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Date: March 11, 2011

To: Steve Bruckman
Executive Vice Chancellor of Operations and General Counsel

From: Jonathan Lee
Staff Counsel

Re: Enrollment Fee Waivers
Legal Opinion O 11-03

Question

A college wants to implement a program that pays student fees for two years, as long as they remain part of a cohort group.

1. Can the college use district resources to pay for this program?
2. If district resources cannot be used, can the college use grants or gifts from other sources to pay for this program?

Conclusion

1. A community college district may not use district resources to pay for this program, unless the cohorts of students already qualify for a fee waiver.
2. The college may use grants or gifts from other sources to pay for the program.

Analysis

Education Code section 76300 requires that the governing board of each community college district to charge students an enrollment fee. This enrollment fee is generally applicable to all students in the community college system. If a district chooses not to charge the enrollment fee, the Board of Governors is required to reduce apportionments up to 10 percent to that district pursuant to 76300(d).

While all students, in general, must be charged an enrollment fee, the Education Code provides various situations where a student is either exempt from the fee, or the fee can be waived altogether. Some examples of where students can be exempt from fees or eligible for enrollment fee waivers include:

- Students enrolled in certain noncredit courses.
- Students enrolled in California State University or University of California classes taking community college courses for remediation.
- Students who demonstrate “eligibility according to income standards established by regulations of the board of governors.” (Ed. Code, § 76300(g)(2).)
- Students who are recipients of benefits under the Temporary Assistance to Needy Families program.

Legal Opinion O 10-01, also known as the “Student Fee Handbook,” provides a complete list and explanation of the available exemptions and waivers for students. This document is available at Chancellor’s Office website or at this link:

<http://www.cccco.edu/Portals/4/Legal/opinions/10-01.doc>

In this case, a college wants to implement a program that pays student fees for two years, as long as they remain part of a cohort group. Can the college use district resources to pay for this program? If district resources cannot be used, can the college use grants or gifts from other sources to pay for this program?

1. Can the college use district resources to pay for the program?

No, the college may not use district funds to pay for the program. As stated in Education Code section 76300, community college districts are required to collect enrollment fees barring a specific exemption or fee waiver defined in statute. In this scenario, if the students in the cohort group meet the conditions outlined for a fee waiver or exemption, then there is no concern revolving around the use of district funds.

However, if the students in the cohort group do not meet any of the requirements set forth in statute for a specific exemption or fee waiver, the district cannot choose to pay for those students’ fees with district resources. In fact, Education Code section 76300(d) sanctions colleges that fail to collect the enrollment fee by requiring the Board of Governors to reduce apportionments to those districts. Paying the enrollment fee with district resources for this cohort of students is the equivalent of a district choosing not to charge the enrollment fee to that cohort. The district has not been given the authority to use state funds as a substitute for enrollment fees. This is strictly prohibited and subjects the district to severe sanctions.

2. If district resources cannot be used, can the college use grants or gifts from other sources to pay for this program?

Yes, there is nothing in state statute which prevents a community college district from accepting grants or gifts from outside sources to pay for this program. There are numerous instances of private scholarship funds being established to aid a specific cohort of students in paying for college tuition. This type of arrangement would not violate Education Code section 76300. Instead of being waived, the enrollment fees for the target cohort group would be paid from an outside source.

JL/fr/ce

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