

PROPOSED TITLE 5 REGULATION REVISIONS: ELECTRONIC SIGNATURES

November 13-14, 2012

ACTION

Presentation: Bonnie Edwards, Director for Technology

Item 2.7

Issue

This item presents proposed title 5 revisions to regulate the collection of electronic signatures.

Background

CCCApply is a web-based student application process that is made available to all community colleges and funded by the Telecommunications and Technology Infrastructure Program through the Technology Center Grant at Butte College.

The CCCApply online application was released in August 2001 for 10 pilot colleges and membership has grown to 103 colleges. The program is governed by the CCCApply Steering Committee which is comprised of admissions and records and information technology professionals from the California Community Colleges. The steering committee, in conjunction with the Chancellor's Office, works to ensure the CCCApply application and technical solutions conform to required statutes, such as residency determination, technical standards and provide support to students and staff.

In the early years of the program, one of the challenges faced by the CCCApply Steering Committee and the Chancellor's Office was electronic signatures. The California Community Colleges were moving into uncharted territory as the system was preparing to move from paper-based signatures to computer-based signatures. The steering committee and the Chancellor's Office needed to ensure that computer-based electronically collected signatures provided the same level of security and confidentiality that was afforded paper-based signatures.

Consequently, legislation and a title 5 amendment were introduced.

Statutory Actions:

Assembly Bill 521, introduced in 1997, was the first attempt to develop legislation for the community college's online application process but Assembly Bill 1646 (2005) removed section (b) which was originally introduced by Assembly Bill 521. The language for both bills is below.

Assembly Bill 521 (Lempert, Statute 1997)

SEC. 3. Section 70901.1 is added to the Education Code, to read:

70901.1. (a) The Board of Governors of the California Community Colleges shall adopt regulations that permit the governing board of a community college district to allow applications for admission to be submitted electronically. The regulations shall require that applicants be informed of the relative security of the information they submit electronically.

(b) Upon adoption of a standard of encrypted digital signatures by the Secretary of State, the Board of Governors of the California Community Colleges shall adopt regulations that permit the governing board of a community college district to allow student residency determination forms to be submitted electronically.

Assembly Bill 1646 (Committee on Higher Education, Statute 2005):

Section 70901.1 of the Education Code is amended to read:

70901.1. The Board of Governors of the California Community Colleges shall adopt regulations that permit the governing board of a community college district to allow applications for admission, student residency determination forms, and other documents to be submitted electronically. The regulations shall require that applicants and students be informed of the relative security of the information they submit electronically.

Analysis

The CCCApply application is being redesigned and the new project team revisited the regulations for electronic signatures. After further analysis, two issues related to the electronic signature regulations were identified.

1. The Board of Governor's regulations, mentioned in 70901.1 was never written.
2. Section 54300(b) of title 5 incorrectly applies the standards for electronic student loan transactions, put forth by the United States Department of Education, to the process of collecting student applications to college.

It is the assumption of the Chancellor's Office that the original project team referenced the electronic student loan standards from the United States Department of Education since financial transactions are usually the first for which regulations and standards are developed. Meaning, in 1997, electronic signatures were just beginning to enter the education sector and there were little or no federal or state regulations for collecting electronic signatures for non-financial processes.

Standards for student loan transactions are problematic and inappropriate for an online application to the college system, as they require the collection of student data, such as the social security number, which is not required when a student applies to the California Community Colleges. Now that the collection of non-financial electronic signatures has become common place in the public and private sectors, the CCCApply Steering Committee and the Chancellor's Office are proposing to modify title 5. The modifications propose to follow established technical standards and processes to ensure the electronic signature is unique and secure and utilize the regulations adopted by the California Secretary of State, unless required to meet a higher standard under federal or state regulation or law.

The proposed regulation changes are included as Attachment 1. Consultation Council expressed support. The Board reviewed the changes at the September 2012 meeting and there were no comments.

Recommendation

Approve the following resolution:

Resolution Approving Amendment to title 5 section 54300

Be it Resolved

The Board of Governors of the California Community Colleges, acting pursuant to Education Code sections 66700, 70901(c) and 70901.5, hereby:

- accepts the comments and proposed responses;
- directs the chancellor to file the regulations with the Secretary of State and submit the regulations to the Office of Administrative Law for printing upon receipt of an approved Economic and Fiscal Impact Statement from the Department of Finance;
- authorizes the chancellor to take any necessary ministerial action to process these regulations; and
- adopts the regulations effective thirty days after filing with the Secretary of State and submission of the regulations to the Office of Administrative Law.

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The following title 5 amendment is proposed:

Attachment 1

**BOARD OF GOVERNORS OF THE CALIFORNIA COMMUNITY COLLEGES
PROPOSED REVISIONS TO TITLE 5 REGULATIONS:
ELECTRONIC SUBMISSIONS**

Section 54300 of subchapter 4.5 of chapter 5 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 54300. Electronic Applications and Electronic Signatures.

(a) Community college districts may authorize the electronic submission of any admission form or student form or document.

(b) Electronic signatures in lieu of manual signatures may be used on any documents requiring a signature, providing the electronic signature meets the ~~standards for electronic signatures in electronic student loan transactions adopted by the U.S. Department of Education to implement the Electronic Signatures in Global and National Commerce Act (15 U.S.C. §§ 7001 et seq.)~~ following standards, unless otherwise required to meet a higher standard under federal or state regulation or law:

(1) It is unique to the person using it.

(2) It is capable of verification.

(3) It is under the sole control of the person using it.

(4) It is linked to data in such a manner that if the data are changed, the digital signature is invalidated.

(5) It conforms to regulations adopted by the Secretary of State.

~~(c) Applications for admission and residency questionnaires submitted electronically are valid only if they include electronic signatures that satisfy the requirements of subdivision (b).~~

~~(d) Prior to the electronic submission of any information, districts will inform applicants and students of the relative security of the information they submit electronically.~~

Note: Authority cited: Sections 66700, 70901 and 70901.1, Education Code. Reference: Section 70901.1, Education Code; ~~and 15 USC Sections 7001, et seq.~~