



The Board of Governors of the California Community Colleges

PRESENTED TO THE BOARD OF GOVERNORS

DATE: September 9-10, 2013

SUBJECT: Revision of Title 5 Regulations to Authorize Appointment of a Special Trustee (PUBLIC HEARING)		Item Number: 3.2	
		Attachment: Yes	
CATEGORY:	Legal	TYPE OF BOARD CONSIDERATION:	
Recommended By:	 Steven Bruckman, Executive Vice Chancellor	Consent/Routine	
		First Reading	X
Approved for Consideration:	 Brice W. Harris, Chancellor	Action	
		Information	

ISSUE: On July 8, 2013, the Board of Governors adopted an amendment to title 5, section 58312, as an emergency regulation. The regulation expanded the circumstances under which the board could appoint a trustee to include a case in which a college is in danger of losing accreditation. Emergency regulations expire after 180 days.

BACKGROUND: On July 3, 2013, City College of San Francisco was notified by the Accrediting Commission for Community and Junior Colleges that City College of San Francisco’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. The Board of Governors adopted emergency title 5 regulations to add loss of accreditation as a basis for the appointment of a special trustee of a community college district. The temporary nature of the emergency regulations necessitates this regulatory action and hearing.

RECOMMENDATION: The proposed regulations are presented to the Board of Governors for a first reading. It is recommended that the Board of Governors hold a public hearing for receipt of comments, both written and oral, which are offered concerning the proposed action. It is anticipated that the regulations will be presented to the board for adoption at its November 2013, meeting.

ANALYSIS: Title 5, sections 58310 to 58316, 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. Prior to the adoption of the emergency regulations, section 58312 provided 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. These regulations could support the appointment of a special trustee at City College of San Francisco because the college has demonstrated that it is unable to solve its financial problems and implement principles of sound financial management. However, because the circumstances facing City College of San Francisco are different than those faced by Compton Community College District, 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 City College of San Francisco.

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 imminent 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 Procedures and Standing Orders of the Board of Governors control 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, Procedures and Standing Orders Board of Governors 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.

A regulation adopted as an emergency action remains in effect for a period of not more than 180 days, requiring the board to readopt the regulation using the normal process to maintain it permanently. This mechanism was used at the July board meeting to allow for the appointment of a trustee at City College of San Francisco. It is now necessary to bring the regulation back to the board for first reading in September and action in November in order to maintain the amended regulation.

The proposed regulation changes are included as Attachment 1.