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## Attachment 1

### NOTICE OF PROPOSED RULEMAKING

#### AMENDMENT TO CALIFORNIA CODE OF REGULATIONS, TITLE 5 REGARDING FISCAL SUPPORT

1. Section 58146 of article 5 of subchapter 2 of chapter 9 of division 6 of title 5 of the California Code of Regulations is amended to read:

**58146. Emergency Conditions Allowance for Districts Unable to Maintain School College for Prescribed Time; Full-Time Equivalent Student General Purpose Apportionments Materially Decreased.**

(a) An emergency conditions allowance may be provided, subject to approval by the Chancellor, A to a district which is prevented from maintaining its schools during a fiscal year for at least 175 days because of affected by an emergency or extraordinary condition, as defined pursuant to subdivision (b). fire, flood, or epidemic, or because of any order of any military officer of the United States or of the state to meet an emergency created by war, or of any civil officer of the United States, of the state, or of any county, city and county, or city authorized to issue such order to meet an emergency created by war, or because of other extraordinary conditions, or because of the inability to secure or to hold an instructor, or because of the illness of the instructor, where the lack of an instructor would close a college, which fact shall be shown to the satisfaction of the Board of Governors by the affidavits of the members of the governing board of the district, The allowance shall be calculated to approximate receive the same general purpose apportionments from the State School Fund as the district it would have received had it not been so prevented from maintaining school for at least 175 days. the emergency not occurred.

(b) Where a community college in a district maintaining more than one community college is closed for a part of a term by order of a city or county board of health or of the State

~~Board of Health, or because of fire, flood, impassable roads, epidemic, or other emergency, or by an order provided for in (a), the full-time equivalent student of the community college shall be estimated separately, as provided in (c), and added to the full-time equivalent student of the other community colleges of the district.~~

~~(c)(b) Whenever the full-time equivalent student of any district during any fiscal year has been An emergency or extraordinary condition is defined as one of the following that specifically causes (1) the district to be prevented from maintaining its schools during that fiscal year for at least 175 days and (2) the general purpose apportionments of a district calculated pursuant to Education Code section 84750.4 or 84750.5 to be materially decreased during any fiscal year because of: in that year or subsequent years:~~

- ~~(1) fire,~~
- ~~(2) flood,~~
- ~~(3) impassable roads,~~
- ~~(4) an epidemic,~~
- ~~(5) the imminence of a major safety hazard as determined by the local law enforcement agency,~~
- ~~(6) a strike involving transportation services to students provided by a nondistrict entity,~~
- ~~(7) the unavailability of classroom facilities leased by the district where the unavailability commences July 1, 2005, or thereafter and is caused by extraordinary factors wholly external to and beyond the control of the district, or~~
- ~~(8) an order provided for in (a). The facts demonstrating the applicability of one of the circumstances described in this subdivision shall be established to the satisfaction of the Chancellor by affidavits of the members of the governing board of the district. The funding workload measures of the district for the fiscal year shall be estimated by the Board of Governors in such manner as to credit to the district from the State School Fund approximately the total which would have been credited to the district had the emergency not occurred or had the order not been issued. The provisions of this section shall apply to any funding workload measure which occurs during any part of a fiscal year. any order of any military officer of the United States or of the state to meet an emergency created by war, or of any civil officer of the United States, of the state,~~

or of any county, city and county, or city authorized to issue such order to meet an emergency created by war,

(9) earthquake, or

(10) an order of a city or county board of health or of the State Board of Health.

(c) The facts demonstrating the applicability of one of the circumstances described in subdivision (b) shall be established to the satisfaction of the Chancellor by affidavits of the members of the governing board of the district.

~~(d) As a condition to receiving the credit under subdivision (c),~~an emergency conditions allowance, the district must demonstrate to the satisfaction of the Chancellor that it made good faith efforts to ~~seek alternate facilities that were unaffected by the circumstances described in subdivision (c).~~ avoid a material decrease in the general purpose apportionments of a district calculated pursuant to Education Code section 84750.4 or 84750.5.

~~(e) No credit under subdivision (c) will be allowed for the unavailability of facilities for more than one full term beyond the beginning of the circumstances described in subdivision (c) unless authorized by the Board of Governors.~~

Note: Authority cited: Sections 66700, and 70901, 84750.4, and 84750.5. Education Code.  
Reference: Section 70901, Education Code.