

**15-DAY NOTICE OF MODIFICATIONS TO TEXT OF PROPOSED
AMENDMENTS TO CALIFORNIA CODE OF REGULATIONS, TITLE 5
SUPERVISED TUTORING APPORTIONMENT**

15-Day Notice published June 28, 2023

The Board of Governors of the California Community Colleges hereby provides notice of changes to the above-referenced proposed regulatory action that was the subject of a public hearing on March 20, 2023. Section 206, subdivision (c), of the Procedures and Standing Orders of the Board of Governors requires the Board to re-notice a proposed regulatory action where the proposed regulations have been previously considered, are being modified, and the modifications are substantial and sufficiently related to the text of the previously-proposed regulations.

CHANGES TO THE TEXT

Following the 45-day comment period that ended on April 24, 2023 and the March 20, 2023 Board meeting, changes were made to this regulatory action in proposed sections 58160 and 58168. Section 53415, which is sufficiently related to sections 58160 and 58168 and was not part of the original regulatory package, also requires changes to align with the previously-proposed regulations. The California Community Colleges Chancellor's Office will present the regulatory action to the Board of Governors at its July 24, 2023 meeting. The changes are submitted for an additional 15-day comment period effective today, June 28, 2023.

The changes to the proposed regulatory are denoted by double underline for additions to the text and ~~double-strikeout~~ for deletions from the text.

WRITTEN COMMENT PERIOD

Any interested person may submit written comments relevant to the changes to the proposed regulatory action subject to this 15-day notice. The Chancellor's Office will respond to comments received that are related to title 5, California Code of Regulations, sections 58160, 58168, and 53415. Comments should be addressed to:

Regulations Coordinator
California Community Colleges
Chancellor's Office
1102 Q Street, Suite 636
Sacramento, CA 95811-6549
Email: regcomments@cccco.edu

Comments must be received by the Regulation Coordinator prior to 4:00 p.m. on July 13, 2023. All written comments received by Chancellor's Office staff during the public comment period are subject to disclosure under the Public Records Act.

CHANGES OR MODIFICATIONS TO PROPOSED TITLE 5 AMENDMENTS

Following the public hearing and considering all timely and relevant comments received, the Board of Governors may adopt the proposed regulations substantially as described in this notice or may modify the proposed regulations if the modifications are sufficiently related to the original text.

INFORMATIVE DIGEST

In 2022 the Legislature enacted Assembly Bill (AB) 1187, which amends section 84757(a)(10) of the Education Code to expand the type of noncredit courses that are eligible for state apportionment funding to include “[s]upervised tutoring for foundational skills, and for degree-applicable and transfer level courses.” AB 1187 also requires the Board of Governors to adopt regulations implementing the newly added subdivision on or before July 31, 2023. The regulations must ensure that community colleges are compliant with equitable placement (section 78213, AB 705/1705) in the implementation of supervised tutoring under the statute.

There has been extensive stakeholder engagement and discussion after the original regulatory action was noticed. The Chancellor's Office has made significant changes to the proposed regulations as well as section 53415, which was added to the proposed regulatory action. In addition to the non-substantive, clarifying changes, sections 58160, 58168, and 53415 are amended as follows:

Section 58160

In subdivision (a), the sentence starting with “In addition” was removed in its entirety and replaced with “The following is an exclusive list of noncredit courses, noncredit classes, and support services:”

In subdivision (a)(3), the word “courses” was removed, and the phrase “including vocational English as a second language” was added.

Subdivision (a)(4) was split into two separate subdivisions, (a)(4) and (a)(5). The first sentence in subdivision (a)(4) starting with “Classes and courses” was removed in its entirety. “Courses in citizenship for immigrants” was added as subdivision (a)(5). And subdivisions (a) (6) through (11) were renumbered accordingly.

Subdivision (a)(10), now (11), was modified and portions were moved to section (b). The only remaining sentence in subdivision (a)(11) is: “Supervised tutoring for foundational skills and for degree-applicable and transfer-level courses.” All other sentences were removed in their entirety.

Subdivision (b) was modified as follows: “Districts shall provide access to supervised tutoring for students who need or desire extra academic support when enrolled in transfer-level mathematics or English coursework to maximize the probability that a student will enter and complete coursework in English and mathematics within a one-year timeframe of their initial attempt. The district shall not claim state apportionment for supervised tutoring services that is being paid from state categorical funds.”

Section 58168

Subdivision (a) was modified to delete the reference to tutor qualifications and training and move them to subdivision (e).

Subdivision (b) was split into three sections and reorganized accordingly. Subdivision (b) removes “conducted” through a designated learning center and replaces the term with “coordinated.” Language was added to clarify that the supervised tutoring may be conducted in person or virtually.

The phrase “a person” in subdivision (c) was removed and replaced with “faculty” to clarify that faculty must supervise the tutoring provided for under the section. The minimum qualifications for faculty were expanded to include faculty qualifications outline in section 53410.

Subdivision (d) addressing the approval of student tutors by faculty was changed to consider local processes for hiring student tutors as follows: “Any district policy or process governing the hiring of student tutors shall include collegial consultation as an academic and professional matter pursuant to section 53200, subdivision (c).”

The phrase “demonstrate appropriate levels of proficiency in the subjects(s), courses(s), or skills(s) being tutored” was added to subdivision (e) to address student tutor qualifications.

The term “concurrent” was added to subdivision (g) to clarify that student tutors who are paid for tutoring cannot receive academic credits for their services.

Subdivision (h) was added to clarify the role of classified staff as follows: “Classified staff may provide operational direction or support for supervised tutoring consistent with district policy.”

Section 53415

Modifications to section 53415 are sufficiently related to the text of the previously-proposed regulations. The references to tutoring coordinator(s) and tutoring were removed from section 53415, because the references are no longer applicable based on section 58168 (i.e., supervised tutoring requirements). References to learning skills coordinator(s) were also removed as learning assistance is the appropriate broad-based reference under section 53415. For consistency, the term “coordinator” in subdivision (a) was replaced with “instructor.”

ESTIMATED COST OR SAVINGS OF PROPOSED AMENDMENTS

The estimated cost or savings of the proposed amendments are anticipated to be as follows:

Mandate on local agencies or community college districts: *None*.

Cost or savings to state agencies: *None*

Costs to local agencies or community college districts for which reimbursement would be required pursuant to part 7 (commencing with section 17500) of division 4, of title 2, of the Government Code: *None*

Other non-discretionary cost or savings imposed on community college districts: *None*

Cost or savings in federal funding to state agencies: *None*

The proposed amendments to title 5 would result in no fiscal impact to local or state governments, nor will it have any fiscal impact on any federal funding.

CONTACT PERSON

Inquiries concerning the content of these regulations may be directed to:

Aisha Lowe, Vice Chancellor
California Community Colleges
Chancellor's Office
regcomments@cccco.edu

Inquiries concerning the regulatory process may be directed to the Regulations Coordinator, at regcomments@cccco.edu.

TEXT OF PROPOSED REGULATIONS AND CORRESPONDING DOCUMENTS

Copies of the proposed regulatory action subject to this 15-day notice are attached as noted above. Information upon which the proposal is based may be obtained online at:

[Office of the General Counsel - Pending Regulatory Action](#)

Those who receive the Board of Governors Agenda package for the July 24, 2023, meeting can find a further description of the proposal and the full text of the regulations. You may also request a copy of the proposal from the Regulations Coordinator using the contact information provided above.