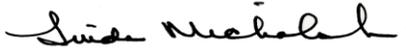




The Board of Governors of the California Community Colleges

PRESENTED TO THE BOARD OF GOVERNORS

DATE: January 13-14, 2014

SUBJECT: Financial Assistance Awards (Second Reading)		Item Number: 2.1	
		Attachment: Yes	
CATEGORY:	Student Services and Special Programs	TYPE OF BOARD CONSIDERATION:	
Recommended By:	 Linda Michalowski, Vice Chancellor	Consent/Routine	
		First Reading	
Approved for Consideration:	 Brice W. Harris, Chancellor	Action	X
		Information	

ISSUE: To implement the fee waiver provisions of Senate Bill 1456 through proposed changes to California Code of Regulations, title 5, section 58601 et seq.

BACKGROUND: Senate Bill 1456, signed by Governor Brown on September 27, 2012, provides a foundation to implement several recommendations from the Student Success Task Force (SSTF). The bill requires that a student qualifying for a fee waiver meet minimum academic and progress standards adopted by the Board of Governors, and provides detailed requirements regarding the content, adoption and application of those standards.

RECOMMENDED ACTION: It is recommended that the Board of Governors adopt the following resolution:

Be it Resolved

The Board of Governors of the California Community Colleges, acting pursuant to Education Code sections 66700, 70901(c), and 70901.5, hereby:

- accepts the comments and proposed responses to the proposed regulatory action;
- approves the proposed regulation changes;
- directs the Chancellor to file the regulations with the Secretary of State and submit the regulations to the Office of Administrative Law for printing unless the Department of

Finance determines the regulations would create a state-mandated local program cost and is unable to certify to the Board of Governors and the Legislature that a source of funds is available to reimburse that cost (see Education Code section 70901.5(a)(6));

- authorizes the Chancellor to take any necessary ministerial action to process these regulations; and
- adopts the regulations effective thirty days after filing with the Secretary of State and submission of the regulations to the Office of Administrative Law.

The proposed regulations are presented to the Board of Governors for approval and adoption. The Board of Governors held a public hearing in November and has responded to comments.

ANALYSIS: Recommendation 3.2(B) from the SSTF was adopted into law with the passage of Senate Bill 1456. The law provides that the Board of Governors adopt minimum academic and progress standards for BOG Fee Waiver eligibility. While it does not prescribe what those standards are, it establishes significant limitations and requirements including that a student shall not lose fee waiver eligibility unless he or she has not met established standards for a period of no less than two consecutive terms. The law also requires adequate consumer information about the policies, a process for re-establishing eligibility, and notification and appeals processes. The law also includes several “intent” statements that have helped to shape the proposed regulations.

The Chancellor’s Office convened a BOG Fee Waiver Work Group to begin implementation discussions when Senate Bill 1456 was still undergoing revisions through the legislative process. The work group which included representatives from faculty, students, chief student services officers, financial aid administrators, EOPS directors, admissions and records officers and institutional researchers, met a total of five times over an extended period. Its work interacted with that of the Enrollment Priorities Work Group at several junctures, reflecting the intent of the SSTF that requirements for getting and retaining enrollment priority and requirements for BOG Fee Waiver eligibility work together to incentivize students to approach their education in ways most likely to lead to success.

The proposed regulations add section 58621, *Loss of Eligibility*, to title 5. This section immediately follows current regulations regarding eligibility for fee waivers. The proposed regulations:

- Establish two consecutive primary terms of not meeting academic and/or progress standards as the trigger for loss of eligibility of the fee waiver.
- Rely on existing probation regulations in section 55031(a) and (b) to define minimum academic and progress standards.
- Provide an exemption for Foster Youth.
- Require districts to adopt and disseminate policies that ensure students are informed about the new requirements and about the student support services available to assist them.
- Contain references to new Student Support and Service Program regulations regarding essential student support services that must be provided by districts to at risk students.
- Require that students be notified of their probation status within 30 days of the end of the term for which the student did not meet academic or progress standards.

- Require that districts establish and publish written policies and procedures for appeals. Specify that valid appeals include extenuating circumstances of various types, such as changes in economic situations or evidence that the student was unable to obtain essential student support services from the campus.
- Tie the appeal process to that of the Enrollment Priorities regulations; a successful appeal of the loss of enrollment priority shall result in the restoration of fee waiver eligibility.
- Require that districts begin notification to students following the spring 2015 term and that all requirements are fully operational by fall 2016. The first loss of fee waiver eligibility shall not occur prior to fall 2016.

The regulation package also includes some technical clean-up language to address unrelated BOG Fee Waiver changes since the last rewrite of these sections.

Notice of the proposed regulations was published on October 31, 2013, to begin the 45-day public comment period. The regulations were presented to the Board of Governors on November 12, 2013, for a first reading and public hearing. A re-notice of the proposed title 5 changes was issued on November 22, 2013. The notice specified the process to comment on the proposed changes. Comments from six people were heard at the public hearing in November. In addition, six written comments were received during the comment period. The proposed regulation changes are included as attachment 1. A summary and analysis of proposed changes to each regulation is included as attachment 2. A summary and response to the public comments received is included in attachment 3.

Attachment 1

BOARD OF GOVERNORS OF THE CALIFORNIA COMMUNITY COLLEGES REVISIONS TO TITLE 5 REGULATIONS: FINANCIAL ASSISTANCE AWARDS

1. Section 58601 of subchapter 7 of chapter 9 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 58601. Definitions.

As used in this subchapter:

Board of Governors ~~Grant~~Fee Waiver. An instrument used by a community college district to process the financial assistance provided to ~~a low-income~~ eligible students pursuant to the terms of this subchapter.

Note: Authority cited: Sections 66700, 70901 and 76300, Education Code. Reference: Section 76300, Education Code.

2. Section 58612 of subchapter 7 of chapter 9 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 58612. Financial Assistance Awards.

(a) A community college district shall provide Board of Governors ~~Grants~~Fee Waivers to all students who are eligible and who apply for this assistance.

~~(b) A student who is determined to be eligible for a Board of Governors Grant may be presumed to be eligible for that assistance for the remainder of the academic year and until the beginning of the following fall term.~~

(eb) Nothing in this subchapter shall prohibit a community college district from establishing a date beyond which it will not accept applications for this financial assistance.

Note: Authority cited: Sections 66700, 70901 and 76300, Education Code. Reference: Section 76300, Education Code.

3. Section 58620 of subchapter 7 of chapter 9 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 58620. Student Eligibility: Board of Governors ~~Grant~~Fee Waiver.

To be eligible for a Board of Governors ~~grant~~Fee Waiver, a student must:

(a) Be a California resident; so long as a person qualifies for a military statutorily required exception to residence determination pursuant to Education Code section 68074, ~~or section 68075, or section 68075.5, or is statutorily required to be exempted from paying nonresident tuition pursuant to Education Code section 68130.5,~~ he or she shall be deemed a California resident for purposes of this section; and

(b) Meet one of the following criteria:

(1) Income Standards.

(A) Be a single and independent student having no other dependents and whose total income in the prior year was equal to or less than 150% of the U.S. Department of Health and Human Services Poverty Guidelines for a family of one; or be a married, independent student, or an independent student in a registered domestic partnership (RDP), having no dependents other than a spouse, whose total income of both student and spouse or RDP in the prior year was equal to or less than 150% of the U.S. Department of Health and Human Services Poverty Guidelines for a family of two.

(B) Be a student who is dependent in a family having a total income in the prior year equal to or less than 150% of the U.S. Department of Health and Human Services Poverty Guidelines for a family of that size, not including the student's income, but including the student in the family size.

(C) Provide documentation of taxable or untaxed income.

(D) Be a student who is married, in a registered domestic partnership, or a single head of household in a family having a total income in the prior year equal to or less than 150% of the U.S. Department of Health and Human Services Poverty Guidelines for a family of that size.

(E) Be an independent student whose Estimated Family Contribution as determined by federal methodology is equal to zero or a dependent student for whom the parent portion of the Estimated Family Contribution as determined by federal methodology is equal to or less than zero.

(F) For purposes of this subdivision, U.S. Department of Health and Human Services Poverty Guidelines used each year shall be the most recently published guidelines immediately preceding the academic year for which a fee waiver is requested.

(2) Current recipient of benefits described in Education Code section 76300(g).

(A) At the time of enrollment be a recipient of benefits under the Temporary Assistance for Needy Families (TANF) program. A dependent student whose parent(s) or guardian(s) are recipients of TANF shall be eligible if the TANF program grant includes a grant for the student or if the TANF grant is the sole source of income for the parent or guardian.

(B) At the time of enrollment be a recipient of benefits under the Supplemental Security Income (SSI) program. A dependent student whose parent(s) or guardian(s) are recipients of SSI shall be eligible if the SSI program grant is the sole source of income for the parent(s) or guardian(s).

(C) At the time of enrollment be a recipient of benefits under the General Assistance program.

(D) Provide documentation that the student is a recipient of benefits under one of the programs identified in Education Code section 76300(g) and (h) at the time of enrollment. Documentation sufficient to meet the requirements of this subdivision shall provide official evidence of these benefits.

(3) Need-Based Financial Aid Eligibility. Any student who has been determined financially eligible for federal and/or state needed-based financial aid.

Note: Authority cited: Sections 66700, 68044, 70901, ~~and 76300~~, and 76300.5, Education Code. Reference: Sections 68074, 68075 and 76300(g) and (h), Education Code; 20 ~~USC~~U.S.C. Section 1070(a); and 34 ~~CFR~~C.F.R. Section 674.12.

4. Section 58621 of subchapter 7 of chapter 9 of division 6 of title 5 of the California Code of Regulations is added to read:

58621. Loss of Eligibility.

(a) (1) Districts shall adopt policies providing that a student who is otherwise eligible for a Board of Governors (BOG) Fee Waiver shall become ineligible if the student is placed on academic or progress probation, as defined in section 55031(a) or (b), or any combination thereof for two consecutive primary terms. Loss of eligibility shall become effective at the first registration opportunity after such determination is made. (2) Foster Youth, as defined in Education Code section 66025.9(b), shall not be subject to loss of BOG Fee Waiver under this section. This exemption is effective until the date specified in Education Code 66025.9(c).

(b) For purposes of this section, primary terms are fall and spring semesters for colleges on a semester system and fall, winter, and spring quarters for colleges on a quarter system. Terms shall be considered consecutive on the basis of the student's enrollment so long as the break in the student's enrollment does not exceed one primary term.

(c) Districts shall adopt, prominently display, and disseminate policies ensuring that students are advised about the student support services available to assist them in maintaining and reestablishing BOG Fee Waiver eligibility. Dissemination includes but is not limited to information provided in college catalogs and class schedules.

(d) Students placed on academic or progress probation pursuant to section 55031(a) or (b) shall be notified of their status no later than thirty days following the end of the term that resulted in the student being placed on academic or progress probation. This notice shall clearly state that two consecutive primary terms of probation will lead to loss of the BOG Fee Waiver until the student is no longer on probation pursuant to section 55031(a) or (b). This notice shall also advise students about the available student support services to assist them in maintaining eligibility. Pursuant to Section 55523(c) colleges shall ensure that students shall have the opportunity to receive appropriate counseling, assessment, advising, or other education planning services on a timely basis to mitigate potential loss of the fee waiver.

(e) Each community college district shall establish written procedures by which a student may appeal the loss of the BOG Fee Waiver 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 that might include documented changes in the student's economic situation or evidence that the student was unable to obtain essential student support services. Essential student support services include, but are not limited to, services identified in the student education plan developed under section 55524, and any services to which the student was referred pursuant to section 55520. Extenuating circumstances also includes special consideration of the specific factors associated with Veterans, CalWORKs, EOPS, and DSPS student status. Districts may allow students who have demonstrated significant academic improvement to retain or appeal the loss of the BOG Fee Waiver. Significant academic improvement is defined as achieving no less than the minimum grade point average and progress standard established in section 55031 (a) and (b). A student who

successfully appeals the loss of enrollment priority shall also have BOG Fee Waiver eligibility restored.

(f) Districts shall begin notifications to students following the spring 2015 term and ensure that the requirements of this section are fully operational for registration for the fall 2016 term. Loss of BOG Fee Waiver eligibility pursuant to this section shall not occur prior to the fall 2016 term. Districts shall ensure that all board policies and course catalogs reflect the requirements of this section and that appropriate and timely notice is provided to students.

(g) Districts shall not impose requirements for BOG Fee Waiver eligibility other than the requirements of this section and section 58620.

Note: Authority cited: Sections 66700, 70901 and 76300, Education Code. Reference: Sections 66025, 76300, Education Code.

Attachment 2

Summary and Analysis of Revisions to title 5 regulations FINANCIAL ASSISTANCE AWARDS

§ 58601. Definitions

The terms “Grant” and “low income” are proposed to be changed to the terms “Fee Waiver” and “eligible,” for consistency with the amended and added portions of this section.

§ 58612. Financial Assistance Awards.

Subsection (b) is proposed to be deleted to reflect the proposed change for loss of eligibility, as is being proposed in the added section 58621.

§ 58620. Student Eligibility: Board of Governors ~~Grant~~Fee Waiver.

Section 58620 heading is proposed to be amended to be consistent with the changes in this section. Sections (a) and (b)(1)(A) and (b)(1)(D) are proposed to be amended to reflect changes in state law related to residency determinations and eligibility. The authority section is also proposed to be changed to add the relevant Education Code section for these changes.

58621. Loss of Eligibility.

Section 58621 is proposed to establish that students must meet academic and progress standards in order to retain eligibility for the BOG Fee Waiver. Students who don't meet the established standards for two consecutive terms would be subject to loss of eligibility for the fee waiver. The regulations also outline notification and appeals requirements that colleges must follow.

ATTACHMENT 3

Summary and Response to Comments Received During the Notice Period of October 31, 2013 through December 17, 2013 Inclusive.

Official notice of proposed changes to California Code of Regulations, title 5, regarding Financial Assistance Awards (the Board of Governors Fee Waiver Program) was published on October 31, 2013. The original proposed text was made available for public comment for at least 45 days from October 31, 2013, through December 17, 2013. A 15-day re-notice of modifications to text of the proposed regulations was published November 22, 2013, with the public comment period also open through December 17, 2013. The notices specified the process to comment on the proposed changes. Six written comments were received during the comment period. A public hearing was held during the Board of Governors meeting on November 12, 2013, 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 the oral and written comments and proposed responses below for adoption by the Board.

Comments Received During the Public Hearing

Ashley Setoudeh (Townsend Public Affairs)

Ms. Setoudeh explained that she was representing the Orange County Community Colleges Legislative Task Force (OCCCLTF), which is comprised of all four of the community college districts in Orange County. She expressed that they have some initial concerns about the regulations given that the federal government is also discussing student financial aid eligibility and accountability requirements. The OCCCLTF believes that it is very important to align state standards with those at the federal level. Ms. Setoudeh indicated that they would be following up with a more detailed public comment letter detailing the concerns, but she wanted to express their concerns to the Board and to also indicate appreciation of the hard work on these regulations. The OCCCLTF looks forward to working with the Board and staff on these issues.

Proposed Response

The Student Success Task Force (SSTF) discussed at some length whether or not to recommend using the federal government's Satisfactory Academic Progress (SAP) standards for the Board of Governors (BOG) Fee Waiver program. Financial aid association members who attended the SSTF meetings recommended that we not adopt the federal SAP standards, mainly because those standards are very time consuming to administer. In addition, the SSTF believed strongly that the standards we establish should apply to conditions for continued eligibility of priority enrollment as well as to the BOG Fee Waiver. The current standards are also used for probation and dismissal status at our colleges, giving more weight to the argument in favor of using the title 5 standards, rather than the federal standards. The BOG Fee Waiver Work Group, which included student representation, also discussed this issue and agreed with the SSTF. It concluded that the federal SAP requirements are too burdensome to administer and that adopting them now would leave California's policy subject to any revisions the federal government might make to its requirements in the future.

At this point the Enrollment Priorities regulations have been approved and are being implemented. Those regulations rely on current title 5 regulations governing academic and progress probation. These same regulations should apply to the BOG Fee Waiver. This solution will allow districts to align all policies and procedures with existing title 5 academic and progress standards.

Dean Murakami (Faculty Association of California Community Colleges (FACCC))

Mr. Murakami stated that his organization has a serious concern about the appeals section of the proposed regulations. As the regulations are written, there is a waiver for Foster Youth from the loss of the BOG Fee Waiver. FACCC believes that all of our most vulnerable students, including EOPS, DSPS, and CalWORKs, should also be extended a waiver of the loss of the fee waiver. Mr. Murakami said, “when you put together an appeals process, you know it’s not going to be equally applied across all colleges; it is going to be sort of like a capricious decision. Also these are the most vulnerable students. These students don’t know how to work the system very well. A lot of them probably will not even know there is an appeal process. How many of them will actually go through an appeals process? This is a gigantic problem.” Mr. Murakami stated that this really hurts the chance of any success for these students who have serious economic and personal issues that present significant barriers: that removing their BOG Fee Waiver would have a serious impact and leave many of those students absolutely no chance for success.

Proposed Response

The BOG and the California Community Colleges Chancellor’s Office (CCCCO) share the concern expressed for vulnerable students. The regulations currently being considered are one component of the Board’s Student Success Initiative; regulations previously adopted (Cal. Code Regs., tit. 5, §§ 51024, 55500 et. seq.,) require colleges to provide orientation, assessment, counseling, advising, education planning and follow-up services for at-risk students. We are committed to providing strong guidance and training about the appeals processes and the expectation that all vulnerable student groups be considered for an appeal of the loss of the fee waiver on a case-by-case basis. The regulations require that districts adopt, prominently display, and disseminate policies about student support services to assist those students in maintaining and reestablishing fee waiver eligibility. The regulations also require colleges to establish written procedures by which students may appeal their loss of a BOG Fee Waiver. The required individual notifications that are sent to students on probation must include information on the appeals process and support services. The CCCCCO is also committed to continuing our communication efforts to highlight the change and ways students can retain their fee waivers. Contrary to wanting to create barriers to success for any group of students, the regulations and the direction of the Student Services and Success Program as a whole is to ensure better opportunities for success to all students.

Kim Tran (Campaign for College Opportunity)

Mr. Tran reminded the BOG that his organization worked with the SSTF in 2012 and with the Chancellor’s Office in support of Senate Bill (SB) 1456. He praised the Chancellor’s office staff for their hard work in developing the proposed title 5 changes. He stated that his organization believes that the proposed regulations adhere to what he and their coalition partners were seeking in moving SB 1456 through the Legislature and as such expressed support in favor of item 3.1. Because the item is up for first reading and feedback from stakeholders, Mr. Tran encouraged the Board and the Chancellor’s Office to fully outline the student appeals process at the statewide level. He said that providing more guidance on the student-centered appeals process will result in uniform policies that protect vulnerable students and will have little variance from campus to campus. Mr. Tran indicated that with this improvement full implementation of SB 1456 will result in positive changes for the community college system in favor of student success.

Proposed Response

An appeals process, by its nature, is conducted on an individual, case-by-case basis. An individual provides documentation of his or her unique circumstances and factors in support of the appeal to a college official. Each college will have its own documented process, policies and procedures for reviewing appeals. In lieu of a systemwide solution the CCCCCO will provide strong and clear guidance about our expectations and factors that should be taken into consideration in the appeals process. The CCCCCO will work with various advisory groups on this guidance and will ensure that it is vetted with stakeholders before it is released.

Scott Hamilton (California Association for Postsecondary Education and Disability (CAPED))

Mr. Hamilton's organization represents the California Community Colleges DSPS program and Disability services staff. He indicated that CAPED has also sent a written comment letter about this topic but that he wanted to also comment verbally at this meeting. CAPED's concerns center around the specific issue of the exemptions and the fact that Foster Youth were identified in this agenda item as being recognized as having severe educational and financial barriers to success and that also describes students and people with disabilities. Supporting comments included, "You can find all kinds of statistics: the federal Department of Labor shows that people with disabilities have 70% higher unemployment rates than people without disabilities. The federal Social Security Administration shows that the income for disabled workers is about half of nondisabled workers. By definition, any student who is a DSPS student has an educational limitation or else they are not a DSPS student. Their disability causes an educational limitation, so, we think that if there is going to be an exception, it should also include students with disabilities..." He comments that another recent factor is that Assembly Bill (AB) 595, which adds DSPS and EOPS students to top enrollment priority, was passed and signed by the Governor. His position is that the same logic that resulted in DSPS and EOPS getting top enrollment priority should be applied to the fee waiver regulations.

Proposed Response

The BOG and the CCCCCO agree that DSPS students can face significant educational and financial hardships and recognize that some DSPS students may struggle with maintaining academic and progress standards, placing them at risk of losing the fee waiver. As a result the CCCCCO added explicit language in the appeals section of the regulations relating to DSPS, CalWORKs, EOPS, and Veteran students. We are committed to providing strong guidance and training about the appeals processes and the expectation that all vulnerable groups of students, on a case-by-case basis, are considered for an appeal of the loss of the fee waiver. Foster Youth are treated in a unique manner because there is no statutory requirement to participate in the SSSP as a condition of their receipt of priority enrollment and we believe it is in the best interests of all students to conform the BOG Fee Waiver regulations to the regulations for priority enrollment to the greatest extent possible.

Jeanette Zanipatin (Mexican American Legal Defense and Educational Fund (MALDEF))

Ms. Zanipatin thanked the Board for their leadership in implementing the recommendations of the Student Success Task Force. Ms. Zanipatin said, "MALDEF worked really hard on SB 1456 with our equity partners to ensure that our students had a chance to do better and to succeed in the community college system. One of the things that we clearly advocated for was for the appeals process with the BOG Fee Waiver. We are really concerned about this population of students who are definitely your most vulnerable." She indicated concern that "students who are newly eligible for financial aid not only because of the California Dream Act, but also because of the President's program for Deferred Action for Childhood Arrivals" would be amongst those vulnerable groups of students. MALDEF supports a uniform

appeals process that protects the due process rights of these students, especially considering many of them are first-time college students, first members in their family attending community college, and as mentioned previously, very vulnerable populations. MALDEF feels that a systemwide appeals process would better serve the needs of these students so that there is no disparity from district to district, or campus to campus. She urged that the Board consider adopting a systemwide appeals process that fully protects the due process rights of these students.

Proposed Response

An appeals process, by its nature, is conducted on an individual, case-by-case basis. An individual provides documentation of his or her unique circumstances and factors in support of the appeal to a college official. Each college will have its own documented process, policies, and procedures for reviewing appeals. In lieu of a systemwide solution the CCCCCO will provide strong and clear guidance about our expectations and factors that should be taken into consideration in the appeals process. The CCCCCO will work with various advisory groups on this guidance and will ensure that it is vetted with stakeholders before it is released.

Alvin Ja

Mr. Ja introduced himself and explained that he was before the Board as an individual without affiliation to any organization but with the thought that he was speaking for people who wouldn't normally be found in this setting. Mr. Ja began his comments by stating that "the whole beauty of the community college system is that it's a system of open access. It lets people in no matter if their academic background in high school was bad." Mr. Ja indicated that many people with gang or anti-social backgrounds come into community college and that many of them leave the system with their lives turned around—with the ability to succeed in this society as opposed to "mugging you in the street." He commented that this proposal is basically a process of screening people out. Instead of encouraging and "allowing people to get education, what it does is tells them to get back." Mr. Ja stated that people who don't have an academic kind of background have a very good chance of getting less than C grades two semesters in a row. "Even people who are hard workers, they might have bad English language background. It's going to affect those people too. So, basically I think you need to rethink this whole idea..." Mr. Ja stated that the concept of holding students accountable is good, but that he believes there will be major unintended consequences.

Proposed Response

The Board appreciates Mr. Ja's comments and is especially appreciative that someone would make the effort as an individual to attend the meeting to express his concerns. The SSTF, the Fee Waiver Workgroup and, especially, the California Legislature have considered the possibility of unintended consequences related to adding academic and progress standards to the conditions for continued eligibility for the fee waiver. We believe that the undesirable consequences can be avoided with the system's commitment to earlier education planning, more concentrated course selection, and ongoing support for students that are fundamental to the Student Success Initiative. There is a culture of change surrounding the California Community Colleges, and that change includes refocusing on what students need to be successful.

Written Comments

Ms. Grace Hanson (President, California Association for Postsecondary Education and Disability)

Ms. Hanson submitted a letter on behalf of students with disabilities in California Community Colleges and the professionals who serve them. In light of the passage of AB 595, placing DSPS and EOPS students in the first tier for priority registration purposes, CAPED proposes that the title 5 Board of Governor's Fee Waiver regulations be changed to exempt students registered with DSPS. Since Foster Youth were exempted from loss of BOG waiver due to their priority status in the law, CAPED believes that DSPS and EOPS students should be treated the same and be exempted from loss of BOG Fee Waiver. Ms. Hanson points out that the Board of Governor's agenda item, in the analysis section, includes, "Provide an exemption for Foster Youth, who are recognized as having severe educational and financial barriers to success." She adds that students with disabilities are the definition of having severe educational barriers. "Research demonstrates that students with disabilities have the highest unemployment and lowest wages earned. As such, students with disabilities also have financial barriers to success." Ms. Hanson is proposing changes be made to title 5, section 58621, Loss of Eligibility, to reflect DSPS students' new priority status in the law. Ms. Hanson also submitted a document that provided suggested language that would exclude DSPS and EOPS students from possible loss of fee waiver eligibility due to these regulations.

Proposed Response

The issues raised in the letter from Ms. Hanson on behalf of CAPED, the students with disabilities in the California Community Colleges and the professionals who serve them are the same as those presented orally by Mr. Hamilton at the November 12, 2013, Board meeting. Our proposed response would be the same as indicated in response to Mr. Hamilton's comments.

Melissa Jacobs (President, California Community Colleges CalWORKs Association)

Ms. Jacobs' letter introduces her organization as "recognized as the foremost collective voice for the promotion of education as a vehicle to self-sufficiency for CalWORKs students and their children." The organization provides leadership in promoting statewide collaboration, and professional development to support CalWORKs students' success through educational excellence and workforce training. Ms. Jacobs thanks the Chancellor's Office for including the association in the discussion while developing the proposed fee waiver regulations, specifically related to the loss of eligibility for the fee waiver. Ms. Jacobs strongly encourages, as the Chancellor's Office develops guidance on the appeals process, that careful consideration be given to the multi-system impacts to the CalWORKs parents attending our institutions. Ms. Jacobs ends her letter with the following statement: "While we support the need for CalWORKs students to fully matriculate and participate in the student success initiative support services (i.e. orientation, assessment and education planning), we respectfully request that the Board of Governors consider the generational effect that losing a fee waiver will have on the over 31,000 CalWORKs students and their families who are dependent on State aid and living at 40% of the poverty level."

Proposed Response

The Board of Governors and the Chancellor's Office very much appreciates the thoughtful and collaborative discussions we have had about these regulations and the appeals process. As we continue to develop guidance, training and other communications with our colleges about implementation of these regulations we will consider the multi-system and generational effects on the CalWORKs families

we both serve. We are also committed to continuing to include stakeholders in our discussions about implementation and the case-by-case appeals guidance going forward.

Will Bruce (President, California Community Colleges Extended Opportunity Programs and Services Association (CCCEOPSA))

Mr. Bruce states that his organization represents all of the EOPS programs across the state and serves as the primary advocacy group securing educational access for and retention of those students that are educationally and economically disadvantaged. EOPS programs were established in 1969 to supplement the regular education programs of the college in order to encourage enrollment of students handicapped by language, social, and economic disadvantages and to facilitate the successful completion of their educational goals and objectives. In the spirit of this advocacy, CCCEOPSA respectfully requests that the Chancellor's Office amend the proposed fee waiver regulations to include DSPS, CalWORKs, EOPS, and Veterans as part of the exempted group along with Foster Youth. Mr. Bruce provided suggested regulatory language to reflect this proposed change. Mr. Bruce also expressed that his organization is aware that the proposed regulations include EOPS students in the appeals section of the regulations; however his association strongly believes that CalWORKs, DSPS, EOPS, and Veterans deserve to be added as part of the exempted group due to their vulnerability and high needs.

Proposed Response

The BOG and the CCCCCO agree that CalWORKs, DSPS, EOPS, and Veteran students, along with Foster Youth, can face significant educational and financial hardships and recognize that these students may struggle with maintaining academic and progress standards, placing them at risk of losing the fee waiver. As a result the CCCCCO added explicit language in the appeals section of the regulations relating to CalWORKs, DSPS, EOPS, and Veteran students. We are committed to providing strong guidance and training about the appeals processes and the expectation that all vulnerable groups of students, on a case-by-case basis, are considered for an appeal of the loss of the fee waiver. Foster Youth are treated in a unique manner because there is no statutory requirement to participate in the SSSP as a condition of their receipt of priority enrollment and we believe it is in the best interests of all students to conform the BOG Fee Waiver regulations to the regulations for priority enrollment to the greatest extent possible.

Mr. Ned Doffoney, Ed.D. (Orange County Community Colleges Legislative Task Force)

Mr. Doffoney submitted a letter on behalf of the Orange County Community Colleges Legislative Task Force (OCCCLTF) expressing its concerns regarding the proposal to amend eligibility for the BOG Fee Waiver. Mr. Doffoney states that such amendments to title 5 of the California Code of Regulations regarding financial assistance awards do not align with federal student aid eligibility standards, and it is a cause for concern. Mr. Doffoney states "The Federal Standards of Progress differ from the State Standards of Progress, leaving students confused about how to retain eligibility for financial aid. Also, students are able to use the BOG Fee Waiver one semester at a time, whereas students have a different timeline to use federal funds. The OCCCLTF believes that California student financial aid eligibility and timelines for use of such funds should be closely aligned with federal guidelines, thereby creating a more streamlined process for students." Mr. Doffoney also expressed concerns related to the exemption for Foster Youth students. Mr. Doffoney stated that while it is understandable that Foster Youth students are a vulnerable population, it is also known that Disabled Student Programs and Services (DSPS) and Extended Opportunity Programs and Services (EOPS) students are vulnerable as well. Thus, the OCCCLTF believes the proposed amendments to title 5 regulations should include exemptions for DSPS and EOPS students, in addition to Foster Youth.

Proposed Response

The Student Success Task Force (SSTF) discussed at some length whether or not to recommend using the federal government's Satisfactory Academic Progress (SAP) standards for the fee waiver program. Financial aid association members who attended the SSTF meetings recommended that the BOG not adopt the federal SAP standards, mainly because those standards are very time consuming to administer. In addition, the SSTF believed strongly that the standards the BOG adopted should apply to conditions for continued eligibility of priority enrollment as well as to the BOG Fee Waiver. The current standards are also used for probation and dismissal status at the California Community Colleges, giving more weight to the argument in favor of using the title 5 standards, rather than the federal standards. The BOG Fee Waiver Work Group, which included student representation, also discussed this issue and agreed with the SSTF. It concluded that the federal SAP requirements are too burdensome to administer and that adopting them now would leave California's policy subject to any revisions the federal government might make to its requirements in the future.

The BOG and the CCCC agree that DSPS, and EOPS students, along with Foster Youth, can face significant educational and financial hardships and recognize that these students may struggle with maintaining academic and progress standards, placing them at risk of losing the fee waiver. As a result the CCCC added explicit language in the appeals section of the regulations relating to CalWORKs, DSPS, EOPS, and Veteran students. We are committed to providing strong guidance and training about the appeals processes and the expectation that all vulnerable groups of students, on a case-by-case basis, are considered for an appeal of the loss of the fee waiver. Foster Youth are treated in a unique manner because there is no statutory requirement to participate in the SSSP as a condition of their receipt of priority enrollment and we believe it is in the best interests of all students to conform the BOG Fee Waiver regulations to the regulations for priority enrollment to the greatest extent possible.

Mr. Raul Rodriguez, Ph.D. (Chancellor for the Rancho Santiago Community College District):

Dr. Rodriguez submitted a letter on behalf of the Rancho Santiago Community College District (RSCCD) to express its concerns regarding the proposed amendments to regarding financial assistance awards. Dr. Rodriguez expressed concern that the proposal to amend eligibility for the BOG Fee Waiver does not align with federal student aid eligibility standards, that federal and state "Standards of Progress" are not the same and leave students confused about how to retain financial aid eligibility. Dr. Rodriguez also stated that the BOG Fee Waiver can be used one semester at a time, whereas students have a different timeline to use federal funds. The RSCCD believes that California student financial aid eligibility and timelines for use of such funds should be closely aligned with federal guidelines, thereby creating a more streamlined process for students.

Dr. Rodriguez also expressed their concerns related to the exemption for Foster Youth students. Dr. Rodriguez stated that while it is understandable that Foster Youth students are a vulnerable population, it is also known that Disabled Student Programs and Services (DSPS) and Extended Opportunity Programs and Services (EOPS) students are vulnerable as well. Lastly, the RSCCD believes the proposed amendments to Title 5 regulations should include exemptions for DSPS and EOPS students, in addition to Foster Youth. Dr. Rodriguez proposed that if exemption to DSPS and EOPS students is not possible, at the very least the two consecutive primary terms of not meeting academic and/or progress standards as a trigger to lose eligibility should be extended to four consecutive terms. In addition, the RSCCD believes that requiring districts to notify a student of their probation status within 30 days of the end of the term for which the student did not meet academic or progress standards is problematic. Dr. Rodriguez is

requesting that the BOG consider a longer period of time to allow this notification to take place, such as a 45 day period.

Proposed Response

The Student Success Task Force (SSTF) discussed at some length whether or not to recommend using the federal government's Satisfactory Academic Progress (SAP) standards for the fee waiver program. Financial aid association members who attended the SSTF meetings recommended that the BOG not adopt the federal SAP standards, mainly because those standards are very time consuming to administer. In addition, the SSTF believed strongly that the standards the BOG adopted should apply to conditions for continued eligibility of priority enrollment as well as to the BOG Fee Waiver. The current standards are also used for probation and dismissal status at the California Community Colleges, giving more weight to the argument in favor of using the title 5 standards, rather than the federal standards. The Fee Waiver Work Group, which included student representation, also discussed this issue and agreed with the SSTF. It concluded that the federal SAP requirements are too burdensome to administer and that adopting them now would leave California's policy subject to any revisions the federal government might make to its requirements in the future.

The BOG and the CCCCCO agree that DSPS and EOPS students, along with Foster Youth, can face significant educational and financial hardships and recognize that these students may struggle with maintaining academic and progress standards, placing them at risk of losing the fee waiver. As a result the CCCCCO added explicit language in the appeals section of the regulations relating to CalWORKs, DSPS, EOPS, and Veteran students. We are committed to providing strong guidance and training about the appeals processes and the expectation that all vulnerable groups of students, on a case-by-case basis, are considered for an appeal of the loss of the fee waiver. Foster Youth are treated in a unique manner because there is no statutory requirement to participate in the SSSP as a condition of their receipt of priority enrollment and we believe it is in the best interests of all students to conform the BOG Fee Waiver regulations to the regulations for priority enrollment to the greatest extent possible.

The suggestion that the probation period for DSPS and EOPS students be extended from two semesters to four is an interesting way of extending protection to these students; however, we believe that a standard of two semesters (or three quarters) is more consistent with current academic and progress standards and aligns with the legislative intent that the academic and progress provisions be applied consistently throughout the state.

Regarding the required 30 day notification period, the BOG Fee Waiver Work Group, when considering this issue, was concerned that if students were notified any more than 30 days after the end of the term, they would not have sufficient time to access services and turn their progress around. We understand that this requirement will result in some changes at the colleges regarding when grades are submitted and evaluated. We believe that the shorter notification timeframe provides significant benefits to students and offers them more time to improve academically before losing the fee waiver.

Mr. Jonathan Lightman (Executive Director, Faculty Association of California Community Colleges):

Mr. Lightman submitted a letter on behalf of the Faculty Association of California Community Colleges (FACCC) stating its concerns on the proposed changes to title 5 relating to academic progress standards for students receiving the BOG Fee Waiver. Mr. Lightman stated that section 58621 (a)(2) defines at-risk students too narrowly. Mr. Lightman expressed concern that only Foster Youth are exempt from the new standards, while Veterans, EOPS, DSPS, and Cal WORKs students are referenced only in the appeals

process. Mr. Lightman states, “All of these populations should be exempt...” and “...there is no single definition of ‘at risk.’ While Foster Youth clearly qualify as ‘at risk’ under the spirit of SB 1456, so do these other groups. All of these populations should be exempt.” Mr. Lightman indicated the disparate treatment reflected in the draft language would likely provoke legislative intervention if not litigation.

Secondly, Mr. Lightman stated that the elevation of Veterans, EOPS, DSPS, and CalWORKs status in the appeal process will likely result in greater complexity in analyzing appeals from these populations and once again, the potential for litigation is significant. Mr. Lightman stated that the most appropriate solution is to exempt all of these populations from the new requirements and doing so would conform to the desired spirit of SB 1456 in protecting “at risk” students and eliminate questions of why similarly situated students are treated differently. In relation to section 58621(3), Mr. Lightman stated that the appeals process should be uniform; expressing that the lack of statewide uniformity of such appeals processes across districts presents a significant problem. “Due process must be standardized with a student at a Northern California campus receiving the same opportunity for fundamental fairness as one in the South (and vice versa).” Mr. Lightman stated that since this is a statewide policy change emanating from an addition to the California Education Code, it deserves uniformity across districts with a strong oversight role of the Chancellor’s Office to ensure compliance. Mr. Lightman expressed concerns that failure to address an inconsistent appeals process could result in arbitrary decisions that negatively impact students and litigation would be the likely recourse, causing our already cash-strapped districts to incur additional unnecessary expenses. Lastly, while the FACCC consistently objected to the underlying policy of imposing academic progress standards for BOG fee waiver students in SB 1456, it now implores the Board of Governors to draft regulations in a manner that ensures fairness, minimizes legislative discord, and reduces the potential for costly litigation.

Proposed Response

The BOG and the CCCC agree that Veteran, EOPS, DSPS, and CalWORKs students can face significant educational and financial hardships and recognize that these students may struggle with maintaining academic and progress standards, placing them at risk of losing the fee waiver. As a result the CCCC added explicit language in the appeals section of the regulations relating to DSPS, CalWORKs, EOPS, and Veteran students. We are committed to providing strong guidance and training about the appeals processes and the expectation that all vulnerable groups of students, on a case-by-case basis, are considered for an appeal of the loss of the fee waiver. Foster Youth are treated in a unique manner because there is no statutory requirement to participate in the SSSP as a condition of their receipt of priority enrollment and we believe it is in the best interests of all students to conform the BOG Fee Waiver regulations to the regulations for priority enrollment to the greatest extent possible.

The Board and the CCCC further recognize that the appeals process will have college-to-college variation since an appeals process, by its nature, is conducted on an individual, case-by-case basis. An individual provides documentation of his or her unique circumstances and factors in support of the appeal to a college official. Each college will have its own documented process, policies and procedures for reviewing appeals. The CCCC will provide strong and clear guidance about our expectations and factors that should be taken into consideration in the appeals process. The CCCC will work with various advisory groups on this guidance and will ensure that it is vetted with stakeholders before it is released.