PRESENTED TO THE BOARD OF GOVERNORS
DATE: July 8-9, 2013

ISSUE: This item presents consideration of adoption of an emergency regulation regarding appointment of a special trustee.

BACKGROUND: On July 3, 2013 City College of San Francisco (CCSF) was notified by the Accrediting Commission for Community and Junior Colleges (ACCJC) that CCSF’s accredited status was being terminated. Because accredited status is a requirement for receipt of state apportionment funds, loss of accreditation would have a devastating fiscal impact on the finances of the San Francisco Community College District leading to bankruptcy and closure. It would also create a tremendous hardship for current and prospective students of one of the largest community colleges in the United States.

California Education Code section 84040 and California Code of Regulations title 5 (title 5) section 58310 et seq. authorize the Board of Governors to adopt procedures to address severe financial problems. The existing title 5 regulations provide general authority for the Board of Governors to intervene to provide assistance, but the regulations as written do not specifically address the current situation. The proposed amendment to the regulation would clearly authorize the Board of Governors to take necessary action in support of CCSF.

RECOMMENDED ACTION: It is recommended that the Board of Governors, in order to preserve the public peace, health and safety or general welfare due to the serious crisis facing City College of San Francisco, adopt Resolution 2013-03 amending title 5 section 58312 as an emergency regulation authorizing the appointment of a special trustee if a college is in jeopardy of losing its accreditation and subject to fiscal collapse and closure.
ANALYSIS: Title 5 sections 58310-16 address district financial requirements and provide the Board of Governors with processes and procedures to support districts in financial duress. For districts facing the most serious challenges, sections 58310 and 58312 authorize the appointment of a special trustee to assume management and control of the district. Section 58312 provides that a special trustee may be appointed if the Chancellor determines that the district’s plans to remedy the situation are inadequate to solve the financial problems or to implement the principles of sound financial management.

These regulations were most recently amended in 2004 to address problems faced by the Compton Community College District. The regulations, as currently written, could support the appointment of a special trustee at CCSF because CCSF has demonstrated that it is unable to solve its financial problems and implement principle of sound financial management. However, because the circumstances facing CCSF are different than those faced by Compton CCD, it would be appropriate to amend the regulations to ensure that the Board of Governors has clear authority to support the appointment of a special trustee at CCSF. It is important that constituent groups and others associated with CCSF clearly recognize the authority of the Board of Governors in this very difficult period.

The proposed amendments to section 58312 specifically authorize the Board of Governors to appoint a special trustee with full power to assume management and control of a district if a college within that district is in serious jeopardy of losing its accreditation as this would result in fiscal collapse and closure of the college. This regulation would provide the Board of Governors and the Chancellor with clear authority to take the steps necessary, including the appointment of a special trustee to assume management and control of the district. If a trustee with these powers is appointed, the trustee would effectively replace the elected local board of trustees.

The Board of Governors Standing Orders and Procedures controls the process for the adoption of title 5 regulations by the Board of Governors. In most cases, regulations are presented to the Board for a first reading followed by a 45 day public comment period and then the Board is asked to adopt the regulations at a second meeting. This is followed by a review by the Department of Finance. The entire process often takes six months or longer. However, the Board of Governors Standing Orders and Procedures section 206(d) provides an Emergency Exception. If the Board of Governors makes a finding that regulatory action is necessary for immediate preservation of the public peace, health and safety or general welfare, the action may be adopted immediately as an emergency action. The emergency action remains in effect for a period of not more than 180 days which allows the Board to readopt the regulation using the normal process.

As explained above, CCSF faces a very serious crisis. The possibility of the City of San Francisco losing its only community college is clearly a threat to the public peace, health and safety or general welfare of the community. CCSF serves 80,000 students annually. Many, if not most, of these students have no other higher education option available to them. While there are other community colleges in the region, access is limited due to limited capacity at those colleges and the inability of many San Francisco residents to travel to outlying areas. In addition, CCSF is the largest provider of workforce training in the Bay Area. The traditional, extended process of adopting a
regulation would severely impair the ability of the Board of Governors to intervene in support of CCSF. Based on all of this, The Board of Governors has ample grounds for the adoption of an emergency regulation.