November 21, 2000

TO:        Arnold Bojorquez, Matriculation Coordinator

FROM:     Ralph Black, General Counsel

Subject:   Legal Opinion O 00-36

Synopsis:  Attached is the legal opinion you requested regarding making orientation a mandatory matriculation service.

Action/Date Requested: Review and distribute as necessary.
ISSUE

You have asked whether a community college district may require students to participate in orientation services as part of the matriculation program and, if so, what penalties the district may impose for students who fail to do so.

ANALYSIS

The Board of Governors has adopted regulations set forth at Title 5, California Code of Regulations, sections 55000 et seq., which implement the Seymour-Campbell Matriculation Act (Ed. Code §§ 78210 et seq.). Title 5, section 55520 states that

“At a minimum, each community college district shall provide students, except as exempted pursuant to section 55532, with all of the following matriculation services:
(a) the processing of applications for admission;
(b) orientation and pre-orientation services designed to provide nonexempt students and potential students, on a timely basis, information concerning college procedures and course scheduling, academic expectations, financial assistance, and any other matters the college or district finds appropriate; .

The first part of your question is whether this authorizes a district to mandate that students must go through orientation.

We believe section 55520 can reasonably be construed to mean that students are required to participate in the services listed therein unless granted an exemption. This view is confirmed by reference to section 55502(f) which defines the term “exemption” to mean “waiving or deferring a student’s participation in orientation, assessment, counseling, or advisement required pursuant to Subsections (b), (c), and (f) of Section 55520.” Moreover, section 55532 provides, in pertinent part, that:

“(a) Community college districts may elect to exempt certain students from participation in orientation, assessment, counseling or advisement, as required by subsections (b), (c), or (d) of section 55520. Each such district shall establish policies specifying the grounds for exemption. Such policies shall be identified in the matriculation plan required under section 55510 and the number of students so exempted shall be reported, by category, to the Chancellor pursuant to section 55514. . .
(b) Any student exempted pursuant to this section shall be notified that he or she is covered by an exemption and shall be given the opportunity to choose whether or not to participate in that part of the matriculation process.”

Indeed, subsection (d) of section 55532 emphasizes that students may not simply opt out of certain parts of the matriculation program because it restricts the grounds on which a district may exempt a “student who does not wish to participate.” It follows that if a district does not elect to exercise its authority to grant exemptions from the orientation component, students do not have the option to choose whether or not they wish to participate in that aspect of the
The second part of your question has to do with what penalties a district may impose if a student refuses to go through orientation. This issue is addressed in section 55530 which defines student rights and responsibilities Subsection (d) of section 55530, Title 5, provides that:

“(d) Students shall be required to express at least a broad educational intent upon admission; declare a specific educational goal within a reasonable period after admission; participate in counseling or advisement pursuant to Section 55523(a)(1), (2), and (3); diligently attend class and complete assigned coursework; and complete courses and maintain progress toward an educational goal according to standards established by the district, consistent with the requirements of Chapter 9 (commencing with Section 55750) of Division 6 of this Part. The governing board of each community college district shall adopt clear written policies not inconsistent with law, specifically defining these responsibilities of students and the consequences of failure to fulfill such responsibilities. This policy shall define the period of time within which a student must identify a specific educational goal as required by this Subsection, provided however, that all students shall be required to declare such a goal during the term after which the student completes 15 semester units or 22 quarter units of degree-applicable credit course work, unless the district policy establishes a shorter period. Once the student has developed a specific educational goal, the district must provide the student with an opportunity to develop a student educational plan pursuant to Section 55525. Student responsibilities shall also be identified in the student’s educational plan developed pursuant to Section 55525. If a student fails to fulfill the responsibilities listed in this Subsection, fails to cooperate with the district in the development of a student educational plan within 90 days after declaring his or her specific educational goal, or fails to abide by the terms of his or her student educational plan, the district may, subject to the requirements of this Chapter, suspend or terminate the provision of services authorized in Section 55520, provided however, that nothing in this Section shall be construed to permit a district to suspend or terminate any service to which a student is otherwise entitled under any other provision of law.”

It is our view that section 55530(d) means that a district wishing to make orientation mandatory must so state in its local policies and include participation in orientation as one of the responsibilities delineated in each student’s educational plan. If the student fails to fulfill the responsibilities listed in his or her educational plan, the district’s recourse is to suspend or terminate one or more of the services authorized under section 55520, unless the student is entitled to any such service under another provision of law.

It might be objected that section 55530(d) does not mention participation in orientation as one of the basic responsibilities of all students. This may be because the regulations allow for exempting students from orientation, but in any case, we see nothing in section 55530(d) which would preclude a district from defining additional responsibilities in district policy and enforcing them by means of the student educational plan.

It should, however, be noted that section 55530(a) specifically makes clear that a district does not have the option of barring a student from enrollment in a course for failure to participate in orientation. That subsection states:
“Nothing in this Subchapter shall be construed to interfere with the right of a student admitted to a community college in accord with district admission policies adopted pursuant to Education Code Section 76000, et seq. to enroll in any course for which he or she can meet necessary and appropriate prerequisites, if any, which have been established pursuant to the requirements of Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of this Division.”

CONCLUSION

Thus, we conclude that a community college district may require all students to participate in orientation. To do so, the district must identify this responsibility and the consequences of failure to fulfill it in the district’s matriculation policies and in each student’s educational plan. If it follows this procedure, the district may suspend or terminate other matriculation services if a student declines to participate in orientation (unless the student is otherwise entitled to receive that service), but the district may not bar a student from enrollment in any course or program unless it has properly established orientation as a prerequisite for that course or program.