

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 10/2019)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2022-10-05-03P	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY Board of Governors of the California Community Colleges			AGENCY FILE NUMBER (If any)

ENDORSED - FILED
In the office of the Secretary of State
of the State of California

OCT 05 2022

2:13 p.m.

OFFICE OF ADMIN. LAW
2022 OCT 5 PM2:45

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE N/A		TITLE(S) N/A	FIRST SECTION AFFECTED N/A	2. REQUESTED PUBLICATION DATE N/A
3. NOTICE TYPE ☐ Notice re Proposed Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON N/A	TELEPHONE NUMBER N/A	FAX NUMBER (Optional) N/A
OAL USE ONLY	ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Distance Education		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT		
	AMEND		
	55005, 55200, 55204, 55206, 55208		
TITLE(S) 5	REPEAL		
3. TYPE OF FILING			
☐ Regular Rulemaking (Gov. Code §11346) ☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. ☐ Emergency Readopt (Gov. Code, §11346.1(h)) ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)			
☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) ☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) ☐ File & Print ☒ Print Only			
☐ Emergency (Gov. Code, §11346.1(b)) ☒ Other (Specify) Authority-Ed Code Section 70901.5			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
☐ Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) ☐ Effective on filing with Secretary of State ☐ \$100 Changes Without Regulatory Effect ☒ Effective other (Specify) 30 days after filed w/Secretary of State			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
☒ Department of Finance (Form STD. 399) (SAM §6660) ☐ Fair Political Practices Commission ☐ State Fire Marshal			
☐ Other (Specify)			
7. CONTACT PERSON Tanya Bosch - Regulation Coordinator		TELEPHONE NUMBER (916) 445-4826	FAX NUMBER (Optional) E-MAIL ADDRESS (Optional)

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

TYPED NAME AND TITLE OF SIGNATORY

Marc A. LeForestier, General Counsel

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Final Regulatory Text: Distance Education

SECTION 55005 OF ARTICLE 1 OF SUBCHAPTER 1 OF CHAPTER 6 OF DIVISION 6 OF TITLE 5 OF THE CALIFORNIA CODE OF REGULATIONS IS AMENDED TO READ:

§ 55005. PUBLICATION OF COURSE STANDARDS.

For each course offered, a community college shall make available to students through college publications all of the following facts before they enroll in the course:

(a) ~~The designation of~~ Whether the course is designated as a degree-applicable credit course, a nondegree-applicable credit course, a noncredit course, or a community services offering.

(b) Whether the course is transferable to baccalaureate institutions.

(c) Whether the course fulfills a major/area of emphasis or general education requirement.

(d) Whether the course is offered on the “pass-no pass” basis.

(e) Whether the course is offered in a distance education format, and if so, include the following information:

(1) All online and in-person synchronous meeting days/dates and times;

(2) Any required asynchronous in-person activities;

(3) Any required technology platforms, devices and applications;

(4) Any test or assessment proctoring requirements.

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

SECTIONS 55200, 55204, 55206, 55208 OF ARTICLE 1 OF SUBCHAPTER 3 OF CHAPTER 6 OF DIVISION 6 OF TITLE 5 OF THE CALIFORNIA CODE OF REGULATIONS IS AMENDED TO READ:

§ 55200. DEFINITION AND APPLICATION.

(a) “Distance education” means education that uses one or more of the technologies listed below to deliver instruction to students who are separated from the instructor(s) and to support regular and substantive interaction between the students and instructor(s) either synchronously or asynchronously. instruction in which the instructor and student are separated by time and/or distance and interact through the assistance of technology. Technologies that may be used to offer distance education include:

(1) The internet;

(2) One-way and two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite, or wireless communications devices;

(3) Audio conference; or

(4) Other media used in a course in conjunction with any of the technologies listed in paragraphs (1) through (3) of this subdivision.

(b) The definition of “distance education” does not include correspondence courses.

All distance education is subject to the general requirements of this chapter as well as the specific requirements of this article. In addition, instruction provided as distance education is subject to the requirements of the Americans with Disabilities Act (42 U.S.C. § 12100 et seq.) and section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794d).

(c) "Accessible" means a person with a disability is afforded the opportunity to acquire the same information, engage in the same interactions, and enjoy the same services as a person without a disability in an equally effective and equally integrated manner, with substantially equivalent ease of use. The person with a disability must be able to obtain the information as fully, equally and independently as a person without a disability. Although this might not result in identical ease of use compared to that of persons without disabilities, it still must ensure equal opportunity to the educational benefits and opportunities afforded by the technology and equal treatment in the use of such technology.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code; Title II of the Americans with Disabilities Act (42 U.S.C. § 12100 et seq.); section 508 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. § 749d; title 29 United States Code section 794d; and title 42 United States Code sections 12100, 12101, 12102, 12103, 12131, 12132, 12133 and 12134, and title 34 Code of Federal Regulations section 600.2.

§ 55204. INSTRUCTOR CONTACT.

In addition to the requirements of section 55002 and any locally established requirements applicable to all courses, district governing boards shall ensure that:

(a) Any portion of a course conducted through distance education includes regular effective contact and substantive interaction between the instructor(s) and students, (and among students, as described in the course outline of record), either synchronously or asynchronously, through group or individual meetings, orientation and review sessions, supplemental seminar or study sessions, field trips, library workshops, telephone contact, voice mail, e-mail, or other activities. ~~Regular effective contact is an academic and professional matter pursuant to sections 53200 et seq.~~

(b) "Substantive interaction" means engaging students in teaching, learning, and assessment, consistent with the content under discussion, and also includes at least two of the following:

(1) Providing direct instruction;

(2) Assessing or providing feedback on a student's coursework;

(3) Providing information or responding to questions about the content of a course or competency;

(4) Facilitating a group discussion regarding the content of a course or competency; or

(5) Other instructional activities approved by the institution's or program's accrediting agency.

(c) Regular interaction between a student and instructor(s) is ensured by, prior to the student's completion of a course or competency:

- (1) Providing the opportunity for substantive interactions with the student on a predictable and scheduled basis commensurate with the length of time and the amount of content in the course or competency; and
- (2) Monitoring the student's academic engagement and success and ensuring that an instructor is responsible for promptly and proactively engaging in substantive interaction with the student when needed on the basis of such monitoring, or upon request by the student.
- (d) Regular and substantive interaction is an academic and professional matter pursuant to sections 53200 et seq.
- (e) For purposes of calculating instructional time in the context of asynchronous distance education, a week of instructional time is any week in which:
 - (1) The institution makes available the instructional materials, other resources, and instructor support necessary for academic engagement and completion of course objectives; and
 - (2) The institution expects enrolled students to perform educational activities demonstrating academic engagement during the week.
- ~~(b) Any portion of a course provided through distance education is conducted consistent with guidelines issued by the Chancellor pursuant to section 409 of the Procedures and Standing Orders of the Board of Governors.~~

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code; and title 34 Code of Federal Regulations sections 600.2 and 668.3.

§ 55206. SEPARATE COURSE APPROVAL.

- (a) If any portion of the instruction in a new or existing course is to be provided through distance education, the course outline of record or an addendum to the official course outline of record shall be required. In addition to addressing how course outcomes will be achieved in a distance education mode, the addendum shall at a minimum specify and
- ~~(a) Regular and effective contact the requirement for regular and substantive interaction between instructors and students and among students as referenced in title 5, specified in section 55204. (a); and~~
- ~~(b) Requirements of the Americans with Disabilities Act (42 U.S.C. § 12100 et seq.) and section 508 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. § 749d)~~
- (b) The course design and all course materials must be accessible to every student, including students with disabilities. The distance education course outline of record or addendum shall be separately approved according to the district's adopted curriculum approval procedures.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code; Title II of the Americans with Disabilities Act (42 U.S.C. § 12100 et seq.); section 508 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. § 749d; and title 34 Code of Federal Regulations section 600.2.

§ 55208. FACULTY SELECTION AND WORKLOAD.

- (a) Instructors of course sections delivered via distance education are individuals responsible for delivering course content who meet the qualifications for instruction established by an institution's accrediting agency. Instructors technology shall be selected by the same procedures used to determine all instructional assignments. Instructors shall possess the minimum qualifications for the discipline into which the course's subject matter most appropriately falls, in accordance with article 2 (commencing with section 53410) of subchapter 4 of chapter 4, and with the list of discipline definitions and requirements adopted by the Board of Governors to implement that article, as such list may be amended from time to time.
- (b) Instructors of distance education shall be prepared to teach in a distance education delivery method consistent with the requirements of this article, local district policies, and negotiated agreements.
- (c) The number of students assigned to any one course section offered by distance education shall be determined by and be consistent with other district procedures related to faculty assignment. Procedures for determining the number of students assigned to a course section offered in whole or in part by distance education may include a review by the curriculum committee established pursuant to section 55002(a)(1).
- (d) Nothing in this section shall be construed to impinge upon or detract from any negotiations or negotiated agreements between exclusive representatives and district governing boards.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code; and title 34 Code of Federal Regulations section 600.2.