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June 10, 2009

TO: Superintendents/Presidents  
Chief Instructional Officers  
Chief Student Services Officers  
Chief Business Officers  
Admissions Officers and Registrars  
Academic Senate Presidents

FROM: Carole Bogue-Feinour, Vice Chancellor  
Academic Affairs Division

SUBJECT: Second To Be Arranged (TBA) Hours Follow-Up Memorandum

On January 26, 2009 you received from my office a follow-up memorandum to Legal Advisory 08-02 concerning TBA hours compliance. That memorandum was intended to update the districts regarding certain guidelines provided in the advisory along with possible solutions that would be explored. This second follow-up memorandum provides the current status of that review.

One issue of concern for Early Childhood Education (ECE) and Foreign Language labs was that of immediate supervision. With regard to ECE, we proposed at the May Board of Governors (BOG) meeting a title 5 change that would permit an exemption to immediate supervision similar to what has already been included in section 58055 for health science education and Firefighter Joint Apprenticeship programs. For both of these areas, the requirement for immediate supervision can be met as a responsibility shared by a qualified person in the workplace/clinic and by an academic district employee. For ECE, responsibility for supervision of students in a childcare facility would be shared by a person at the facility who possesses at a minimum a Master Teacher Child Development Permit issued by the California Commission on Teacher Credentialing, or the equivalent, and by the academic personnel of the district. The proposed change to section 58055 will be submitted to the BOG in July as an action item for approval.

With regard to Foreign Language labs, agreement was not reached by the major representative groups regarding exemptions or changes for immediate supervision. As a result, per current title 5 language, if students completing requirements for several foreign language courses are scheduled in the lab during the same hour, foreign language instructors meeting minimum qualifications in each of those languages need to provide immediate supervision. Since meeting this requirement may not be possible for most colleges, it is suggested that colleges consider

offering foreign language courses as “hybrid” courses (i.e., regular face-to-face contact combined with distance education) permitting the colleges to follow the distance education (DE) regulations for the distance education portion of the course instead of the regulations applicable to TBA. The DE requirements that hybrid courses must meet include the definition of distance education in section 55200; regular, effective contact requirement in section 55204; and the requirement for separate review and approval by the curriculum committee in section 55206. By offering the foreign language lab hours of the course as distance education, colleges are exempt from the immediate supervision requirement for that portion of the course although the students may still access the instruction through the on-campus labs.

Although hybrid courses are coded as non-distance education because they likely don’t meet the 51% reporting standard provided by section 55210, which is for MIS reporting purposes only, hybrid courses with less than 51% of instruction offered through DE are still considered distance education for curricular purposes and need to meet the DE requirements and quality standards. Section 55204 clearly indicates that regular, effective contact applies to all distance education instruction (not just courses that provide 51% or more of instruction through DE).

Finally, it is necessary to use the Alternate Attendance Accounting Procedure described in section 58003.1(f) and 58009 if the entire course as a whole does not qualify for either the basic Weekly or Daily Census attendance accounting procedures. Since hybrid courses qualify as distance education, they are eligible for this procedure. Colleges will not lose apportionment for those lab hours by doing so except for a small portion of FTES if they have a compressed academic calendar. Colleges can offer DE using the basic Weekly or Daily Census attendance accounting procedures, but they would need to schedule and conduct the DE hours in a synchronous manner in order to do so. For further information and guidance concerning the Alternate Attendance Accounting Procedure, please refer to the Distance Education Guidelines, which can be accessed via the Chancellor’s Office Academic Affairs webpage below:

<http://www.cccco.edu/ChancellorsOffice/Divisions/AcademicAffairs/tabid/229/Default.aspx>

A second major TBA issue was the definition of “regularly scheduled” and the implications for implementation. Resolution was reached regarding a redefinition of “regularly scheduled” for the purposes of TBA hours. This term has been administratively redefined to mean that within the format of weekly census courses, students must participate for the required number of TBA hours each week of the primary term for the duration of the course, and documentation must demonstrate weekly student participation. Districts have the flexibility to individually schedule these regular weekly TBA hours or may allow students to fulfill their weekly TBA obligation at a time of their choosing each week of the term. The key factor here is the students must participate for the same number of TBA hours each week of the primary term so that the course in question continues to qualify for the Weekly Census attendance accounting procedure. For Daily Census courses, districts would also have the same scheduling flexibility as appropriate for the Daily Census attendance accounting procedure. In other words, students could choose their daily TBA times, but would still have to participate for the same number of TBA hours per meeting day so that the course in question continues to qualify for the Daily Census Attendance Accounting procedure.

In terms of monitoring, colleges need to track student participation carefully and make sure that they do not claim apportionment for TBA hours for students who have documented zero hours as of the census point for the particular course. Supporting documentation, such as actual attendance rosters or electronic attendance tracking records, will need to be retained by the district as it relates to verifying compliance with this requirement as a Class 3 record basic to audit as required by section 59020 et seq. Of course, as specified in earlier communiqués, colleges must ensure that instruction is provided, that the number of TBA hours and general objectives/outcomes for the TBA requirement are specified on the course outline, that regulations for immediate supervision and minimum qualifications are followed, and that the student work completed during the TBA hours is evaluated.

Please note that there will be a new audit compliance item that focuses on TBA hour compliance with 2010-11 Contracted District Audit Manual. This item will require auditors, among other matters, to determine if apportionment was claimed for students who document zero TBA hours as of the census point. If a college is out of compliance regarding its claim for TBA apportionment, it would need to adjust its apportionment claim and/or return state apportionment funds and implement a control mechanism to avoid recurrence.

Other than as noted above, the guidance provided in Legal Advisory 08-02 continues to be in effect. For further information or questions concerning instructional issues, you may contact Stephanie Low, Specialist, Academic Affairs at [laws@cccco.edu](mailto:laws@cccco.edu) or at (916) 322-6888 or Morgan Lynn, Executive Vice Chancellor for Programs at [mlynn@cccco.edu](mailto:mlynn@cccco.edu) or at (916) 445-1774. For further information or questions concerning attendance accounting and reporting for apportionment purposes, you may contact Elias Regalado, Specialist, Fiscal Services Unit at [eregalad@cccco.edu](mailto:eregalad@cccco.edu) or at (916) 445-1165.