

**CALIFORNIA COMMUNITY COLLEGES  
CHANCELLOR'S OFFICE**

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**NOTICE OF PROPOSED RULEMAKING****AMENDMENT TO CALIFORNIA CODE OF REGULATIONS, TITLE 5  
REGARDING CREDIT COURSE REPETITION AND APPORTIONMENT FOR COURSE ENROLLMENT**

Notice published April 25, 2013

**NOTICE IS HEREBY GIVEN** that, pursuant to Standing Order 200, the Board of Governors of the California Community Colleges proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

**PUBLIC HEARING**

A public hearing will be held during the next regularly scheduled Board of Governors meeting on May 6-7, 2013, at 1102 Q Street, Sacramento, California. The Board meeting will commence at the hour of 12:00 p.m. on May 6, or as soon thereafter as the business of the Agency will permit. The room is wheelchair accessible. Other disability-related accommodations such as materials in alternate media, sign language interpreters, or real time transcription will be provided to persons with disabilities upon request. Parking accessible for persons with disabilities is available near the facility. Persons requesting such accommodations should notify Njeri Griffin, 1102 Q Street, Sacramento, CA 95811-6549, [ngriffin@cccco.edu](mailto:ngriffin@cccco.edu), 916-445-8508, no less than five working days prior to the meeting. The Chancellor's Office will make efforts to meet requests made after such date, if possible.

At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed regulatory action described in the Informative Digest. The Board of Governors requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their comments. No oral comments will be accepted subsequent to this public hearing.

**WRITTEN COMMENT PERIOD**

Any interested person may submit written comments relevant to the proposed regulatory action. To ensure that your comments have the maximum effect in developing the final regulations, we urge you to identify clearly the specific section or sections of the proposed regulations that each of your comments addresses and to arrange your comments in the same order as the proposed regulations. Please send your comments to:

Office of the General Counsel  
California Community Colleges  
Chancellor's Office  
1102 Q Street, 3rd Floor  
Sacramento, CA 95811-6549

Attn: Michelle Goldberg, Staff Counsel

Comments may also be submitted by facsimile at 916-322-9030 or by email at [regcomments@cccco.edu](mailto:regcomments@cccco.edu). Comments must be received by Michelle Goldberg prior to 5:00 p.m. on June 14, 2013.

### **MODIFICATIONS TO PROPOSED TITLE 5 AMENDMENTS**

Following the public hearing and considering all timely and relevant comments received, the Board of Governors may adopt the proposed regulations substantially as described in this Notice or may modify the proposed regulations if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified regulation will be available for 15 days prior to its adoption from Michelle Goldberg and will be mailed to those persons who submit written comments relevant to the proposed regulatory action, or who provide oral comments at the public hearing, or who have requested notification of any changes to the proposal.

### **AUTHORITY AND REFERENCE**

Authority: Education Code sections 66700 and 70901

Reference: Education Code sections 70901, 70902, 76000, and 76224

### **INFORMATIVE DIGEST**

Changes to title 5 of the California Code of Regulations adopted by the Board of Governors (BOG) in July 2012 (effective January 2013) limited the apportionment a district could receive for the attendance of a student in credit courses that are related in content to four enrollments (six enrollments if quarters). (Cal. Code Regs., tit. 5, § 58161(d).) A course is related in content if the courses have “similar primary educational activities in which skill levels or variations are separated into distinct courses with different student learning outcomes for each level or variation.” (Cal. Code Regs., tit. 5, § 55000(l).) For example, Beginning Writing, Intermediate Writing, and Advanced Writing are distinct courses of writing and are courses that are “related in content.”

The limitation on apportionment was intended to be the same as the student limitation on enrollment in courses that are related in content. However, the student limitation on courses that are related in content applies only to active participatory courses in physical education, visual arts, or performing arts. (Cal. Code Regs., tit. 5, § 55040(c).) The failure to likewise specify that the

apportionment limitation was also applicable to only active participatory courses in physical education, visual arts, and performing arts was unintended and an oversight. Not amending subdivision (d) to specify that the limitation on related course enrollment applies only to active participatory courses in physical education, visual arts, and performing arts would have the absurd effect of limiting a student's enrollment in courses such as history, mathematics, and English to only four enrollments if those courses have "similar primary educational activities in which skill levels or variations are separated into distinct courses with different student learning outcomes for each level or variation." (Cal. Code Regs., tit. 5, § 55000(l).) Section 58161 of title 5 of the California Code of Regulations is proposed to be amended to clarify that the "related course" apportionment limitations, like the student enrollment limitations, apply only to active participatory courses in physical education, visual arts, and performing arts.

In addition, changes to title 5 adopted by the BOG in July eliminated the ability of districts to designate physical education, visual arts, and performing arts courses as repeatable. However, section 55044 currently permits districts to allow students to enroll multiple times in courses offered for variable units on an open-entry/open-exit basis, including physical education, visual arts, and performing arts courses. Proposed amendments to section 55040(b)(4) and section 55044 eliminate the authority of districts to allow students to repeat a physical education, visual arts, or a performing arts course because it is offered as variable unit course on an open-entry/open-exit basis. Further, proposed changes to section 58161(f)(3) clarify that apportionment cannot be claimed for multiple enrollments by student in physical education, visual arts, or performing arts pursuant to section 55044.

In section 55041 (repeatable courses), a change of the word "special" to "extenuating" circumstances proposed in section 55041(a)(3) is to use parallel language to the title of the section referred to, course repetition due to extenuating circumstances. (Cal. Code Regs., tit. 5, § 55045.) Also in section 55041, language is proposed to be added to subdivision (c) to clarify that if a course is repeated pursuant to another section, such as to alleviate a substandard grade, the district policy may permit the previous grade(s) to be disregarded. This proposed change is simply to clarify existing law, not to change it.

In section 55042 (course repetition to alleviate substandard academic work) subdivision (c) is proposed to be amended to clarify that students receiving a substandard grade in a course properly designated as repeatable pursuant to section 55041 cannot exceed the number of enrollments in the course permitted by section 55041 in order to alleviate the substandard grade.

Last, all definitions were consolidated in section 55000 rather than scattered throughout Chapter 6, thus we propose to correct a reference in section 55046, subdivision (a) to the consolidated definition section.

#### **ESTIMATED COST OR SAVINGS OF PROPOSED AMENDMENTS**

The estimated cost or savings of the proposed amendments are anticipated to be as follows:

Mandate on local agencies or community college districts: None

Cost or savings to state agencies: None

Costs to local agencies or community college districts for which reimbursement would be required pursuant to part 7 (commencing with section 17500) of division 4 title 2 of the Government Code:

None

Other non-discretionary cost or savings imposed on community college districts: None

Cost or savings in federal funding to state agencies: None

The effect of the adoption of the proposed regulations will not impose increased costs or new costs to community college districts that are required to be reimbursed under section 17561 of the Government Code. Such determination will be made a formal part of the public hearing at the time and place described above. Furthermore, there are no direct costs or indirect costs or savings to any state agency, no costs or savings in federal funding to the state and no non-discretionary costs or savings to local agencies.

## **CONTACT PERSON**

Inquiries concerning the content of these regulations may be directed to:

Barry Russell, Vice Chancellor  
Academic Affairs Division  
California Community Colleges Chancellor's Office  
1102 Q Street, 3rd Floor  
Sacramento, CA 95811-6549  
Telephone: 916-322-6881  
E-mail: [brussell@cccco.edu](mailto:brussell@cccco.edu)

Inquiries concerning the regulatory process may be directed to Michelle Goldberg, Staff Counsel, at 916-324-4711 or [mgoldberg@cccco.edu](mailto:mgoldberg@cccco.edu).

## **TEXT OF PROPOSED REGULATIONS AND CORRESPONDING DOCUMENTS**

Copies of the exact language of the proposed regulation, and all of the information upon which the proposal is based, may be obtained online at:

<http://www.cccco.edu/SystemOffice/BoardofGovernors/BoardofGovernorsMeetingSchedule/tabid/515/Default.aspx> or <http://extranet.cccco.edu/Divisions/Legal/Regulations.aspx>.

Those who receive the Board of Governors Agenda package for the May 6-7, meeting can find a further description of the proposal and the full text of the regulations in agenda item number 3.1

You may also request a copy of the proposal from Michelle Goldberg, using the contact information provided above.

MG/II