

ATTACHMENT 1

BOARD OF GOVERNORS OF THE CALIFORNIA COMMUNITY COLLEGES PROPOSED REVISIONS TO TITLE 5 REGULATIONS: Inadequate Plans by District or Failure to Implement Plans; Authorized Actions by the Chancellor

1. Section 58312 of subchapter 4, of chapter 9 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 58312. Inadequate Plans by District or Failure to Implement Plans; Authorized Actions by the Chancellor.

If the Chancellor determines that the district's plans prepared and adopted pursuant to section 58310 are inadequate to solve the financial problems or to implement the principles of sound fiscal management, or if the district substantially fails to implement the plans, or if a college operated by the district is in imminent jeopardy of losing its accreditation which would create severe fiscal problems, the Chancellor shall have the authority to take any of the following actions. The Chancellor should first utilize measures which minimize interference with normal district operation, unless he or she determines that acting otherwise is necessary to prevent the worsening of fiscal conditions at the district.

(a) Conduct a comprehensive management review of the district and its educational programs and an audit of the financial condition of the district. The Chancellor may also contract for, or request another appropriate agency to conduct, the reviews and audit or require the district, at the expense of the district, to contract for the reviews and audit. The terms and conditions of the contract and the final selection of a contractor shall be subject to the written approval of the Chancellor.

(b) Direct the district to amend and readopt the fiscal and educational plans prepared pursuant to section 58310 based on the findings of the comprehensive audits.

(c) Review and monitor the implementation of the plans and direct the district to make any further modifications to the fiscal and educational plans he or she deems necessary for the district's achievement of fiscal stability.

(d) Appoint or assign a special trustee at district expense for the period of time necessary for the district to achieve fiscal stability or solvency, ~~or to implement the principles of sound fiscal management,~~ or to maintain the accredited status of a college or to recover accredited status if it has been terminated. The Chancellor shall establish benchmarks that indicate the presence of local capacity to manage fiscal duties. The special trustee shall have recognized expertise in finance, and may, with the approval of the Chancellor, employ on a short-term basis any staff necessary to assist the special trustee. The Chancellor shall determine and specify in writing the duties of the special trustee, which may include, but are not limited to, any or all of the following:

(1) Reviewing and monitoring the plans, reports, and other financial material required under section 58310 and this section.

(2) Requiring any further modifications to the fiscal and educational plans which he or she deems necessary.

(3) Determining district spending levels and priorities to further the district's achievement of fiscal stability.

(4) Approving or disapproving actions of the district which affect or relate to the implementation of the fiscal and educational plans.

(e) If the Chancellor determines that further efforts to have the district modify or implement the plans would be futile, the Chancellor may, with the approval of the Board of Governors, also authorize a special trustee appointed pursuant to subdivision (d) to assume management and control of the district, including assumption of the legal rights, powers and duties of the governing board of the district to the full extent deemed necessary by the Board of Governors in order to achieve fiscal stability or solvency, ~~or~~ to implement the principles of sound fiscal management set forth in section 58311, or to maintain the accredited status of a college or recover accredited status if it has been terminated. The Chancellor may authorize the special trustee to exercise such powers as are approved by the Board of Governors for a period of no more than one year, unless the Board of Governors approves one or more one-year extensions. The exercise by the special trustee of such powers shall be subject to all legal requirements applicable to the district. The governing board of the district may not exercise any authority so assumed.

(f) The Chancellor may require the district, at district expense, to pay all costs incurred in performing any of the services described in this section. This may include requiring the district to employ staff or contract for services necessary to assist the special trustee, to compensate the special trustee for his or her services and for any expenses or liabilities that he or she may incur, to insure the special trustee, and to defend, indemnify and hold harmless the special trustee, the Office of the Chancellor or its employees and the state for any liability arising out of or in connection with the conduct of the district or its governing board prior to the appointment of the special trustee. Alternatively, or to the additional extent necessary, the Chancellor may withhold funds necessary to pay for any or all such costs incurred in performing the services described herein from funding that would otherwise have been apportioned to the district under Section B of the State School Fund.

NOTE: Authority cited: Sections 66700, 70901 and 84040, Education Code. Reference: Section 70901, Education Code.