are not required to do so, and some districts do not receive apportionment. To the extent Claimant complies with the regulations cited herein in order to obtain the state aid that results from compliance, Claimant voluntarily accepts the obligations.

Under *Kern High School*, Claimant's choice to receive state funding for the purposes of complying with the subject provisions renders the conduct optional. We will not raise this general defense for each of the regulations assessed below, but by setting out the defense as to all minimum conditions, we incorporate this defense into each of the following analyses.

### 3. Minimum Standards Are Not Eligible For Reimbursement If They Were Required By Legislative Action That Predated January 1, 1975.

The regulations identified by Claimant reflect minimum standards that have been adopted by the Board of Governors.

A recent California Attorney General opinion concluded that reimbursement is often unavailable for minimum standard regulations. The question posed to the Attorney General concerned minimum standards for juvenile justice facilities. The Attorney General concluded that where a statute enacted prior to 1975 required a state body to establish minimum standards, revising those standards does not constitute a new program or increased level of an existing program.

The Attorney General considered a county's claim for reimbursement for bringing a juvenile justice facility into compliance with the minimum standards established by the Board of Corrections. The Attorney General concluded that the Board of Corrections had been required to set minimum standards for suitable juvenile facilities since at least 1915. Therefore, regulations adopted as minimum standards did not constitute a new program because

"Counties have been required to maintain a 'suitable' place for the detention of minors since at least 1915. [Citations omitted.] Setting the minimum standards for what is 'suitable' does not create a 'higher' level of service--it has long been the level of service required of local agencies. [Citations omitted.]" (83 Ops.Cal.Atty.Gen. 111 (2000).)

The Attorney General considered the language of Welfare and Institutions Code section 210, which provides: "The Board of Corrections shall adopt minimum standards for the operation and maintenance of juvenile halls for the confinement of minors." The term "suitable" is not part of the charge to the Board of Corrections in setting minimum standards. The term is implied.

Regulations challenged in this Claim reflect Board of Governors' minimum standards. Based on the premise established by the Attorney General, the minimum standards of the Board of Governors do not constitute either a new program or a higher level of service if the Board of Governors was statutorily obligated to set minimum standards in these areas prior to 1975.

#### Pre-1975 Requirements

The Board of Governors' minimum conditions regulations are generally adopted pursuant to statutes that appear in the Education Code (in a few isolated instances, regulations are also supported by statutes in other codes). Because the Education Code has been reorganized several

times, it is important to trace statutory requirements to their original sources. This is not always an easy undertaking where the Education Code is concerned.

Most statutes that concerned public schools were first assembled in the School Code in 1929. Prior to that time, such statutes appeared in various codes. The School Code became the Education Code in 1943. The Education Code was reorganized in 1959 and again in 1976. Some sections that appear in today's Education Code show that they were added in 1976 - which date incorrectly suggests that they came into being after January 1, 1975, a critical date for purposes of finding a state mandate. However, for many sections, the 1976 date merely reflects the 1976 comprehensive reorganization of the Education Code. That 1976 date does not represent the date of initial legislative pronouncement. In many instances, the Legislature required the Board of Governors to establish minimum standards in the subject areas prior to 1975.

Under the theory articulated by the Attorney General in his 2000 opinion, no new programs or higher level of services are established by Board of Governors' regulations that set minimum standards if the Legislature required the adoption of minimum standards prior to 1975. (83 Ops.Cal.Atty.Gen. 111 (2000).)

#### Education Code section 66700

Section 66700 requires the Board of Governors to prescribe minimum standards for the operation of the community colleges. Section 66700 was preceded by section 22650, that was enacted in 1960, when the State Board of Education had jurisdiction over the junior colleges in California. (Stats. 1960, 1st Ex. Sess., ch. 49, p. 396.) Section 22650 required the State Board of Education to adopt minimum standards for the operation of the junior colleges. As the community college system developed, the obligation to adopt minimum standards was assigned to the Board of Governors and junior colleges were redesignated community colleges. (The Legislature created the Board of Governors of the California Community Colleges in 1967 by Statutes 1967, chapter 1549. It also vested in the Board of Governors the "duties, powers, purposes, responsibilities, and jurisdiction" previously vested with the State Board of Education. See Education Code section 71024, previously section 197.) Accordingly, since at least 1960, the Legislature has required the state agency having oversight responsibility to adopt minimum standards for the operation of community college districts. It has vested that responsibility in the Board of Governors since 1967.

#### Education Code section 70901(b)(6)

Section 70901(b)(6) requires the Board of Governors to adopt minimum standards entitling districts to receive state aid for support of community colleges. Section 70901(b)(6) was added by Statutes 1988. However, section 70901(b)(6) was preceded by section 71025 that was enacted by Statutes 1976. Former section 71025 provided that "the Board of Governors of the California Community Colleges shall adopt rules and regulations fixing minimum standards entitling districts to receive state aid for the support of community colleges." Section 71025 was preceded by section 25510 that was added by Statutes 1963. (Stats. 1963, ch. 100, p. 760.) A 1970 amendment substituted "community college" for "junior college" and an amendment by Statutes 1974 substituted the Board of Governors of the California Community Colleges for the State Board of Education; thus the section read, "The Board of Governors of the California Community College shall adopt rules and regulations fixing minimum standards entitling districts to receive state aid for the support of community colleges." (The 1974 amendment

merely conformed the Board of Governors' authority to that previously assigned by the Legislature in 1967.)

Accordingly, since at least 1963<sup>1</sup>, the Legislature has required the state agency having oversight responsibility to adopt minimum standards enabling community college districts to receive state aid. As noted above, since 1967, that responsibility has rested with the Board of Governors. Based on the Attorney General's analysis, such minimum standards cannot be the basis for a mandate claim. Virtually all of the minimum conditions regulations challenged herein are based on legislative directives to the Board of Governors that preceded January 1, 1975. On that basis, none of the minimum conditions regulations support a claim for reimbursement, and the Claim may be rejected in its entirety. We will not raise this general defense for each of the regulations assessed below, but by setting out the defense as to all minimum conditions, we incorporate this defense into each of the following analyses.

4. Many Of The Regulations That Are The Subject Of This Claim Existed Prior To January 1, 1975, Under Different Section Numbers. To The Extent Any Mandates Predated January 1, 1975 They Are Not Eligible For Reimbursement.

A number of the regulations that are the subject of this Claim were originally adopted in 1969 or 1971 and later renumbered. In 1983, numerous regulations were renumbered through the process of repealing prior regulations and adding the regulations back into the code of regulations under new numbers. The Commission will note that Claimant alleges that a number of the regulations that are claimed as creating mandates came into existence in 1983. In many cases, that 1983 date represents a reorganization of title 5 and does not reflect the creation of new regulatory requirements.

"Costs mandated by the state" do not include costs associated with statutes that were enacted prior to January 1, 1975. (Government Code section 17514.) Regulatory requirements that existed before January 1, 1975, cannot be the basis for reimbursement.

5. A Number Of The Regulations Address Areas That Are Already Required By Federal Laws That Claimant Must Follow.

California community colleges are subject to a variety of federal mandates that require certain activities. In some of these cases, the mandates are imposed as a condition of the receipt of federal financial assistance. Government Code section 17556(c) precludes the finding of a reimbursable mandate where a federal mandate results in the claimed costs.

6. A Number Of The Regulations Address Areas Of General Law That Are Not Based On Claimant's Status As A Local Governmental Body.

Claimant is a California employer. Claimant is also a California business enterprise. As such, Claimant is required to follow general laws that apply to all such employers and enterprises. To the extent that a general law already requires Claimant to take certain actions, Claimant cannot be reimbursed for duplicative actions that are required under the challenged regulations. Actions required by general law cannot be the basis of a claim for reimbursement. (*County of Los*

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<sup>1</sup> In some cases, the statutes cited herein may have existed earlier under different section numbers. However, given our resource limitations, we are not able to explore the full extent of possible previous enactments.

*Angeles v. State of California* (1987) 43 Cal.3d 46, 56.) Only if Claimant is able to determine that the regulations include specific additional mandates is reimbursement a possibility.

Regulatory Background. In the early times after the Board of Governors was established, the Office of Administrative Law, rather than this office, retained the primary regulatory files. Given our current resource restrictions, we are unable to fully explore the earlier versions of current regulations for purposes of this review.

We are attaching copies of the early regulation packages that remain in our files, and we encourage the Commission's thorough review of the early provisions. These packages verify that many of the issues addressed in the regulations cited by Claimant preexisted January 1, 1975. (See enclosed Attachment 1, regulation packet approved for filing August 26, 1969; Attachment 2, regulation packet approved for filing July 1, 1971; Attachment 3, regulation packet approved for filing October 1, 1971; Attachment 4, regulation packet approved for filing June 28, 1971.)

Condition 1, California Code of Regulations, title 5, section 51002 (Standards of Scholarship) Claimant asserts that this section mandates costs of adopting and complying with standards of scholarship for students. Claimant alleges that section 51002 was added in 1983 and amended in 1994.

In August 1969, the Board of Governors filed regulations with the Secretary of State that included section 51002 as a minimum standard entitling districts to receive state aid. (Attachment 1.) Section 51002(e) addressed standards of scholarship. It required districts to adopt regulations consistent with the state regulation and to publish the district standards in the college catalog under appropriate headings.

Section 51002(e) addressed grading, "credit-no credit" grades, when students should be on probation, and standards for dismissal. Section 51005, the text of which is set out in full below in our response to "condition 2," included subsections (e) and (f) that provided for credit by examination, which currently appears as section 55753.

In July, 1971, the Board of Governors filed additional regulations related to standards of scholarship. (Attachment 2.) These 1971 regulations addressed credit and no credit courses, standards for probation (section 51303 that led to present section 55754), standards for dismissal (section 51304 that led to present section 55756), a definition of "units attempted" (section 51305 which led to present section 55757), and grade point averages. Section 51300 required district governing boards to adopt regulations consistent with the regulations of the Board of Governors and to publish the regulations in the college catalog.

We lack the resources to fully correlate all these regulations, but it is clear that current regulatory provisions addressing standards of scholarship existed prior to January 1, 1975, and are not eligible for reimbursement.

Any Claim under this section must be rejected for the general reasons discussed above and because most if not all of the provisions predated January 1, 1975.

Condition 2. California Code of Regulations, title 5, section 51004 (Degrees and Certificates). Claimant asserts that this section requires districts to adopt and comply with regulations for awarding degrees and certificates. Claimant alleges the section was added in 1983 and amended in 1994.

Regulations that were filed by the Board of Governors in 1969 established minimum standards for degrees and certificates as follows. (See Attachment 1.) Those provisions led to numerous regulations that currently appear at sections 55800-55810. We have indicated some of the current related provisions in bold in the following.

"51005. Requirements for Degrees and Certificates. (a) The governing board of a district maintaining a community college shall confer the degree of associate in arts upon the satisfactory completion in grades 13 and 14 of from 60 to 64 semester hours of work in a curriculum which the district accepts toward the degree (as shown by its catalog) and which includes the requirements listed in (1) through (5), provided that 12 of the required credit hours were secured in residence at that community college. **(See current section 55806.)** (The governing board may make exceptions to the residence requirement in any instance in which the governing board determines that an injustice or hardship would otherwise be placed upon an individual student.) "Satisfactory completion" means either credit earned on a "credit-no credit" basis or a grade point average of 2.0 (grade C on a five point scale with zero for an F grade) or better in 13th and 14th year graded courses in the curriculum upon which the degree is based. **(See current section 55801.)**

(1) A major consisting of at least 20 semester hours in a specified field of study; **(See current section 55806(a).)**

(2) Three semester hours in the Constitution of the United States, and in American history, including the study of American institutions and ideals, and of the principles of state and local government established under the Constitution of this State, and the satisfactory passing of an examination on said courses;

(3) Two semester hours of community and personal hygiene; except that a community college student, who is a minor whose parents or guardian state in writing that the course in community and personal hygiene is contrary to the religious beliefs of the student, or if the student is not a minor if he so states in writing, may be excused from such course and permitted to substitute a two-hour course in a field or fields specifically designated by the governing board of the district in lieu of the required two-hour course in community and personal hygiene.

(4) Two semester hours in physical education earned at the rate of one-half credit per semester for a minimum of 120 minutes per week in directed physical education activities, except as a student may be exempted in accordance with Section 8162, Education Code; and

(5) Such requirements in oral and written English as the governing board of the school district may establish.

(b) The governing board of a district maintaining a community college may confer the degree of associate in science upon the satisfactory completion in grades 13 and 14 of a minimum of 60 semester hours of work which shall satisfy all the requirements for an associate in arts degree, and which work shall include

a major of at least 20 semester hours in any of the following fields: engineering, physical and biological science, vocational-technical curriculums.

(c) The governing board of a district maintaining a community college shall award the appropriate diploma or degree whenever a student shall have completed all requirements of a full curriculum of the community college without regard to the length of time actually taken by the student to complete such requirements. (See **current section 55809.**) The governing board shall grant to any student who satisfactorily completes the requirements of any course of study in less than the prescribed time the full number of semester hours scheduled for such course.

(d) The governing board of a district maintaining a community college shall issue a certificate of achievement (as determined by the governing board and specified in the catalog) to any student who successfully completes any course of study or curriculum in length less than the full number of years and grades maintained by the community college. (See **current section 55808.**)

(e) The governing board of a district maintaining a community college may grant credit (but it shall not count toward the 12 semester hours of credit in residence required in (a) to any student who satisfactorily passes an examination approved and conducted by proper authorities of the college. Such credit may be granted only:

(1) To a student who is registered at the college and in good standing.

(2) For a course listed in the catalog of a California public community college. (See **current section 55753.**)

(f) The examination shall be made at the expense of the person being examined.

(g) Information contained in the physician's report is confidential, and the contents of the report shall not be divulged by an official or employee who has access to the report except to the Board of Governors of the California Community Colleges, the Teachers Retirement Board, any county superintendent of schools, the representatives of any of them, or to the governing board of a district which has requested such information.

(h) The person shall file with the governing board of any district employing him as a substitute instructor the notice, or a photostatic copy or certified copy of the notice, from the county superintendent, stating that the person has passed the physical examination prescribed by the Board of Governors."

The foregoing language verifies that many of the current regulations identified by Claimant existed in 1969 regulations.

In September 1971, the Board of Governors filed additional regulations that addressed degrees and certificates. (Attachment 3.) It is clear that the 1971 regulations are forerunners to current regulations. For example, former section 51622 (definitions) is current section 55801 and former section 51623 (Associate in arts degree) led to current section 55806.

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that a number of the provisions predated January 1, 1975, making them ineligible for reimbursement.

Condition 3. California Code of Regulations, title 5, section 51006 (Open Courses)

Claimant alleges that section 51006 was added in 1983 and amended in 1994.

Claimant alleges that section 51006 incorporates the requirements of other sections, including sections 58102, 58104, and 58106 that require that classes be described in catalogs and/or class schedules.

Education Code section 5754 (added by Stats 1965, ch. 842) provided in part: "No class for adults shall be maintained by any district: . . . (2 if such classes are not open to the general public. . ." (Emphasis added.) This requirement for open courses was replaced by section 84500.1 (added by Stats. 1978, ch. 909) that required in pertinent part that "[n]o community college shall report for attendance or average daily attendance to the board of governors for apportionment any classes: . . . if such classes are not located in facilities clearly identified in such a manner, and established by procedures, to insure that attendance in such classes is open to the general public. . ." (Emphasis added.) Section 84500.1 was in effect until January 1, 1991. Accordingly, the open course requirement has been in effect in statute or regulation since 1965.

In August 1969, the Board of Governors filed a number of regulations, including section 51003. (See Attachment 1.) Subsection 51003(c) provided that courses that counted towards the associate degree, that were part of an occupational course of study beyond high school, or that were approved for transfer must be described in the college catalog or supplement thereto.

In July 1971, the Board of Governors adopted a number of regulations concerning standards of scholarship. (See Attachment 2.) Section 51102 required districts to describe all of their courses in college publications. Publication of courses in the public catalogs, that was required by both the 1969 and 1971 regulations, is a core element of open courses that presently resides in sections 58100 and 58102. The existence of these 1969 and 1971 regulations that required publication of course information verify the open nature of courses prior to January 1, 1975.

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that open course and publication requirements predated January 1, 1975, making them ineligible for reimbursement.

Condition 4. California Code of Regulations, title 5, section 51008 (Comprehensive Plans).

Claimant asserts that section 51008 was added in 1983 and amended in 1994. The section requires districts to adopt academic master plans and master plans for facilities.

The requirement for district academic master plans and facilities master plans preexisted January 1, 1975, and continued without lapse such that reimbursement should be denied. The requirement originally appeared in the Education Code and was later transferred to title 5 pursuant to the requirement that the Board of Governors establish minimum conditions for the receipt of state aid. Our limited resources prevent a thorough review or tracing of all the provisions, but we offer the following:

Section 200.6 was added to the Education Code by stats. 1969 and was replaced by section 199 (added to the Education Code by stats. 1970). Section 199 provided:

"The board of governors shall review and approve academic master plans and

master plans for facilities for each community college district. Such plans shall be submitted to the board of governors by the local governing board of each community college district. Master plans for facilities submitted pursuant to Chapter 19 (commencing with Section 20050) of Division 14 shall satisfy the requirements of this section in relation to master plans for facilities. Each district shall annually submit changes in its approved academic master plan for approval by the board of governors." (Emphasis added.)

Section 1010.3 was added to the Education Code through stats. 1969, c. 1026; it was renumbered to section 25427 and amended by stats. 1970, c. 870 until it was renumbered to section 72231.5 by stats. 1976, c. 1010. In 1970, section 25427 provided:

"The district governing board shall:

- (a) Establish policies for, and approve, current and long-range educational plans and programs and promote orderly growth and development of the community colleges within the district.
- (b) Establish policies for, and approve, academic master plans and long-range master plans for facilities. The district governing board shall submit such master plans to the board of governors for review and approval." (Emphasis added.)

The foregoing confirmed the obligation of districts to establish academic and facility master plans well in advance of January 1, 1975.

The Board of Governors also adopted regulations concerning educational master plans well before January 1, 1975. (See Attachment 4.) Sections 55400 through 55405 required districts to "establish policies for, and approve, current and long range educational plans and programs for each Community College which it maintains and for the district as a whole." (Cal. Code Regs., tit. 4, § 55401.) These sections have remained in effect, with some intervening amendments, to the present.

Any Claim under this section must be rejected for the general reasons discussed above and because the requirement for academic master plans and for master plans for facilities predated January 1, 1975, making them ineligible for reimbursement.

Condition 5. California Code of Regulations, title 5, section 51010 (Equal Employment Opportunity).

Claimant asserts that section 51010, regulations that are incorporated by reference under section 51010, and Education Code sections 87100 et seq. require Claimant to provide equal employment opportunity.

Claimant is subject to a number of federal constitutional and statutory requirements that are designed to ensure equal employment opportunity. These include the federal Equal Protection Clause of the Fourteenth Amendment, Title VII, the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act. These federal laws prohibit discrimination and apply to Claimant because of Claimant's status as a public entity or as an employer, or Claimant's receipt of federal funds. We have determined that Claimant receives federal Vocational and Applied Technology Education Act (VATEA) funding, and it may receive other federal financial support. (Claimant's tentative VATEA allocation for the 2003-04 fiscal year alone is \$687,436.00)

Accordingly, Claimant is subject to any obligations that attach to the receipt of such federal funding. Government Code section 17556(c) precludes the finding of a reimbursable mandate where a federal mandate results in the claimed costs.

Equal Protection Clause. The federal Equal Protection Clause is a general constitutional guarantee that requires to Claimant afford equal treatment to all employees. Discrimination on the basis of race, ethnicity, and national origin is particularly suspect, but other bases for discriminatory treatment, such as gender, may also be challenged as a federal constitutional violation.

Title VII. Title VII of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, religion, sex, or national origin. Title VII applies to Claimant in its role as an employer. Title VII is implemented by regulations adopted by the federal Equal Employment Opportunity Commission ("EEOC"). The regulations that appear at 29 C.F.R. 1607 et seq., include a number of obligations to ensure against unlawful discrimination, and the regulations invoked in this Claim frequently reflect the federal provisions.

Americans with Disabilities Act and Section 504 of the Rehabilitation Act. These federal laws require Claimant to ensure that persons with disabilities are not subjected to unlawful discrimination in their employment.

To the extent that the foregoing or other federal laws require activities to ensure equal employment opportunity without discrimination, Government Code section 17556(c) precludes the finding of a reimbursable mandate.

Claimant is also subject to a number of general laws that do not depend on Claimant's status as a local governmental body.

Government Code section 12940. Section 12940 is part of the California Fair Employment and Housing Act ("FEHA"), and it covers virtually all California employers with 15 or more employees. Accordingly, section 12940 applies to Claimant independent of its status as a local government agency.

Section 12940 requires the Claimant to ensure a workplace free of discrimination on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation. Section 12950 requires Claimant to maintain an employment environment free of sexual harassment.

The FEHA is enforced by the Fair Employment and Housing Commission which has adopted a number of regulations. The Commission has adopted the Uniform Guidelines for Selection Procedures that has been promulgated by the EEOC under Title VII. (See Cal. Code of Regs., tit.2, § 7287.4.) Even if Claimant were not directly subject to Title VII and EEOC regulations, it is subject to the Commission's regulations, and those regulations incorporate the EEOC regulations. As a result, to the extent that the challenged regulations reflect general law requirements that apply to Claimant as a California employer, they cannot be the basis for reimbursement. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.)

Claimant raises issues under Education Code section 87100, et seq. Section 87102 provides that the activities described in the article are conditions to receipt of funds that are provided by the

Employment Opportunity Fund that is described in section 87107. Therefore, Claimant is not entitled to reimbursement for the activities described in section 87100 et seq. for two reasons.

First, Claimant is not required to seek funding from the Employment Opportunity Fund. If Claimant seeks such funding, it voluntarily assumes the obligations that attach to such funding. Pursuant to *Kern High School*, noted above, such voluntary actions are not reimbursable.

Second, the Employment Opportunity Fund is available for the payment of any documented costs, and reimbursement under this process would be double recovery.

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that federal law or general California law may require the challenged actions, and because Claimant has chosen to proceed under Education Code provisions that carry their own funding.

Condition 6. California Code of Regulations, title 5, section 51012 (Student Fees).

Claimant alleges that this regulation requires it to establish and implement policies and procedures to ensure that student fees comply with the law.

The obligation contained in title 5, section 51012 existed prior to January 1, 1975, and has continued to apply to Claimant without lapse to the present. Education Code section 1010.10 was added to the Education Code by stats. 1969, c. 1026. It was renumbered to section 72289 by stats 1976, c. 1010. Both sections provided:

"The district governing board may establish such student fees as it is authorized to establish by law."

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that the obligation predated January 1, 1975.

Condition 7. California Code of Regulations, title 5, section 51014 (Approval of New Colleges & Educational Centers)

Claimant asserts that section 51014 was added in 1983 and amended in 1994, and that it requires districts that are planning new colleges or educational centers to obtain the approval of the Board of Governors prior to the commencement of classes.

Claimant does not allege that it has ever been affected by section 51014. Nothing in the Claim suggests that Claimant has ever sought the Board's approval under section 51014 for a new college or a new educational center, and Claimant alleges no costs arising from complying with section 51014.

Any Claim under this section must be rejected for the general reasons discussed above and because this is a special provision that mandates actions only under special and limited conditions. Claimant does not allege that it ever took those actions. For these reasons, any Claim under this section should be rejected.

Condition 8. California Code of Regulations, title 5, section 51016 (Accreditation)

Claimant asserts that section 51016 was added in 1983 and that the section requires it to establish and implement policies and procedures to ensure compliance with the accreditation standards of

the Accrediting Commission for Community and Junior Colleges ("AACJAC") and to pay the costs of the accreditation process. Claimant alleges that prior to the addition of section 51016, colleges were not specifically required to comply with AACJAC standards and that they were permitted, but not required to pay the costs of the accreditation process.

The expectation that colleges would be accredited predated January 1, 1975. Through stats. of 1967, c. 1562 (amended by stats. 1970, c. 102 and stats. 1974, c. 989), Education Code section 25522 specifically authorized the costs of accreditation of the colleges within a district by "the regional accrediting association serving California." Section 25522 was renumbered to section 78050 by stats. 1976, c. 1010.

Claimant may be correct that no specific statute or regulation required it to pay the costs of accreditation. Our resources do not permit a thorough review of this issue. However, since before January 1, 1975, Claimant was expected to be accredited, and it could not be accredited unless it paid the costs of accreditation.

Accreditation is a condition of eligibility for participation in certain federal programs, including federal funding for higher education resources and student assistance. (See, e.g., 20 U.S.C. § 1058.) To the extent that Claimant chooses to participate in federal programs, it also chooses to participate in the accreditation process. Given Claimant's choice, it cannot claim reimbursement for the costs associated with that choice.

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that federal law may require accreditation, because Claimant has chosen to secure federal funding that requires accreditation, and because the expectation of accredited status predated January 1, 1975.

Condition 9. California Code of Regulations, title 5, section 51018. (Counseling)

Claimant asserts that this section requires districts to adopt regulations and procedures regarding counseling programs, to provide the programs to students, and to publicize the counseling programs. Claimant alleges that section 51018 was added in 1983 and amended in 1994.

The obligation for Claimant to have a counseling program preceded January 1, 1975. In August, 1969, the Board of Governors filed regulations with the Secretary of State that included section 51002 as a minimum standard entitling districts to receive state aid. (See Attachment 1.) Section 51001(h) provided as follows:

Counseling Services. The community college shall have an adequate counseling staff, both in training and experience, and shall have established procedures, to provide, and shall provide, the following counseling services:

- (1) Assisting each student in the college
  - (A) To determine his educational goal,
  - (B) To make a self-appraisal toward progress toward his goals.
- (2) Providing each first-time freshman described in (A) or (B) below who is enrolled in more than six units special individual or group counseling and guidance, arranging a study load suitable to his needs, and keeping an appropriate record of the student.

- (A) He is a high school graduate, his scores on a qualifying test or tests

were below an acceptable minimum for the college of attendance, and his grade point average in the last three years in high school was less than 2.0 (grade C on a five point scale with zero for an F grade), excluding only physical education and military science; or

(B) He is not a high school graduate, and his scores on a qualifying test or tests were below an acceptable minimum for the college of attendance and his grade point average in the years of high school attendance was less than 2.0 (grade C on a five point scale with zero for an F grade), excluding only physical education and military science.

(3) Providing to each student who is on probation individual counseling and guidance service, including regulation of his program according to aptitude and his achievements."

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that counseling services were required prior to January 1, 1975.

Condition 10. California Code of Regulations, title 5, section 51020. (Objectives).

Claimant asserts that this section was added in 1983 and amended in 1991, and that it requires Claimant to adopt objectives for its instructional programs and other district functions.

This regulation was first adopted in 1969 as section 51002(a). (See Attachment 1.) Its provisions have remained the same to the present. It provided:

"51002(a) Objectives. The community college shall have stated objectives of its instructional program and the functions which it undertakes to perform."

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that objectives were required prior to January 1, 1975.

Condition 11. California Code of Regulations, title 5, section 51021. (Curriculum).

Claimant alleges that this section was added in 1983 and amended in 1994. Claimant alleges that it requires each community college to establish educational programs and courses that will further the objectives and functions of the college and that all courses must be approved by the State Chancellor.

As noted under Condition 4, above, section 1010.3 was added to the Education Code through stats. 1969, c. 1026; it was renumbered to section 25427 and amended by stats. 1970, c. 870 until it was renumbered to section 72231.5 by stats. 1976, c. 1010. Section 25427 required district governing boards to establish policies for and approve, current and long-range educational plans and programs. It can fairly be assumed that such long-range education plans and programs addressed curriculum.

Education Code section 200.9 was added by stats. 1969, c. 1026 and amended by stats. 1970, c. 102. It provided:

"The board of governors shall establish criteria and standards for graded and nongraded classes in community colleges."

Additionally, the curriculum regulation was first adopted in 1969 as section 51002(b) which essentially tracked the language of current section 51021, as follows:

"51002(b) Curriculum. The community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. Such courses shall be submitted to the Chancellor of the California Community Colleges for prior approval on forms provided by the Chancellor. The Chancellor shall report to the Board of Governors at a fall and a spring meeting the actions which he has taken in approving the courses."

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that the curriculum requirement predated January 1, 1975.

Condition 12. California Code of Regulations, title 5, section 51022 (a) (Instructional Programs).

Claimant asserts that section 50122(a) mandates certain responsibilities regarding instructional programs, including vocational or occupational training program review.

Section 51022(a) provides that districts must develop and file with the Chancellor policies for the establishment, modification, and discontinuance of courses or programs.

Districts have long been required to develop and submit to the state their academic master plans which must, of necessity, address instructional programs. (See Ed. Code, § 199, added by stats. 1970, c. 870, and section 1010.3, added by stats. 1969, c. 1026 (renumbered to 25427 by stats. 1970, c. 870) that required district governing boards to "establish policies for, and approve, current and long-range educational plans and programs" and to "establish policies for, and approve, academic master plans. . ." District governing boards have also been required to "establish policies for, and approve, the total educational program of the community college or colleges in the district. . . . approve all classes for adults and shall submit such classes as are eligible for state apportionments to the board of governors for approval." (See Ed. Code, § 1010.4, added by stats. 1969, c. 1026, amended by stats. 1970, c. 102, stats. 1970, c. 870.)

The very reason for Claimant to exist is to offer educational programs and services. The public community colleges were established to "offer instruction through but not beyond the 14<sup>th</sup> grade level." Their programs could include, but were not limited to "(1) standard collegiate courses for transfer to higher institutions; (b) vocational and technical fields leading to employment; and (3) general or liberal arts courses." (Ed. Code, § 22651, added by stats. 1960, 1<sup>st</sup> Ex. Sess, c. 49.)

Section 22651 was amended, and ultimately renumbered to section 66701 by stats. 1976, c. 1010. In light of the basic mission of community colleges, the required education master plans, and obligations to establish curriculum (as noted above regarding "Condition 11"), districts would necessarily have developed policies for the establishment, modification, and discontinuance of educational programs and courses apart from the regulation at issue here.

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that numerous duties related to instructional

programs and courses existed prior to January 1, 1975.

Condition 13. California Code of Regulations, title 5, section 51022(b) (Course Articulation-Local)

Claimant asserts that section 51022(b) requires it to develop and implement policies and procedures for the articulation of its courses with proximate four-year colleges and high schools.

Through stats. 1969, c. 1026, Education Code section 200.13 was enacted to require the Board of Governors to "facilitate articulation with other segments of higher education and with secondary education." Section 200.13 was renumbered to section 71071 by stats. 1976, c. 1010. Therefore, the Board of Governors has been statutorily required to act in this specific area since before January 1, 1975. This regulation is a necessary part of carrying out this requirement.

Moreover, the community colleges have always been a part of the California public school system. (E.g., see former Ed. Code, § 22650, as amended by stats. 1970, c. 102:

"The public community colleges are secondary schools and shall continue to be a part of the public school system of this state.") Being part of a system necessarily involves a level of articulation with other segments of the system.

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that articulation with other segments was required prior to January 1, 1975.

Condition 14. California Code of Regulations, title 5, section 51023(a) (Academic Freedom).

Claimant asserts that this section was added in 1984 and amended in 1994, and that it requires districts to adopt and implement a policy statement on academic freedom.

Academic freedom includes the opportunity to express opinions. The requirements of the current regulations grew out of legislative direction to the Board of Governors to establish minimum procedures to insure faculty have the opportunity to express their opinions. Education Code section 200.22 was added by stats. 1969 and provided:

"The board of governors shall establish minimum procedures to be used by district governing boards to insure to faculty and students the opportunity to express their opinions at the campus level and to insure that these opinions are given every reasonable consideration."

Through stats. 1969, c. 1026, Education Code section 1010.13 required community college districts to "establish procedures not inconsistent with those established by the board of governors to insure faculty and students the opportunity to express their opinions at the campus level." Section 1010.13 was renumbered to section 72292 by stats. 1976. Section 72292 was the original statutory underpinning for the language concerning academic freedom. Section 72292 existed as section 1010.13 well before January 1, 1975.

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that the basis for the academic freedom language predated January 1, 1975.

Condition 15. California Code of Regulations, title 5, sections 51023, 51023.5, and 51023.7.

(Shared Governance: Faculty, Staff, Students)

Claimant references the regulations that require shared governance for faculty (§ 51023), staff (§ 51023.5), and students (§ 51023.7).

Faculty. The requirements of section 51023 and sections that are incorporated into section 51023 largely preceded January 1, 1975. The role of academic senates or faculty councils in academic and professional matters was established in 1969 (see Attachment 1) under section 51004 as follows:

51004. Academic Senates or Faculty Councils.

(a) For the purposes of this section:

(1) "Faculty" means those certificated persons who teach full time in a community college or other full-time certificated persons who do not perform any services for the college that require an administrative or supervisory credential.

(2) "Academic senate" or "faculty council" means an organization formed in accordance with this section whose primary function is, as the representative of the faculty, to make recommendations to the administration and the governing board of a district with respect to academic and professional matters.

(b) In order that the faculty may have a formal and effective procedure for participating in the formation of district policies on academic and professional matters described in (a)(2), the faculty first must decide by secret ballot to have an "academic senate" or "faculty council," in which case the governing board of each district shall establish such an "academic senate" or "faculty council" in each community college by authorizing the faculty to:

(1) Fix, and amend, by vote of the faculty, the composition, structure, and procedures of the academic senate or faculty council.

(2) Select, in accordance with accepted democratic election procedures, the members of the academic senate or faculty council.

(c) After consultation with the administration, the academic senate or faculty council may present its written views and recommendations to the governing board. The governing board shall consider and respond to such views and recommendations.

(d) Upon the request of the academic senate or faculty council and subject to Government Code Sections 54950 ff. (The Brown Act), when applicable, the governing board, or such board members or administrative officers as it may designate, shall meet and confer with representatives of the academic senate or faculty council with respect to recommendations made or proposed to be made by the senate or council. The designation of board members or administrative officers as provided herein shall not preclude the representatives of an academic senate or a faculty council from meeting with, or appearing before, the governing board with respect to the views, recommendations, or proposals of the senate or council at a regular or special meeting of the board.

(e) The academic senates or faculty councils may assume such responsibilities and perform such functions as may be requested of it by the administration or board of trustees."

Students. Through stats. 1969, c. 1026, Education Code section 1010.13 required community

college districts to "establish procedures not inconsistent with those established by the board of governors to insure . . . students the opportunity to express their opinions at the campus level." Section 1010.13 was renumbered to section 72292 by stats. 1976.

Staff: The specific details of section 51023.5 appear to have developed recently. However, because they reflect minimum standards, and the Board of Governors has been required to establish minimum standards since before January 1, 1975, the Attorney General has determined that a reimbursable mandate has not been created.

Any Claim under this section must be rejected for the general reasons discussed above. For academic senates or faculty counsels under section 53023, the Commission will be able to confirm that responsibilities predated January 1, 1975. For students, the Commission will also be able to confirm that Claimant was required to provide students with the opportunity to express their opinions prior to January 1, 1975.

Condition 16. California Code of Regulations, title 5, section 51024 (Matriculation Services). Claimant asserts that the Seymour-Campbell Matriculation Act of 1986 requires certain conduct. Claimant asserts that Education Code sections 78210-78218, and title 5, sections 51024 and 55500-55534 describe these requirements.

Matriculation obligations are directly tied to participation in matriculation funding. Education Code section 78218 verifies that the statutory obligations the regulations implement are only operative if funds are specifically appropriated for matriculation purposes. Moreover, Education Code section 78211.5(b) provides in part that

"any college or district receiving funding under this article shall agree to carry out its provisions as specified, but shall be bound to that agreement only for the period during which funding is received pursuant to this article."

Accordingly, Claimant's acceptance of matriculation funding is the source of any obligations.

The choice to participate in the matriculation program carries certain obligations so long as the funding is provided. Because participation is discretionary as to districts, under *Kern High School, supra*, 30 Cal.4th 727, the requirements of the Education Code and title 5 sections related to matriculation carry no state mandates.

Districts that do apply for and accept matriculation funding are required to match each dollar of matriculation funding with three dollars of other district resources. (§ 55518.) Some of that matching money is likely other state funding dollars. Nothing in statute or regulation prohibits districts from spending matriculation funding or the matching money from other state resources to satisfy the requirements of section 55530; accordingly, the state should not have to pay again for actions Claimant may already pay for from state resources.

Any Claim under this section must be rejected for the general reasons discussed above, because participation is optional, and because funding for participation is already available.

Condition 17. California Code of Regulations, title 5, section 51025 (Full-time/Part-time Faculty). Claimant asserts that this section creates mandated costs to reach a full-time/part-time faculty

ratio of 75%/25%. Claimant acknowledges that this provision was adopted in response to Education Code section 87482.6.

Education Code section 87482.6 was added by stats. 1988, c. 973. SEC 70(b)(2) provided that during phase II of the reforms described by AB 1725,

"the new educational environment created under Phase I, including such reforms as innovative training programs, evaluation procedures, and minimum qualifications, may be utilized to the fullest extent in hiring new full-time faculty. The Legislature finds that this latter step is a major component of successful reform and the eventual attainment of the highest possible quality in the educational programs of the California Community Colleges. It is the intent of the Legislature that moneys appropriated during Phase II fully fund any state-mandate created pursuant to this section."

Any Claim under this section must be rejected for the general reasons stated at the beginning of this review and because funding has been provided.

Amounts were added to the base of community college districts as Program Improvement monies after the 1989-90 fiscal year.

Condition 18. California Code of Regulations, title 5, section 51026 (Student Equity).

Claimant asserts that this section requires it to develop policies and procedures for student equity. Although student equity is approached by reference to section 51026, Claimant also identifies a number of state statutory provisions that prohibit discrimination and harassment against students on a variety of bases. For example, Claimant notes that Education Code section 72011 requires it to provide access to its services, classes, and programs without regard to race, religious creed, color, national origin, ancestry, handicap, or sex.

California nondiscrimination laws concerning students frequently reflect the requirements of federal constitutional and statutory requirements, including the federal Equal Protection Clause of the Fourteenth Amendment, Title VI, Title IX, the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act. These provisions generally prohibit discrimination and harassment by districts as a matter of constitutional principle or as a condition that attaches to the acceptance of federal funds. As noted above, we have determined that Claimant receives federal Vocational and Applied Technology Education Act funding, and it may receive other federal financial support. Accordingly, Claimant is subject to any obligations that attach to the receipt of such federal funding. Government Code section 17556(c) precludes the finding of a reimbursable mandate where a federal mandate results in the claimed costs.

Equal Protection Clause. The federal Equal Protection Clause is a general constitutional guarantee that requires Claimant to treat students equally. Discrimination on the basis of race, ethnicity, and national origin is particularly suspect, but other bases for discriminatory treatment, such as gender, may also be challenged as a federal constitutional violation.

Title VI. Title VI protects students from discrimination under programs that receive federal funding. It provides that "[n]o person . . . shall on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or subjected to discrimination under

any program or activity receiving Federal financial assistance." (42 U.S.C. § 2000d.) Title VI guarantees equity and nondiscrimination in admissions, services, programs and activities.

It is likely that Claimant receives federal funds and is therefore federally mandated to provide student equity and to prohibit discrimination based on race, color or national origin.

Title IX. Title IX of the Education Amendments of 1972 "is designed to eliminate . . . discrimination on the basis of sex in any education program or activity receiving Federal financial assistance. . . ." (34 CFR § 106.1.) Claimant is therefore subject to the requirements of Title IX and its implementing regulations if Claimant accepts federal education financial assistance. The implementing regulations appear at title 34, Code of Federal Regulations, part 106, sections 106.1 through 106.71. The Office for Civil Rights ("OCR") within the U.S. Department of Education enforces Title IX and the implementing regulations.

Title IX requires community college districts that receive federal financial assistance to adopt and to publish policies prohibiting sex discrimination. Districts must also "adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints alleging any action which would be prohibited by this part." (34 C.F.R. §§ 106.8(b), 106.9.)

Sexual harassment is a form of sex discrimination that is prohibited by Title IX. In January 2001, the OCR published its Title IX "Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties." As interpreted by the OCR, if a district's required sex discrimination policy does not specifically address sexual harassment, its policy and procedures will not be considered effective. (*Id.*, pp. 19-20.) The failure to have a policy and procedure prohibiting sex discrimination, including sexual harassment, violates the Title IX regulations even if no discrimination or harassment occurs. (*Id.*, p. 19.)

The sexual harassment policy and procedures must be distributed.

"Schools are required by the Title IX regulations to adopt and publish grievance procedures providing for prompt and equitable resolution of sex discrimination complaints, including complaints of sexual harassment, and to disseminate a policy against sex discrimination." (*Id.*, at p. 14.)

OCR examines certain elements in determining whether a district's grievance procedures are prompt and equitable. One element is that students and employees are notified of the procedure, "including where complaints may be filed." (*Id.*, at p. 20.) The OCR notes that schools may ensure notice to students of their rights under Title IX by having copies of the procedures "available at various locations throughout the school or campus" and by "including a summary of the procedures in major publications issued by the school." (*Id.*, at p. 20.)

Based on the foregoing, by accepting federal financial assistance, community college districts obligate themselves to develop and disseminate sexual harassment policies, notify students and employees of the district as to how to file charges, and disseminate information concerning the prohibition to sexual harassment in major district publications.

Americans with Disabilities Act (ADA). The ADA applies to all public (and private) postsecondary educational institutions, and it generally prohibits discrimination against students with disabilities.

Section 504 of the Rehabilitation Act (Section 504). Section 504 applies to those postsecondary educational institutions that receive or benefit from federal financial assistance. Section 504 generally prohibits discrimination against students with disabilities.

Age Discrimination Act of 1975. Public (and private) institutions that receive federal funds must comply with the Age Discrimination Act (42 U.S.C. § 6101 et seq.) that prohibits unreasonable discrimination on the basis of age in programs or activities that receive federal funds. To the extent that Claimant receives federal funds, student equity or nondiscrimination on the basis of age is not a reimbursable state mandate.

There is a second basis for rejecting a Claim based on equity and nondiscrimination requirements. If Claimant is already required by general law to ensure student equity and nondiscrimination, the statutes and regulations cited by Claimant that require nondiscrimination on the same bases do not create reimbursable mandates. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.)

Civil Code, section 51 (Unruh Act). The Unruh Act prohibits discrimination in business establishments. Public school districts have been found to be business establishments subject to the Unruh Act. For example, the Act ensures student freedom from racial harassment and from sex discrimination in the California public school districts. (*Davison ex rel. Sims v. Santa Barbara High School Dist.*, C.D. Cal.1998, 48 F. Supp.2d 1225; *Nicole M. By and Through Jacqueline M. v. Martinez Unified School Dist.*, N.D. Cal.1997, 964 F. Supp. 1369.)

The Unruh Act has general application to all California businesses and does not impose unique requirements on local government agencies such as community college districts. Accordingly, the requirements to ensure student equity and an educational environment free of discrimination on the basis of sex, race, color, religion, ancestry, national origin, disability, or medical condition already exist apart from the Education Code provisions or title 5 regulations noted by Claimant. Because the Claimant is already required by general law to do these things, these actions cannot be the basis of a claim for reimbursement. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.)

Any Claim under this section must be rejected for the general reasons stated at the beginning of this review, because mandates may replicate existing federal requirements, and because general law imposes some of the same requirements.

Condition 19. California Code of Regulations, title 5, section 51027 (Transfer Centers)  
Claimant asserts that section 51027 requires each community college district to recognize transfer as one of its primary missions and to develop and adopt a transfer center plan.

Any Claim under this section must be rejected for the general reasons stated at the beginning of this review.

Condition 20. California Code of Regulations, title 5, sections 51100 and 51102 (Compliance Enforcement)

Claimant asserts that sections 51100 and 51102 were added in 1983 and amended in 1984.

Claimant asserts that section 51100 requires the State Chancellor to review each college to determine whether it has met the minimum conditions established by title 5, sections 51000-51027. Section 51102 requires the State Chancellor to notify districts of areas of noncompliance to which districts must respond.

As noted at the beginning of this review, since at least the mid-1960's the Board of Governors has been required to adopt minimum standards entitling districts to receive state aid for support of community colleges. Education Code section 1010.2 was added by stats. 1969, c. 1026 that required Claimant to "establish rules and regulations not inconsistent with the regulations of the board of governors and the laws of this state for the government and operation of one or more community colleges in the district. . . ." This section was renumbered to section 72282 through stats. 1976, c. 1010. Accordingly, Claimant has been required to comply with state requirements since well before January 1, 1975. Implicit in the requirement to comply with state requirements is the obligation to demonstrate compliance and to take necessary actions to come into compliance where noncompliance is found.

Any Claim under this section must be rejected for the general reasons stated at the beginning of this review and because the obligation to comply with the rules and regulations of the state Board of Governors predated January 1, 1975, and is therefore not reimbursable under this process.

We hope the foregoing information is useful to you.

Sincerely,

A handwritten signature in black ink that reads "Frederick E. Harris". The signature is written in a cursive style with a large initial "F" and "H".

FREDERICK E. HARRIS, Assistant Vice Chancellor  
College Finance and Facilities Planning

FO. FILING ADMINISTRATIVE REGULATIONS WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

RECEIVED FOR FILING

AUG 26 1969

Office of Administrative Procedure

ENDORSED

APPROVED FOR FILING (REV. 8-28-64)

AUG 26 1969

Office of Administrative Procedure

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Copy below is hereby certified to be a true and correct copy of regulations adopted, or amended, or an order of repeal by:

Board of Governors of the California

(Agency) Community Colleges

Date of adoption, amendment, or repeal:

August 21, 1969

By:

Sidney W. Johnson

Chancellor

(Title)

ENDORSE  
FILED

In the office of the Secretary of State of the State of California

AUG 26 1969

At 3:45 o'clock P.M.

FRANK M. JORDAN, Secretary of State

By H. P. SULLIVAN  
Assistant Secretary of State

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CONTINUATION SHEET  
FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE  
(Pursuant to Government Code Section 11380.1)

RESOLUTION

A resolution by the Board of Governors of the California Community Colleges to add Subchapter 1 (commencing with Section 51000), Subchapter 2 (commencing with Section 52000), Subchapter 4 (commencing with Section 53000), Subchapter 4.1 (commencing with Section 53500), Subchapter 4.5 (commencing with Section 53700), Subchapter 5 (commencing with Section 54000), and Subchapter 5.5 (commencing with Section 55000) to Chapter 6 of Title 5 of the California Administrative Code, relating to Community Colleges.

Be it resolved by the Board of Governors of the California Community Colleges, acting under the authority of Education Code Sections 193, 197, 8352, and 8353 and pursuant to the Administrative Procedure Act, that:

Section 1. Subchapter 1 is added to Chapter 6 of Title 5 to read:

Subchapter 1. GENERAL PROVISIONS

Article 5. Community College Standards

51000. State Aid. The provisions of this article, except Sections 51003 and 51004, are adopted under the authority of Education Code Section 25510, and comprise the rules and regulations affirming and fixing the minimum standards entitling districts to receive state aid for the support of community colleges.

51001. Basis of Courses Offered. (a) The governing board may by regulation offer courses in either or both of the following categories, and shall specify in its catalog the category or categories in which the course falls: (In the absence of such regulation a course will be presumed to be offered on a letter-grade basis.)

(1) Courses wherein all students are evaluated on a "credit-no credit" basis.

(2) Courses wherein each student may elect on registration, or within a reasonable time thereafter, whether the basis of his evaluation is to be a "credit-no credit" or a letter grade.

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(b) All units earned on a "credit-no credit" basis in California institutions of higher education or equivalent out-of-state institutions shall be counted in satisfaction of community college curriculum requirements, but such courses shall be disregarded in determining a student's grade point average for all purposes for which a grade point average is required.

(c) The governing board may authorize a student who has received credit for a course taken on a "credit-no credit" basis within the district to convert this grade to a letter grade by taking an appropriate examination.

51002. Requirements. The governing board of each district maintaining one or more community colleges shall, as to each community college, comply with the following requirements:

(a) Objectives. The community college shall have stated objectives of its instructional program and the functions which it undertakes to perform.

(b) Curriculum. The community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. Such courses shall be submitted to the Chancellor of the California Community Colleges for prior approval on forms provided by the Chancellor. The Chancellor shall report to the Board of Governors at a fall and a spring meeting the actions which he has taken in approving the courses.

(c) Faculty Personnel. The community college must have an adequate teaching staff of scholarship, experience, and teaching ability for each major field of the curriculum.

(d) Conditions of Instruction. The community college must have a sufficient number of faculty members to enable students to receive individual guidance and assistance in learning and to permit the continued professional growth of the faculty members.

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 WITH THE SECRETARY OF STATE**  
 (Pursuant to Government Code Section 11380.1)

(e) Standards of Scholarship. The governing board of the community college shall have adopted regulations consistent with this section and Section 51005, establishing standards of scholarship for the continuance of students in the community college and for graduation. The governing board shall have adopted rules setting forth the circumstances that shall warrant exceptions to the dismissal requirements herein set forth and shall file a copy of such rules with the Board of Governors. The regulations shall provide, among other things, that appropriate records shall be kept of every instance in which a student is so excepted. The standards shall be published in the college catalog under appropriate headings.

(1) Minimum standards shall require that a student be placed on probation and immediately notified that his performance is deficient or he shall be dismissed, in accordance with the requirements shown in the following table.

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Grades Received	Grade Status Requiring Probation	Grade Status Requiring Dismissal
All of his grades are "credit-no credit" grades	"No-credit" grades in at least 1/2 but not 3/4 of units herein designated for a student in his status	"No-credit" grade in 3/4 or more of all units attempted in each of 3 consecutive semesters (5 consecutive quarters)
All of his grades are grade points are calculated as follows: A-4 grade points B-3 grade points C-2 grade points D-1 grade point F- no grade points	Grade point average for units herein designated for a student in his status is less than 2.0 but not less than 1.75	Grade point average of all units attempted in each of 3 consecutive semesters (5 consecutive quarters) is less than 1.75
Some of his grades are letter grades and some "credit-no credit" grades	Grade status in all units in each category falls in the applicable foregoing description	Grade status in all units so attempted in each category falls in the applicable foregoing description

CONTINUATION SHEET  
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STUDENT STATUS	UNITS DESIGNATED
He is transferring to the community college	All units previously attempted in any college or university and in grades 13 and 14 of a community college
He is a full-time student	Units attempted in grades 13 or 14 during the semester or quarter immediately preceding
He is a part-time student and has attempted in any college or university, or grades 13 or 14 of a community college a total of 12 semester units (or the equivalent of quarter units)	All units so attempted

(2) Minimum standards shall require that a student who has been dismissed shall not be reinstated until one semester (or if the college is on the quarter system, two quarters) has elapsed after the dismissal, unless the student comes within an exception set forth in rules adopted by the governing board.

(f) Library. The community college shall have adequate working collections of books for each major field of the curriculum and to which new accessions must be made in accordance with student enrollments.

(g) Laboratories, Shops, and Facilities. The community college shall have adequate equipment, materials, and furnishing for courses offered in agriculture, business and commercial education, fine arts, home economics, industrial and technical training, music, natural and physical sciences, and physical and health education.

(h) Counseling Services. The community college shall have an adequate counseling staff, both in training and experience, and shall have established procedures, to provide, and shall provide, the following counseling services:

(1) Assisting each student in the college

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 WITH THE SECRETARY OF STATE  
 (Pursuant to Government Code Section 11380.1)

(A) To determine his educational goal.

(B) To make a self-appraisal toward progress toward his goals.

(2) Providing each first-time freshman described in (A) or (B) below who is enrolled in more than six units special individual or group counseling and guidance, arranging a study load suitable to his needs, and keeping an appropriate record of the student.

(A) He is a high school graduate, his scores on a qualifying test or tests were below an acceptable minimum for the college of attendance, and his grade point average in the last three years in high school was less than 2.0 (grade C on a five point scale with zero for an F grade), excluding only physical education and military science; or

(B) He is not a high school graduate, and his scores on a qualifying test or tests were below an acceptable minimum for the college of attendance and his grade point average in the years of high school attendance was less than 2.0 (grade C on a five point scale with zero for an F grade), excluding only physical education and military science.

(3) Providing to each student who is on probation individual counseling and guidance service, including regulation of his program according to aptitude and his achievements.

51003. Criteria and Standards for Graded Community College Courses in Grades 13 and 14. (a) Definition. For the purposes of this subsection, a course of study is defined as an organized sequence of courses of a college within a given subject area.

(b) Criteria. A graded course (class) in grade 13 or grade 14 shall possess one or more of the following characteristics;

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(1) The course provides credit toward an associate degree; is normally considered of collegiate level; and is approved by the Board of Governors as a component of, a prerequisite to, or eligible as a required or elective course within, a course of study which leads toward an associate degree.

(2) The course is approved by the Board of Governors and is part of an occupational course of study of beyond high school level within the scope of the term "vocational and technical fields leading to employment" as the term is used in Education Code Section 22651 which leads toward an associate degree, an occupational certificate, or both.

(3) The course is approved by the Board of Governors and is recognized upon transfer by the University of California, a California state college, or an accredited independent college or university in California, as a part of:

(A) The required preparation toward a major;

(B) The general, or general education, requirement; or

(C) The permissible or recommended elective credits.

(c) Standards. Any course meeting one or more of the above criteria shall meet all of the following standards:

(1) It is a course, approved by the Board of Governors the content of which is organized to meet the requirements for the associate degree as specified in Section 51005 or the requirements for an occupational certificate and is a part of a course of study not exceeding 70 units in length.

(2) It must be offered as described in the college catalog or a supplement thereto which provides an appropriate title, number, and accurate description of course content. A course outline is available at the college.

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Course requirements and credit awarded are consistent with Education Code Section 22651.

(3) It is a course in which are enrolled only those students who have met the prerequisites for the course.

(4) It is subject to the published standards of matriculation, attendance and achievement of the college, and the enrollees are awarded marks or grades on the basis of methods of evaluation set forth by the college and are subject to the standards of retention set forth in Section 51002 or to such additional standards as may be established by the governing board of the district.

(5) It is a course in which enrollment shall not be repeated except in unusual circumstances and with the prior written permission from the district superintendent or his authorized representative or representatives.

51004. Academic Senates or Faculty Councils. (a) For the purposes of this section:

(1) "Faculty" means those certificated persons who teach full time in a community college or other full-time certificated persons who do not perform any services for the college that require an administrative or supervisory credential.

(2) "Academic senate" or "faculty council" means an organization formed in accordance with this section whose primary function is, as the representative of the faculty, to make recommendations to the administration and the governing board of a district with respect to academic and professional matters.

(b) In order that the faculty may have a formal and effective procedure for participating in the formation of district policies on academic and

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professional matters described in (a)(2), the faculty first must decide by secret ballot to have an "academic senate" or "faculty council," in which case the governing board of each district shall establish such an "academic senate" or "faculty council" in each community college by authorizing the faculty to:

(1) Fix, and amend, by vote of the faculty, the composition, structure, and procedures of the academic senate or faculty council.

(2) Select, in accordance with accepted democratic election procedures, the members of the academic senate or faculty council.

(c) After consultation with the administration, the academic senate or faculty council may present its written views and recommendations to the governing board. The governing board shall consider and respond to such views and recommendations.

(d) Upon the request of the academic senate or faculty council and subject to Government Code Sections 54950 ff. (The Brown Act), when applicable, the governing board, or such board members or administrative officers as it may designate, shall meet and confer with representatives of the academic senate or faculty council with respect to recommendations made or proposed to be made by the senate or council. The designation of board members or administrative officers as provided herein shall not preclude the representatives of an academic senate or a faculty council from meeting with, or appearing before, the governing board with respect to the views, recommendations, or proposals of the senate or council at a regular or special meeting of the board.

(e) The academic senates or faculty councils may assume such responsibilities and perform such functions as may be requested of it by the administration or board of trustees.

51005. Requirements for Degrees and Certificates. (a) The governing board of a district maintaining a community college shall confer the degree of

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associate in arts upon the satisfactory completion in grades 13 and 14 of from 60 to 64 semester hours of work in a curriculum which the district accepts toward the degree (as shown by its catalog) and which includes the requirements listed in (1) through (5), provided that 12 of the required credit hours were secured in residence at that community college. (The governing board may make exceptions to the residence requirement in any instance in which the governing board determines that an injustice or hardship would otherwise be placed upon an individual student.) "Satisfactory completion" means either credit earned on a "credit-no credit" basis or a grade point average of 2.0 (grade C on a five point scale with zero for an F grade) or better in 13th and 14th year graded courses in the curriculum upon which the degree is based.

(1) A major consisting of at least 20 semester hours in a specified field of study;

(2) Three semester hours in the Constitution of the United States, and in American history, including the study of American institutions and ideals, and of the principles of state and local government established under the Constitution of this State, and the satisfactory passing of an examination on said courses;

(3) Two semester hours of community and personal hygiene; except that a community college student, who is a minor whose parents or guardian state in writing that the course in community and personal hygiene is contrary to the religious beliefs of the student, or if the student is not a minor if he so states in writing, may be excused from such course and permitted to substitute a two-hour course in a field or fields specifically designated by the governing board of the district in lieu of the required two-hour course in community and personal hygiene.

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(4) Two semester hours in physical education earned at the rate of one-half credit per semester for a minimum of 120 minutes per week in directed physical education activities, except as a student may be exempted in accordance with Section 8162, Education Code; and

(5) Such requirements in oral and written English as the governing board of the school district may establish.

(b) The governing board of a district maintaining a community college, may confer the degree of associate in science upon the satisfactory completion in grades 13 and 14 of a minimum of 60 semester hours of work which shall satisfy all the requirements for an associate in arts degree, and which work shall include a major of at least 20 semester hours in any of the following fields: engineering, physical and biological science, vocational-technical curriculums.

(c) The governing board of a district maintaining a community college shall award the appropriate diploma or degree whenever a student shall have completed all requirements of a full curriculum of the community college without regard to the length of time actually taken by the student to complete such requirements. The governing board shall grant to any student who satisfactorily completes the requirements of any course of study in less than the prescribed time the full number of semester hours scheduled for such course.

(d) The governing board of a district maintaining a community college shall issue a certificate of achievement (as determined by the governing board and specified in the catalog) to any student who successfully completes any course of study or curriculum in length less than the full number of years and grades maintained by the community college.

(e) The governing board of a district maintaining a community college may grant credit (but it shall not count toward the 12 semester hours of

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prospective employing district. To qualify, the employee candidate:

(a) Shall furnish reasonable evidence, and be, of good character, and in addition to any other information the governing board shall require, shall answer the questions set forth under question 11 in the then current "Application For Credential Authorizing Public School Service in California" (Form 41-4) as provided by the Commission of Credentials.

(b) Shall execute the oath prescribed in Education Code Section 13121.

(c) Shall meet the citizenship requirements prescribed in Education Code Section 13123.

(d) Shall be free from any contagious and communicable disease or other disabling disease or defect unfitting the applicant to instruct or associate with minors.

(e) Shall submit personal identification cards to the governing board, upon the special form provided by the Department of Education, in the manner required of applicants for teaching credentials as prescribed by Section 52001 below.

(f) Shall not be disqualified to receive a teaching credential under the provisions of Education Code Sections 13129 and 13130.

52001. Processing of Fingerprint Cards. The governing board shall submit the personal identification fingerprint cards of candidates for teaching positions hereunder, in duplicate, to the Bureau of Criminal Identification and Investigation of the Department of Justice, Sacramento, California, with a request in writing that the Bureau render a report thereon for such governing board to the Credentials Office, Department of Education, Sacramento, California. At that time the governing board shall also notify the secretary of the Commission of Credentials for the State of California and the county superintendent of schools of the county in which the community college is

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located that such request has been made. The governing board shall not employ any person pursuant to Education Code Section 25423.5 unless and until the board has received a report from the Commission of Credentials in connection therewith. Any processing charges shall be borne by the submitting governing board.

52002. Cause for Dismissal. No person employed pursuant to Education Code Section 23423.5 and this article, who has engaged in any conduct which would constitute cause for denial of an application for teaching credential under Education Code Sections 13129 or 13130 or cause for dismissal under Education Code Section 13403 shall be retained in employment after discovery thereof by the employing governing board.

52003. Report of Persons Employed. Every governing board which employs noncredentialed persons pursuant to Education Code Section 25423.5 shall, promptly after the close of each school year, file a report with the Commission of Credentials listing the name of each person so employed during the preceding school year and certifying that in connection with each such employee all of the provisions of Education Code Section 25423.5 and this article have been complied with.

Sec. 3. Subchapter 4 is added to Chapter 6 of Title 5 to read:

Subchapter 4. BUSINESS SERVICES

Article 1. Community College Nonresident Fees

53000. Definitions. As used in Education Code Section 25505.8 and this article, each of the following terms has the meaning herein ascribed to it:

(a) Foreign Student. "Citizens of a foreign country," "residents of a foreign country," and "foreign students" mean persons who are both citizens and residents of a foreign country. For purposes of reporting to the Chancellor of the California Community Colleges, all the persons listed in the previous

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sentence shall be referred to as "foreign students."

(b) Military Personnel. "Military Personnel" means active members, in full-time service, of the United States Army, Navy, Marine Corps, Air Force, or Coast Guard. (This does not include members of the National Guard, Army National Guard of the United States, or the Air National Guard of the United States; members of the reserve; or civilian employees. It does not include members of the Coast and Geodetic Survey, Public Health Service, or other organizations when assigned to and serving with the armed services.)

(c) Dependents of Military Personnel. A dependent of military personnel is one of the following:

- (1) The spouse of a person who is of the military personnel.
- (2) A person who has not completed 75 semester units of college work and who receives more than half of his support from his parent who is of the military personnel.

53001. Determination of Residency. The form employed by the district for enrolling a student shall include, but not necessarily be limited to, questions specified by the Chancellor of the California Community Colleges to be used uniformly throughout the State for the purpose of ascertaining residence. The governing board shall establish procedures for reviewing such statements of residence.

53002. Forms and Reporting. Community colleges shall report the information required by Education Code Section 25505.8 in accordance with instructions on forms provided by the Chancellor of the California Community Colleges.

53003. Per-Unit Tuition Fee. The "per-unit tuition fee" established for nonresident students by the Board of Governors on or before January first of each year shall be applicable to the tuition charges for the succeeding

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fiscal year. Whenever a district maintains a summer session, the "per-unit tuition fee" shall be that established by the Board of Governors for the fiscal year in which the summer session ends.

For each semester, quarter, or summer session, the nonresident tuition fee for a student enrolled for less than 15 units of credit, or the equivalent is the "per-unit tuition fee" multiplied by the number of semester or quarter units of credit for which the student is enrolled. For each semester, quarter, or summer session, the nonresident tuition fee for a student enrolled for 15 or more semester or quarter units of credit is the "per-unit tuition fee" multiplied by 15.

Sec. 4. Subchapter 4.1 is added to Chapter 6 of Title 5 to read:

Subchapter 4.1 JUNIOR COLLEGE CONSTRUCTION ACT

Article 1. General Provisions

53500. General Provisions. For the purposes of administration of the Junior College Construction Act, the provisions of this subchapter apply.

53501. Definitions. (a) "Student contact hours" means the actual or estimated total number of programmed class periods per week for a student.

(b) "A small junior college district" means a district with less than a 1,000 average daily attendance of district resident students in regular day-graded junior college classes.

Article 2. Projecting District Enrollments

53502. Definitions. Terms employed in forms of the State Department of Finance and the State Department of Education used for the purpose of projection of enrollments have the meaning specified in the Handbook of Definitions issued by the Chancellor's Office of the California Community Colleges.

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53503. Projecting Day-Graded Enrollments. The projected growth in resident day-graded enrollment determined for each district by the State Department of Finance shall be developed by utilizing the procedure specified in the Handbook of Definitions mentioned in Section 53502. Exceptions to the procedure may be made by the State Department of Finance for newly formed junior college districts or for the other districts where unusual circumstances justify them, and each exception shall be noted and reported to the Chancellor's Office of the California Community Colleges.

Article 3. Determining Capacity of Existing  
 Facilities and Planning Future  
 Facilities

53504. Definitions. (a) "Temporary facility" means a building that will be demolished or replaced upon completion of the project for which an application has been submitted.

(b) "Rented or leased facility" means a facility for which rental or lease costs are paid and the use of which will be discontinued upon the completion of the project for which an application has been submitted.

(c) Types of rooms and their codes, standard abbreviations, and definitions are the same as those used in the Instructions for Forms P-1 and P-2 (California Public Higher Education Cost and Statistical Analysis), issued by the Coordinating Council for Higher Education.

(d) Standard classifications of subject matter and their codes, standard abbreviations, and definitions are the same as those used in the Standard Classification of Subject Fields and Services (California Public Higher Education Cost and Statistical Analysis), issued by the Coordinating Council for Higher Education.

(e) All other definitions contained in the publications described in (c) and (d) apply.

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(f) Definitions of capacity and utilization contained in the Handbook of Definitions mentioned in Section 53502 apply.

53505. Standards. The following computed capacity and utilization standards will, unless it is determined by the Chancellor's Office of the California Community Colleges in consultation with the Department of Finance that extraordinary conditions exist, apply:

(a) Classroom and seminar room use will be not less than 34 hours per 45 hour week. Small junior college districts as defined in Section 53501 (c) will apply a 27 hour per 45 hour week standard.

(b) Laboratory room use will be not less than 25 hours per 45 hour week. Small junior college districts as defined in Section 53501 (c) will apply a 20 hour per 45 hour week standard.

(c) Classroom and seminar room station occupancy will be not less than 66 percent of capacity.

(d) Laboratory room station occupancy will be not less than 85 percent of capacity.

(e) The computed space per station in both existing and future classroom, seminar room, and service areas will be 15 square feet per student station.

(f) In determining the capacity of existing facilities, the number of classrooms and seminar stations will be computed on the basis of (e). The number of laboratory stations will be determined by an actual count of stations.

(g) The formula for determining the assignable space for future classrooms and seminar-rooms per projected 100 weekly student contact hours is:

$$\frac{\text{Assignable square feet per station}}{\text{Room use standard} \times \text{station occupancy standard}} \times 100$$

(h) In determining the computed capacity of future laboratory and

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service area facilities, the following space allocations by standard classification of subject matter will be applied on a campuswide basis:

**MAXIMUM LABORATORY SPACE STANDARDS FOR PLANNING  
NEW LABORATORY AND SERVICE AREA FACILITIES,  
CALIFORNIA COMMUNITY COLLEGES**

Standard Classification Code	Subject Grouping	ASF/STN	ASF/100 WSCH
1200	Bio. Sciences-----	55	260
4100,4200,4500	Arts-----	65	305
4300,4400,4800,4900	Language and Literature----	40	190
2400	Mathematics-----	30	140
2600	Physical Sciences-----	60	280
3000	Social Sciences-----	30	140
6100	Agriculture-----	150	705
6200	Business-----	30	140
6300	Education-----	--	--
6400	Home Economics-----	60	280
6500	Applied Graphic Arts-----	80	375
6600	Health Services-----	50	235
6700	Pub./Pers. Serv.-----	50	235
6801	Aero. Tech.-----	175	820
6802	Air Cond.-----	130	610
6803	Bldg. Trades-----	175	820
6804	Ceram. Tech.-----	40	190
6805	Chem. Tech.-----	70	330
6806	Culinary-----	--	--
6807	Draft Tech.-----	60	280
6808	Electrl. Tech.-----	70	330
6809	Electr. Mech.-----	100	470
6810	Electron. Tech.-----	60	280
6811	Engin. Gen.-----	90	425
6812	Engin. Tech.-----	70	330
6813	Ind. Mgt. Supv.-----	--	--
6814	Ind. Tech.-----	75	350
6815	Mechanical-Auto-----	200	940
6816	Metallurgical Tech.-----	65	305
6817	Metal Trades-----	130	610
6818	Textile Tech.-----	120	565
6819	Welding-----	90	425
6890	Other Trade Tech.-----	75	352

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(i) All office space (academic offices, administrative and clerical offices, office service rooms, and conference rooms) will be computed at 140 assignable square feet for each full-time equivalent instructional staff member. Office space for small junior college districts as defined in Section 53501(c)

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will be computed at 160 assignable square feet for each full-time equivalent instructional staff member.

(j) All library space will be computed by assignable square feet for library functions as specified in this subsection. Square feet are "assignable" only if they are usable for the function described. Areas such as the main lobby (excluding card catalogue area), elevators, stairs, walled corridors, rest rooms, and areas accommodating building maintenance services are not deemed usable for any of the described functions.

(1) For housing the library collections--10 assignable square feet per volume.

(2) For reading stations--25 assignable square feet per station, the number of stations to be 15% to 20% of the number of students in full-time enrollment, depending upon the relative emphasis of the college in trade and technical instruction.

(3) For library service needs--a basic complement of 400 assignable square feet, plus 140 assignable square feet per full-time equivalent staff member.

(4) For audio-visual and programmed learning activities when housed in the library facility--additional areas sized for individual needs.

Sec. 5. Subchapter 4.5 is added to Chapter 6 of Title 5 to read:

Subchapter 4.5 JUNIOR COLLEGE CONSTRUCTION ACT OF 1967

Article 1. General Provisions

53700. General Provisions. For the purposes of administration of the Junior College Construction Act of 1967, the provisions of this subchapter apply.

53701. Definitions. (a) "Federal funds" means moneys provided by the federal government to the district operating a community college for the project or any part of the project, which are or will be available to the

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district under the following acts: Higher Education Facilities Act of 1963; Higher Education Act of 1965; National Defense Education Administration; Public Law 815; and the Vocational Education Act of 1963 (Public Law 88-210).

(b) "Assessed valuation of the district" means the total assessed valuation of all the property within the district, modified by the provisions of Education Code Section 17262 (Collier Factor).

53702. Applications. All applications and required data for assistance under the Junior College Construction Act of 1967 (Chapter 19 of Division 14 of the Education Code) shall be submitted on forms prescribed and furnished by the Chancellor of the California Community Colleges and shall be mailed to the Chancellor, California Community Colleges, 825 Fifteenth Street, Sacramento, California 95814.

Article 2. Project Proposals and Approvals

53703. Definitions. Terms employed in forms of the State Department of Finance and the Chancellor of the California Community Colleges used for the projection of enrollments have the meaning specified in the Handbook of Definitions issued by the Chancellor's Office of the California Community Colleges.

53704. Projecting Day-Graded Enrollments. The projected growth in resident day-graded enrollments determined for each district by the State Department of Finance shall be developed by utilizing the procedure specified in the Handbook of Definitions mentioned in Section 53703. Exceptions to the procedure may be made by the State Department of Finance for newly formed junior college districts or for other districts where unusual circumstances justify them, and each exception shall be noted and reported to the Chancellor of the California Community Colleges.

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Sec. 6. Subchapter 5 is added to Chapter 6 of Title 5 to read:

Subchapter 5. CURRICULUM AND INSTRUCTION

Article 1. Community College Program of Studies  
Conducted on a Quarter System

54000. Application of Article and Definitions. The provisions of this article apply to a district maintaining or proposing to maintain a community college that conducts its program of studies on a quarter system. The following definitions apply to, and shall be used as the accepted terminology with respect to, such a district:

(a) "Quarter" means a fourth of a school year that includes at least 10 weeks of instruction.

(b) An "academic quarter" is the period of instruction of not less than 10 weeks scheduled for any quarter. An academic quarter may begin on any day of the week.

(c) A "three-quarter academic year" means three consecutive quarters in a school year.

(d) "All-year-round operation" means four consecutive quarters in a school year.

(e) A "quarter credit hour" is the credit allowed for approximately three hours of recitation, study, or laboratory work per week for each week in an academic quarter. (An hour is from 50 to 60 minutes.) A "quarter unit of credit" means the same as a "quarter credit hour."

54001. Conversion Table. The following conversion table for computing semester credit hours and quarter credit hours applies to, and shall be used wherever necessary or appropriate in the total community college program, including but not being limited to computation of graduation requirements, grade points for the required standards of scholarship, nonresident student

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regulations and fees, nondistrict student regulations, and the college calendar.

(a) Semester credit hours (or semester units of credit) are converted to quarter credit hours (or quarter units of credit) by multiplying the number of semester credit hours by one and one-half.

(b) Quarter credit hours are converted to semester credit hours by multiplying the number of quarter hours by two-thirds.

54002. A Program of Studies. The program of studies shall include courses and curriculums appropriate to, and adjusted as to content and planned presentation to, the quarter system established at the college, and for which proper conversion has been made in all appropriate areas as provided in Section 54001.

54003. Submission of Program of Studies. A district maintaining a community college, prior to converting from a two-semester academic year to a three-quarter academic year or to the all-year-around operation of a community college under the quarter system, shall submit to the Chancellor of the California Community Colleges a proposed program of studies. The Chancellor shall review the proposed program of studies and, if he determines that the conversion from a two-semester academic year to the quarter system has been properly accomplished, he shall approve the proposed program of studies. The proposed program of studies shall be presented to the Chancellor of the California Community Colleges in the form of the proposed or actual college catalog, bulletins, and other official college informational publications, unless the Chancellor shall authorize a district to submit the proposed program in some other form. After approval thereof by the Chancellor of the California Community Colleges the approved programs shall be in the form of the actual college catalog, bulletins and other such official publications.

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Article 2. Administration of Attendance for Community  
 Colleges Operating on a Quarter System

54004. Days Maintained. (a) The regular day school of a junior college district operating on a quarter system shall be scheduled so that the number of days maintained in at least one combination of three quarters is at least 175 in compliance with Section 17551 of the Education Code. Not more than two days of registration for each quarter in such combination of quarters may be counted as days maintained to fulfill this requirement.

(b) A community college operating on a four quarter system shall maintain all quarters within a single fiscal year.

(c) A community college operating on a three quarter system shall maintain the three quarters and a summer session, if any, within the same fiscal year.

54005. Census Weeks for Attendance Purposes. (a) A census week for attendance purposes is the first week of five consecutive school days, excluding Saturdays, next succeeding the third week of each quarter.

54006. Computation of Average Daily Attendance. (a) The units of average daily attendance for each quarter is computed by dividing by 15 the sum of the whole and partial class hours recorded for the census week of regularly enrolled students in grades 13 and 14, exclusive of adults as defined by Education Code Section 5756, resident of the junior college district.

(b) The units of average daily attendance for a summer session are computed by dividing by 525 the whole and partial class hours recorded for the session of regularly enrolled students in grades 13 and 14, exclusive of adults as defined, resident of the junior college district.

54007. Attendance Reported for Apportionment Purposes for a Community College Operating on a Four Quarter System. (a) The units of average daily

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attendance to be reported on the first period report (J-20-P1) are the quotient computed by dividing the sum of the whole and partial class hours recorded for the first and second quarter by 30.

(b) The units of average daily attendance to be reported on the second period report (J-20-P2) are the quotient computed by dividing the whole and partial class hours recorded for the first, second, and third quarters by 45.

(c) The units of average daily attendance to be reported for the fiscal year (Annual Report J-20A) are the sum of the whole and partial class hours of the first, second, third, and fourth quarters divided by 45.

54008. Attendance Reported for Apportionment Purposes for a Community College Operating on a Three Quarter System. (a) The units of average daily attendance to be reported on the first period report (J-20-P1) are the sum of the average daily attendance computed for the summer session under Section 54006(b) and the average daily attendance computed for the first quarter.

(b) The units of average daily attendance to be reported on the second period report (J-20-P2) are the sum of the average daily attendance computed for the summer session and the quotient computed by dividing the sum of the whole and partial class hours recorded for the first and second quarters by 30.

(c) The units of average daily attendance to be reported on the annual report (J-20A) are the sum of the average daily attendance computed for the summer session and the quotient computed by dividing the sum of the whole and partial class hours for the first, second, and third quarters by 45.

Sec. 7. Subchapter 5.5 is added to Chapter 6 of Title 5 to read:

Subchapter 5.5. EDUCATIONALLY HANDICAPPED PUPILS

Article 1. General Provisions

55000. Scope of Chapter. This chapter applies only to special

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education programs for educationally handicapped minors for which allowances may be made under Education Code Section 18102.

55001. Definitions. For the purposes of this subchapter:

(a) An "educational handicap" means a marked learning or behavioral problem or both described in functional terms sufficient to indicate the specific characteristics of the student's problem and to suggest the nature of an educational approach for the management of his problem.

The learning or behavioral problem shall be of such nature and extent that the student cannot receive the reasonable benefit of ordinary education facilities and does not qualify the student:

(1) As a physically handicapped minor defined in Education Code Sections 6801 and 6802.

(2) As a mentally retarded minor defined in Education Code Sections 6901, 6902, and 6903.

(b) "Program" means any of the special education programs for educationally handicapped minors described in Education Code Section 6751 that meet the general and specific standards set forth in this subchapter.

(c) "Program day" means the length of time regular day classes of the school or school district are conducted for students of similar grade level or chronological age.

(d) "Evaluation and Programming Committee" means the admission committee specified in Education Code Section 6755(b).

(e) "Discharge" means exemption or exclusion from school by resolution of the governing board of a school district or by the county superintendent.

(f) "Transfer" means enrolling the student in any of the following:

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(1) A different type of program authorized by Education Code Section 6751.

(2) A regular day class.

(3) A school or class authorized by Chapter 7 (commencing with Section 6500) of Division 6 of the Education Code.

(4) Another special program authorized by law.

Article 2. Program Standards

55002. General Standards for Programs. Every educationally handicapped minors program shall meet the following general standards:

(a) It is the most appropriate one of the programs described in Education Code Section 6751 that meets the individual needs of the student. It provides for the differential grouping of students in classes, groups, or individually for effectiveness in administration, management, and instruction.

(b) It emphasizes the amelioration of handicapping conditions to the greatest extent possible and in the shortest period of time.

(c) It makes adjustments in the curriculum and instruction that enhance the student's achievement to the fullest potential and provides for continued development in areas of student strengths.

(d) It provides for vocational education, work experience, and work study for those students who would benefit therefrom.

(e) It provides, within the instructional program, for the development of the mental health of the student and utilizes additional services where of benefit to the student.

(f) It provides the educational, psychological, and student personnel services necessary for assessment, evaluation, and consultation.

(g) It utilizes services of instructional aides and other personnel

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assistance in the program whenever such services are necessary.

(h) It provides for curriculum development, in-service education, consultation, and supervision for the staff.

(i) It provides parent education opportunities.

55003. Distinction between Special Classes and Other Instruction.

(a) A "special day class" is a program described in Education Code Section 6751(a) that meets the specific standards prescribed in Section 55004.

(b) A "learning disability group" is a program described in Education Code Section 6751(b) that meets the specific standards prescribed in Section 55005.

(c) "Home and hospital instruction" is a program providing individual instruction for minors described in Education Code Section 6751(d) that meets the specific standards prescribed in Section 55006.

(d) "Specialized consultation" is a program described in Education Code Section 6751(c) that meets the standards prescribed in Section 55007.

55004. Specific Standards for a Special Day Class. A special day class shall meet the following standards:

(a) It is composed of students whose range of educational handicaps can be appropriately managed within the class.

(b) It is taught by a teacher whose sole responsibility for the program day is to perform services in connection with the educational program of the students enrolled in the class. The teacher is responsible for the coordination and general supervision of all educational activities during the program day of all the students who are enrolled in the class. The teacher devotes no less than the minimum school day to providing specialized instruction. The teacher is provided opportunities for daily preparation to provide individualized assignments for each student enrolled in the class.

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(c) It provides an educational program for those students able to benefit from attendance for the program day. Whenever the evaluation and programming committee finds attendance for the full program day would not be in the best interests of a student, the period of attendance for that student may be reduced accordingly. Whenever a district is unable to provide preparation opportunities for the teacher because of this program day requirement, the Superintendent of Public Instruction may waive compliance with the program day requirement upon prior application on forms provided by the Superintendent of Public Instruction.

55005. Specific Standards for a Learning Disability Group. A learning disability group shall meet the following standards:

(a) It is composed of students whose range of educational handicaps can be appropriately managed within the group.

(b) It is limited to educationally handicapped minors who are enrolled in one or more groups in accordance with the recommendations of the evaluation and programming committee.

(c) It provides specialized instruction for students in each group on a daily basis or, if less than daily, on a basis to ameliorate the handicap in the shortest period of time.

(d) It allows opportunities for daily preparation for the teacher to provide an effective program of instruction and coordination with the student's regular program of instruction.

55006. Specific Standards for Home and Hospital Instruction. A student enrolled in home and hospital instruction is enrolled for, and receives, at least 150 minutes of individual instruction per week.

55007. Specific Standards for Specialized Consultation. Specialized consultation described in Education Code Section 6751(c) shall meet the

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following standards:

(a) The consultation is given by specialists from such fields as education, speech, social work, psychology, medicine and psychiatry.

(b) The consultation relates to the specialized instruction, management and counseling and guidance of students in a program, and to the in-service training of teachers and staff.

(c) State allowances for specialized consultation are used only to provide specialists not regularly employed by the district or county superintendent of schools administering the program.

(d) Expenses of the evaluation and programming committee are not paid from state allowances for specialized consultation.

55008. Appropriate Class Size and Maximum Enrollment Limits. (a) The appropriate class size and the maximum enrollment for a special day class described in Education Code Section 6751(a) is as follows:

(1) For a class in which no student below grade seven or the age equivalent is enrolled - 12 students.

(2) For a class in which the majority of students enrolled are those described in Section 55009(c) - 6 students.

(b) The maximum enrollment for any learning disability group described in Education Code Section 6751(b) is as follows:

(1) For a given learning disability group - 8 students.

(2) For a full-time teacher of learning disability groups - no more than a total enrollment of 32 such students.

(3) For a part-time teacher of learning disability groups - a total enrollment that is the same proportion of 32 as the number of minutes taught in learning disability groups is to the length of the

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program day.

(c) Deviations from the above maximums may be made only on prior written approval of the Superintendent of Public Instruction.

Article 3. Identification and Placement

55009. Eligibility of Minors for a Program. A minor described in Education Code Section 6750 is eligible for admission to a program if he has an educational handicap as defined in Section 55001(a) and meets the qualifications of either (a), (b), (c), or (d).

(a) A student having both of the following characteristics:

(1) His learning or behavioral problems are specific learning disabilities in the psychological processes involved in understanding or using spoken or written language. Such learning disabilities may include, but are not limited to, those sometimes referred to as perceptual handicaps, minimal brain dysfunction, dyslexia, dyscalculia, or dysgraphia.

(2) He exhibits a significant discrepancy between ability and achievement, but may be expected to benefit from a program designed to meet his particular problems.

(b) A student to whom all of the following statements apply:

((1) His learning or behavioral problems are serious behavior disorders that interfere with his receiving the reasonable benefit of ordinary education facilities. Such behavior disorders may include, but are not limited to, those sometimes referred to as school phobia, adjustment reactions, psychoneurotic reactions, withdrawal, lability, hyperkinesis, or impulsiveness.

(2) He exhibits significant discrepancy between ability and achievement, but may be expected to benefit from a program designed to

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meet his particular problems.

(3) The evaluation and programming committee recommends specific interventions for the amelioration or management of his behavior disorder that can be carried out within the program recommended.

(4) The evaluation and programming committee finds the student's behavior disorder is not problem behavior as defined in Articles 1, 4, and 5 (commencing with Sections 6500, 6651, and 6701, respectively) of Chapter 7 of Division 6 of the Education Code.

(5) He shall have had a complete re-evaluation by the evaluation and programming committee at least every two years.

(c) A student to whom all of the following statements apply:

(1) His learning and behavioral problems are determined to be profound problems in communication and socially responsive behavior (autistic-like) by physicians and psychologists having experience with, or special knowledge of, such problems.

(2) The evaluation and programming committee finds the student to have profound problems in communication and socially responsive behavior, as distinguished from mental retardation defined in Education Code Sections 6901, 6902, and 6903, notwithstanding seeming mental retardation.

(3) The evaluation and programming committee finds the student's handicap of the nature and extent that he may be expected to participate in a program designed to meet his particular problems.

(4) If he is 10 years of age or older, he has not already been in a program for students identified in this subsection (c) for three years without having made reasonable progress. (A student identified under this subsection (c) who is age ten or older who has been in an

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educationally handicapped program for three years without making reasonable progress is not eligible for further participation in a program and shall be transferred or discharged.)

(d) A student to whom all of the following statements apply:

(1) His learning or behavioral problems are associated with a serious emotional disturbance such that he cannot participate in ordinary education facilities. Included, among others, may be students who, to a marked degree, exhibit one or more of the following characteristics:

(A) Inability to learn that cannot be explained by intellectual, sensory, or health factors.

(B) Inability to maintain satisfactory relationships with peers and adults.

(C) Inappropriate behavior or affect under normal circumstances.

(D) A pervasive depression or unhappiness.

(E) A tendency to develop psychosomatic symptoms associated with school or personal problems.

(2) His emotional handicap is of such nature and extent that he may be expected to receive reasonable benefit from an educational program designed to meet his particular problems.

(3) His emotional handicap is of such nature and extent that the school can obtain personnel trained to teach such a student and able to provide the necessary supervision.

(4) When necessary to sustain his school participation, ancillary services can be obtained through the parent, guardian, or community.

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55010. Standards for Identification of Students Described in Section 55009(a) or (b). A student described in Section 55009(a) or (b) shall be identified by individual assessment and evaluation, and school records or written reports that include the studies described in this section.

(a) Educational Case Study. An educational case study of the student that includes:

(1) The school history and educational progress of the student and the specific measurements of his levels of academic functioning.

(2) Specific steps taken to assist the student in the areas of his educational handicap and the results of such assistance.

(3) The reason for referral.

(b) Psychological Case Study. A psychological case study of the student that includes:

(1) Early development.

(2) Identification of the specific learning disabilities or behavior disorders and the relationship of these disabilities or disorders to his school achievement. Specific handicapping conditions must be described in functional terms.

(3) Evidence of the significant discrepancy between ability and achievement and a prognosis for the reduction of such discrepancy.

(4) Recommendations regarding methods and services from which the student may be expected to profit in the program.

(c) Health Study. A health study of the student that includes:

(1) A review by a school nurse or licensed physician and surgeon of the student's health record and status, including results of visual and auditory screening.

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(2) For every student whose health review indicates a possibility of related health problems, and for every student recommended by the evaluation and programming committee for placement in a special day class or in home and hospital instruction, a functional evaluation of the physical, neurological and emotional basis for the student's learning or behavior problems by a physician and surgeon licensed to practice in California. Such evaluation is to advise the parent or guardian of any medical services that may be of benefit to the student and to advise the schools (through the physician on the evaluation and programming committee) of those physical, neurological and behavioral factors that may be of significance in planning an educational program. In requesting such an evaluation, the school shall provide the examining physician with a resume of the student's learning and behavioral problems. No student may be placed in a special day class or in home and hospital instruction prior to receiving the required medical evaluation.

(d) Other Studies or Reports. Studies or reports from personnel in any other areas which the evaluation and programming committee deems necessary because of the specific problems of the student. These areas include, but are not limited to, speech and hearing, English as a second language, socio-cultural disadvantage, social work, and welfare and attendance. Absence of such reports indicates that the committee considers that such reports would not be of significance in evaluating the student's handicap or in planning his educational program.

55011. Standards for Identification of Students Described in Section 55009(c) or (d). A student described in Section 55009(c) or (d) shall be identified by an individual assessment and evaluation, and school records or written reports that include:

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(a) Studies Described in Section 55010(a) and (d). The educational case study and other studies or reports described in Section 55010(a) and (d).

(b) Psychological Case Study. A psychological case study of the student including:

(1) Early development.

(2) Identification of the specific handicapping behaviors and the relationship of such behaviors to his school performance.

(3) Recommendations regarding methods and services from which the student may be expected to profit in the program.

(4) A prognosis for educational and behavioral expectancies by placement in the program.

(c) Medical Study. A medical and psychiatric evaluation by a physician and surgeon licensed to practice in California, of the student's handicaps and behavior. The evaluation shall include a functional description of the student's handicaps and shall indicate that the student:

(1) Has a serious emotional disturbance or autistic-like behaviors.

(2) Has a favorable prognosis for participation in the educationally handicapped program.

(3) Either does not evidence behavior such as to cause his school attendance to be inimical to the welfare of other students or may evidence behavior which suggests considerations for home or hospital instruction or instruction in other than a public school setting.

(d) Adequacy of Program. A specific determination that the program to which the student will be assigned is reasonably adequate to cope with the handicap of the student.

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(e) Teacher Consultation, Consultation with the teacher with whom the student will be placed.

55012. The Evaluation and Programming Committee. The administrative head of the school district or the county superintendent of schools shall designate members of an evaluation and programming committee, which shall include, but not be limited to, the persons specified in Education Code Section 6755(b). One consideration in appointing members to the committee shall be the greatest possible continuity of committee membership.

Evaluation and recommendations shall be made by all five members of the committee specified in Education Code Section 6755(b) and such other specialists as the committee may deem necessary. There shall be present at a meeting at which the recommendations are made, a school psychologist and at least three of the remaining four specified members, provided the absent member has submitted a written statement of his evaluation and recommendations prior to the time of the meeting. In the absence of the physician, a school nurse shall be present. No member of the committee shall serve in more than one capacity.

55013. Standards for Evaluation and Programming of Educationally Handicapped Minors.

(a) The evaluation and programming committee shall make an evaluation of each individual student referred to it by making a thorough study of the records and reports described in Sections 55010 or 55011 as appropriate, together with all other pertinent and reliable information available. A written report of the committee's study shall be filed with the district. The report shall include all of the following:

(1) The committee's findings regarding the nature and extent of

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the student's educational handicaps and the relationship of those handicaps to his educational and learning needs.

(2) The committee's findings regarding the ability of the student to profit from participation in a program and specific recommendations regarding particular methods or services from which the student may be expected to profit in the program.

(3) The committee's decision regarding eligibility and recommendations for placement of the student in the most appropriate one of such programs. Unless the decision is unanimous, a statement of the minority positions shall be attached to the committee's report.

(4) The name and role of the members present at the meeting of the committee at which a recommendation was made.

(b) Whenever the recommendation of the committee for placement of a student is not unanimous, any placement made is a trial placement only. A student enrolled for a trial placement shall be re-evaluated by the committee within six months of his initial placement in the program and each six months thereafter as long as the placement remains a trial placement.

(c) The committee may withhold a recommendation for placement of a student in a program whenever the committee determines that it does not have sufficient information to ascertain the student's eligibility or to recommend placement. Whenever a sizeable number of students are referred to the committee for whom the committee has sufficient information to determine eligibility of the student for special education, but does not have sufficient information to complete its determination of the most appropriate program or special education provisions, the administrative head of a school district may designate one special day class, or for a unified district over 10,000 a.d.a. one special day class at the elementary level and one special day class at the secondary level,

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as a diagnostic class for the purpose of providing an ongoing diagnosis and evaluation of such students. A diagnostic special day class shall meet the following requirements:

- (1) It is one of the special day classes for educationally handicapped minors provided under Education Code Section 6751(a).
- (2) It meets the requirements of Sections 55004(b) and 55008(a).
- (3) It is taught by a trained and experienced teacher of the educationally handicapped and has an instructional aide during the hours students are in attendance.
- (4) No such student remains in the diagnostic class for more than six months.
- (5) A pupil is re-evaluated by the evaluation and programming committee before the end of three months and, if he remains in the class, before the end of six months.
- (6) The class has adequate educational, psychological, and student personnel consultation services. Additional consultation may be provided under provisions of Section 55007.

55014. Placement of Educationally Handicapped Students. (a) The responsibility for the assignment of a student in a program provided by a school district rests with the administrative head of the school district or a credentialed employee designated by him. Assignment shall be made only in accordance with the program recommended by the evaluation and programming committee and no student may be placed in a program prior to the recommendation by the committee.

(b) Whenever the number of eligible students exceeds the enrollment limits of Education Code Section 6752, the administrative head of the school district or his designee shall maintain a list of, and determine the priority

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for placement of, all students enrolled in and all students eligible for enrollment in a program. The priority shall be based on the degree of the educational handicap, with students having a favorable prognosis whose school attendance would otherwise be limited or denied given the highest priority. Whenever such a list is maintained, the priorities shall be reviewed at least quarterly.

55015. Re-evaluation, Retention, and Transfer. (a) An annual examination and evaluation shall be made of the school adjustment and educational progress of each student enrolled in a program. The administrative head of the school district or the county superintendent of schools shall specify the personnel and methods to be used in the examination and maintain a written statement of such procedures. The procedures shall provide for consistency in the specific measurements used in determining academic progress. A written report shall be made of the examination and evaluation of each student and a copy thereof added to the student's case study file. The report shall include the following:

- (1) A summary of the development and progress since the last evaluation report.
- (2) The results of specific measurements of the student's progress in the academic areas of instruction.
- (3) A summary of the methods and techniques which have been utilized in the instructional program.
- (4) A current revision of the description of the nature and extent of the student's educational handicaps.
- (5) Specific recommendations for the student's continuing education.

(b) A summary of the annual re-evaluation reports shall be provided

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for review by the evaluation and programming committee.

(c) A student failing to make an appropriate school adjustment or satisfactory educational progress in accordance with the prognosis and recommendations of the evaluation and programming committee or subsequent evaluation reports, shall be referred to the evaluation and programming committee or to an appropriate public or private resource for further study. Whenever further study fails to provide a basis for a more adequate prognosis, the student shall be referred to the evaluation and programming committee for recommendations regarding transfer or discharge.

(d) A student enrolled in a program may at any time be referred to the evaluation and programming committee for further study, evaluation, and recommendations for additional methods or services from which the student may be expected to profit or for transfer to another program.

Article 4. The Instructional Program

55016. Curriculum Content. The curriculum content of any program shall be established under the following provisions:

(a) The curriculum is designed to fit the individual developmental and learning needs of each student as initially determined and reported by the evaluation and programming committee. Adjustments are made in the curriculum as the student's progress requires.

(b) The amelioration of the learning or behavioral problems determined for each student is emphasized by giving specialized instruction in the areas of disability.

(c) Adaptations in methodology are made in the presentation of instruction, in the sensory modalities employed, and in the performance required of each student, whenever such adaptations will enhance his learning potential.

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(d) The curriculum otherwise shall meet the requirements of Division 7, Chapter 3, (commencing with Section 8501) of the Education Code. A course of study for educationally handicapped minors in high schools shall be adopted which can be adapted to the individual needs of each student and the basis for graduation requirements for the student.

55017. Teacher Qualification. Any teacher may be assigned to give the instruction specified in paragraphs (a), (b), or (d) of Education Code Section 6751 who possesses a valid regular teaching credential, or standard teaching credential, and who in the judgment of the chief administrative officer of the district or the county superintendent of schools possesses specific preparation, experience, and personal attributes deemed desirable for a teacher of educationally handicapped minors.

55018. Program Supervision. A school district shall provide program supervision for all of its programs. The supervision may be by employees of the district or furnished through contracts with other school districts or county superintendent of schools. "Supervision" as used in this section, means those activities described in Section 6550 that have as their basic purpose the improvement of the instructional program for educationally handicapped students.

Article 5. Approvals

55019. Notice of Intention to Initiate a Program. (a) The notice of intention required by Education Code Section 6754 to initiate a program shall be submitted to the Superintendent of Public Instruction at least 60 days before the date the program is to begin. The notice shall be on a form furnished by the Superintendent of Public Instruction.

(b) If a district or county superintendent of schools maintaining some, but not all, of the types of programs listed in Education Code Section

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6751 proposes to add another of the listed types, such addition is the initiation of a program, and the notice of intention to initiate that program shall be given as provided in (a).

55020. Testing or Screening for Educationally Handicapped Minors.

In the event a school system elects to test or screen through the use of tests administered directly to all pupils of a grade, school, or district pursuant to Education Code Section 6758, application shall be made for prior approval of the Board of Governors for the tests or screening procedures to be used.

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FINDING OF EMERGENCY

The California Community Colleges finds that an emergency exists and that the foregoing regulation is necessary for the immediate preservation of the public peace, health and safety or general welfare. A statement of the facts constituting such emergency is:

The California State Department of Education is in the process of repealing various sections of the California Administrative Code, Title 5, which also pertain to the California Community Colleges. In order to prevent discontinuance of programs in the area of handicapped students and to insure the continuance of these programs without interruption under legal provisions this emergency action to add Subchapters 1, 2, 4, 4.1, 4.5, 5, and 5.5 to Chapter 6 of Title 5 of the California Administrative Code, is necessary.

The said regulation is therefore adopted as an emergency regulation to take effect immediately upon filing with the Secretary of State as provided in Section 11422(c) of the Government Code.

This regulation submitted for filing does not include any "building standard," as defined in the State Building Standards Law (Sections 18900-18917, Health and Safety Code).

APPROVED:

*S. W. Brossman*  
 Sidney W. Brossman, Chancellor  
 The California Community Colleges

APPROVED:

*Harold F. Wolters*  
 Harold F. Wolters, Chairman  
 Board of Governors of the  
 California Community Colleges

Dated: 8/21/69

Dated: 8/21/69

FACE SHEET  
FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE  
(Pursuant to Government Code Section 11320.1)

RECEIVED FOR FILING

JUL 1 - 1971

Office of Administrative Procedure

ENDORSED

APPROVED FOR FILING  
(GOV. CODE (11320.1))

JUL 1 - 1971

Office of Administrative Procedure

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Copy below is hereby certified to be a true and correct copy of regulations adopted, or amended, or an order of repeal by:

Board of Governors of the  
California Community Colleges  
(Agency)

Date of adoption, amendment, or repeal:

June 16, 1971

By: *Carl A. Erikson*

Carl A. Erikson, III

Legal Counsel

(Title)

ENDORSED  
FILED

In the office of the Secretary of State of the State of California

JUL 1 1971

At 2:10 o'clock

DOMINGO G. BROWN, Jr., Secretary

By: *M. J. SULLIVAN*

Assistant Secretary of State

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ORDER ADOPTING, AMENDING, RENUMBERING, AND REPEALING  
REGULATIONS OF THE  
BOARD OF GOVERNORS OF THE CALIFORNIA COMMUNITY COLLEGES

After proceedings had in accordance with the provisions of the Administrative Procedure Act (Gov. Code, Title 2, Div. 3, Part 1, Chapter 4.5) and pursuant to the authority vested by Sections 193, 197, and 25510 of the Education Code, and to implement, interpret, or make specific Sections 25510 and 25518.6 of the Education Code, the Board of Governors of the California Community Colleges hereby adopts, amends, renumbers, and repeals regulations in Title 5, California Administrative Code, as follows:

- (1) Repeal Section 51301 relating to probation and dismissal of students;
- (2) Amend the following sections:
  - (a) 51300 relating to probation and dismissal of students;
  - (b) 51605 relating to credit by examination.
- (3) Amend and renumber Section 51102 relating to credit--no credit courses;
- (4) Renumber Section 51302 relating to reinstatement of dismissed students;
- (5) Adopt the following new sections:
  - (a) 51102 relating to identification of courses;
  - (b) 51103 relating to college credit courses;
  - (c) 51301 relating to grading practices;
  - (d) 51303 through 51307 relating to probation and dismissal of students.

Add the following as a footnote to Sections 51102, 51103, 51300 through 51308, and 51605:

\*The community colleges may identify their courses and maintain their grading practices in accordance with these regulations on and after July 31, 1971. The community colleges shall identify courses to be offered during and after the fall semester or quarter, 1972, in accordance with these regulations and shall maintain their grading practices beginning on the first day of the fall semester or quarter, 1972, in accordance with these regulations.

The provisions of these regulations are not subject to the jurisdiction of the State Building Standards Commission.

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Part VI of Title 5 of the California Administrative Code is amended as follows:

First -- Section 51102 is amended and renumbered to read:

51302. Credit Courses.

(a) The governing board of a district maintaining a Community College may offer courses in either or both of the following categories:

- (1) Courses wherein all students are evaluated on a "credit--no credit" basis.
- (2) Courses wherein each student may elect on registration, or within such time thereafter as the district governing board may determine by rules and regulations, whether the basis of his evaluation is to be "credit--no credit" or a grading scale.

(b) All units earned on a "credit--no credit" basis in accredited California institutions of higher education or equivalent out-of-state institutions shall be counted in satisfaction of Community College curriculum requirements. Such units shall be disregarded in determining a student's grade point average for all purposes for which a grade point average is required.

(c) The governing board of a district maintaining a Community College may authorize a student who has received credit for a course taken on a "credit--no credit" basis within the district to convert this to a grade based on a grading scale by taking an appropriate examination.

(d) In the absence of a regulation of the type authorized in subdivision (a) of this section, the work in a course will be presumed to be evaluated on the basis of a grading scale.

(e) The governing board shall establish a policy describing the standards for the award of a "credit" grade for a course.

Second -- Section 51102 is added to read:

51102. Identification of Courses. For each course offered, a Community College shall make available to students through college publications at least all of the following facts before he enrolls in the course:

- (a) Whether the course is offered on the basis of credit--no credit and, if so, which provision of Section 51302, subdivision (a) is applicable.
- (b) Whether the course is other than a graded course.
- (c) Whether the course is a college credit course under the provisions of Section 51103.

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 (Pursuant to Government Code Section 11380.1)

Third -- Section 51103 is added to read:

51103. College Credit Course. A "college credit course" is a course given in a Community College which meets one or more of the following requirements:

- (a) The course is part of an approved educational program.
- (b) The credit awarded by the Community College for completion of the course is accepted as completion of a portion of an appropriate educational sequence leading to an associate degree or baccalaureate degree by one or more of the following:
  - (1) The University of California
  - (2) A California State College
  - (3) An accredited independent college or university.

Fourth -- Section 51300 is amended to read:

51300. Regulations. The governing board of a district maintaining a Community College shall adopt regulations consistent with the provisions of this chapter. The regulations shall be published in the college catalog under appropriate headings.

Fifth -- Section 51301 is repealed.

Sixth -- Section 51301 is added to read:

51301. Grading Practices. The governing board of the district maintaining a Community College shall determine the grading practice to be used in that Community College. The grading practice shall be based on sound academic principles and shall conform to the following standards:

(a) Work in all courses acceptable in fulfillment of the requirements for an associate or baccalaureate degree, a certificate, diploma, or license shall be graded.

(b) Work shall be graded in accordance with the provisions of Section 51302 or Section 51605 or in accordance with a grading scale.

The grading practice adopted by the governing board shall be published as a part of the catalog or class schedule of the Community College to which it applies. The governing board of a district may provide for withdrawal without penalty for students who withdraw from a class before the deadline established by the governing board.

Seventh -- Section 51302 is renumbered as Section 51308.

Eighth -- Section 51303 is added to read:

51303. Standards for Probation. A student shall be placed on probation if he has earned a grade point average below 2.0 in all units attempted which were graded on the basis of a grading scale. The district board shall adopt "credit--no credit" probation rules.

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The district board shall adopt rules setting forth the circumstances that shall warrant exceptions to the standards for probation herein set forth and shall file a copy of such rules with the Chancellor of the California Community Colleges.

Ninth -- Section 51304 is added to read:

51304. Standards for Dismissal. A student shall be dismissed if he earned a grade point average of less than 1.75 in all units attempted in each of 3 consecutive semesters (5 consecutive quarters) which were graded on the basis of a grading scale. The district board shall adopt "credit--no credit" dismissal rules.

The district board shall adopt rules setting forth the circumstances that shall warrant exceptions to the standards for dismissal herein set forth and shall file a copy of such rules with the Chancellor of the California Community Colleges.

Tenth -- Section 51305 is added to read:

51305. Units Attempted. For the purposes of Sections 51303 and 51304, "all units attempted" means all units of credit for which the student was enrolled in any college, university, or grades 13 and 14, regardless of whether he completed the course or received any credit or grade. The governing board of each district shall adopt rules and regulations governing the inclusion in or exclusion from "all units attempted" of units in which a student did not receive a grade or "credit--no credit" or from which the student withdrew in accordance with rules adopted by the district governing board.

Eleventh -- Section 51306 is added to read:

51306. Probation and Dismissal - Grade Point Average.

(a) Grades from a grading scale shall be averaged on the basis of the point equivalencies to determine a student's grade point average. The highest grade shall receive four points, and the lowest grade shall receive 0 points.

(b) The governing board for each Community College shall establish the point equivalencies for the grades used from the grading scale at that Community College in accordance with subsection (a) of this section. These equivalencies shall be published in the catalog of that Community College as a part of the grading practices for that Community College.

Twelfth -- Section 51307 is added to read:

51307. Determination of Probation and Dismissal. Each Community College shall make every reasonable effort to notify a student of his academic probation or dismissal no later than the fifth day of classes of the semester or quarter in which it will be in effect.

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Thirteenth -- Section 51605 is amended to read:

51605. Credit By Examination. The governing board of a district maintaining a Community College may grant credit to any student who satisfactorily passes an examination approved or conducted by proper authorities of the college. Such credit may be granted only to a student who is registered at the college and in good standing for a course listed in the catalog of a public Community College.

Units for which credit is given pursuant to the provisions of this section shall not be counted in determining the 12 semester hours of credit in residence required by Section 51602.

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APPROVED FOR FILING  
(GOV. CODE SECTION 11380.1)

OCT 1 - 1971

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Copy below is hereby certified to be a true and correct copy of regulations adopted, or amended, or an order of repeal by:

Board of Governors of the  
California Community Colleges  
(Agency)

Date of adoption, amendment, or repeal:

September 16, 1971

By:

Carl A. Erikson III  
Legal Counsel

(Title)

ENDORSED  
FILED

In the office of the Secretary of  
of the State of California

OCT 1 - 1971

EDMUND G. BROWN Jr., Secretary  
By DAVID M. WEETMA  
Deputy

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ORDER ADOPTING AND AMENDING REGULATIONS OF THE  
BOARD OF GOVERNORS OF THE CALIFORNIA COMMUNITY COLLEGES

After proceedings had in accordance with the provisions of the Administrative Procedure Act (Gov. Code, Title 2, Div. 3, Part 1, Chapter 4.5) and pursuant to the authority vested by Sections 193, 197, and 25510 of the Education Code, and to implement, interpret, or make specific Section 25510 of the Education Code, the Board of Governors of the California Community Colleges hereby amends and adopts its regulations in Title 5, California Administrative Code, as follows:

- (1) Amends the title of Chapter 7 (commencing with Section 51600) of Division 2:
- (2) Renumbers Section 51605 relating to credit by examination.
- (3) Adds Section 51600.5 relating to the effective date of existing regulations on degrees and certificates.
- (4) Adds Chapter 8 (commencing with Section 51620) to Division 2 of Part VI relating to degrees and certificates.

Add the following as a footnote to Sections 51620 through 51626:

\*The community colleges may adopt degree and certificate regulations in accordance with these regulations to be effective on or after Oct. 1, 1971. The community colleges shall adopt rules and regulations in accordance with these regulations to be effective no later than September 1, 1973.

The provisions of these regulations are not subject to the jurisdiction of the State Building Standards Commission.

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 WITH THE SECRETARY OF STATE  
 (Pursuant to Government Code Section 11300.1)

Part VI of Title 5 the California Administrative Code is amended as follows:

First -- The title of Chapter 7 (commencing with Section 51600) of Division 2 is amended to read:

CHAPTER 7. DEGREES AND CERTIFICATES (Pre-September 1, 1973)

Second -- Section 51600.5 is added to read:

51600.5. Effective Date. The provisions of this chapter shall apply to all degrees and certificates granted by a community college district before the effective date of regulations adopted by the governing board of that district in accordance with the provisions of Section 51620 or before September 1, 1973, whichever is the earlier.

Third -- Section 51605 is renumbered as Section 51302.5.

Fourth -- Chapter 8 (commencing with Section 51620) is added to Division 2 to read:

CHAPTER 8. DEGREES AND CERTIFICATES (Post-September 1, 1973)

51620. Effective Date. The provisions of this chapter shall apply to all degrees and certificates granted by a Community College district on and after September 1, 1973. The provisions of this chapter may be made applicable to all degrees and certificates granted on and after July 1, 1972, if the governing board of a community college district adopts regulations consistent with the provisions of this chapter which are effective on July 1, 1972.

A student who enrolls in a community college prior to September 1, 1973, shall have the option of earning his degree under the provisions of Chapter 7 or Chapter 8 of this division if the community college in which he is enrolled has changed its degree requirements in accordance with this chapter before the degree is awarded. No degree or diploma shall be awarded under the provisions of Chapter 7 after September 1, 1975.

51621. Regulations. The governing board of a community college district shall adopt regulations consistent with the provisions of this chapter.

51622. Definitions. For the purpose of this chapter, "satisfactorily completed" means either credit earned on a "credit--no credit" basis or a grade point average of 2.0 or better in 13th and 14th year graded courses in the curriculum upon which the degree is based.

51623. Associate in Arts Degree. The governing board of a Community College district shall confer the degree of associate in arts upon

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 (Pursuant to Government Code Section 11380.1)

a student who in grades 13 and 14 has satisfactorily completed from 60 to 64 semester hours of work in a curriculum which the district accepts toward the degree (as shown by its catalog) and which includes all of the following minimum requirements, provided that 12 hours of the required credit hours were secured in residence at that Community College:

(a) 18 semester units of study taken in a discipline or from related disciplines as listed in the Community Colleges "Classification of Instructional Disciplines."

(b) 15 semester units of general education which shall include at least one course in each of the following areas:

(1) Natural sciences. Those courses of study which deal with matter and energy and their interrelations and transformations (e.g. chemistry, physics, biology).

(2) Social sciences. The body of knowledge that relates to man as a member of society or component of society, such as the state, family, or any systematized human institution (e.g. economics, political science, sociology).

(3) Humanities. Those courses of study having primarily a cultural character (e.g., languages, literature, philosophy, fine arts).

(4) Learning skills. Courses, such as oral and written communication, logic, mathematics, and statistics, designed to facilitate acquisition and utilization of knowledge in natural sciences, social sciences, and humanities.

Students taking these courses may elect to use them to satisfy partially the general education requirements for a baccalaureate degree at the California State Colleges in accordance with the provisions of Section 40405 of this title.

(c) Ethnic studies courses shall be offered in one or more of the areas listed in subdivision (b).

The community college may determine which courses satisfy the requirements of this subdivision.

The governing board may make exceptions to the residence requirement in any instance in which it determines that an injustice or hardship would otherwise be placed upon an individual student.

51624. Associate in Science Degree. The governing board of a Community College district may confer the degree of associate in science upon a student who in grades 13 and 14 has completed satisfactorily a minimum of 60 semester hours of work, which shall satisfy all the requirements for an associate in arts degree and shall include a major of at least 18 semester hours in the fields of engineering, physical and biological sciences, or occupational curriculums.

51625. Certificate of Achievement. The governing board of a Community College district shall issue a certificate of achievement, when so determined by the governing board to any student who has completed successfully any course of study or curriculum as specified in the college catalog.

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51626. Duty to Grant Degree or Diploma. The governing board of a Community College district shall award the appropriate diploma, degree or certificate whenever a student has completed all requirements for the degree, diploma or certificate without regard to the length of time actually taken by the student to complete such requirements. The governing board shall grant to any student, who has satisfactorily completed the requirements of any course of study in less than the prescribed time, credit for the full number of semester hours scheduled for such course.

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(Pursuant to Government Code Section 11360.1)

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APPROVED FOR FILING  
(GOV. CODE (1969.4))

JUN 28 1971

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Copy below is hereby certified to be a true and correct copy of regulations adopted, or amended, or an order of repeal by:

Board of Governors of the  
California Community Colleges  
(Agency)

Date of adoption, amendment, or repeal:

June 16, 1971

By: Carl Erikson III

Carl A. Erikson, III

Legal Counsel

(Title)

RECORDED  
FILED

in the office of the Secretary of State  
of the State of California

JUL 1 1971

At 2:10 o'clock P.M.

EDMUND G. BROWN, Jr., Secretary of

By M. P. SULLIVAN

Assistant Secretary of State

14

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ORDER ADOPTING REGULATIONS OF THE  
BOARD OF GOVERNORS OF THE CALIFORNIA COMMUNITY COLLEGES

After proceedings had in accordance with the provisions of the Administrative Procedure Act (Gov. Code, Title 2, Div. 3, Part 1, Chapter 4.5) and pursuant to the authority vested by Section 199 of the Education Code, and to implement, interpret, or make specific Section 199 of the Education Code, the Board of Governors of the California Community Colleges hereby adopts Chapter 4 (commencing with Section 55400) of Division 6 of Part VI in Title 5 of the California Administrative Code relating to educational master plans.

The provisions of these regulations are not subject to the jurisdiction of the State Building Standards Commission.

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 (Pursuant to Government Code Section 11380.1)

Chapter 5 (commencing with Section 55400) is added to Division 6, Part VI, of Title V of the Administrative Code, to read:

Chapter 5. Educational Master Plans

55400. Definitions. The definitions provided in the Handbook of Definitions issued by the Chancellor shall apply to the provisions of this chapter.

55401. Current and Long Range Plans. The governing board of each Community College district shall establish policies for, and approve, current and long range educational plans and programs for each Community College which it maintains and for the district as a whole.

55402. Educational Master Plans. On or before January 1, 1972, the governing board of each Community College district shall submit to the Chancellor an educational master plan for each Community College which it maintains and for the district as a whole. Each plan shall be modified and brought up to date annually and shall be submitted to the Chancellor on or before November 1 of each year thereafter.

55403. Form. Each plan shall be submitted on a form provided by the Chancellor and shall contain such information as the Chancellor shall require.

55404. Contents. Each plan shall contain the educational objectives of the Community College or district and the future plans for transfer programs, occupational programs, continuing education courses, and remedial and developmental programs. On the basis of current and future enrollment, it shall contain plans for the development and expansion of ancillary services, including services in the library and for counseling, placement, and financial aids.

55405. Review and Approval. The Chancellor shall review each master plan. On or before February 1 following the submission of each plan, he shall send a copy of his approval of it to the superintendent of each district.