



California Community Colleges Supplemental Learning Assistance and Tutoring Regulations and Guidelines

This document is designed to provide guidance and assistance to colleges in the implementation of regulations passed by the Board of Governors in November 2005 and January 2006. The regulations cited and referenced in this document and the accompanying guidelines clarify the circumstances under which California Community Colleges may claim apportionment for providing supplemental learning assistance and tutoring to students seeking additional help in other courses. Supplemental learning assistance is defined as assistance that is offered in learning labs or similar venues and is linked to a primary/parent course. The supplemental course is designed to further students' ability to succeed in the "primary" or "parent" course and its outline identifies the parent course with which it is linked. The regulations approved in November 2005 became effective January 29, 2006 and those approved in January 2006 became effective April 14, 2006. Seven sections of Title 5 Regulations are discussed in these guidelines.

While the guideline accompanying each regulation is not legally binding, it is important to note that district and college observance of each guideline will play an important part in the community college system's continued review and evaluation of supplemental learning assistance and tutoring activities and any subsequent revisions of applicable regulations. Districts that follow these guidelines will likely be in compliance with all regulatory requirements. The guidelines can and will be revised by the Chancellor as deemed necessary.

This document is organized into two broad categories: 1) Supplemental Learning Assistance and 2) Tutoring. Each category is comprised of a list of the title 5 sections, the regulation, and the corresponding guideline, which may include examples.

A. Supplemental Learning Assistance

Five regulations are discussed in this section:

- 58172 - Learning Assistance
- 58164 - Open Entry/Open Exit Courses
- 58009 - Application of Independent Study or Work Experience Attendance Procedure
- 58050 - Conditions for Claiming Attendance
- 59402 - Definitions

58172. Learning Assistance

Attendance for supplemental learning assistance when offered as part of a course may only be reported for state apportionment when either:

(a) the learning assistance is a required component of another course, for all students in that course; or

(b) the learning assistance is optional and is provided through an open entry/open exit course conducted pursuant to subdivision (c) of section 58164, which is intended to strengthen student skills and reinforce student mastery of concepts taught in another course or courses.

Note: Authority cited: Sections 66700 and 70901, Education Code.

Reference: Section 70901, Education Code.

Guideline for Section 58172

The Board of Governor's action to amend this section permits learning assistance to occur in open entry/ open exit courses that offer optional assistance, without requiring the participation of all students enrolled in the primary/parent course or courses. (See the Open Entry/ Open Exit Courses regulation and guideline for additional details.) As in the past, apportionment may also be claimed for learning assistance provided as a required component of a course or through separate courses in which all students are required to enroll, such as occurs in corequisite lab courses that are linked to primary courses.

Apportionment for supplemental learning assistance may be claimed for credit supplemental courses in support of primary/parent credit courses, or for noncredit supplemental courses, in any of the nine noncredit eligible areas outlined in Education Code section 84757, in support of primary/parent noncredit courses.

Only in limited circumstances, such as English as a Second Language (ESL) and basic skills, may colleges offer noncredit supplemental learning assistance courses in support of credit courses. Also, in occupational areas, colleges may establish supplemental noncredit short-term vocational courses in support of credit occupational courses.

All supplemental courses need to be approvable as credit or noncredit courses on their own merit and, at the same time, address skills and/or concepts covered in the primary/parent courses that they support. In order to be approved on their own merit, noncredit short-term vocational courses (one of the 9 categories for noncredit) need to prepare students for employment.

This section of the regulation became effective on January 29, 2006.

58164. Open Entry/Open Exit Courses

(a) The term "open entry/open exit courses" refers to courses in which students enroll at various times, and complete at various times or at varying paces. Open entry/open exit courses may be conducted as either

credit or noncredit courses and may be offered with or without regularly scheduled hours.

b) For open entry/open exit courses for which credit apportionment is claimed, one unit of credit shall be awarded for approximately 48 hours of recitation, study, or laboratory work. Increments of less than one unit of credit shall be awarded in the same proportion.

(c) Where an open entry/open exit course provides supplemental learning assistance pursuant to section 58172, which supports another course or courses, the course outline of record for the open entry/open exit course must identify the other course or courses that it supports and the specific learning objectives to be addressed and the educational competencies students are to achieve.

(d) Full-time equivalent student computations for enrollment in open entry/open exit courses shall be made pursuant to the provisions of subsection (e) of section 58003.1.

(e) The maximum number of hours a student may be enrolled in an open entry/open exit course shall be determined by the curriculum committee established pursuant to section 55002 based on the maximum time reasonably needed to achieve the educational objectives of the course.

(f) State apportionment shall not be claimed under this section for:

(1) optional attendance at artistic or cultural presentations or events (such as, but not limited to, films, concerts, plays, or art exhibitions).

(2) activities which are primarily student use of district facilities, equipment, or resources without provision of instruction involving specifically defined learning objectives and educational competencies set forth in the course outline of record.

Note: Authority cited: Sections 66700 and 70901, Education Code.

Reference: Section 70901, Education Code.

Guideline for Section 58164

Open entry/ open exit courses may be conducted as either credit or noncredit courses. Students may enroll at various times and complete open entry/open exit courses at varying paces.

When an open entry/ open exit course provides learning assistance in support of another course or courses, the outline of record for the supplemental open entry/open exit course must identify the course or courses it supports, as well as the specific learning objectives the student is to pursue. Determination of student contact hours should be based on a maximum number of hours which the curriculum committee considers reasonably necessary to achieve the learning objectives of the primary course or courses being supplemented. Thus, the supplemental course outline should

be prepared in light of the primary course objectives, but the hours for the supplemental outline will then be based on the objectives and related assignments specified in the supplemental course outline.

For credit open entry/ open exit courses, units of credit are to be awarded based upon the objectives and the time typically required to achieve these objectives. One unit of credit should require about 48 hours of recitation, study, or laboratory and may be counted in increments of less than one unit. Colleges and their curriculum committees need to remain cognizant of the relationship of units to hours when reviewing courses and they should carefully scrutinize the amount of time reasonably needed to reach the objectives.

Courses should be designed in such a way that most students who are appropriately placed in the course would be able to master the objectives and complete the course successfully in about 48-51 hours per unit of credit. Some students may need more hours to do the same and may need greater assistance from faculty and staff. Some students may need fewer hours to complete the course. Regardless of the number of hours the student needs to complete the course, the number of units earned will be the same, and the number of hours needed by most students to complete the course will be around 48-51 hours per unit of credit.

As in the past, apportionment may not be claimed for optional attendance at artistic and cultural presentations or events or for using college/district facilities, equipment or resources that are not related to instructional learning objectives and competencies as outlined in course outline of record. There must be instruction that involves objectives and competencies that are in an approved course outline.

This section of the regulation became effective on January 29, 2006.

58009. Application of Independent Study or Work Experience Attendance Procedure

(a) One weekly student contact hour shall be counted for each unit of credit for which the student is enrolled as of the census day prescribed in section 58003.1(b) or (c) except for independent study laboratory courses. For independent study laboratory courses, weekly student contact hours shall be equivalent to those, which would be generated for the same student effort in a laboratory course not offered as independent study.

(b) For credit courses full-time equivalent students in independent study or work-experience education courses in primary terms is computed by multiplying the weekly student contact hours authorized pursuant to subdivision (a) of this section, generated as of the census date prescribed in section 58003.1(b) by the term length multiplier as provided for in section 58003.1, and dividing by 525.

(c) For noncredit courses conducted as distance education, full-time equivalent students is computed on a census basis as prescribed in section 58003.1(f)(2).

(d) Full-time equivalent student in independent study or work-experience education courses conducted during a summer or other intersession is computed by multiplying the weekly student contact hours, authorized pursuant to subdivision (a) of this section, generated in each course, by a course length multiplier that produces the same total weekly student contact hours for the same student effort as would be generated in such courses conducted in the primary terms, and dividing by 525.

Note: Authority cited: Sections 66700 and 70901, Education Code.
Reference: Section 70901, Education Code.

Guideline for Section 58009

Prior to this regulation change, FTES computations for all independent study courses were based on the number of units as opposed to the number of student contact hours. For example in a one unit lab independent study course, apportionment was calculated based on one unit per week rather than the three student contact hours per week generated by a one unit lab which was not conducted through independent study. This methodology created a significant difference in the number of FTES generated between an independent study laboratory course and a laboratory course not conducted through independent study.

The revision of Title 5, section 58009(a) eliminates this disparity. This regulation now allows the FTES generated by an independent study laboratory course to be calculated using the same number of weekly student contact hours as those generated in a traditional lab offering or on a three hour per unit/week basis.

Colleges may also collect apportionment on a contact hour basis for lab hours that are included along with non-lab hours in an independent study course outline. The language change uses the words: lab courses. However, a college may also offer a "mixed" course through Independent Study which includes some "lab" work and some "non-lab" work and apply the new rule in 58009 to the lab portion of the class— such that the lab portion would be entitled to the more liberal rules for apportionment and would be reimbursed based on contact hours rather than units.

Note that the regulation allows colleges some flexibility in terms of contact hours and units, because it uses the word "approximate" in describing the relationship of class hours to credit awarded. There is an established ratio of lecture time to units (one to one) and an established ratio of lab time to units (three to one), regardless if a course is offered face-to-face or via distance education.

This section of the regulation became effective on April 14, 2006. Only courses that began on or after that date may apply this regulatory change.

58050. Conditions for Claiming Attendance

(a) All of the following conditions must be met in order for the attendance of students enrolled in a course to qualify for state apportionment:

(1) The course or the program of which it is a part must be approved by the Board of Governors in accordance with the provisions of article 2 (commencing with section 55100) of subchapter 1, chapter 6.

(2) The course must meet the criteria and standards for courses prescribed by section 55002.

(3) Unless expressly exempted by statute, the course must be open to enrollment by the general public, in accordance with section 58051.5 and article 1 (commencing with section 58100) of subchapter 2 of this chapter.

(4) The district may not receive full compensation for the direct education costs for the course from any public or private agency, individual or group of individuals in accordance with section 58051.5.

(5) The students enrolled in the course must be engaged in educational activities required of such students as described in the course outline of record. The number of contact hours for which apportionment is claimed shall not exceed the number specified in the course outline of record, subject to computation adjustments authorized pursuant to other provisions of this subchapter including, but not limited to, sections 58003.1, 58023 and 58164. If the course involves student use of district computers, other equipment, or facilities, the district shall monitor usage of such equipment or facilities as part of the course to ensure that they are used solely for the specified educational activities.

(6) The students must be under the immediate supervision of an employee of the district, unless provided otherwise by law.

(7) The employee of the district must hold valid and unrevoked credentials or be employed pursuant to minimum standards adopted by the Board of Governors or equivalencies pursuant to section 53430 authorizing the employee to render service in the capacity and during the period in which the employee served.

(b) The regulations in this subarticle are intended to clarify and interpret attendance accounting terminology used in subsection (a), and in sections 58051 and 58055.

Note: Authority cited: Sections 66700, 70901 and 84500, Education Code.
Reference: Sections 70901, 78401 and 84500, Education Code.

Guideline for Section 58050

This regulation defines conditions for claiming attendance (apportionment) for any course. Subsection (a)(5) adds new clarification on apportionment for courses offered in a computer lab environment. Students must use the equipment and facilities available for any course solely for the specified educational activity and the district must monitor and certify the usage of equipment and facilities to ensure that they are used as intended. This concept was also emphasized in section 58164(f)(2) on page 3 of this document.

The total contact hours claimed for apportionment in any course must not exceed the total number of hours specified in the course outline of record. This limitation, however, is subject to computation adjustments authorized pursuant to other provisions of this subchapter including, but not limited to, sections 58003.1, 58023 and 58164.

This section of the regulation became effective on January 29, 2006.

59402 Definitions

For the purposes of this subchapter the following definitions apply:

(a) "Instructional and other materials" means any tangible personal property which is owned or primarily controlled by an individual student.

(b) "Required instructional and other materials" means any instructional and other materials which a student must procure or possess as a condition of registration, enrollment or entry into a class; or any such material which is necessary to achieve those required objectives of a course which are to be accomplished under the supervision of an instructor during class hours.

(c) "Solely or exclusively available from the district" means that the material is not available except through the district, or that the district requires that the material be purchased or procured from it. A material shall not be considered to be solely or exclusively available from the district if it is provided to the student at the district's actual cost and:

(1) the material is otherwise generally available, but is provided solely or exclusively by the district for health and safety reasons; or

(2) the material is provided in lieu of other generally available but more expensive material which would otherwise be required.

(d) "Required instructional and other materials which are of continuing value outside of the classroom setting" are materials which can be taken from the classroom setting, and which are not wholly consumed, used up, or rendered valueless as they are applied in achieving the required objectives of a course which are to be accomplished under the supervision of an instructor during class hours.

(e) “Tangible personal property” includes electronic data that the student may access during the class and store for personal use after the class in a manner comparable to the use available during the class.

Note: Authority cited: Sections 66700, 70901 and 76365, Education Code.
Reference: Sections 70901, 70902 and 76365, Education Code.

Guideline for Section 59402

The revisions to this regulation allow districts to charge students instructional materials fees for access to instructional materials in electronic form, under certain circumstances. The definition of “tangible personal property” is amended to verify that electronic data may be considered instructional materials, so long as the student has the ability to use the materials after the class, in a manner comparable to the student’s ability to use the materials during the class.

This expansion of the definition of tangible personal property has significant impact on the district’s ability to charge students for license fees or for access codes to electronic data. If students are to be charged for electronic data, the tangible personal property should have a continuing educational value to students. The continuing educational value could be in the form of the electronic course content being equivalent to a textbook, study guide, solutions manual, or test bank that students have access to beyond the class session for which the instructional materials were purchased. Additionally, the text, lessons, and problem materials should be readily printable to hard copy to serve as a permanent record, should the student desire to retain a copy of the instructional materials. If the student can print the materials accessed that are of continuing educational value, charging students for access codes is permissible.

On the other hand, it is not permissible to charge students for internet access or for access to a research database. In these cases, the real benefit of access is the ability to do searches and saving one or more documents or web pages in a static form does not provide equivalent access after the access code is deactivated.

This section of the regulation became effective on April 14, 2006.

B. Tutoring

There are two regulations contained in this section:

58168 - Tutoring

58170 - Apportionment for Tutoring

58168. Tutoring

Tutoring, when provided by the college, shall be considered a method of instruction that involves a student tutor who has been successful in a particular subject or discipline, or who has demonstrated a particular skill, and who has received specific training in tutoring methods and who assists one or more students in need of special supplemental

instruction in the subject or skill. Student attendance in tutoring is eligible for apportionment only in a noncredit course offered under the provisions of Education Code section 84757(a)(2).

Note: Authority cited: Sections 66700 and 70901, Education Code.
Reference: Section 70901, Education Code.

Guideline for Section 58168

The change in this section of the regulation is a technical one to correct a renumbering of selected areas in the Education Code. The change is in the reference section number; the previous number for this referenced section was deleted and changed to 84757(a)(2). This points to a specific category (basic skills) within the section of 84757, which is a list of the nine noncredit categories. There is no change in the intent of this section, which states that tutoring consists of skilled, trained students assisting other students enrolled in a noncredit Supervised Tutoring course carrying the Taxonomy of Programs number 4930.09.

This section of the regulation became effective on January 29, 2006.

58170. Apportionment for Tutoring

Apportionment may be claimed for individual student tutoring only if all the following conditions are met:

(a) The individual student tutoring is conducted through a designated learning center.

b) The designated learning center is supervised by a person who meets the minimum qualifications prescribed by section 53415.

(c) All tutors successfully complete instruction in tutoring methods and the use of appropriate written and mediated instructional materials, including supervised practice tutoring. This requirement may be waived by the chief instructional or student services officer on the basis of advanced degrees or equivalent training. Academic credit and apportionment for coursework in tutoring methods for purposes of this section shall be limited to two semester or three quarter units of credit, or 96 noncredit hours. All tutors shall be approved by a faculty member from the discipline or disciplines in which the student will tutor.

(d) All students receiving individual tutoring have enrolled in a noncredit course carrying Taxonomy of Programs number 4930.09, which is entitled "Supervised Tutoring."

(e) Students enroll in the Supervised Tutoring course, through registration procedures established pursuant to section 58108, after referral by a counselor or an instructor on the basis of an identified learning need.

(f) An attendance accounting method is established which accurately and rigorously monitors positive attendance.

(g) Student tutors may be remunerated but may not be granted academic credit for tutoring beyond that stipulated in (c) above.

(h) The district shall not claim state apportionment for tutoring services for which it is being paid from state categorical funds.

Note: Authority cited: Sections 70901 and 84500, Education Code.
Reference: Sections 70901, 84500 and 87356, Education Code.

Guideline for Section 58170

In order for a college to collect noncredit apportionment for students providing tutorial assistance to other students, the tutoring must be conducted through a designated learning center under the supervision of a qualified faculty member who has earned a Master's Degree in one subject matter being tutored or in education/ instructional psychology/ or other disciplines with an emphasis in adult learning theory, as detailed in Title 5, section 53415. Primarily, students who conduct tutoring are those who have received instruction in tutoring methods and who may use appropriate mediated instructional materials.

Academic credit and apportionment for coursework used to train tutors in tutoring methods is limited to two semester units of credit (three quarter units of credit), or 96 non-credit course hours. Prospective tutors with advanced degrees and equivalent training are not required to complete additional training preparation, although faculty from the discipline or disciplines in which the tutoring is needed must approve all tutors, irrespective of their prior education or experience.

A counselor or an instructor, on the basis of an identified learning need, must refer all students seeking tutoring. Students cannot refer themselves for tutoring. Tutees must enroll in a noncredit Supervised Tutoring course carrying the Taxonomy of Programs number 4930.09. To enroll, students must follow normal registration procedures consistent with Title 5, section 58108. No registration procedure shall be used that results in restricting enrollment to a specialized clientele.

A tutorial center may offer tutoring assistance between a tutor and tutee when they are separated by distance and are using on-line or other synchronous "real time" technologies such as videoconference, web conference, audio conference, etc. When the tutor and tutee are separated such that one or the other is not physically present in the tutoring center, the supervisor must be able to monitor the communication and a mechanism must be in place to accurately track positive attendance hours. If both the tutor and tutee are not physically present in the tutorial center, the district must ensure and be able to document, if audited, that the supervisor was actually able to, and did, monitor the interaction of the tutoring session.

This section of the regulation became effective on April 14, 2006.