

Board of Governors of the California Community Colleges
Title 5 Regulations
Permanent Regulations for Implementation of SB 361

1. Section 58704 of article 1 of subchapter 8 of chapter 9 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 58704. System Funding Principles.

(a) General funding for community college districts shall be prior year general apportionment revenue (state and local) adjusted for any amount attributed to a deficit mechanism, with revenue adjustments being made for inflation, increases or decreases in FTES (Full-Time Equivalent Student) and such other adjustments as are authorized by law.

(b) The funding mechanism for community college districts shall be based on the principles contained in Education Code sections 84750.5 and 84760.5, and such other categories of operation as may, from time to time, be determined by the Legislature.

(c) The funding mechanism for community college noncredit activities shall be as specified in section 84750.5(d)(2) of the Education Code.

(d) The following funding rates apply to the specified workload measures as follows:

(1) The marginal funding rate for credit revenue per FTES shall be not less than four thousand three hundred sixty-seven dollars (\$4,367), to be revised per the recognized change in the cost-of-living specified in subsequent annual Budget Acts.

(2) The marginal funding rate for noncredit revenue per FTES shall be not less than two thousand six hundred twenty-six dollars (\$2,626), to be revised per the recognized change in the cost-of-living specified in subsequent annual Budget Acts.

(3) The marginal funding rate for career development and college preparation FTES may be at a uniform rate of three thousand ninety two dollars (\$3,092), to be revised per the recognized change in the cost-of-living specified in subsequent annual Budget Acts. This funding authorization is contingent on an adequate appropriation dedicated for this purpose in the annual budget.

(4) Changes in FTES shall result in adjustments to credit, noncredit, and career development and college preparation revenues based on the respective marginal funding rates for credit, noncredit, and career development and college preparation FTES.

(A) Increases in FTES shall result in an increase in its respective revenue in the year of the increase and at its associated marginal rate per FTES, including any cost-of-living adjustment authorized by statute or by the annual Budget Act.

(B) Decreases in FTES shall result in a revenue reduction for its respective workload in the year following the decrease and at its associated marginal rate per FTES.

~~(e) The Board of Governors may, in conjunction with consultation, add new or refine existing factors for special financial consideration to provide incentives for particular programs, services or circumstances, conditional on concurrence by the Legislature and the Administration.~~

~~(f)~~(e) Nothing in these regulations for state apportionment allocation shall require district governing boards to expend allocated revenues in specified categories of operation or according to workload measures contained herein.

~~(g)~~(f) The Chancellor may develop and provide for district use, any procedures, processes and formulas he or she deems necessary to the utilization of the criteria and standards specified herein.

NOTE: Authority cited: Sections 66700, 70901 and 84750.5, Education Code. Reference: Sections 84750.5 and 84760.5, Education Code.

2. Section 58770 of article 8 of subchapter 8 of chapter 9 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 58770. State Apportionment Procedure.

~~(a)~~(1) Except as provided in subdivisions (2) or (3), the~~The~~ fiscal year revenues for each community college district shall be the noncredit base revenues ~~as defined~~ associated with the funded FTES specified in subdivision (c) of section 58771, plus the credit base revenues ~~as defined~~ associated with the funded FTES specified in subdivision (b) of section 58771, plus the career development and college preparation noncredit base revenues ~~as defined~~ associated with the funded FTES specified in subdivision (d) of section 58771, plus the basic allocation base revenues as defined in subdivision (e) of section 58771, plus the inflation adjustments specified in section 58773, plus the workload adjustments specified in sections 58774, plus the budget stability adjustment specified in section 58776,~~plus the one-time revenue distributed pursuant to subdivision (e) of section 58777.~~

(2) If the sum of the local property tax and fee revenues as defined in subdivision (b) equals or exceeds a district's fiscal year revenue as calculated pursuant to subdivision (1) above, then the fiscal year revenue for that district shall be the sum of the property tax and fee revenues pursuant to subdivision (b) rather than the figure calculated pursuant to subdivision (1). If, in the subsequent year, the sum of the local property tax and fee revenues as defined in subdivision (b) equals or is less than the district's fiscal year revenue as calculated pursuant to subdivision (1) above, then the base revenue for that fiscal year for that district shall be equal to the district's prior year total computational revenue.

(3) If a district's revenue for the 2006-07 fiscal year is based on the program-based funding principles authorized by former Education Code section 84750, as provided for by paragraph (9) of subdivision (d) of Education Code section 84750.5, then the revenue for that district for subsequent fiscal years shall be the higher of:

(A) its prior year total computational revenue, plus the inflation adjustments specified in section 58773, plus the workload adjustments specified in section 58774, plus the budget stability adjustment specified in section 58776; or

(B) the figure calculated pursuant to paragraph (1) of this subdivision. Beginning with the fiscal year for which the higher amount for a district is the figure calculated pursuant to paragraph (1), for each fiscal year thereafter the district's fiscal year revenue shall be calculated pursuant to paragraph (1).

(b) For each community college district, the Chancellor shall subtract from the revenues determined pursuant to subdivision (a), the local property tax revenue specified by law for general operating support, exclusive of bond interest and redemption, timber

yield tax revenue pursuant to section 38905.1 of the Revenue and Taxation Code, and 98 percent of the fee revenues required to be collected pursuant to Education Code section 76300. The remainder shall be the state general apportionment for each district.

(c) The Chancellor shall adjust the amount determined pursuant to subdivision (b) to provide for prior year adjustments required pursuant to section 58134.

(d) Warrants shall be drawn on the State Treasury by the Controller in favor of the treasurer of each county for the allocations certified by the Chancellor in accordance with the following schedule, as adjusted by the Chancellor in accordance with the provisions of subdivision (e):

(1) Eight percent of district eligibility shall be allocated in July.

(2) Eight percent of district eligibility shall be allocated in August.

(3) Twelve percent of district eligibility shall be allocated in September.

(4) Ten percent of district eligibility shall be allocated in October.

(5) Nine percent of district eligibility shall be allocated in November.

(6) Five percent of district eligibility shall be allocated in December.

(7) Eight percent of district eligibility shall be allocated in January.

(8) The remaining percent of district eligibility shall be allocated in the months for February through June on a schedule as certified by the Chancellor.

(e) The Chancellor may, upon the demonstrated need of any community college district for increased levels of allocations of state funds in any month based on district expenditure patterns and cash flow needs, adjust the allocations provided in subdivision (d), provided that the total of the allocations to be made between July 1 and February 1 shall not exceed 70 percent. The Chancellor may also revise the levels of allocation on a system-wide basis to accommodate legislated deferrals of the system's appropriated apportionment not included in subdivision (d).

(f) The Chancellor, at the request of a governing board of a community college district, and when necessary to maintain the secure deposit and prudent investment of district funds, may direct the Controller to draw warrants in favor of the Local Agency Investment Fund within the State Treasury in lieu of drawing warrants in favor of the county treasurer of the county in which the district resides. The governing board shall certify, and the Chancellor shall find, that the revenues being apportioned are not required for immediate needs.

NOTE: Authority cited: Sections 66700, 70901, 84500 and 84750.5, Education Code.
Reference: Sections 70901, 76300 and 84500, Education Code.

3. Section 58771 of article 8 of subchapter 8 of chapter 9 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 58771. Base Fiscal Year Revenues.

(a) The base revenues for each community college district shall be the sum of the revenues received for the preceding fiscal year in accordance with section 58770, exclusive of section 58776 ~~and subdivision (e) of section 58777~~, plus any unfunded shortage in revenues identified pursuant to the provisions of sections 58772 and 58779,

less any adjustment for declining FTES pursuant to section 58774 in the preceding fiscal year.

(b) Base credit FTES shall be the funded FTES of the prior fiscal year.

(c) Base noncredit FTES shall be the funded noncredit FTES of the prior fiscal year.

(d) Base career development and college preparation noncredit FTES shall be the funded career development and college preparation noncredit FTES of the prior fiscal year. The 2006-07 fiscal year begins with a base of zero FTES.

(e) Base basic allocation level shall be contingent upon the status of the college, center and FTES criteria pursuant to subdivision (i) of this section.

(f) The noncredit base revenue for each community college district shall be equal to the units of base noncredit FTES determined pursuant to subdivision (c), multiplied by the base rate of \$2,479.23; in subsequent years the base rate shall be the prior year base rate plus an inflation adjustment pursuant to section 58773. The 2006-07 marginal rate for noncredit FTES after the inflation adjustment is \$2,626.00.

(g) The credit base revenue for each community college district shall be equal to the units of base credit FTES determined pursuant to subdivision (b), multiplied by the base rate of \$4,122.92 in the 2006-07 fiscal year; in subsequent years the base rate shall be the prior year base rate plus an inflation adjustment pursuant to section 58773(b). The 2006-07 marginal rate for credit FTES after the inflation adjustment is \$4,367.00.

(h) The career development and college preparation noncredit base revenue for each community college district shall be equal to the units of base career development and college preparation noncredit FTES determined pursuant to subdivision (d); in subsequent years the base rate shall be the prior year base rate plus an inflation adjustment pursuant to section 58773. In 2006-07, the marginal rate will be \$3,092.00 if the \$30 million provided for this category of FTES is adequate to fully fund all qualifying FTES.

(i) The basic allocation base revenue for each community college district shall be based upon the number and size of campuses and centers as defined in this subdivision. The basic allocation rate for each year shall be the prior year's basic allocation rate plus any inflation adjustment applied in that year. The unadjusted basic allocation base factors, before any inflation adjustment for 2006-07, shall be:

(1) Single college districts: \$5,000,000 per single college district with FTES equal to or greater than 20,000 FTES as of the second principal apportionment of the previous fiscal year.

(2) Single college districts: \$4,000,000 per single college district with FTES equal to or greater than 10,000 FTES but less than 20,000 FTES as of the second principal apportionment of the previous fiscal year.

(3) Single college districts: \$3,000,000 per single college district with less than 10,000 FTES as of the second principal apportionment of the previous fiscal year.

(4) Multi-college districts: \$4,000,000 per college with FTES equal to or greater than 20,000 FTES as of the second principal apportionment of the previous fiscal year; \$3,500,000 per college with FTES equal to or greater than 10,000 FTES but less than 20,000 FTES as of the second principal apportionment of the previous fiscal year; \$3,000,000 per college with less than 10,000 FTES as of the second principal apportionment of the previous fiscal year.

(5) Centers approved by the California Postsecondary Education Commission (CPEC) for facilities funding and having 1,000 or greater annualized FTES: \$1,000,000 per center.

(6) Centers not meeting current CPEC standards as of July 1, 2006, but “grandparented,” or previously approved by CPEC as eligible for state capital facilities funding will be funded at the rates listed below based upon each center’s certified FTES as of the 2005-06 final recalculation.

Greater than or equal to 1,000 FTES:	\$1,000,000
Greater than or equal to 750 FTES but less than 1,000 FTES:	\$750,000
Greater than or equal to 500 FTES but less than 750 FTES:	\$500,000
Greater than or equal to 250 FTES but less than 500 FTES:	\$250,000
Greater than or equal to 100 FTES but less than 250 FTES:	\$125,000

(7) A “grandparented” center pursuant to paragraph (6) shall be funded at no more than the amount in paragraph (6), ~~except for plus~~ inflation adjustments, until and unless it is given ~~CPEC~~ approval for state capital facilities funding. The provisions of paragraphs (12) and (13) of this subdivision shall not apply to a grandparented center until it is given approval for state capital facilities funding.

(8) Districts shall annually report FTES for each grandparented center. Declines in grandparented FTES that result in a reduction of calculated basic allocation shall not cause a reduction in basic allocation base revenue until the third year after the year of the FTES decline, and the base allocation shall not be reduced if the FTES is restored back to or above the pre-decline base by the third year following the decline.

(9) To be designated a "grandparented" center qualifying for basic allocation funding, a center must meet the following criteria and be identified by the Chancellor’s Office as of the 2006-07 fiscal year. Specifically, the center must have:

(A) been operated prior to April 1974 and recognized as an approved “grandparented” or “grandfathered” center by CPEC in its December 10, 1984, report to the Legislature;

(B) served at least 100 FTES as of the 2005-06 final recalculation or the annual FTES average of the three prior fiscal years, 2003-04 to 2005-06, whichever is greater;

(C) continuously operated since 1974;

(D) been owned or controlled by the district through a lease agreement; and

(E) provided an appropriate level of administrative and student services, relative to its size, at the center.

(10) The Chancellor may authorize extraordinary basic allocation base revenue pursuant to this section to a partner district under section 74292.

~~(8)~~(11) Districts serving sparsely populated areas of the state are eligible for a base allocation augmentation designation of \$500,000 as part of the determination of a district’s basic allocation. Eligibility is based on the following criteria:

(A) Population density of service area less than half of the 2006 statewide average (which is 217 people per sq. mile);

(B) Credit FTES 5,000 or less; and

(C) Single-college district.

~~(9)~~(12) The Except as provided in paragraph 7, the size of a college or center as of the second principal apportionment of a fiscal year shall be the size used to determine the base basic allocation amount for the year of the apportionment and the following two

years unless a new, higher level of FTES is realized pursuant to paragraph ~~(10)~~(13) of this subdivision.

~~(10)~~(13) ~~In-Except as provided in paragraph 7, in~~ the event the FTES from a college or center grows such that a different base allocation amount is generated pursuant to this section, the basic allocation shall be adjusted at the next apportionment in that year.

~~(11)~~(14) Changes to basic allocation funding pursuant to paragraph ~~(10)~~(13) of this subdivision shall come from the same funding sources as the base funding pursuant to section 58772.

~~(12)~~(15) FTES produced from on-line courses or courses taught at a physical location other than a college or a center prior to December 31, 2006, shall be credited to the base allocation of the college or center from which they were reported as of December 31, 2006.

~~(13)~~(16) FTES produced from on-line courses or courses taught at a physical location other than a college or a center shall be credited to the base allocation of the college or center from which they were reported for the first principal apportionment of the 2006-07 fiscal year, ~~or for the first s~~Subsequent to the first principal apportionment in which the FTES were reported after the first principal apportionment of the 2006-07 fiscal year, any new FTES produced from an on-line course or courses taught at a physical location other than a college or center shall be credited to the base allocation of the college or center where they were initially reported. The intent of this section is to specify that FTES may not be moved among colleges after they have been initially reported so as to increase the base allocation of a college.

~~(14)~~(17) In the event that a college or center is closed, the FTES produced from an on-line course or courses taught at a physical location other than a college or center and that had been reported from that college or center shall be credited to another college or center in the same district, to the extent that such additional FTES is produced at the recipient college or center. The FTES may not be credited to a subsequent college or center in the district at a later date unless the original recipient college or center is also closed. The intent of this section is that FTES may not be moved among colleges or centers after they have been initially reported so as to increase the base allocation of a college or center.

NOTE: Authority cited: Sections 66700, 70901, 74292 and 84750.5, Education Code.
Reference: Section 84750.5, Education Code.

4. Section 58774 of article 8 of subchapter 8 of chapter 9 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 58774. Growth and Decline.

(a) District growth rates for the 2006-07 and 2007-08 fiscal years shall be determined based upon the regulations and processes in effect as of September 30, 2006, except that by August 31, 2007, the Chancellor shall notify districts of revised growth rates which are adjusted proportionately to reflect the amount of growth funding provided in the 2007-08 Budget Act.

(b) Commencing with the ~~2007-08~~ 2008-09 fiscal year, district "growth rates" shall be determined by the Chancellor based on, at a minimum, the sum of the following computations:

(1) Determination of an equally weighted average rate of change in the primary county population of persons between the ages of 19 and 24 and the rate of change in the primary county population of persons between the ages of 25 and 65, both as determined by the Department of Finance's Demographic Research Unit as determined for the preceding fiscal year.

(2) To the extent a college district's primary county unemployment rate exceeds 5 percent for the most recently completed year that positive difference shall be added to the rate computed in paragraph (1). In no event shall that positive difference exceed 2 percent.

(3) The Chancellor may also add to these amounts the number of FTES in the areas of transfer, vocational education, and basic skills that were unfunded in the current fiscal year. For this purpose, the following computation shall be determined for each district, and a statewide total shall be calculated:

(A) Establish the base level of FTES earned in the prior fiscal year for transfer courses consisting of courses meeting the California State University breadth or Intersegmental General Education Transfer Curriculum requirements or major course prerequisites accepted by the University of California or the California State University.

(B) Establish the base level of FTES earned in the prior fiscal year for vocational education courses consisting of courses defined by the Chancellor's office Student Accountability Model codes A and B that are consistent with the courses used for measuring success in this program area under the accountability system established pursuant to Education Code section 84754.5.

(C) Establish the base level of FTES in the prior fiscal year for basic skills courses, both credit and noncredit.

(D) Add the sum of FTES for paragraphs (A) to (C), inclusive.

(E) Multiply the result of the calculation made under paragraph (D) by one plus the district's funded growth rate in the current fiscal year. This figure shall represent the maintenance of effort level for the budget year.

(F) FTES in transfer, vocational education, and basic skills that are in excess of the total calculated pursuant to paragraph (E), shall be considered in excess of the maintenance of effort level, and shall be eligible for overcap growth funding if the district exceeds its overall funded FTES.

(G) In no event shall the amount calculated pursuant to paragraph (F) exceed the total unfunded FTES for that fiscal year.

(c) Each district shall receive a minimum growth allocation of 1% or a rate which will provide at least 100 total FTES. Preliminary growth rates for a fiscal year shall be calculated and made available to the districts ~~no later than July 31 of~~ as early as possible during the preceding fiscal year. Preliminary growth rates are subject to change.

(d) To the extent the computations specified in this section require the reporting of additional data by community college districts, that reporting shall be a condition of the receipt of apportionment for growth pursuant to this section and those funds shall be available to offset any and all costs of providing the data.

(e) District growth rates are used to determine growth revenue caps when funding required to meet all FTES increases in the system exceeds the growth appropriation in the annual Budget Act. The district's total revenue growth cap is the sum of the revenue caps for all the district's FTES workload measures. A district's growth revenue cap is calculated by multiplying the marginal growth funding rates for its credit, noncredit, and career development and college preparation FTES by the product of a district's growth rate determined annually pursuant to subdivisions (b) and (c), multiplied by the appropriate base FTES for that funding rate. A district's growth revenue cap for credit FTES, noncredit FTES, and career development and college preparation FTES to the extent funds are available to fully fund increases in these workload measures shall be the sum of the following:

(1) Credit FTES – The product of the current year's marginal credit funding rate multiplied by the growth rate limit determined pursuant to subdivisions (b) and (c), times the number of base credit FTES.

(2) Noncredit FTES – The product of the current year's marginal noncredit funding rate multiplied by the growth rate limit determined pursuant to subdivisions (b) and (c), times the number of base noncredit FTES.

(3) Career development and college preparation noncredit FTES – The product of the current year's marginal career development and college preparation noncredit funding rate multiplied by the growth rate limit determined pursuant to subdivisions (b) and (c), times the number of base career development and college preparation noncredit FTES.

(f) Growth revenue shall be computed for districts that have fully restored revenue and FTES lost in the prior three fiscal years due to workload declines in those years. An actual growth revenue computation for credit FTES, noncredit FTES, and career development and college preparation noncredit FTES shall be the sum of the following:

(1) Credit FTES – The product of the current year's marginal credit funding rate times the net change in credit FTES reported in the current year relative to the district's base credit FTES for that year and net of any credit FTES restoration.

(2) Noncredit FTES – The product of the current year marginal noncredit funding rate times the net change in noncredit FTES reported in the current year relative to the district's base noncredit FTES for that year and net of any noncredit FTES restoration.

(3) Career development and college preparation noncredit FTES – The product of the current year marginal career development and college preparation noncredit funding rate times the net change in career development and college preparation noncredit FTES reported in the current year relative to the district's base career development and college preparation noncredit FTES for that year and net of any career development and college preparation noncredit FTES restoration.

(g) If the total growth computed in subdivision (f) is less than zero, the district's base revenue for the subsequent fiscal year shall be adjusted in accordance with subdivision (h). If the amount computed in subdivision (f) is greater than zero and less than or equal to the revenue cap computed pursuant to subdivisions (b) and (c), the district revenue shall be adjusted by the amount computed in subdivision (f). If the amount computed in subdivision (f) is greater than the revenue cap computed pursuant to subdivisions (b) and (c), the district's revenue could be constrained by the revenue cap computed pursuant to subdivisions (b) and (c).

(h) A decline in FTES for any particular workload occurs when the actual funded FTES is less than the amount of the corresponding base FTES. A district receives stability revenue when its total growth revenue from all FTES measures is negative. Total growth revenue ~~is~~ shall be the sum of all the positive and ~~or~~ negative growth revenue for all FTES workload measures.

(i) A district shall be entitled to additional funding in its basic allocation equal to the amounts identified in subdivision (i) of section 58771 and as adjusted for inflation pursuant to section 58773 in subsequent years to the extent additional resources are provided in the annual Budget Act for any new colleges or centers added in the current fiscal year or if sufficient general apportionment base funding exists to fund new colleges and centers. Growth funds appropriated in the annual Budget Act shall be available to fund any new colleges and centers if other specific new funds are not provided in the Budget Act and there are not sufficient unallocated funds remaining in the general apportionment schedule. The intent of this section is to fund increases to the system's basic allocation before funding FTES growth as identified in subdivisions (e), (f) and (g) above.

(j) This section shall become inoperative on April 30, 2008.

NOTE: Authority cited: Sections 66700, 70901 and 84750.5, Education Code.
Reference: Section 84750.5, Education Code.

5. Section 58776 of article 8 of subchapter 8 of chapter 9 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 58776. Budget Stability.

Districts shall receive stability funding only in the initial year of ~~decrease~~ decline in FTES in an amount equaling the revenue loss associated with the FTES reduction for that year. Declines in college FTES that result in a reduction of calculated basic allocation will not cause a reduction in basic allocation base revenue until the third year after the year of the FTES decline, and the ~~base~~ basic allocation will not be reduced if the FTES is restored back to or above the pre-decline base.

NOTE: Authority cited: Sections 66700, 70901 and 84750.5, Education Code.
Reference: Section 84750.5, Education Code; and 2003 Budget Act, item 6870-101-0001.

6. Section 58777 of article 8 of subchapter 8 of chapter 9 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 58777. Decline Restoration.

(a) Districts shall be entitled to restore any reductions in apportionment revenue due to declines in FTES during the three years following the initial year of decline in credit, noncredit, or career development and college preparation FTES if there is a subsequent increase in FTES.

~~(b) During the transition period from program based funding and its multiple workload measures to the FTES model of Education Code section 84750.5, for fiscal years 2006-07 through 2008-09 inclusive, any unrestored FTES remaining after the associated revenue decline has been restored will be used to increase the district's FTES growth revenue cap on a one-time basis to allow additional growth revenue associated with any unrestored FTES. Restoration of revenue for declining workload and the inflation adjustments made between the year of decline and the year of restoration shall be made at the district's current marginal growth funding rate.~~

~~(c) Of the funds made available pursuant to subdivision (e) of section 58774, that are not utilized for purposes of budget stability pursuant to section 58776, or decline restoration pursuant to subdivisions (a), (b), and (c) of this section, the Chancellor may allocate the revenue, after adjusting for any excess revenue resulting from higher than expected property taxes and student fee revenues, on a one-time basis to districts based on FTES.~~

NOTE: Authority cited: Sections 66700, 70901 and 84750.5, Education Code.
Reference: Section 84750.5, Education Code.

7. Section 58785 of article 9 of subchapter 8 of chapter 9 of division 6 of title 5 of the California Code of Regulations is repealed:

~~**§ 58785. Duration of Subchapter.**~~

~~The provisions of this subchapter shall remain in effect only until August 31, 2007, and are repealed as of that date, unless a subsequent amendment to this section deletes or extends that date.~~

~~NOTE: Authority cited: Sections 66700, 70901 and 84750.5, Education Code.
Reference: Section 84750.5, Education Code.~~