

# **Final Adoption of Title 5, California Code of Regulations, Related to Proportionate Direct Costs for Use of College Facilities and Grounds**

## **THIS RULEMAKING ADOPTS NEW SUBCHAPTER 10 AND ARTICLE 1 AND SECTIONS 59601, 59602, 59603, 59604, 59605 AND 59606 OF TITLE 5, DIVISION 6, CHAPTER 10.**

### Subchapter 10. Community College Property Direct Costs for Use

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

##### § 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 operate and maintain school facilities or grounds.

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

Note: Authority cited: Sections 82537 and 82542, Education Code. Reference: Sections 82537 and 82542, Education Code.

##### § 59602. Determining Proportionate Share.

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

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

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

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

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

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

Note: Authority cited: Sections 82537 and 82542, Education Code. Reference: Sections 82537 and 82542, Education Code.

#### § 59603. Determining Specific Allowable Capital Direct Costs.

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

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

(b) Estimate the expected cost to maintain, repair, restore, or refurbish the college facility or grounds at the end of its useful life. Substitute the estimated cost to replace a college facility or grounds when maintenance, repair, restoration or refurbishment would not be practicable or cost effective.

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

Note: Authority cited: Sections 82537 and 82542, Education Code. Reference: Sections 82537 and 82542, Education Code.

#### § 59604. Determining Specific Allowable Operational Direct Costs.

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

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

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

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

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

Note: Authority cited: Sections 82537 and 82542, Education Code. Reference: Sections 82537 and 82542, Education Code.

#### § 59605. Establishing a Fee Schedule.

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

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

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

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

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

Note: Authority cited: Sections 82537 and 82542, Education Code. Reference: Sections 82537 and 82542, Education Code.

#### § 59606. Expending Capital Fees.

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

Note: Authority cited: Sections 82537 and 82542, Education Code. Reference: Sections 82537 and 82542, Education Code.