

Implementation Guidance for AB 982 (Laird) Health Fee Waiver

Based upon the provisions of the recently enacted legislation AB 982, the System Office is disseminating guidance to the most frequently asked questions regarding interpretation and implementation:

Q 1. When does AB 982 become effective?

The bill is effective January 1, 2006 for terms beginning on or after January 1, 2006.

Q 2. Can a district choose to delay or postpone implementation until the 2006-07 academic year?

Yes. Districts choosing to implement a change in current policy may do so any time after January 1, 2006.

Q 3. Can a district elect to do nothing?

Yes. Districts are permitted, but not required, to change their policies with regard to waiving health fees for BOG fee waiver recipients.

Q 4. Since the legislation becomes effective in mid-academic year, can a district implement one policy for the upcoming 2006 Spring and Summer terms and a different one for the 2006 Fall term?

Yes. A district has the discretion to do whatever is necessary to make implementation easier or more understandable for students and staff.

Q 5. If a district decides to implement for the upcoming term, can fees be assessed and collected for Spring 2006 now during the Fall term as students are registering for the Spring term?

No. The authority to assess the health fee is not effective until January 1, 2006; therefore the health fee for Spring term cannot be assessed at this time. Community college districts that charge a fee in advance that is not authorized would be in violation of a minimum condition for receipt of state aid.

We believe the law does not preclude a district from *asking* affected students who register early if they wish to **voluntarily** pay the increased fee in anticipation of the assessment after January 1, 2006. However, districts choosing this option must inform students in advance that payment of the fee for the Spring 2006 term is required, that students do not have to pay the fee before January 1, 2006, and that if they choose not to voluntarily pay the fee prior to that date, they will be notified to pay the fee after January 1, 2006.

Q 6. Can the health fee be assessed retroactively?

Since the change in the law is not effective until January 1, 2006, districts cannot retroactively eliminate the fee exemption for terms that began before that date. A district has the discretion to implement the health fee assessment for the Spring 2006 term; however a district may not require BOGFW students to pay health fees *prior to January 1, 2006* for

enrollment in any term. The actual assessment of the fee from each student by the district may only occur AFTER January 1, including for those students registered during early Spring registration held in the current Fall 2005 semester.

If a district decides to implement the health fee assessment for BOGFW students effective for the Spring 2006 term, students enrolling prior to January 1 should be provided a clear explanation of the circumstances related to the expected fee assessment and be informed that payment of the fee for the Spring 2006 term will be required and collected after January 1, 2006.

Q 7. Can a district charge a lower health fee amount to low-income students?

Yes. The System Office Student Fee Handbook, which can be accessed on the System Office Legal Affairs website at: http://www.cccco.edu/divisions/legal/studentfeehandbook_files/studentfeehandbook.htm discusses in Section 3.1, a district's authority to charge a Health Services Fee that may not exceed the maximum allowable fee as specified in statute (currently \$14). This enables districts to assess low-income students a lesser amount if it is determined to be sound policy and in the best interests of the students. Please note, however, that the decision to charge some students a lower fee should be made on a consistent basis (i.e. for a group of students rather than on an ad hoc individual basis) and may not be based on discriminatory criteria.

Q 8. Is Board action needed to collect the fee from low-income students or will previous actions based upon the law and setting the rate serve as sufficient for implementation?

Law currently in effect (Education Code §76355 (c)) has required governing boards of districts to adopt rules and regulations to exempt the specified groups of students from paying the health fee. For governing boards that have adopted such rules, regulations or policies, board action would be required to change that current policy. Even if a governing board has not adopted specific rules, regulations or policies regarding exemptions from paying the health fee, we strongly recommend that districts schedule Board action as a means to ensure adequate notice to the campus community and opportunity for input on the intent to change district health fee waiver policies in accordance with local shared governance policies and procedures.

Q 9. If enrollment fee waiver recipients are no longer exempt by law from paying the health fee, does the district's governing board have the authority to continue to exempt BOGFW students from the health fee?

Yes. It is the district's decision as to whether to ask all students to help supplement the health services budget through the assessment of the health fee or whether to continue the status quo of not charging BOG fee waiver recipients or to not charge a health fee at all. The fiscal strength of the individual campus health centers would likely influence the decision.

Q 10. Does the district's governing board have the authority to decide for what type of student the health fee should be mandatory or optional OR does the district have to decide across the board for ALL students whether the health fee should be mandatory or optional?

This legislation allows the flexibility to determine what works best for each district and its students. The district can decide to charge everyone or allow some students to continue to be exempt from the health fee while charging others. For example, the district could decide to

exempt the lowest-income students by exempting BOGFW-A and BOGFW-B recipients (students who are receiving public assistance or who meet income eligibility standards

respectively). A decision could be made to charge the health fee to BOGFW-C recipients (students who complete the financial aid application) and all other students. Any decision made in this context should take into consideration the additional staff workload required to identify fee waiver distinctions, the harm or benefit to students and the health services budget needs. In addition, such decisions should be made on a consistent basis (not on an ad hoc individual basis) and may not be based on discriminatory criteria.

Q 11. College districts have recently been informed that the health fee can be increased by \$1 to a new total of \$14 due to the increase in the Implicit Price Deflator for State and Local Government Purchase of Goods and Services. Can this \$14 health fee be prorated for part-time students or must the entire fee be charged to all students?

Existing law (Education Code §76355 (b)) gives districts the flexibility to determine the amount of the fee, if any, that a part-time student is required to pay. The district governing board may decide to charge part-time students the full fee, to prorate it or not charge them the fee at all.

Q 12. Will AB 982 result in a reduction in the annual amount that the state provides as reimbursement for claims related to the mandate that applies to those districts that have continuously provided health services since the 1986-87 fiscal year?

Yes. The amount that the State Controller provides as reimbursement is based, in part, on the potential amount of health fees that the district can collect. This potential amount becomes larger once AB 982 takes effect because a significant group of students--BOG fee waiver recipients--will no longer be expressly exempt under state law from paying a health services fee. As a consequence, the amount that the State Controller will calculate as eligible for reimbursement will be reduced beginning with claims filed for fiscal year 2005-06. On or after January 1, 2006, a district can charge BOG fee waiver recipients a health services fee, increasing its annual health fee revenues and thereby partially or fully mitigating the effect of a reduced annual state reimbursement. The cash flow effect of any reduction in state mandate reimbursements will probably not be felt for several years because the state is now several years in arrears in its payment obligations for this (and all other) mandates due to the absence of funds for mandate purposes in recent state budget acts.

Q 13. If fee waiver students are charged the health fee, is it permissible to use other resources to cover the cost for low-income students? For example, do the EOPS regulations allow the expenditure of EOPS funds for this purpose?

Categorical program funds may be available to help some low-income students meet the additional health fee assessment provided that the funding source does not have restrictions that would prohibit such usage and that the program has sufficient resources available to use for this purpose. However, colleges should take into consideration that due to a variety of factors such as program eligibility and/or resource limitations, funding may not be available through categorical programs for *all* low-income students assessed the health fee.

EOPS rules, for example would permit the expenditure of funds to help students with this new assessment. However, such help would be restricted only to those students admitted to the EOPS program on campus and, although permitted, the actual use of the funds for this purpose would be at the discretion of the college and the program. The ability to provide funding in this

manner would be discretionary at the local level based on the adequacy of funds to provide for this additional coverage as a priority in relation to other benefits and services it provides with its finite resources.

Despite being Medi-Cal recipients, CalWORKs students may be able to have the health fee paid by county social services as a reimbursement for fees "required as part of going to college." The System Office is scheduled to meet with the Department of Social Services at the state level to discuss coverage of the health fee. Campus CalWORKs programs do have the option of spending TANF funds for this purpose as a last resort.

Q 14. Won't financial aid cover the cost of health fees for most BOGFW recipients?

No. For Financial Aid (e.g. Pell Grant and other federal or state aid) recipients, the health fee can be added to the student's cost of attendance, but without additional funds to cover the cost it will simply result in increased unmet financial need.

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