

# **PROPOSED TITLE 5 CHANGE TO ESTABLISH SYSTEM-LEVEL ENROLLMENT PRIORITIES (SECTION 58108)**

September 10-11, 2012

## **ACTION**

Presentation: Linda Michalowski, Vice Chancellor of Student Services and Special Programs

## **Item 2.1**

### **Issue**

This item presents for a second reading and Board of Governors consideration the proposed title 5 changes to establish system-level enrollment priorities consistent with Student Success Task Force recommendation 3.1.

### **Background**

The Chancellor's Office convened a 17-member workgroup to implement Student Success Task Force recommendation 3.1 to establish system-level enrollment priorities. The task force recommended that the California Community Colleges adopt system-level enrollment priorities to: (1) reflect the core mission of transfer, career technical education and basic skills development; (2) encourage students to identify their educational objective and follow a prescribed path most likely to lead to success; (3) ensure access and the opportunity for success for new students; and (4) incentivize students to make progress toward their educational goal.

The draft proposal was first presented to Consultation Council in April 2012, and, at the council's request, the timeframe for adoption of the proposed regulation was extended to allow for additional time to solicit input from broad constituencies. As a result, a draft proposal was presented to the board in May 2012 as an information item and was then presented for a first reading and public hearing on July 9, 2012. Official notice of the proposed changes to the California Code of Regulations, title 5, regarding the establishment of system-level enrollment priorities was published on July 9, 2012. The original proposed text was made available for public comment for at least 45 days from July 9, 2012, through August 22, 2012. The notice specified the process to comment on the proposed changes. Comments from six people were heard at the public hearing. No written comments were received during the comment period. A summary and response to the public comments received is included in attachment 2.

In addition, after the first reading, a change was made to the proposed section 58108(n) to correct language that would have required districts to allow appeals based on a student demonstrating significant academic improvement in a subsequent term(s) when the intent of the workgroup was to make this appeal basis permissive. This change to the original proposal presented to the board necessitated a renote of the proposed regulatory action and an opportunity for public comment

on the proposed change outlined in the renote. No public comments were received in response to the renote.

The key elements of this regulation include the following:

- Enrollment priorities for existing student groups identified in California Education Code (active duty military and veterans and foster youth and former foster youth) and for students participating in EOPS and DSPS programs who have completed orientation, assessment, and developed student education plans are maintained in the proposed regulation (first and second level of priority, respectively). A provision was added to allow districts the discretion to collapse the first and second levels of priority if sufficient capacity exists to do so without displacing students in the first level.
- New students who have completed orientation, assessment, and developed student education plans and continuing students in good standing (defined as a student who is not on academic or progress probation for two consecutive terms and has not earned 100 degree-applicable units) constitute a large level three priority group. Districts have discretion to establish local priorities among students in this group.
- Districts have discretion to establish local priorities below level three for all other students.
- Continuing students would lose enrollment priority if they earned more than 100 units (not including nondegree applicable basic skills and ESL) or if they were on academic or progress probation for two consecutive terms (as defined by existing title 5 regulations).
- Districts would have authority to adopt policies exempting categories of students from the 100 unit limit, such as those in high unit majors or programs.
- Districts would be required to adopt an appeals policy and process for students who lose enrollment priority due to extenuating circumstances (verified cases of accidents, illnesses or other circumstances beyond the control of the student) and for students with disabilities who applied for but did not receive timely reasonable accommodation. Districts may also allow appeals for students who demonstrate significant satisfactory academic improvement in a subsequent term, but whose term GPA is not high enough to raise the cumulative GPA.
- Significant lead time is provided for implementation. Beginning in spring 2013, districts would be required to notify students who are at risk of losing enrollment priority due to their unsatisfactory academic progress or standing. Districts would be required to fully implement the new regulation by fall 2014 and ensure that all policies and course catalogs reflect the new enrollment priority requirements and that appropriate and timely notice is provided to students.

Additional information is provided in the attached timeline and priority chart. The text of the proposed regulation is also included as attachment 1.

## **Analysis**

The current state budget climate has resulted in community colleges having to cut significant numbers of course sections despite high enrollment demand. Many students are being denied access, including recent high school graduates and adults seeking job training or retraining in this unstable economy.

The Student Success Task Force was concerned that new students pursuing mission-central goals are potentially being displaced by avocational students and sought to bring a thoughtful approach to rationing the available space at community colleges. The task force also wanted to facilitate students moving through the college curriculum in an efficient manner and encourage students to take their enrollment opportunity seriously by incentivizing them to maintain good academic standing.

The proposed regulation represents a phased-in approach to implementing the task force's recommendations. One of the elements of recommendation 3.1 that workgroup members agreed the system is not able to implement due to resource constraints is the recommendation that students lose priority if they do not declare a program of study by the end of their third term and do not follow their student education plan. The proposed regulation provides a framework for system-level enrollment priorities that provide greater consistency among California's 112 community colleges, while providing districts with the discretion to shape policies and registration priorities within the framework to meet local needs. The highest levels of priority are maintained for students identified in Education Code (active duty military, veterans, foster youth, and former foster youth) and for EOPS and DSPS students who have had historic priority within the system.

## **Recommended Action**

The Board of Governors is asked to approve the proposed changes to title 5, section 58108 on system-level enrollment priorities.

*Staff: Sonia Ortiz-Mercado, Dean, Student Services*

## ATTACHMENT 1

### BOARD OF GOVERNORS OF THE CALIFORNIA COMMUNITY COLLEGES PROPOSED REVISIONS TO TITLE 5 REGULATIONS: ENROLLMENT PRIORITIES

1. Section 58108 of article 1 of subchapter 2 of chapter 9 of division 6 of title 5 of the California Code of Regulations is amended to read:

#### **§ 58108. Registration and Enrollment Procedures.**

(a) Districts shall adopt policies and procedures for registration and standards for enrollment in any course ~~shall be only those which that~~ are consistent with these and other sections of Title 5 and uniformly administered by appropriately authorized employees of the district.

(b) It is the intent of the Board of Governors of the California Community Colleges to provide priority registration for students who enroll in a community college for the purpose of degree or certificate attainment, transfer to a four-year college or university, or career advancement.

(c) Registration priority, in the order of priority listed below, shall be provided to students:

(1) who have completed orientation, assessment, and developed student education plans and are eligible as a member of the armed forces or a veteran pursuant to Education Code section 66025.8 or as a foster youth or former foster youth pursuant to Education Code section 66025.9;

(2) who have completed orientation, assessment, and developed student education plans and are eligible and receiving services through Disabled Student Programs and Services or Extended Opportunity Programs and Services;

(3) who are continuing students not on academic or progress probation for two consecutive terms as defined in section 55031 and first time students who have completed orientation, assessment, and developed student education plans.

(d) Districts are not required to apply the registration priorities identified in subdivisions (c)(2) and (c)(3) of this section for courses offered during summer or intersessions.

(e) A district may provide students identified in subdivision (c)(1) or (c)(2) of this section with the same level of registration priority as long as a district ensures students identified in (c)(1) receive registration priority as required by Education Code sections 66025.8 and 66025.9.

(f) To the extent districts have the capacity and resources to require orientation, assessment, and education plans for continuing students, districts may establish orientation, assessment and education plans or any combination thereof as a condition for registration priority.

(g) Within the state registration priorities identified in subdivision (c) of this section, districts may establish the relative order of priority for additional subcategories of students within each of the three levels. Similarly situated students in the groups specified in subdivisions (c)(1) and (c)(2), respectively, shall be granted equal priority.

(h) Districts may establish additional registration priorities for students with priority lower than student groups covered by subdivision (c) of this section.

(i) Registration priority specified in subdivision (c) of this section shall be lost at the first registration opportunity after a student:

(1) is placed on academic or progress probation or any combination thereof as defined in section 55031 for two consecutive terms; or (2) has earned one hundred (100) or more degree-applicable semester or quarter equivalent units at the district.

(A) For purposes of this section a unit is earned when a student receives a grade of A, B, C, D or P as defined in section 55023.

(B) The 100-unit limit does not include units for non-degree applicable English as a Second Language or basic skills courses as defined in section 55000(j) or special classes as defined in section 55000.

(C) Districts may set the unit limit lower than 100 units and may consider units from other higher education institutions.

(D) Districts may adopt policies to exempt from the 100-unit limit categories of students, including but not limited to, those enrolled in high unit majors or programs.

(E) Districts may exempt from the 100-unit limit units earned through credit by examination, advanced placement, International Baccalaureate, or other similar programs.

(j) Beginning in the spring 2013 term, districts shall notify students who are placed on academic or progress probation, or who have earned 75 percent or more of the unit limit, of the potential for loss of enrollment priority. The district shall notify the student that a second consecutive term on academic or progress probation will result in the loss of priority registration until the student is no longer on probation or that enrollment priority will be lost when the student reaches the unit limit.

(k) Except as otherwise provided by state law, no student shall be required to confer or consult with or be required to receive permission to enroll in any class from any person other than those employed by the college in the district.

(l) Students will not be required to participate in any preregistration activity not uniformly required; nor shall the college or district allow anyone to place or enforce nonacademic requisites that are not expressly authorized in this chapter or in state law as barriers to enrollment in or the successful completion of a class.

~~No registration procedures shall be used that result in restricting enrollment to a specialized clientele.~~

~~The following registration procedures are permissible: special registration assistance to the handicapped or disadvantaged student as defined by statute, for the purpose of providing equalization of educational opportunity; and enrollment of students in accordance with a priority system established pursuant to legal authority by the local board of trustees.~~

(m) With respect to accessibility to off-campus sites and facilities, no student is to be required to make any special effort not required of all students to register in any class or course section. Once enrolled in the class, all students must have equal access to the site.

(n) Each community college district shall establish written procedures by which a student may appeal the loss of priority enrollment status due to extenuating circumstances, or where a student with a disability applied for, but did not receive reasonable accommodation in a timely manner. Extenuating circumstances are verified cases of

accidents, illnesses or other circumstances beyond the control of the student. Districts may allow students who have demonstrated significant academic improvement to appeal the loss of priority enrollment status. Significant academic improvement is defined as achieving no less than the minimum grade point average and progress standard established in section 55031 for the term or terms.

(o) Districts shall ensure that the requirements of this section are adopted in local board policies and fully operational for registration for fall 2014 courses. Districts shall ensure that all policies and course catalogs reflect the requirements of this section and that appropriate and timely notice is provided to students.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 84500, Education Code.

## ATTACHMENT 2

### Summary and Response to Comments Received During the Initial Notice Period of July 9, 2012, through August 22, 2012, Inclusive.

Official Notice of proposed changes to the California Code of Regulations, title 5, regarding the establishment of enrollment priorities for the California Community Colleges was published on July 9, 2012. The original proposed text was made available for public comment for at least 45 days from July 9, 2012, through August 22, 2012. No written comments were received during the comment period. A public hearing was during the Board of Governors meeting on July 9, 2012, at the Chancellor's Office. Comments from six people were heard. Pursuant to Standing Order 206, subdivision (b)(3), the Chancellor's Office has summarized all written and oral comments and proposed responses below for adoption by the board.

#### ***Comments Received During the Public Hearing***

**Dennis Bailey-Fougner (Vice President, Student Services, Cabrillo College, and President of the Chief Student Services Administrators Association (CSSO):** Speaking on behalf of the CSSO's, Mr. Bailey-Fougner expressed overall support of the proposed regulation, in particular prioritizing enrollment for veterans, foster youth, EOPS, and DSPS, and incentivizing matriculation services for students. He also related some concerns with the proposed regulation, such as a district's ability to properly program academic standing as required by the regulation. He stated that districts have different capabilities with respect to computer information systems. He also stated that the appeals process required by the regulation will have significant workload impacts on staff and that it would be helpful if more time was provided to alert students regarding the impacts of the regulatory change.

Additional comments were provided in a written statement submitted by Mr. Bailey-Fougner. The written comments repeated some of the concerns described above and included additional issues. The written comments note that because of the timing of the issuance of grades, there will be a delay in implementing the loss of priority. Also, changes to the regulation since presentation to Consultation Council added an additional ground for appeal that allows students with a disability to appeal if priority enrollment was lost due to the college's failure to provide timely reasonable accommodation. It was asserted that this would impose great potential liability on colleges and is duplicative of existing processes. Finally, the written statement states that costs to implement the regulation have not been considered or estimated and no new funding has been identified. The regulation will impose both one-time and ongoing costs.

***Response:*** Implementation of the proposed priority enrollment regulation will require some new programming to reflect the new priority enrollment levels, requirements for continued enrollment priority, timely notice to students at risk of losing priority, and the appeals process. The proposed regulation is based upon existing title 5 regulations that set standards for academic progress and

*probation and student notification. By using existing title 5 standards and requirements, the Chancellor's Office sought to minimize implementation costs. In addition, the workgroup decided to require full implementation by Fall 2014 to allow for adequate time for districts to make necessary programming changes. It is true that the appeals process will likely require additional staff work, however, it is expected that this process can be coordinated with existing appeals process at the colleges to reduce the impact on workload. Additionally, by delaying implementation until Fall 2014 provides sufficient time to communicate the changes to students.*

*It is correct that the impact on students from loss of enrollment priority will be delayed because substandard academic standing will not be determined until after enrollment for the next semester occurs. This was discussed at great length by the Enrollment Priorities Workgroup which was tasked with the development of the regulatory proposal. The proposed regulation was written in a way to provide districts with the flexibility to address this, which may include districts allowing students to enroll in a subsequent term conditionally based on the satisfactory completion of the prior term, adjusting registration priority windows, or utilizing early alert or mid-term academic progress checks. Regarding the appeal based on lack of reasonable accommodation, the Chancellor's Office does not believe that this creates new, potential liability because the proposed regulatory appeal provision on reasonable accommodation is consistent with the standards that already exist in federal and state law. Chancellor's Office staff recommends that districts utilize existing appeal processes to mitigate any increased appeals resulting from the proposed regulation.*

*Regarding costs, Chancellor's Office staff surveyed several colleges throughout California and found that implementation costs will vary greatly among districts, depending on the extent to which districts have already implemented policies consistent with the proposed regulation, have programed local computer systems to address certain aspects of the appeal and exemption process, and are able to use existing appeals processes.*

**Aiden Ely (Dean, Student Development and Enrollment Management, Folsom Lake College and President of the California Community Colleges Matriculation Professionals Association, CCCMPA):** Speaking on behalf of CCCMPA, Mr. Ely stated the association's opposition to the provision granting priority to first time students with student education plans (SEP). Mr. Ely stated that there are inadequate resources to develop meaningful SEP's for all the students needing them. However, because the regulation advantages students with a SEP, students will insist on having an SEP and this will place pressure on colleges to produce SEP's that are not fully developed.

**Response:** *It was the intent of the Student Success Task Force to ensure that entering students are provided with a foundation to support their success in college by requiring students to complete orientation, assessment, and develop education plans. The Task Force recognized the importance of providing entering students with initial guidance on course selection, referring them to resources available to support their success and ensuring they enroll in courses that will help them achieve their educational goal. While districts would have to ensure that non-exempt first time students are*



*able to complete orientation, assessment, and student education plans in order for this student group to have enrollment priority within the third level [58108(c)(3)], it is not a requirement that districts do so if they lack the capacity at this time. The work group recognized that the education plan for a first time student may be an initial education plan that is less comprehensive than one to be developed after the completion of the first or second term. The Chancellor's Office is working with the Matriculation Advisory Committee, Chancellor's Office Advisory Group on Counseling and others to further develop definitions and models related to education plans.*

**Maryanne Michaels, Paula Muñoz and Danita Scott-Taylor (Extended Opportunity Program and Services, EOPS):** Ms. Michaels, Ms. Muñoz, and Ms. Scott-Taylor spoke on behalf of EOPS. These three speakers addressed similar concerns and their comments have been combined for the purposes of this summary. The speakers expressed concern that EOPS students would be disadvantaged as a result of this regulation. They stated that state law requires that EOPS students have the highest priority and this is unchanged by recent laws providing priority to veterans, active duty military and current and former foster youth. They underscored that EOPS students overcome great adversity and need enrollment priority to succeed in college.

**Response:** *Chancellor's Office legal staff believe the comments are incorrect as a matter of law. The EOPS program is mentioned in the Education Code, but state law does not require that EOPS students receive priority enrollment. However, past practice in the system has been for EOPS to receive priority enrollment. Education Code sections 66025.8 and 66025.9 were enacted in recent years to provide enrollment priority for veterans, active duty military, and current and former foster youth. There is no question that the student groups identified in Education Code have the highest enrollment priority. The proposed regulation include a provision that would allow districts the discretion to collapse levels 1 and 2 if the statutorily protected groups are not disadvantaged in the process and a district determines it has the capacity to do so. It is expected that at most colleges EOPS students will be able to continue to receive priority enrollment.*

**Scott Lay (President, Community College League of California):** Mr. Lay, speaking on behalf of the Community College League of California, expressed support for the regulation. He also specifically supported the ability of districts to provide priority enrollment for cohorts of recent high school graduates because this practice has been shown to be very effective in achieving high levels of student success.

**Response:** *Agree. The proposed regulation allows for enrollment priority for cohorts of recent high school graduates and is designed to incentivize successful student behaviors and institutional practices that support student success.*