

NOTICE PUBLICATION/REGULATION SUBMISSION

PRINT

ONLY

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2015-1204-06 P	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

ENDORSED - FILE
in the office of the Secretary of State
of the State of California

DEC 04 2015

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2015 DEC -4 P 4:34

OFFICE OF ADMINISTRATIVE LAW

AGENCY WITH RULEMAKING AUTHORITY
Board of Governors of the California Community Colleges

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE N/A	TITLE(S) N/A	FIRST SECTION AFFECTED N/A	2. REQUESTED PUBLICATION DATE N/A
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON N/A	TELEPHONE NUMBER N/A	FAX NUMBER (Optional) N/A
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S)
Community College Property Direct Costs for Use - Proportionate Direct

1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 59601, 59602, 59603, 59604, 59605, 59606
	AMEND
TITLE(S) 5	REPEAL

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input checked="" type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify)	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) Effective on filing with Secretary of State 5100 Changes Without Regulatory Effect Effective other (Specify) **30 days after filed w/Secretary of State**

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

Department of Finance (Form STD. 399) (SAM §6660) Fair Political Practices Commission State Fire Marshal

Other (Specify)

7. CONTACT PERSON
Javier Gonzalez


TELEPHONE NUMBER
916 327-5493

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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

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SIGNATURE OF AGENCY HEAD OR DESIGNEE


DATE
11/23/15

TYPED NAME AND TITLE OF SIGNATORY
Erik Skinner, Executive Deputy Chancellor

TITLE 5. EDUCATION

Division 6. California Community Colleges

Chapter 10. Community College Administration

Subchapter 10. Community College Property Direct Costs for Use

Article 1. Proportionate Direct Costs for Use of College Facilities and Grounds.

Article operative until Jan. 1, 2020.

§ 59601. Definitions.

(a) "Applicant" means the direct cost fee payer requesting use of college facilities or grounds (Education Code section 82537 et seq.).

(b) "Direct costs" are the estimated costs identified by a community college district as follows:

(1) "Capital direct costs" include the estimated costs for maintenance, repair, restoration, and refurbishment for use of the college facilities or grounds pursuant to Education Code section 82542.

(A) For purposes of estimating capital direct costs, "college facilities" shall be limited to nonclassroom space, but may apply to specialty teaching spaces, including, but not limited to, dance studios, music practice or performance spaces, and theaters.

(B) Capital direct costs shall not apply to classroom-based programs that operate after school hours, including, but not limited to, after school programs, tutoring programs, or child care programs.

1. A program is defined as classroom-based for purposes of this subdivision if participants spend at least 50 percent of operational hours in a classroom.

(C) Capital direct costs shall not apply to organizations retained by the college or community college district to provide instruction or instructional activities to students during school hours.

(2) "Operational direct costs" include the estimated costs of supplies, utilities, janitorial services, services of any other community college district employees and/or contracted workers, and salaries and benefits paid to community college district employees directly associated with the administration of the direct cost user fees to

1 operate and maintain school facilities or grounds.

2 (c) The term "College grounds" shall include, but not be limited to, playing fields,
3 athletic fields, track and field venues, tennis courts, and outdoor basketball courts.

4 NOTE: Authority cited: Sections 82537 and 82542, Education Code. Reference:
5 Sections 82537 and 82542, Education Code.

6
7 **§ 59602. Determining Proportionate Share.**

8 Community college districts electing to charge applicants for all direct costs, or either
9 capital direct costs or operational direct costs, shall do the following:

10 (a) Calculate the proportionate share, as a percent, that each college facility or
11 grounds is available for use by applicants as follows:

12 (1) Estimate the total annual hours a college facility or grounds is expected to be
13 used by applicants.

14 (2) Estimate the total annual hours a college facility or grounds is expected to be
15 used by anyone, including applicants and the community college district.

16 (3) Divide the number of hours in subdivision (a)(1) by the number of hours in
17 subdivision (a)(2).

18 (b) In the alternative, community college districts may elect to determine
19 proportionate share by categorizing like college facilities or grounds (e.g., all football
20 fields, all gymnasiums) and performing the same calculation as outlined in subdivisions
21 (a)(1) through (a)(3).

22 NOTE: Authority cited: Sections 82537 and 82542, Education Code. Reference:
23 Sections 82537 and 82542, Education Code.

24
25 **§ 59603. Determining Specific Allowable Capital Direct Costs.**

26
27 Specific to each college facility and grounds (or like college facilities and grounds as
28 described in section 59602(b)), the community college district shall quantify annual
29 capital direct costs as follows:

30 (a) Determine the useful life in years from the initial date of occupancy or use.

31 (b) Estimate the expected cost to maintain, repair, restore, or refurbish the college

1 facility or grounds at the end of its useful life. Substitute the estimated cost to replace a
2 college facility or grounds when maintenance, repair, restoration or refurbishment would
3 not be practicable or cost effective.

4 (c) Divide the cost in subdivision (b) over the number of years in subdivision (a) to
5 reflect the annual cost.

6 NOTE: Authority cited: Sections 82537 and 82542, Education Code. Reference:
7 Sections 82537 and 82542, Education Code.

8
9 **§59604. Determining Specific Allowable Operational Direct Costs.**

10 Specific to each college facility and grounds (or like college facilities and grounds as
11 described in section 59602(b)), the community college district shall quantify annual
12 operational direct costs by estimating the following costs:

13 (a) The annual cost of salaries and benefits for all community college district
14 employee labor or contracted services required to operate, clean, and maintain the
15 school facility or grounds, which may include janitorial services, setup and teardown
16 time, and security.

17 (b) The annual cost of supplies required to operate and maintain the college facility
18 or grounds, including all community college district equipment used by applicants.

19 (c) The annual cost of utilities required to operate the college facility or grounds,
20 including any community college district or applicant-provided equipment.

21 (d) The prorated annual salaries and benefits paid to community college district
22 employees directly associated with the administration of direct cost user fees for time
23 spent administering such fees authorized under this article.

24 NOTE: Authority cited: Sections 82537 and 82542, Education Code. Reference:
25 Sections 82537 and 82542, Education Code.

26
27 **§59605. Establishing a Fee Schedule.**

28 (a) When electing to charge fees pursuant to Education Code 82542, a community
29 college district governing board shall adopt a fee schedule that includes the hourly fee
30 for each specific school facility and grounds (or like college facilities and grounds as
31 described in section 59602(b)), calculated as follows:

Attachment 1

1 (1) If charging for capital direct costs only, multiply the capital direct costs quantified
2 in section 59603(c) by the proportionate share as determined in section 59602(a)(3).
3 Divide the product by the total number of hours of applicant use as set forth in section
4 59602(a)(1) to arrive at the hourly rate.

5 (2) If charging for operational costs only, add the operational costs identified in
6 sections 59604(a) through (c) and multiply the sum by the proportionate share as
7 determined in section 59602(a)(3). Divide the product by the total number of hours of
8 applicant use as set forth in section 59602(a)(1) to arrive at an hourly rate. Add to this
9 amount the hourly rate to administer direct cost user fees calculated by dividing the cost
10 identified in section 59604(d) by the total number of hours of applicant use set forth in
11 section 59602(a)(1).

12 (3) If charging for all direct costs, add the hourly rates calculated in subdivisions
13 (a)(1) and (a)(2).

14 (b) A community college district governing board may elect to discount direct cost
15 fees charged based on the type or category of applicant, including, but not limited to,
16 those with tax-exempt status. All such discounts shall be contained in the adopted fee
17 schedule.

18 NOTE: Authority cited: Sections 82537 and 82542, Education Code. Reference:
19 Sections 82537 and 82542, Education Code.

20
21 **§ 59606. Expending Capital Fees.**

22 Funds collected by a community college district as capital direct costs shall be
23 deposited into a special fund that shall only be used for capital maintenance, repair,
24 restoration, refurbishment, or replacement.

25 NOTE: Authority cited: Sections 82537 and 82542, Education Code. Reference:
26 Sections 82537 and 82542, Education Code.