

**COMMISSION ON STATE MANDATES**

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July 5, 2002

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

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

**RE: Draft Staff Analysis and Hearing Date**

*Enrollment Fee Collection, 99-TC-13*

Education Code Section 76300;

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

Dear Mr. Petersen:

The draft staff analysis for this test claim is enclosed for your review and comment.

**Written Comments**

Any party or interested person may file written comments on the draft staff analysis by **Wednesday, July 24, 2002**. You are advised that the Commission's regulations require comments filed with the Commission to be simultaneously served on other interested parties on the mailing list, and to be accompanied by a proof of service on those parties. If you would like to request an extension of time to file comments, please refer to section 1183.01, subdivision (c)(1), of the Commission's regulations.

**Hearing**

This test claim is tentatively set for hearing on Tuesday, **August 29, 2002** at 9:30 a.m. in Room 126 of the State Capitol, Sacramento, California. The final staff analysis will be issued on or about July 16, 2002. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01, subdivision (c)(2), of the Commission's regulations.

If you have any questions on the above, please contact Eric Feller at (916) 323-8224.

Sincerely,

A handwritten signature in cursive script, appearing to read "Paula Higashi".

Paula Higashi  
Executive Director

Enc. Draft Staff Analysis

cc. Mailing List (current mailing list attached)

MAILED:  FAXED:   
DATE: 7/5/02 INITIAL: VS  
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**ITEM**  
**TEST CLAIM**  
**DRAFT STAFF ANALYSIS**

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

*Enrollment Fee Collection*

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**EXECUTIVE SUMMARY**

STAFF WILL INSERT THE EXECUTIVE SUMMARY IN THE FINAL ANALYSIS

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## **Claimant**

Los Rios Community College District

## **Chronology**

6/22/00 Claimant files test claim with the Commission

7/21/00 Department of Finance (DOF) requests the Attorney General to comment on DOF's behalf

8/2/00 Attorney General files request for extension to submit comments

8/4/00 California Community Colleges (CCC) Chancellor's Office files comments on the test claim with the Commission

9/1/00 Attorney General files request for extension to submit DOF's comments

10/13/00 Attorney General files comments on the test claim with the Commission on DOF's behalf

11/9/00 Claimant files response to DOF and CCC comments.

## **Background Information**

There are currently 72 community college districts governing 108 community colleges in California, serving over 2.5 million students. It is the largest system of higher education in the world.<sup>1</sup>

Originally enacted in 1984 and amended throughout the 1980s and 1990s, the test claim legislation and regulations<sup>2</sup> authorize and require community colleges to implement enrollment fees and adopt regulations for their collection. Although the amount of the enrollment fee has been amended various times, the two percent of the fee the community colleges retain<sup>3</sup> has remained constant.

## **Claimant's Contentions**

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

Claimant is requesting reimbursement for the following activities: (1) determining the number of credit courses for each student subject to the student enrollment fees; (2) calculating and collecting student enrollment fees for each nonexempt student enrolled, and providing a waiver of student enrollment fees for exempt students; (3) calculating, collecting, waiving or refunding

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<sup>1</sup> California Community College Chancellor's Office website <<http://www.cccco.edu>>.

<sup>2</sup> Reference to the test claim legislation hereafter includes all of the following: Education Code section 76300. Statutes 1984xx, chapter 1; Statutes 1984, chapters 274 and 1401; Statutes 1985, chapters 920 and 1454; Statutes 1986, chapters 46 and 394; Statutes 1987, chapter 1118; Statutes 1989, chapter 136; Statutes 1991, chapter 114; Statutes 1992, chapter 703; Statutes 1993, chapters 8, 66, 67, and 1124; Statutes 1994, chapters 153 and 422; Statutes 1995, chapter 308; Statutes 1996, chapter 63; and Statutes 1999, chapter 72. California Code of Regulations, title 5, sections 58500 – 58508.

<sup>3</sup> Education Code Section 76300, subdivision (c). This is called a "revenue credit" by the Community College Chancellor's Office.

student enrollment fees due to subsequent timely program changes or withdrawal from school; (4) entering the student enrollment fee collection and waiver information into the district cashier system and data processing and accounting systems; (5) processing all agency billings for students whose student enrollment fees are waived; (6) preparing and submitting reports on student enrollment fees collected and waived as required by the board of governors and other state agencies. Claimant states that failure to implement this mandate would reduce the total district revenue by up to ten percent pursuant to Education Code section 76300, subdivision (d).

### **Department of Finance's Contentions**

The Department of Finance agrees that the test claim statutes constitute a new program or higher level of service because the community college districts had not previously been required to collect enrollment fees from students, but asserts the test claim should be denied because the statutory scheme sets up a mechanism whereby community college districts are automatically provided with funding for their costs of administering the program.<sup>4</sup> According to DOF, since the collection of enrollment fees is entwined with the entire admission process it would be extremely difficult, if not impossible, to accurately isolate the specific tasks involved with collecting enrollment fees. DOF submits that the Legislature has validly determined that two percent of the revenue from fees is adequate to compensate community college districts for administering the test claim statutes. DOF further notes that the costs associated with fee waivers should not be included in this claim because a statutory compensation mechanism currently exists for those costs. Finally, DOF states that processing refunds does not result in state mandated costs because the districts have preexisting regulatory authority to charge up to \$10 per semester or quarter for refunding a student's enrollment fees.

### **Community Colleges Chancellor's Office Contentions**

In its comments, the CCC concludes that the original test claim statute was "clearly a higher level of service for community colleges." The CCC also provides legislative history quoting the Legislative Analyst's conclusion that the two percent revenue credit is an insufficient reimbursement for the locally mandated fee-collection program. The CCC provides other legislative history, stressing that although the amount of the fees have varied, the two percent revenue credit for community colleges has remained constant. Finally, the CCC provides the amount of fees collected by the claimant for fiscal year 1998-99.

### **STAFF ANALYSIS**

In order for a statute to impose a reimbursable state mandated program under article XIII B, section 6 of the California Constitution and Government Code section 17514, the statutory language must mandate or require an activity or task on local governmental agencies. If the statutory language does not mandate or require local governments to perform a task, then compliance with the test claim statute is within the discretion of the local entity and a reimbursable state mandated program does not exist.

In addition, the required activity or task must constitute a new program or create an increased or higher level of service over the former required level of service. The California Supreme Court has defined the word "program" subject to article XIII B, section 6 of the California Constitution

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<sup>4</sup> Education Code section 76300, subdivision (c). All further statutory references are to the Education Code unless otherwise indicated.

as a program that carries out the governmental function of providing a service to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state. To determine if the "program" is new or imposes a higher level of service, a comparison must be made between the test claim legislation and the legal requirements in effect immediately before the enactment of the test claim legislation. Finally, the new program or increased level of service must impose "costs mandated by the state."<sup>5</sup>

This test claim presents the following issues:

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

These issues are addressed as follows.

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

In order for the test claim legislation to be subject to article XIII B, section 6 of the California Constitution, the legislation must constitute a "program." The California Supreme Court, in the case of *County of Los Angeles v. State of California*,<sup>6</sup> defined "program" within the meaning of article XIII B, section 6 as a program that carries out the governmental function of providing a service to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state. Only one of these findings is necessary to trigger article XIII B, section 6.<sup>7</sup>

The test claim legislation concerns the program of community college enrollment fees. Collecting these fees is a peculiarly governmental function administered by community college districts as part of their mission to provide educational services to the students. Moreover, the test claim legislation imposes unique fee collection requirements on community college districts that do not apply generally to all residents or entities in the state. Therefore, staff finds that community college enrollment fees constitutes a "program" within the meaning of section 6, article XIII B of the California Constitution.

However, the inquiry must continue to determine whether the test claim legislation activities are new or impose a higher level of service and if so, whether they impose costs mandated by the state.

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<sup>5</sup> Article XIII B, section 6 of the California Constitution; *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal.App.3d 521, 537; *City of Sacramento v. State of California* (1990) 50 Cal.3d 51, 66; *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 835; Government Code section 17514.

<sup>6</sup> *County of Los Angeles, supra*, 43 Cal.3d 46, 56.

<sup>7</sup> *Carmel Valley Fire Protection Dist., supra*, 190 Cal.App.3d at page 537.

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

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

**Collection of Enrollment Fees:** Education Code section 76300, subdivision (a) requires the governing board of each community college district to charge each a student a fee. Subdivision (b) prescribes the fee amount of \$12 per unit per semester for 1998-99, and \$11 per unit per semester effective fall 1999-2000,<sup>8</sup> and requires the chancellor to proportionally adjust the fee for term lengths based on a quarter system. Subdivision (c) requires the chancellor, for computing apportionments to districts, to subtract from the total revenue owed to each district, 98 percent of the revenues received by districts from charging the fee. Subdivision (d) requires the chancellor to reduce apportionments by up to 10 percent to any district that does not collect the fee. Subdivision (e) provides exemptions to the fee for (1) students enrolled in designated noncredit courses; (2) California State University (CSU) or University of California (UC) students enrolled in remedial classes provided on a CSU or UC campus for whom the district claims an attendance apportionment pursuant to an agreement between the district and the CSU or UC; (3) student enrolled in credit contract education courses under certain conditions. Subdivision (f) authorizes the district governing board to exempt special part-time students admitted pursuant to section 76001. Subdivision (g) requires fees to be waived for recipients of Aid to Families with Dependent Children (AFDC) or Supplemental Security Income/State Supplementary Program (SSI), or a general assistance program, or those who demonstrate financial need in accordance with federal methodology. Fee waiver is also required for students who demonstrate eligibility according to income standards established by the board of governors and section 58620 of title 5 of the California Code of Regulations. Subdivision (h) requires a fee waiver for members of the California National Guard who die or become permanently disabled as a result of an event that occurred during active service of the state. Subdivision (i) states legislative intent to fund fee waivers for students who demonstrate eligibility pursuant to subdivisions (g) and (h), and requires the board of governors to allocate to districts two percent of the fees waived pursuant to those subdivisions. Subdivision (i) also requires the board of governors, from funds provided in the annual Budget Act, to allocate to districts \$.91 per credit unit waived pursuant to subdivisions (g) and (h) for determination of financial need and delivery of student financial aid services. Subdivision (j) requires the board of governors to adopt regulations to implement the section.

Under preexisting law, community colleges were authorized but not required to impose various student fees for the following: physical education courses using nondistrict facilities,<sup>9</sup> health services,<sup>10</sup> parking services,<sup>11</sup> transportation services,<sup>12</sup> program changes,<sup>13</sup> and late applications.<sup>14</sup>

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<sup>8</sup> Statutes 1999, chapter 72 lowered the school year 1999-2000 fees from \$12 to \$11. Because chapter 72 became effective July 6, 1999 to be applied in fall 1999, it does not affect claimant's reimbursement period.

<sup>9</sup> Former Education Code section 72245 and current Education Code section 76395.

<sup>10</sup> Former Education Code section 72246 and current Education Code section 76355.

Preexisting law requires charging tuition to nonresident students, but it is conditional on discretionary admittance of the student.<sup>15</sup> Because charging nonresidents tuition is not a new program for purposes of this test claim, it is not reimbursable under this test claim.

Education Code section 76300, subdivision (f) authorizes but does not require the governing board of a community college district to exempt special part-time students admitted pursuant to section 76001 from the student enrollment fee. This refers to students who attend a community college while still in high school. Since admitting these students is discretionary, this is not a state mandated program within the meaning of article XIII B, section 6.

Prior to the test claim statute, there was no requirement to collect student fees. Therefore, staff finds that collecting enrollment fees constitutes a new program or higher level of service within the meaning of article XIII B, section 6 for all students except for nonresidents, and except for special part-time students (pursuant to Ed. Code, § 76300, subd. (f)).

**Title 5 Regulations:** California Code of Regulations title 5, sections 58500 through 58508,<sup>16</sup> also pertain to community college student fees. Section 58500 defines the enrollment fee, section 58501 states the semester, quarter or fractional unit fee, section 58501.1 discusses the now defunct differential enrollment fee, section 58502 states the enrollment fee shall be charged at the time of enrollment, and section 58507 pertains to program changes. Finally, section 58508 governs fee refunds for program changes, authorizing districts to retain up to \$10 per semester or quarter. Education Code section 76300, subdivision (j) required the board of governors to enact regulations.

As with the test claim statute, prior to the regulations there was no requirement to collect student fees. Therefore, staff finds the enrollment fee activities in the title 5 regulations (specified below) constitute a new program or higher level of service within the meaning of article XIII B, section 6.

In summary, staff finds the following activities<sup>17</sup> constitute new programs or higher levels of service for community college districts within the meaning of article XIII B, section 6:

- Determining the number of credit courses for each student subject to the student enrollment fees (Ed. Code, § 76300, subd. (a); Cal. Code Regs., tit. 5, § 58500).

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<sup>11</sup> Former Education Code section 72247 and current Education Code section 76360.

<sup>12</sup> Former Education Code section 72248 and current Education Code section 76361.

<sup>13</sup> Former Education Code sections 72250 – 72250.5 and current Title 5, section 58507.

<sup>14</sup> Former Education Code section 72251.

<sup>15</sup> Education Code section 76140.

<sup>16</sup> California Code of Regulations, title 5, section 58509 was not pled by claimant. This analysis does not address section 58509.

<sup>17</sup> There was an additional activity pled by claimant: "entering the student enrollment fee collection and waiver information into the district cashier system and data processing and accounting systems." This activity does not appear in the test claim statute or regulations. Although this activity may be the most reasonable method to comply with the test claim statute, it would be more appropriately discussed in the parameters and guidelines should the Commission approve this staff analysis.



- Calculating and collecting the student enrollment fee for each nonexempt student enrolled (Ed. Code, § 76300, subd. (b); Cal. Code Regs., tit. 5, § 58500–58503), and providing a waiver of student enrollment fees for exempt students (Ed. Code, § 76300, subds. (e), (g) and (h)).
- Calculating, collecting, waiving, or refunding student enrollment fees due to subsequent timely program changes or withdrawal from school (Ed. Code, § 76300, subd. (e), (g), and (h); Cal. Code Regs., tit. 5, § 58507–58508).
- Processing all agency billings for students whose student enrollment fees are waived (Ed. Code, § 76300, subd. (e), (g) and (h)).

The test claim statutes are silent on the following activity pled by claimant, so staff finds that it is not a new program or higher level of service under article XIII B, section 6.

- Preparing and submitting reports regarding the student enrollment fees collected and waived as required by the board of governors and other state agencies.<sup>18</sup>

**Issue 3: Does the test claim legislation impose “costs mandated by the state” within the meaning of Government Code sections 17514 and 17556?**

In order for the activities listed above to impose a reimbursable, state mandated program under section 6, article XIII B of the California Constitution, two criteria must apply. First, the activities must impose costs mandated by the state.<sup>19</sup> Second, no statutory exceptions as listed in Government Code section 17556 can apply. Government Code section 17514 defines “costs mandated by the state” as follows:

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

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

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

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<sup>18</sup> Section 17 of chapter 1 of Statutes 1983-1984, Second Extraordinary Session, (pled by claimant) included a requirement for the CCC to conduct a study regarding the impact of the fee, and authorized the chancellor to “collect from community college districts any data necessary to conduct the study.” However, this was not an ongoing activity, but rather a one-time data collection for which costs would have been incurred outside the reimbursement period established by the filing date of this test claim.

<sup>19</sup> *Lucia Mar Unified School Dist.*, *supra*, 44 Cal.3d 830, 835. Government Code section 17514.

**Department of Finance Comments:** In response to this test claim, the DOF comments as follows: "For the most part, DOF agrees that the test claim statutes constitute a new program or higher level of service because community college districts had not previously been required to collect enrollment fees from students." However, DOF believes that reimbursement should be denied and raises the following three arguments:

- The statutory scheme sets up a mechanism whereby community college districts are automatically provided with funding for their costs of administering the program.<sup>20</sup> Since collection of enrollment fees is entwined with the entire admission process it would be extremely difficult or impossible to accurately isolate the tasks involved with collecting enrollment fees. DOF submits that the Legislature has validly determined that two percent of the revenue from fees is adequate to compensate community college districts for administering the test claim statutes.
- Costs associated with fee waivers should not be included in this claim because a statutory compensation mechanism currently exists for those costs. Education Code section 76300, subdivision (i), paragraph (2) allocates two percent of the fees waived under subdivisions (g) and (h) (referring to students who receive AFDC, SSI or other general assistance or dependents or surviving spouses of members of the California National Guard who are killed or permanently disabled in the line of duty) of that statute. Thus, DOF says that costs associated with fee waivers should not be included in the test claim.
- Costs for processing refunds do not constitute state mandated costs because community college districts have preexisting regulatory authority to charge up to \$10 per semester or quarter for refunding a student's enrollment fees pursuant to California Code of Regulations, title 5, section 58508, subdivisions (a) and (d). The regulations provide that governing boards shall refund enrollment fees when a student makes a request within a specified time and, when the district does refund fees, it may retain once each semester or quarter a maximum of \$10. Therefore, according to DOF, claimant has the "authority to levy service charges, fees or assessments sufficient to pay for the mandated program or increased level of service." (Gov. Code, § 17556, subd. (d).) Consequently, DOF says the Commission cannot find costs mandated by the State with respect to the claimant's cost of processing fee refunds.

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

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<sup>20</sup> Education Code, section 76300, subdivision (c) says for purposes of computing apportionments to community college districts, the Chancellor shall subtract 98% of the revenues received by districts from enrollment fees from the total revenue owed to each district.

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

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

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

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

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

Regarding DOF's comments about the refunds not being reimbursable, claimant asserts that the title 5, section 58508 regulation did not "pre-exist" the collection of enrollment fees, but was adopted as a result of the establishment of enrollment fees. There were no enrollment fees to refund until there were enrollment fees. The need to refund fees is a foreseeable consequence of collecting them and is properly an activity to be included in the cost mandated by the state subject to reimbursement. There is no statutory assertion that the \$10 is adequate for the refunding process. As with the two percent revenue credit, it will be a reduction of the total cost of implementing the mandate.

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

The test claim statute reads in pertinent part as follows:

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

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

Claimant submitted a declaration that it incurred about \$677,640 (or \$4.60 per student) in staffing and other costs in excess of the two percent of the enrollment fees retained during July 1998 to June 1999.<sup>21</sup> The assertion of insufficient fee authority is not only undisputed, but is supported by the Legislative Analyst Office's (LAO) legislative history comments submitted by the CCC. Thus, staff finds that Government Code section 17556, subdivision (d) does not preclude reimbursement because the fee is not sufficient to pay for the program.

Similarly, staff finds that Government Code section 17556, subdivision (e) does not preclude reimbursement because there is nothing in the record to indicate that the offsetting savings or additional revenue is sufficient to fund the mandate. There is nothing in the record to indicate the two percent revenue credit or \$10 refund fee is sufficient to fund the mandate.<sup>22</sup>

Regarding DOF's assertion regarding the Legislature's valid determination that two percent of the revenue from fees is adequate to compensate community college districts for administering the test claim statutes, staff disagrees. DOF cites no authority for this, nor is there statutory language in the test claim statute to support it. Thus, DOF must mean the determination is implied in the statute. Staff finds that the Legislature did not make a determination that two percent of the enrollment fee is adequate to compensate community colleges.

Even if the Legislature had explicitly determined the fee adequate, such a determination would not prevent finding a mandate exists. For example, two cases have held legislative declarations unenforceable that attempt to limit the right to reimbursement. In *Carmel Valley Fire Protection District v. State of California*,<sup>23</sup> the court held that "Legislative disclaimers, findings and budget control language are no defense to reimbursement." The Carmel Valley court called such language "transparent attempts to do indirectly that which cannot lawfully be done directly."<sup>24</sup>

<sup>21</sup> Declaration of Carrie Bray, Director, Accounting Services, Los Rios Community College District, June 22, 2000.

<sup>22</sup> Should the Commission approve staff's recommendation, the two percent and \$10 fees may be determined to be offsets when the parameters and guidelines are adopted per California Code of Regulations, title 2, section 1183.1, subdivision (a), paragraphs (8) and (9).

<sup>23</sup> *Carmel Valley*, *supra*, 190 Cal.App.3d at page 521.

<sup>24</sup> *Id.* at page 541.

Similarly, in *Long Beach Unified School District v. State of California*,<sup>25</sup> the Legislature deleted requested funding from an appropriations bill and enacted a finding that the executive order did not impose a state-mandated local program. The court held that “unsupported legislative disclaimers are insufficient to defeat reimbursement. ... [The district,] pursuant to Section 6, has a constitutional right to reimbursement of its costs in providing an increased service mandated by the state. The Legislature cannot limit a constitutional right.”<sup>26</sup> If the Legislature could not prevent a mandate explicitly as the authorities indicate, it certainly could not prevent one implicitly.

DOF also says that costs associated with fee waivers should not be included in this claim because a compensation mechanism exists via Education Code section 76300, subdivision (i), paragraph (2) that allocates two percent of the fees waived under subdivisions (g) and (h) (referring to students who receive AFDC, SSI or other general assistance or dependents or surviving spouses of members of the California National Guard who are killed or permanently disabled in the line of duty) of that statute. Again, claimant’s undisputed assertion in the record and legislative history by the LAO indicate that two percent of the fee is not sufficient to pay for these waivers under the program. In sum, staff finds that neither Government Code section 17556, subdivisions (d) and (e), nor the statute’s reimbursement mechanism, preclude reimbursement for costs associated with fee waivers.

Finally, DOF asserts that costs for processing refunds do not constitute state mandated costs because community college districts have preexisting regulatory authority to charge up to \$10 per semester or quarter for refunding a student’s enrollment fees pursuant to California Code of Regulations, title 5, section 58508, subdivisions (a) and (d). These subdivisions read as follows:

- (a) A community college district governing board shall refund upon request any enrollment fee paid by a student pursuant to Section 58501 or 58501.1 for program changes made during the first two weeks of instruction for a primary term-length course, or by the 10 percent point of the length of the course for a short-term course. \* \* \*
- (d) When refunding an enrollment fee pursuant to Subsection (a), a community college district may retain once each semester or quarter an amount not to exceed \$10.00.

Staff takes notice that this fee authority exists, and that under the regulations it is capped at \$10. But staff finds, as with the enrollment fee and waiver reimbursement discussed above, that the \$10 fee does not preclude reimbursement so long as the fee authority is insufficient to cover the cost of providing the service.

In sum, there is nothing in the record to indicate that the Legislature repealed other programs, appropriated sufficient money for fee collection, or otherwise attempted to mitigate the cost of this activity. Therefore, based on the evidence in the record, staff finds that the fee collection activities described above (and repeated below) impose costs mandated by the state on community college districts within the meaning of article XIII B, section 6 and Government Code section 17514.

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<sup>25</sup> *Long Beach Unified, supra*, 225 Cal.App.3d 155.

<sup>26</sup> *Id.* at page 184.

## Conclusion and Recommendation

Based on the foregoing analysis, staff concludes that the test claim legislation imposes a partial reimbursable state-mandated program on community college districts within the meaning of section 6, article XIII B of the California Constitution and Government Code section 17514 for all students except nonresidents and special part-time students<sup>27</sup> for the following activities:

- Determining the number of credit courses for each student subject to the student enrollment fees (Ed. Code, § 76300, subd. (a); Cal. Code Regs., tit. 5, § 58500.).
- Calculating and collecting the student enrollment fee for each nonexempt student enrolled (Ed. Code, § 76300, subds. (b) and (c); Cal. Code Regs., tit. 5, §§ 58500, 58501, 58502, and 58503.), and providing a waiver of student enrollment fees for exempt students (Ed. Code, § 76300, subds. (e), (g) and (h)).
- Calculating, collecting, waiving, or refunding student enrollment fees due to subsequent timely program changes or withdrawal from school. (Ed. Code, § 76300, subd. (e), (g), and (h); Cal. Code Regs., tit. 5, § 58507–58508.)
- Processing all agency billings for students whose student enrollment fees are waived (Ed. Code, § 76300, subd. (e), (g) and (h).)

Staff recommends that the Commission adopt the staff analysis and approve the test claim for the activities listed above.

Staff finds that the following is not a new program or higher level of service under article XIII B, section 6.

- Preparing and submitting reports regarding the student enrollment fees collected and waived as required by the board of governors and other state agencies.

Staff also finds that all other test claim statutes and regulations not cited above are not mandates within the meaning of article XIII B, section 6.

Should the Commission adopt staff's recommendation to approve this test claim, the enrollment fee, fee waiver compensation, and refund-processing fee may be determined to be offsets<sup>28</sup> when the parameters and guidelines are adopted.

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<sup>27</sup> Education Code sections 76300, subdivision (f), and 76001.

<sup>28</sup> California Code of Regulations, title 2, section 1183.1, subdivision (a), paragraphs (8) and (9).

# Education Code

1983

**VOLUME THREE**

Title 3—Sections 6600—99160



Compiled by  
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**Authority to Operate Student Health Centers and Provide Health Supervision and Service**

72244. The governing board of any community college district may provide health supervision and services, including direct or indirect medical and hospitalization services, and operate a student health center or centers wherein students in grades 13 and 14 and other persons authorized by the governing board may be diagnosed and treated. School physicians shall be authorized to provide medical treatment at such centers.  
(Enacted by Stats. 1976, Ch. 1010.)

**Fee for Physical Education Courses Requiring Use of Nondistrict Facilities**

72245. The governing board of a community college district may impose a fee on a participating student for the additional expenses incurred when physical education courses are required to use nondistrict facilities.  
(Enacted by Stats. 1976, Ch. 1010.)

**Health Fees**

72246. (a) The governing board of a district maintaining a community college may require community college students to pay a fee in the total amount of not more than seven dollars and fifty cents (\$7.50) for each semester, and five dollars (\$5) for summer school, or five dollars (\$5) for each quarter for health supervision and services, including direct or indirect medical and hospitalization services, or the operation of a student health center or centers, authorized by Section 72244, or both.

(b) If pursuant to this section a fee is required, the governing board of a district shall decide the amount of the fee, if any, that a part-time student is required to pay. The governing board may decide whether the fee shall be mandatory or optional.

(c) The governing board of a district maintaining a community college shall adopt rules and regulations that either exempt low-income students from any fee required pursuant to subdivision (a) or provide for the payment of the fee from other sources.

(d) The governing board of a district maintaining a community college shall adopt rules and regulations that exempt from any fee required pursuant to subdivision (a): (1) students who depend exclusively upon prayer for healing in accordance with the teachings of a bona fide religious sect, denomination, or organization; (2) students who are attending a community college under an approved apprenticeship training program.

(e) All fees collected pursuant to this section shall be deposited in the fund of the district designated by the California Community Colleges Budget and Accounting Manual. These fees shall be expended only for the purposes for which they were collected.

Authorized expenditures shall not include, among other things, athletic trainers salaries, athletic insurance, medical supplies for athletics, physical examinations for intercollegiate athletics, ambulance services and the salaries of health professionals for athletic events, any deductible portion of accident claims filed for athletic team members, or any other expense that is not available to all students. No student shall be denied a service supported by student health fees on account of participation in athletic programs.  
(Amended by Stats. 1981, Ch. 930, Sec. 10.1.)

**Parking Service Fees**

72247. The governing board of a community college district may require students in attendance in grades 13 and 14 and employees of the district, the payment of a toll, in an amount not to exceed twenty dollars (\$20) per semester

or forty dollars (\$40) per regular school year to be fixed by the board, for parking services.

Such toll shall only be required of students and employees using such services. All such tolls collected shall be deposited in the designated fund of the district in accordance with the California Community Colleges Budget and Accounting Manual and shall be expended only for parking services or for purposes of reducing the costs to students and faculty of the college of using public transportation to and from the college.

Tolls collected for use of parking services provided for by investment of student body funds under the authority of Section 76064 shall be deposited in a designated fund in accordance with the California Community Colleges Budget and Accounting Manual for repayment to the student organization.

"Parking services," as used in this section, means the purchase, construction, and operation and maintenance of parking facilities.  
(Amended by Stats. 1981, Ch. 930.)

**Transportation Service Fees**

72248. (a) The governing board of a community college district may require of students in attendance in grades 13 and 14 and employees at a campus of the district the payment of a fee for purposes of reducing fares for services provided by common carriers or municipally owned transit systems to such students and employees, as provided in subdivision (b).

(b) Fees authorized by subdivision (a) for transportation services may be required only of students and employees using such services, or, in the alternative, of either of the following groups of people:

(1) Upon the favorable vote of a majority of the students and a majority of the employees of a campus of the district, voting at an election on the question of whether or not the governing board should require all students and employees at the campus to be assessed fees for transportation services for a two-year period, the fees may be required of all students and all employees of a campus of the community college district; or

(2) Upon the favorable vote of a majority of the students at a campus of the district voting at an election on the question of whether or not the governing board should require all students to be assessed fees for transportation services for a two-year period, the fees may be required of all students at the campus of the community college district; provided that the employees shall not be entitled to use such services.

(c) In the event that fees are required to be assessed to all students and employees or all students as provided in subparagraphs (1) and (2) of subdivision (b) for a two-year period, such authorization may be continued for additional two-year periods by the governing board maintaining the campus, upon the favorable vote of a majority of the students and a majority of the employees or, in the case of subdivision (b) (2), upon the favorable vote of a majority of the students of such campus, voting in an election on the question of whether or not such required fees should be continued.

(d) If pursuant to this section a fee is required of students for transportation services, any fee required of a part-time student shall be a pro rata lesser amount than full-time students, depending on the number of units for which such part-time student is enrolled. In addition, a governing board maintaining transportation services shall adopt rules and regulations governing the exemption of low-income students from required fees, and may adopt rules and regulations that provide for the exemption of others.

(e) The total fees to be fixed by the governing board of a community college



district pursuant to this section and Section 72247 shall not exceed the amount prescribed in Section 72247.

(Enacted by Stats. 1976, Ch. 1010.)

**Program Changes: Imposition of Fee**

*Text of section effective August 1, 1983 until July 1, 1987*

72250. (a) The governing board of a community college district shall impose a fee of ten dollars (\$10) per course, not to exceed a total amount of twenty dollars (\$20), for a student program change consisting of dropping one or more courses any time after two weeks from the commencement of instruction in any term. The fee shall not be charged for changes due to special circumstances affecting the student's ability to complete the course or for changes initiated or required by the community college.

(b) Each community college district shall submit a report to the Chancellor of the California Community Colleges which provides information regarding all of the following:

- (1) The number of students who drop courses after the second week.
- (2) Revenues derived from fees assessed pursuant to subdivision (a).
- (3) The number of fee waivers granted students due to a request initiated by the community college on the basis of special circumstances affecting the student's ability to complete the course.

(c) This section shall become inoperative on July 1, 1987, and, as of January 1, 1988, is repealed, unless a later enacted statute which becomes effective on or before January 1, 1988, deletes or extends the dates on which it becomes inoperative and is repealed.

(Amended and repealed by Stats. 1983, Ch. 565, Effective August 1, 1983, Inoperative July 1, 1987; Repeal operative January 1, 1988. See section of same number below.)

**Program Changes: Imposition of Fee**

*Text of section effective August 1, 1983 until September 27, 1983*

72250. The governing board of a community college district may impose a fee not to exceed one dollar (\$1), for the actual pro rata cost for services relative to a program change consisting of adding or dropping one or more courses any time after two weeks from the commencement of instruction in any term. Such fee shall not be charged for changes initiated or required by the community college.

This section shall become operative July 1, 1987.

(Added by Stats. 1983, Ch. 565, Effective August 1, 1983, Operative July 1, 1987. See section of same number above.)

**Program Changes: Imposition of Fee**

*Text of section effective September 27, 1983*

72250.5. The governing board of a community college district may impose a fee, not to exceed one dollar (\$1), for the actual pro rata cost for services relative to a program change consisting of adding one or more courses any time after two weeks from the commencement of instruction in any term. Such fee shall not be charged for changes initiated or required by the community college.

(Added by renumbering Section 72250, as added by Stats. 1983, Ch. 565, Sec. 1.5, by Stats. 1983, Ch. 1095, Effective September 27, 1983.)

**Charge for Late Application Fee**

72251. The governing board of any community college district may impose a late application fee of not to exceed two dollars (\$2) for any application for admission or readmission which is filed after the date established by the governing

board for the filing of applications for admission or readmission to the community college.

(Enacted by Stats. 1976, Ch. 1010.)

**Limitation on Campaign Expenditures and Contributions**

72254. The governing board of a community college district may by resolution limit campaign expenditures or contributions in elections to district offices.

(Enacted by Stats. 1976, Ch. 1010.)

**Use of Funds for Membership or Participation in Discriminatory Organizations**

72255. No funds under the control of a community college district shall ever be used for membership or for any participation involving a financial payment or contribution, on behalf of the district or any individual employed by or associated therewith, in any private organization whose membership practices are discriminatory on the basis of race, creed, color, sex, religion, or national origin. This section does not apply to any public funds which have been paid to an individual officer or employee of the district as salary, or to any funds which are used directly or indirectly for the benefit of student organizations.

(Added by Stats. 1978, Ch. 1099.)

**Report on Part-Time Employment Patterns and Practices**

72256. The Board of Governors of the California Community Colleges shall publish a statewide report on part-time employment patterns and practices in each community college district to be submitted to the Legislature no later than January 1, 1982. At the least, the report shall include a comparison of full-time and part-time faculty in the areas of teaching workload, related academic activities, remuneration, types of certificates, types of classes taught, length of employment, and whether or not the faculty members are evaluated. Information on assignments performed by full-time instructors which is in addition to their full-time assignment and for which additional compensation is provided shall be included in the report.

(Added by Stats. 1980, Ch. 1177.)

**Article 3. Delineation of Functions**

(Article 3 enacted by Stats. 1976, Ch. 1010)

**Legislative Intent**

72280. By enacting this article the Legislature declares its intent to more specifically delineate the powers, duties, and functions of the community college district governing boards and the powers, duties, and functions of the Board of Governors of the California Community Colleges.

(Amended by Stats. 1981, Ch. 470.)

**Definitions**

72281. As used in this article, "board of governors" means the Board of Governors of the California Community Colleges. "District governing board" means the governing board of a community college district. "District" means a community college district.

(Enacted by Stats. 1976, Ch. 1010.)

**Rules and Regulations**

72282. The district governing board shall 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

(a) Loans, with or without interest, to any student body organization established in another community college of the district for a period not to exceed three years.

(b) Invest money in permanent improvements to any community college district property including, but not limited to, buildings, automobile parking facilities, gymnasiums, swimming pools, stadia and playing fields, where such facilities, or portions thereof, are used for conducting student extracurricular activities or student spectator sports, or when such improvements are for the benefit of the student body. Such investment shall be made on condition that the principal amount of the investment plus a reasonable amount of interest thereon shall be returned to the student body organization as provided herein. Any community college district approving such an investment shall establish a fund in accordance with the California Community Colleges Budget and Accounting Manual in which moneys derived from the rental of community college district property to student body organizations shall be deposited. Moneys collected by the governing board for automobile parking facilities as authorized by Section 72247 shall be deposited in the fund designated by the California Community Colleges Budget and Accounting Manual if the parking facilities were provided for by investment of student body funds under this section. Moneys shall be returned to the student body organization as contemplated by this section exclusively from such special fund and only to the extent that there are moneys in such special fund. Whenever there are no outstanding obligations against the special fund, all moneys therein may be transferred to the general fund of the school district by action of the local governing board.

Two or more student body organizations of the same community college district may join together in making such investments in the same manner as is authorized herein for a single student body. Nothing herein shall be construed so as to limit the discretion of the local governing board in charging rental for use of community college district property by student body organizations as provided in Section 76060.

(Amended by Stats. 1981, Ch. 930.)

#### **Supervision and Audit of Student Funds**

76065. The governing board of any community college district shall provide for the supervision of all funds raised by any student body or student organization using the name of the college.

The cost of supervision may constitute a proper charge against the funds of the district.

The governing board of a community college district may also provide for a continuing audit of student body funds with community college district personnel.

(Enacted by Stats. 1976, Ch. 1010.)

#### **Student Political Organization Activity**

76067. Any student political organization which is affiliated with the official youth division of any political party that is on the ballot of the State of California may hold meetings on a community college campus and may distribute bulletins and circulars concerning its meetings, provided that there is no endorsement of such organization by the school authorities and no interference with the regular educational program of the school.

(Enacted by Stats. 1976, Ch. 1010.)

#### **Article 7. Exercise of Free Expression** (Article 7 enacted by Stats. 1976, Ch. 1010)

##### **Exercise of Free Expression by Students: Adoption of Rules and Regulations**

76120. The governing board of a community college district shall adopt rules and regulations relating to the exercise of free expression by students upon the premises of each community college maintained by the district, which shall include reasonable provisions for the time, place, and manner of conducting such activities.

Such rules and regulations shall not prohibit the right of students to exercise free expression including, but not limited to, the use of bulletin boards, the distribution of printed materials or petitions, and the wearing of buttons, badges, or other insignia, except that expression which is obscene, libelous or slanderous according to current legal standards, or which so incites students as to create a clear and present danger of the commission of unlawful acts on community college premises, or the violation of lawful community college regulations, or the substantial disruption of the orderly operation of the community college, shall be prohibited.

(Enacted by Stats. 1976, Ch. 1010.)

#### **Article 8. Administration of Punishment to Students** (Article 8 enacted by Stats. 1976, Ch. 1010)

##### **Administration of Punishment to Students**

76130. The governing board of any community college district shall adopt rules and regulations authorizing instructors, supervisors, and other certificated personnel to administer reasonable punishment to students when such action is deemed an appropriate corrective measure.

(Amended by Stats. 1981, Ch. 470.)

#### **Article 9. Nonresident Tuition**

(Article 9 enacted by Stats. 1976, Ch. 1010)

##### **Nonresident Tuition**

76140. A community college district may admit and shall charge a tuition fee to nonresident students. The district may exempt from all or parts of the fee:

(a) All nonresidents who enroll for six or fewer units. Exemptions made pursuant to this subdivision shall not be made on an individual basis; or

(b) Any nonresident who is both a citizen and resident of a foreign country, provided that the nonresident has demonstrated a financial need for the exemption and not more than 10 percent of the nonresident foreign students attending any community college district may be so exempted. Exemptions made pursuant to this subdivision may be made on an individual basis.

A district may contract with a state, a county contiguous to California, the federal government, a foreign country, or an agency thereof, for payment of all or a part of a nonresident student's tuition fee.

Attendance of nonresident students shall not be reported as resident average daily attendance for state apportionment purposes, except as provided by statute in which case a nonresident tuition fee may not be charged.

The nonresident tuition fee shall be set by the governing board of each community college district not later than February 1 of each year for the succeeding fiscal year. Such fee may be paid in installments, as determined by the governing board of the district.

The fee established by the governing board pursuant to the preceding paragraph shall represent for nonresident students enrolled in 30 semester units or 45 quarter units of credit per fiscal year (a) the amount which was expended by the district for the current expense of education, as defined by the California Community College Budget and Accounting Manual in the preceding fiscal year, increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the average daily attendance of all students (including nonresident students) attending in the district in the preceding fiscal year, or (b) the current expense of education in the preceding fiscal year of all districts increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the average daily attendance of all students during the preceding fiscal year, or (c) an amount not to exceed the fee established by the governing board of any contiguous district. However, should the district's preceding fiscal year average daily attendance of all students attending in the district in noncredit courses be equal to or greater than 10 percent of the district's total average daily attendance of all students attending in the district, the district in calculating (a) above may substitute instead the data for current expense of education in grades 13 and 14 and average daily attendance in grades 13 and 14 of all students attending in the district.

The governing board of each community college district shall also adopt a tuition fee per unit of credit for nonresident students enrolled in more or less than 15 units of credit per term by dividing the fee determined in the preceding paragraph by 30 for colleges operating on the semester system and 45 for colleges operating on the quarter system and rounding to the nearest whole dollar. The same rate shall be uniformly charged nonresident students attending any terms or sessions maintained by the community college. The rate charged shall be the rate established for the fiscal year in which the term or session ends.

Any loss in district revenue generated by the nonresident tuition fee shall not be offset by additional state funding.

The provisions of this section which require a mandatory fee for nonresidents shall not apply to any district which borders on another state and has fewer than 500 average daily attendance.

(Amended by Stats. 1983, Ch. 317, Effective July 19, 1983.)

#### **Apprentices Exemption from Nonresident Fee**

76142. No fee may be charged to any apprentice who is not a resident of California for attendance in a California community college in classes of related and supplemental instruction as provided under Section 3074 of the Labor Code and in accord with the requirements as set forth in subdivision (d) of Section 3078 of that code.

(Enacted by Stats. 1976, Ch. 1010.)

#### **Nonresident Tuition Fee: Residence Determination**

76143. For purposes of the nonresident tuition fee, a community college district shall disregard the time during which a student living in the district resided outside the state, if:

- (1) The change of residence to a place outside the state was due to a job transfer and was made at the request of the employer of the student or the employer of the student's spouse or, in the case of a student who resided with, and was a dependent of, the student's parents, the change of residence was made at the request of an employer of either of the student's parents.

(2) Such absence from the state was for a period of not more than four years.

(3) At the time of application for admission to a college maintained by the district, the student would qualify as a resident if the period of the student's absence from the state was disregarded.

A nonresident tuition fee shall not be charged to a student who meets each of the conditions specified in subdivisions (1) to (3), inclusive.

(Amended by Stats. 1977, Ch. 36.)

#### **Article 10. Miscellaneous**

(Article 10 enacted by Stats. 1976, Ch. 1010)

#### **Certain Students' Residences More Than 60 Miles From Nearest Attendance Center**

76160. Any student under 21 years of age, and any student under 25 years of age who has been honorably discharged or is otherwise returning from active or inactive military service with the armed forces of the United States, who resides in this state and more than 60 miles from the nearest public community college measured by the usual vehicular route between the student's home and the college, may request to attend credit courses at any public community college in the state, whether or not the student's residence is in a district maintaining a community college. The governing board of the district maintaining the community college designated by the student shall admit the student provided all requirements for admission are met.

The provisions of this section shall not apply to any student residing in a district maintaining a community college if that district maintains adequate dormitories or housing facilities or provides adequate transportation for the student between the student's home and the community college attendance center.

If the student resides within territory not included within any community college district and resides more than 60 miles from the nearest community college, measured by the usual vehicular route between the student's home and the attendance center, there shall be paid to the parents or other persons having charge or control of the student and directly to adult students and married minors, by the district in which the student attends, a maintenance allowance not to exceed four dollars (\$4) per calendar day, including weekends and school holidays, for the portion of a semester, quarter, or other session or term in which the student is enrolled full time in credit classes in a community college under this section. Community college districts shall receive reimbursement from the chancellor's office for allowances paid to students from nondistrict territory for the prior fiscal year not to exceed the maximum amount as provided in Section 84604.9.

No later than 60 days after the close of each fiscal year the chancellor shall determine the daily allowance rate for the prior fiscal year. If claims made by community colleges exceed total funds raised by nondistrict territories for that purpose prior to July 1, 1978, the chancellor shall prorate the allowances made under this section. No later than 90 days after the close of each fiscal year the community college districts shall pay eligible students at the rate prescribed by the chancellor.

The chancellor shall prescribe procedures for the submission of claims by community college districts and verification of the claims by the appropriate county superintendent of schools.

For the purpose of this section, a person shall be deemed to be honorably discharged from the armed forces (a) if he or she was honorably discharged from the armed forces of the United States or (b) if he or she was inducted into the armed forces of the United States under the "Universal Military Training and Service Act," and (1) satisfactorily completes his or her period of training and service under that act and is issued a certificate to that effect pursuant to that act.

# Commission on State Mandates

Original List Date: 08/07/2000 Mailing Information Draft Staff Analysis

Last Updated: 06/18/2002

List Print Date: 07/05/2002

Claim Number: 99-TC-13

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# *Commission on State Mandates*

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