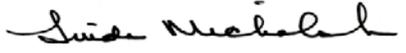




# The Board of Governors of the California Community Colleges

PRESENTED TO THE BOARD OF GOVERNORS  
 DATE: September 9, 2014

SUBJECT: Board of Governors Fee Waiver Regulations – Ineligible Student (Second Reading and Adoption)		Item Number: 2.4	
		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:** A change is proposed to add section 58629 to the California Code of Regulations, title 5, to permit a district that erroneously awarded a Board of Governors Fee Waiver to an ineligible student to waive that student’s repayment of the waived enrollment fee under specified conditions.

**BACKGROUND:** It has been brought to the attention of the Chancellor’s Office that there are circumstances where students were erroneously awarded Board of Governors Fee Waiver(s) in a prior term and those students cannot afford to pay back the waived enrollment fee. It is anticipated that the occurrence of these errors may increase as the new Board of Governors’ Fee Waiver eligibility requirements adopted by the Board of Governors in January 2014, are implemented by districts.

**RECOMMENDATION:** The proposed regulations are presented to the Board of Governors for approval and adoption. The Board of Governors held a public hearing on July 7, 2014: no comments were made during the hearing nor during the public comment period from June 26, 2014 to August 11, 2014.

The Board of Governors is asked to 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:

- 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 as set forth in 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.

**ANALYSIS:** All students enrolling for college credit are required to pay an enrollment fee of \$46 per semester unit of credit or \$31 per quarter unit of credit, unless exempted from that requirement. (Education Code, § 76300(a) and (c).) The Board of Governors is required to reduce by up to ten percent the apportionment of any district that fails to collect the enrollment fee. (Education Code, § 76300(d).) In addition, students who are not classified as residents are required to pay a nonresident tuition fee, unless exempted from that requirement. (Education Code, § 68050.) Current regulations permit a district to waive collection of the nonresident tuition fee if the fees were not collected as a result of the district’s error and not through the fault of the student, and retroactive collection of the fees would cause the student an undue hardship. (California Code of Regulations, title 5, § 54072.) If a district does waive the nonresident tuition fee pursuant to this section, the district may not claim state apportionment for the attendance of the student for whom the fees were waived. (California Code of Regulations, title 5, § 54072.)

Proposed section 58629 would permit districts under similar circumstances to waive the enrollment fee where the district had erroneously awarded a student a Board of Governors Fee Waiver. The waived enrollment fee would still have to be reported to the Chancellor’s Office for purposes of state apportionment offset pursuant to Education Code, section 76300(c). The attendance of the student for whom the enrollment fees are waived pursuant to the proposed section would be claimable for state apportionment purposes if all applicable apportionment eligibility requirements are otherwise met. (See, California Code of Regulations, title 5, § 58000 et seq.)

The proposed regulatory change is included as Attachment 1.  
An analysis of the proposed change is included as Attachment 2.