

August 12, 2004

TO: Robert Barr  
Executive Director of Institutional Research and Planning

FROM: Andrew LaManque  
De Anza College Research

SUBJECT: Concurrent Enrollment Review

Please find attached two data tables that compare K-12 Special Admit Enrollment using two different flags in the Student Information System. The first uses the Billing Code flag (HSS or HSC) which is the indication that the student will not be charged tuition. The second uses the Enrollment Status flag (Y) is flag that is manually set only once to indicate that permission slips are on file.

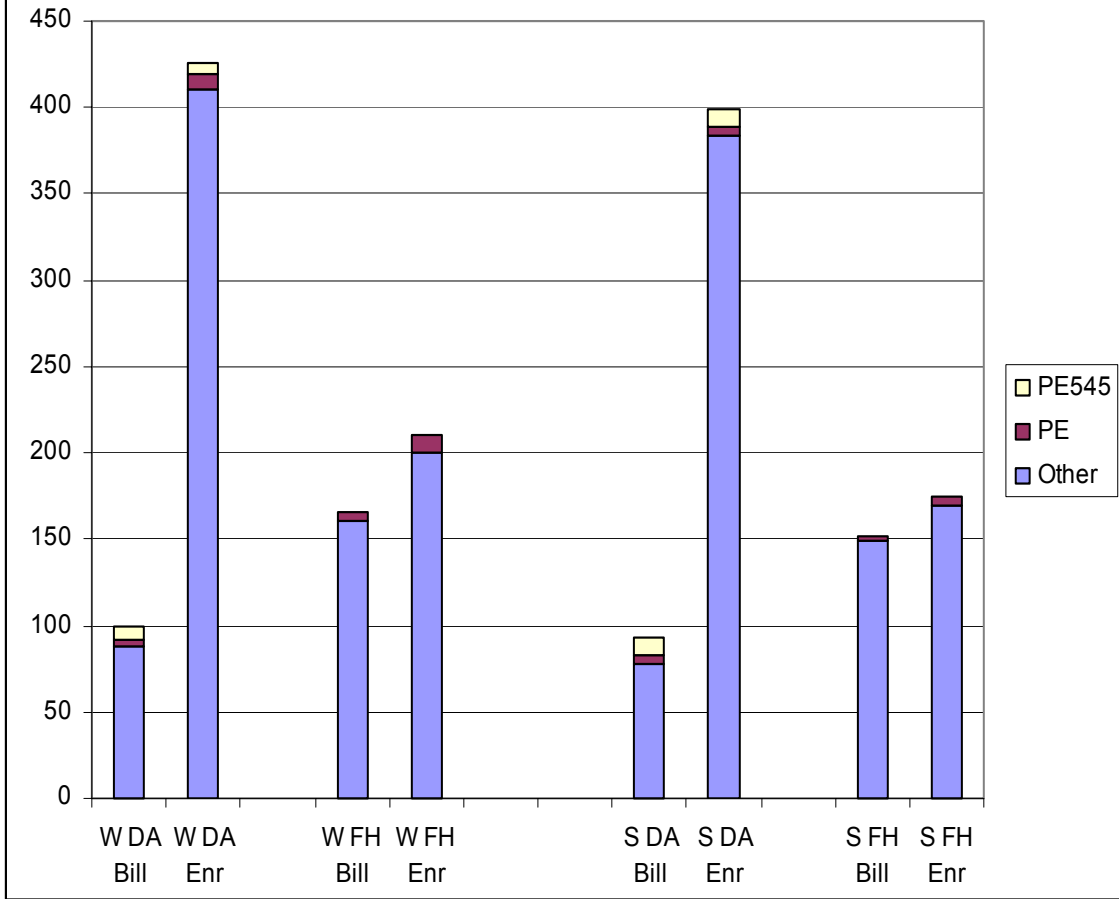
The Enrollment Status flag for students is often “rolled over” (especially at De Anza) and may not be a true indication of the number of K-12 students enrolled during a given quarter. The graph below shows the differences between the two approaches.

Both tables have been updated to include PE 545 at De Anza College which was not included in a previous analysis because it was a zero unit course. I have been told been the Dean of Physical Education that it will not be run again.

The file also contains four additional documents:

1. a recent memo from VP Miner on special admit students
2. the relevant section of education code
3. a question and answer piece from the Chancellor’s Office
4. a memo on a new bill that proposed additional changes to current law

Special Admit FTES Winter and Spring 2004



# Special Admit Students by Billing Code = HSS or HSC

09-Aug-04

End of Term FTES 2003-04 and 2002-03

				PE or HP Courses		De Anza P E 545		All Other Courses		Total	
				FTES	Percent of Total Special Admit FTES for Term	FTES	Percent of Total Special Admit FTES for Term	FTES	Percent of Total Special Admit FTES for Term	FTES	Percent of Total Special Admit FTES for Term
2003-04	2003M	Summer	DA	21	13%			139	87%	160	100%
			FH	18	6%			282	94%	300	100%
	2003F	Fall	DA	3	3%	6	6%	94	91%	103	100%
			FH	4	2%			170	98%	174	100%
	2004W	Winter	DA	4	4%	7	7%	88	89%	99	100%
			FH	5	3%			161	97%	166	100%
	2004S	Spring	DA	5	5%	10	10%	78	84%	93	100%
			FH	3	2%			149	98%	153	100%
2002-03	2002M	Summer	DA	30	14%			186	86%	217	100%
			FH	180	28%			475	72%	655	100%
	2002F	Fall	DA	5	5%			88	95%	93	100%
			FH	16	7%			215	93%	231	100%
	2003W	Winter	DA	2	3%			74	97%	77	100%
			FH	7	3%			196	97%	202	100%
	2003S	Spring	DA	3	4%	0	0%	77	96%	81	100%
			FH	5	4%			121	96%	127	100%

**P E 545 Non-Intercollegiate Swimming Competition and Training 0 Units**

*Non-credit course – Does not apply to De Anza Associate Degree.*

*Prerequisite: Competitive swimming experience or appropriate skill level and exceeded college swimming repeatability.*

*Five to fifty hours laboratory.*

*(No limit on repeatability for 0 unit classes.)*

Provides supervised swimming workout for students desiring to develop more stroke efficiency, improve fitness, and gain experience swimming in competition outside of the intercollegiate swimming program.

Special Admit Students by Enrollment Status = Y

09-Aug-04

End of Term FTES 2003-04 and 2002-03

					PE or HP Courses		De Anza P E 545		All Other Courses		Total	
					FTES	Percent of Total Special Admit FTES for Term	FTES	Percent of Total Special Admit FTES for Term	FTES	Percent of Total Special Admit FTES for Term	FTES	Percent of Total Special Admit FTES for Term
2003-04	2003M	Summer	DA	Y	41	8%			446	92%	487	100%
			FH	Y	17	7%			233	93%	249	100%
	2003F	Fall	DA	Y	5	2%	3	1%	323	98%	332	100%
			FH	Y	5	4%			110	96%	114	100%
	2004W	Winter	DA	Y	9	2%	7	2%	410	96%	427	100%
			FH	Y	10	5%			200	95%	210	100%
	2004S	Spring	DA	Y	5	1%	10	3%	384	96%	399	100%
			FH	Y	6	3%			169	97%	175	100%
2002-03	2002M	Summer	DA	Y	32	12%			231	88%	263	100%
			FH	Y	175	31%			390	69%	565	100%
	2002F	Fall	DA	Y	7	4%			165	96%	172	100%
			FH	Y	17	11%			134	89%	151	100%
	2003W	Winter	DA	Y	1	0%			117	100%	117	100%
			FH	Y	3	5%			53	95%	56	100%
	2003S	Spring	DA	Y	2	3%	0	0%	76	97%	78	100%
			FH	Y	3	10%			31	90%	35	100%

**P E 545 Non-Intercollegiate Swimming Competition and Training 0 Units**

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*Five to fifty hours laboratory.*

*(No limit on repeatability for 0 unit classes.)*

*Provides supervised swimming workout for students desiring to develop more stroke efficiency, improve fitness, and gain experience swimming in competition outside of the intercollegiate swimming program.*

Date: July 21, 2004

To: Instructional Deans

From: Judy Miner  
Vice President, Instruction

Re: Eligibility for Admissions for High School Students

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On page 8 of the Fall 2004 schedule, you will see that a criterion for attending De Anza is:

If you are a high school junior or senior and have a written recommendation from the high school principal (signed by your parent or legal guardian), you may be allowed to attend if space is available in your chosen classes.

Until such time as we might be directed in writing to adopt a different criterion, please use what is in print to respond to inquiries. High school students are not allowed to register until the first day a class meets and instructors may exercise the same discretion in permitting adds as provided for by the *Agreement*.

C: B. Fong, R. Griffin, M. Kanter, M. Kritscher, K. Kyne, B. Murphy, R. Myers

## EDUCATION CODE SECTION 76000-76002

76000. The governing board of a community college district shall admit to the community college any California resident, and may admit any nonresident, possessing a high school diploma or the equivalent thereof.

The governing board may admit to the community college any apprentice, as defined in Section 3077 of the Labor Code, who, in the judgment of the governing board, is capable of profiting from the instruction offered.

The governing board may by rule determine whether there shall be admitted to the community college any other person who is over 18 years of age and who, in the judgment of the board, is capable of profiting from the instruction offered. If the governing board determines to admit other persons, those persons shall be admitted as provisional students and thereafter shall be required to comply with the rules and regulations prescribed by the board of governors pertaining to the scholastic achievement and other standards to be met by provisional or probationary students, as a condition to being readmitted in any succeeding semester. This paragraph shall not apply to persons in attendance in special classes and programs established for adults pursuant to Section 78401 or to any persons attending on a part-time basis only.

76001. (a) The governing board of a community college district may admit to any community college under its jurisdiction as a special part-time or full-time student in any session or term any student who is eligible to attend community college pursuant to Section 48800 or 48800.5.

(b) If the governing board denies a request for a special part-time or full-time enrollment at a community college for a pupil who is identified as highly gifted, the board shall record its findings and the reasons for denial of the request in writing within 60 days. The written recommendation and denial shall be issued at the next regularly scheduled board meeting that falls at least 30 days after the request has been submitted.

(c) The attendance of a pupil at a community college as a special part-time or full-time student pursuant to this section is authorized attendance, for which the community college shall be credited or reimbursed pursuant to Sections 48802 and 76002. Credit for courses completed shall be at the level determined to be appropriate by the school district and community college district governing boards.

(d) For purposes of this section, a special part-time student may enroll in up to, and including, 11 units per semester, or the equivalent thereof, at the community college.

76002. (a) For the purposes of receiving state apportionments, a community college district may include high school pupils who attend a community college within the district pursuant to Sections 48800 and 76001 in the district's report of full-time equivalent students (FTES) only if those pupils are enrolled in community college classes that meet all of the following criteria:

(1) The class is open to the general public.

(2) (A) The class is advertised as open to the general public in one or more of the following:

(i) The college catalog.

(ii) The regular schedule of classes.

(iii) An addenda to the college catalog or regular schedule of classes.

(B) If a decision to offer a class on a high school campus is made after the publication of the regular schedule of classes, and the class is solely advertised to the general public through electronic media, the class shall be so advertised for a minimum of 30 continuous days prior to the first meeting of the class.

(3) If the class is offered at a high school campus, the class may not be held during the time the campus is closed to the general public, as defined by the governing board of the school district during a regularly scheduled board meeting.

**(4) If the class is a physical education class, no more than 10 percent of its enrollment may be comprised of special part-time or full-time students. A community college district may not receive state apportionments for special part-time and full-time students enrolled in physical education courses in excess of 5 percent of the district's total reported full-time equivalent enrollment of special part-time and full-time students.**

(b) The governing board of a community college district may restrict the admission or enrollment of a special part-time or full-time student during any session based on any of the following criteria:

(1) Age.

(2) Completion of a specified grade level.

(3) Demonstrated eligibility for instruction using assessment methods and procedures established pursuant to Chapter 2 (commencing with Section 78210) of Part 48 and regulations adopted by the Board of Governors of the California Community Colleges.

(c) The Chancellor of the California Community Colleges shall prepare and submit to the Department of Finance and the Legislature, on or before March 1, 2004, and March 1 of each year thereafter, a report on the amount of FTES claimed by each community college district for special part-time and special full-time students for the preceding academic year in each of the following class categories:

(1) Noncredit.

(2) Nondegree-applicable.

(3) Degree-applicable, excluding physical education.

(4) Degree-applicable physical education.

(d) The Board of Governors of the California Community Colleges shall adopt rules and regulations to implement this section.

Chancellor's Office, California Community Colleges  
**QUESTIONS AND ANSWERS RELATED TO  
IMPLEMENTATION OF SENATE BILL 338**  
December 2003

The Chancellor's Office has received many questions regarding the interpretation and implementation of the law on concurrent enrollment as amended by SB 338. Answers to those questions are provided below. These answers represent the considered judgment of the Chancellor's Office and reflect our experience in recent audits and minimum condition reviews on the subject of concurrent enrollment. The policies and procedures discussed here are not binding on districts. However, districts that follow the advice given here will generally be deemed to comply with the law in the event of a review by the Chancellor's Office.

**BASIC ELIGIBILITY REQUIREMENTS**

**Question 1. Which community college courses are considered advanced scholastic or vocational work?**

**Answer.** The Chancellor's Office has advised on several occasions that the terms "advanced scholastic or vocational work," "community college level" or simply "college level" refer to college credit courses acceptable toward the associate degree which have been properly approved pursuant to title 5, section 55002(a). (See Legal Opinions 98-17 and 02-16.) Thus, under section 48800(a) the K-12 school district is responsible for determining whether a pupil is prepared to undertake degree-applicable credit coursework as a precondition to recommending the pupil for admission to a college. Colleges are encouraged to work with local K-12 districts to ensure that they are familiar with the degree-applicable credit course offerings at the college so that this determination can be accurately made.

**Question 2. Does the reference to advanced scholastic and vocational work in section 48800 mean that students cannot take noncredit courses at a community college?**

**Answer.** No. A different statute, section 78401 permits colleges to admit minors to their noncredit programs. Under that provision, the community college district makes the determination of which students can benefit from its noncredit courses without any requirement for involvement by the K-12 school district or any need to find the student eligible for advanced scholastic or vocational work.

**Question 3. What happens if the K-12 school board determines that a pupil may benefit from advanced scholastic or vocational work but the community college district disagrees based on criteria contained in section 76002(b).**

**Answer.** First, in order for a K-12 pupil to attend a community college district, the school district must determine that the pupil is capable of benefiting from advanced scholastic or vocational (college level) work. However, even if the K-12 district does make this determination, it does not guarantee the pupil's admission to the college. This is because a community college may admit such students, but is not required to do so. So long as it does not



reject pupils on a discriminatory basis and has a rational basis for differentiating among K-12 pupils, a college could accept some pupils recommended by the K-12 school district and decline to accept others. For example, a college could determine that it will admit K-12 pupils who are district residents, but not other K-12 pupils. District residency is not a protected group under nondiscrimination laws, and a college may have a legitimate basis for needing to limit the number of K-12 pupils it will admit.

Second, if a K-12 district does certify that a pupil would benefit from college level work, section 76002 now permits a college to ultimately decide otherwise based on age, grade level, or assessment standards established by the college district. See the answers to Questions 9 through 14 for a full discussion of these new provisions.

**Question 4. How does a community college evaluate the readiness of private school pupils and home-schooled minors seeking admission? What are the criteria?**

**Answer.** The parent or guardian of a private school pupil may petition the president of the college. The criteria for admission are the same as if the pupil were enrolled in a public school: that the pupil can benefit from degree-applicable college coursework. Colleges may require the assessment of a private school representative (like the principal) to verify the readiness of the private school student for college level coursework. In this regard, a college could probably use the same certification of readiness that it uses for public school pupils.

Home schooling is instruction by a tutor or other person (including the student's parent) who does not have a valid California teaching credential. Local high schools are charged with determining whether to accept home schooling as valid attendance. Therefore, community college districts that are asked to consider admitting a minor who has been home schooled should confer with the public high school the student would have attended if not home schooled. If that public school accepts or would accept home schooling as valid school attendance, the public school may also be willing to determine whether the student has completed coursework sufficient to prepare him or her to undertake college level coursework.

However, the Education Code still provides that the parent or guardian of a pupil not enrolled in public school may directly petition the president of any community college for admission. Thus, the position of a K-12 school district regarding home schooling is not binding on the college. The college could, instead, make its own determination of whether a student is prepared for college level work through an assessment using assessment methods and procedures (which could include evaluation of the student's prior coursework) under section 76002(b)(3). If it wishes to make such assessment, it must employ multiple measures and comply with other aspects of the matriculation regulations adopted by the Board of Governors (title 5, §§ 55500 et seq.) Thus, the college might review records of coursework the student has completed and combine this with results from one or more appropriate assessment instruments approved by the Chancellor's Office.

## OPEN COURSE REQUIREMENTS

### **Question 5. What steps should a college take to ensure that courses are properly advertised and open to the general public?**

**Answer.** All sections of all community college courses should be open to the general public, regardless of whether some of the students may be special part-time or special full-time pupils or whether the course is held at a high school campus. In order for a course to be truly open to the general public, it must be advertised in a manner such that anyone who might be interested in enrolling in a particular course section will know it is available and understand that enrollment is open to anyone who meets properly established prerequisites or enrollment limitations. Each course should be published in the official college catalog or addenda thereto and each section of the course should be listed in the regular schedule of classes or an addendum thereto. If the exact time or location of a course section is not known when the schedule or addenda is printed, or an instructor has not yet been assigned, the notation TBA (to be assigned) should be used.

### **Question 6. How should a college advertise a course if the decision to offer the course was made after the last addendum to the catalog or schedule of classes is published?**

**Answer.** As discussed in the answer to Question 5, the general rule is that each course should be described in the official catalog or an addendum thereto and that each section of each course should be listed in the schedule of classes or an addendum thereto. However, it may sometimes happen that a course is newly approved after the most recent addendum to the catalog has been printed. Should this occur, the college should update any online catalog it may maintain and, of course, list each section of the course to be offered in the schedule of classes or an addendum thereto.

In those rare instances where the decision to offer a new course is made so late that it cannot even be listed in the last addendum to the schedule of classes, title 5, section 58104 still requires that the course be "reasonably well publicized" to the general public.

The Chancellor's Office advises that districts should not rely exclusively on posting course offerings on the Internet to satisfy the requirement that the course is "reasonably well publicized." Some students still do not have ready access to the Internet and, in the event of an audit, it may be difficult for the District to demonstrate that a particular course offering was actually posted on its website at a given point in time. If districts do choose to rely on posting on the Internet, they should observe the following:

1. The class must be advertised for a minimum of 30 continuous days prior to the first meeting of the class.
2. The district's website must comply with standards for accessibility to persons with disabilities required by section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d) and Government Code section 11135. If course descriptions are posted in Portable Document Format (PDF) they should also be

available in a more easily accessible format such as HTML, Microsoft Word, or ASCII.

3. The district should maintain dated hardcopy printouts of the web postings on file for audit purposes for a period of at least three years.
4. The district should maintain a list of individuals who wish to receive printed course announcements and send such announcements to those on the list, even if it does not publish and widely distribute another addendum to the schedule of courses.
5. The District should still use readily available traditional methods of ensuring that students have information about classes, such as ensuring that academic counselors and the Admissions and Records Office are aware of the courses, and that information is still available through print distributions such as handouts, bulletin board postings, or campus newspaper announcements.

**Question 7. Does SB 338 prohibit holding a college course on a high school campus during the hours the high school operates classes?**

**Answer.** No. The law has long provided that a course which is claimed for state apportionment by the community college district must be open to the general public. SB 338 merely emphasized this point by amending Education Code section 76002 so that it now provides that if a course is held on a high school campus, "the class may not be held during the time the campus is closed to the general public, as defined by the governing board of the school district." Thus, the issue is when the high school campus is specifically closed to the general public, rather than whether or not high school classes are offered during the same time period. However, it must be emphasized that this restriction only applies if state apportionment is to be claimed for the class. If the class is conducted as contract education and paid for by the K-12 school district, then it may be housed at the high school campus and be held at any time of day, regardless of whether or not the campus is open to the general public.

**GENERAL LIMITATIONS ON ADMISSION OR ENROLLMENT**

**Question 8. Once a student is admitted to the college, is he or she limited to taking only degree-applicable courses?**

**Answer.** No. If a college decides to admit a special full-time or part-time pupil pursuant to sections 76001 and 76002, he or she may, like any other student, enroll in any course subject to properly established prerequisites or enrollment limitations. In addition, as discussed below, section 76002 now authorizes colleges to explicitly limit enrollment in any course or program based on age or grade level.

**Question 9. Does SB 338 authorize community college districts to limit admission or enrollment of minors based on age or grade level?**

**Answer.** Yes. Prior to passage of SB 338, community college districts were precluded from imposing restrictions on admission of minors based on age because of the federal Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.) which prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance. However, the Act does not apply to age distinctions described by state statutes to establish criteria for participation in age-related terms. (34 C.F.R. § 110.2(b)(1)(ii).) SB 338 revised section 76002 to provide the express statutory authority needed to qualify for this exception to the federal law. Thus, a college may now establish admissions and/or enrollment limitations that prevent special admit pupils below a certain age or grade level from being admitted or from enrolling in certain courses or programs.

**Question 10. Can a community college district restrict the admission of a highly gifted pupil based on the criteria of subsection 76002(b)?**

**Answer.** Yes. The Legislature has authorized imposition of these restrictions on admission of all special part-time and special full-time pupils, regardless of whether or not they are considered highly gifted. However, under section 76001(b), the district would be required to provide a written statement of the reasons for the denial.

**Question 11. Can a college impose age or grade level restrictions on pupils who are not enrolled in a public school and who directly petition the college for admission pursuant to section 48800.5?**

**Answer.** Yes. Section 48800.5 says a parent or guardian of a pupil who is not in a public school can petition the community college president for admission of the pupil to the community college regardless of that pupil's age or grade level. However, section 76002(b) now explicitly allows a district to restrict admission or enrollment based on a pupil's age or grade level. This is not a contradiction. The fact that a parent or guardian may file a petition on behalf of their child does not guarantee that the college will admit the pupil.

**Question 12. May a community college district restrict admission based on the criteria of subsection 76002(b) in some classes, but not all?**

**Answer.** Yes. Section 76002(b) clearly authorizes districts to restrict either "admission" or "enrollment" based on age, grade level, or results of an assessment. Since enrollment occurs on a course-by-course basis, a district could admit pupils and then impose such limitations in one course but not in another.

**Question 13. Can a district restrict admission or enrollment based on high school GPA?**

**Answer.** No. Section 76002(b) authorizes restricting admission or enrollment on three grounds. One of the bases is the use of assessment instruments, methods or procedures used in accordance with the regulations implementing the Matriculation Act of 1986. Title 5, section 55521 prohibits placement based only on a single measure. Thus, a college could evaluate a pupil's high school GPA as part of its assessment, but some other assessment instrument, method or

procedure would also have to be used. This might include an appropriate assessment test, which is on the list of instruments approved by the Chancellor's Office.

It is also important to note that once a K-12 pupil has been admitted, the ability to limit enrollment in particular courses or programs based on use of assessment procedures must be carried out consistent with the regulations adopted by the Board of Governors concerning the establishment of prerequisites. In other words, after admission, an assessment involving the use of multiple measures can only be used to restrict enrollment in a particular course or program if the assessment is tied to a properly established prerequisite.

**Question 14. Can a college give adult students priority in the registration process?**

**Answer.** Yes. Under title 5, section 58108, a district may establish a priority registration system which would accord adult students higher registration priority in order to ensure that they are not being displaced by special admit pupils.

**RULES RELATED TO SUMMER SESSIONS**

**Question 15. Are there additional requirements that apply to admission of K-12 students to summer session?** Yes. SB 338 moved the requirements for summer session from the community college portion of the code to the K-12 portion of the code with slight modifications. For summer session the following specific criteria are in effect, in addition to other rules related to all concurrent enrollment. The principal may only recommend a student if that pupil meets all of the following criteria, which are specific to summer session only:

1. The pupil demonstrates adequate preparation in the discipline to be studied.
2. The pupil exhausts all opportunities to enroll in an equivalent course, if any, at his or her school of attendance.
3. The recommendation of this pupil will not result in recommendations for more than 5% of the total number of pupils who completed that grade immediately prior to the time of recommendation.

**Question 16. Who enforces the 5 percent limitation on summer session enrollments in section 48800(d)?** It is the responsibility of the K-12 district to ensure that the 5 percent limitation on summer school enrollments is honored.

**Question 17. Should basic skills or remedial course work at the community colleges be open to K-12 summer students?** As discussed in the answer to Question 1, the K-12 school district must determine that a pupil is prepared to undertake college level work, meaning degree-applicable credit courses at the community college. A pupil who is truly prepared to take college level work should generally not be in need of nondegree-applicable coursework. However, as noted in the answer to Question 8, once a student is admitted to the college, he or she may take any course subject to properly established prerequisites or enrollment limitations. These principles apply to pupils enrolled in summer session courses as well as to those enrolled in courses during the regular academic year.

## RESTRICTIONS ON PHYSICAL EDUCATION COURSES

**Question 18. Does the 10 percent limit on enrollment of special admit pupils in physical education classes apply to each class section or to the class enrollment as a whole?**

Although the statutory language is not altogether consistent throughout SB 338, it is clear that the Legislature and the Administration intended that the 10 percent limitation of section 76002(a)(4) applies to each class or course section. The structure of the section largely requires this conclusion. Section 76002(a) describes those classes that are eligible for apportionment; each class must be open to the public, each class must be advertised as open, each class at a high school campus must be held during certain times, and if the class is a physical education class, its enrollment may not include more than 10 percent special part-time or full-time students. Each condition appears to apply to the individual class sections, so the 10 percent limit also applies to each class section, as opposed to the total number of students enrolled in all sections of the same course.

It should also be noted that, in the view of the Chancellor's Office, this provision was intended to serve as a limit on how many students may be claimed for apportionment, not how many may actually be enrolled in a class section. Thus, if a district wished, it could allow the enrollment of special full-time or part-time students to exceed 10 percent in a particular section of a physical education course, but it would have to ensure that the 10 percent limitation is observed when preparing the apportionment claim for that class.

**Question 19. Is the 10 percent limitation on enrollment in a particular physical education course determined at a given point in time?** As discussed in the answer to Question 18, the 10 percent limit should be viewed as a restriction on how many students may be claimed for apportionment purposes. Thus, if a district wishes, it could allow special full-time or part-time students to enroll in a physical education course without regard for the 10 percent limit and simply apply the limit when preparing its apportionment claim.

Of course, some districts may not want to permit enrollment for which they will not be able to claim apportionment. This will require some mechanism for monitoring enrollment. In practice, it would be difficult to ensure that this limitation is satisfied each time a student enrolls because many students may be registering simultaneously. The Chancellor's Office recommends that districts limit the number of special admit pupils in each physical education class section to 10 percent of the maximum enrollment specified for that section of the course.

**Question 20. Do the restrictions in section 76002 on enrollment of special K-12 students in physical education courses apply where a college has a certificate program in physical education?** Yes. The statute does not distinguish between physical education courses that are part of a certificate program and those which are not. Thus, even where a college has an established certificate program in physical education, each course and course section in that program is subject to the limitations. However, as discussed below, certain vocational courses in closely related fields should not be considered to be "physical education."

**Question 21. Which courses or programs should be considered "physical education" for purposes of the restrictions imposed by SB 338?** For purposes of implementing SB 338, "physical education" is considered by the Chancellor's Office generally to mean any course bearing Taxonomy of Programs code 0835.00, or any of its subcodes (0835.10, 0835.30, 0835.50), and any other course whose content, as expressed in the course outline, would reasonably be considered within the discipline of physical education. The bill applies to both activity and theory courses in physical education. However, for this purpose "physical education" is not considered to include vocational courses that are part of a Chancellor's Office-approved program for athletic trainer, sports medicine, fitness specialist, personal trainer, or similar program with a specific occupational outcome.

#### DOCUMENTATION

**Question 22. Are community colleges required to maintain records for auditing purposes of a school board's determination that the pupil would benefit from advanced scholastic or vocational work?** Yes. A community college district is only authorized to admit K-12 pupils to the extent that the K-12 school district has made a determination that the student is prepared for college level coursework. Therefore, the college should require the K-12 school district to complete a document certifying that this determination has been made for that student and the record should be kept on file for audit purposes as prescribed by title 5, section 59026(b).

**Question 23. Can a college accept a certification document signed by someone other than the school principal?** Yes. If a K-12 school district wishes, it may allow its principals to delegate the responsibility for determining if a student should be recommended for college admission to a designee.

In general, it is up to the K-12 school district to determine who can be designated to act in place of the principal. However, in some cases, colleges employ high school faculty to teach college courses. If a high school instructor is employed by a college to teach a college class and that instructor will receive additional compensation to teach the college course, the instructor will have a direct financial interest in the outcome of the eligibility determination. Based on this direct financial interest, the high school instructor has a conflict of interest in making eligibility determinations. Under such circumstances, colleges should decline to accept recommendations signed only by such an instructor.

**Question 24. Should the principal of the school provide community colleges with a list of his/her designated signatories so the community college can check K-12 pupil admissions and enrollment documents?** Yes. Otherwise, a college has no way of knowing whether the person signing the document is authorized to do so. This documentation will be especially important in the event of an audit.

**Question 25. For audit purposes, what mechanisms should a community college have in place to monitor a K-12 district's compliance with the 5 percent limit on summer session enrollment?** As noted in the answer to Question 16, ensuring compliance with the 5 percent limitation for summer session admissions of special full-time or part-time students is the responsibility of the K-12 school district. Nevertheless, in Legal Opinion M 02-20, the

Chancellor's Office advised colleges admitting minors as special students in summer school credit courses to obtain certification from school principals that the number of students recommended to attend college courses does not exceed the five percent statutory limit. Administrative records containing the principal's five percent certification in addition to parental consent and the principal's recommendation as specified in the statute would constitute thorough documentation of efforts to ensure that the law has been followed in the event of an attendance accounting review.

## **OTHER ISSUES**

**Question 26. Can pupils receive credit at both the K-12 and the college level?** Yes. The Chancellor's Office has issued several legal opinions holding that this is permissible (e.g., Legal Opinion M 98-17). However, an outdated regulation adopted many years ago by the state Board of Education has never been changed to conform to current law. This may lead some K-12 districts to conclude that they cannot grant high school credit for coursework completed at a community college.

**Question 27. May full-time students be exempted from paying the enrollment fee?** Education Code section 76300 provides that special part-time students may be exempted, as a group, from paying the \$18 per unit enrollment fee. There is no such authority for the special-admit full-time student and thus a college or district may not exempt all such students as a group. Each special-admit full-time student may be individually considered for a BOG Fee Waiver however. Colleges may use the existing short-form application for BOG Fee Waiver for Part A and Part B fee waivers. If the family does not qualify using the short form, the college may also provide the family with a FAFSA and make a local calculation of potential financial need (using a commuter budget and a hand-calculated EFC). If the student shows need in this manner the student may receive a Part C waiver. Please note! These are not "new" rules. These rules have been in effect for many years.



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March 3, 2004

The Honorable Doug LaMalfa  
Member of the Assembly  
State Capitol, Room 4177  
Sacramento, CA 95814

RE: AB 1819  
Introduced January 15, 2004  
Location: Assembly Higher Education Committee  
Position: Oppose, unless Amended

Dear Assembly Member LaMalfa:

The Board of Governors of the California Community Colleges regrets to inform you that it *Opposes, Unless Amended*, Assembly Bill 1819. This bill eliminates the restrictions placed upon FTES claimed for high school enrollment in PE classes, allows closed community college classes on high school campuses during regular school hours, amends rules regarding the advertisement of such classes and eliminates the current restriction on the number of high school students that can be recommended for summer enrollment in advanced scholastic and vocational course in community colleges (known as the "5% law"). The measure maintains other special features related to summer enrollment of special-admit students.

The Board of Governors asks you to consider the following amendments. We have attached a detailed analysis of the measure, which explains our position in each of these issues:

- Elimination of the current Education Code language related to adequate preparation
- Elimination of the current Education Code language related to exhaustion of all opportunities
- Elimination of the current Education Code language related to a waiver of compliance
- Maintenance of provisions requiring open classes at high school campuses, regardless of the hours during which a class is held, if the class enrollment is to be claimed for FTES apportionment
- Maintenance of provisions that strictly limit the amount of PE enrollment by special-admit students that can be claimed for FTES apportionment

The Board of Governors *supports* the provision that removes the 5 percent limit on special-admit students who can be recommended for summer enrollment by K-12 officials and we thank you for carrying this provision this year.

If the Chancellor's Office can be of further assistance or should you have any questions, please feel free to contact me directly at (916) 323-5951 or [mgill@cccco.edu](mailto:mgill@cccco.edu).

Sincerely,

A handwritten signature in cursive script that reads "Mary Gill".

Mary Gill, Interim Vice Chancellor  
Governmental Relations

cc: Carol Liu, Chair, Assembly Higher Education Committee  
Members of the Assembly Higher Education Committee  
Steve Boilard, Principal Consultant, Legislative Analyst Office  
Bruce Hamlett, Chief Consultant, Assembly Higher Education Committee  
Paul Navarro, Deputy Legislative Secretary, Office of the Governor  
Jeannie Oropeza, Program Budget Manager, Department of Finance

**California Community Colleges  
Governmental Relations & External Affairs Division  
2003-04 Legislative Bill Analysis**

<b>BILL No.</b>	<b>AUTHOR</b>	<b>SUBJECT</b>	<b>BILL VERSION (DATE)</b>	<b>STATUS/LOCATION</b>
<b>AB 1819</b>	LaMalfa	Enrollment of Special-Admit Students into Advanced Educational Opportunities	Introduced 1/15/04	Assembly Higher Education Committee (as of 3/03/04)
<b>POSITION</b>	<b>POSITION STATUS</b>	<b>ANALYSIS VERSION (DATE)</b>	<b>GR STAFF</b>	<b>DIVISION LIAISON</b>
Oppose, unless Amended	Adopted by the Board of Governors, March 2004	3/03/04	Mary Gill, Maricela Rodriguez	SS: Linda Michalowski ES: Dona Boatright

**Summary:**

The Education Code contains various rules regarding the enrollment of "special-admit" students in community colleges. "Special-admit" students are those who are under 18 years of age and have not yet obtained a high school diploma or its equivalent.

AB 1819 eliminates the restrictions placed upon FTES claimed for high school enrollment in PE classes, allows closed community college classes on high school campuses during regular school hours, amends rules regarding the advertisement of such classes and eliminates the current restriction on the number of high school students that can be recommended for summer enrollment in advanced scholastic and vocational courses in community colleges (known as the "5% law"). The measure maintains other special features related to summer enrollment of special-admit students into advanced educational opportunities.

**Origin of Bill:**

A year ago a series of negative news articles caused the Administration and the Legislature to examine and reform several aspects of enrollment of high school students in community colleges. The subsequent responses included a \$25 million permanent reduction in appropriations for community colleges and several reforms in a measure carried by Senator Jack Scott, SB 338. Prominent reforms in SB 338, which became effective on January 1, 2004, included a strict limitation on PE classes that could be claimed for apportionment and strengthening of the rules related to ensuring that high school classes are open to the public and advertised as such.

SB 338 did not change the long-standing "5% law" that limits the number of high school special-admit students who may be referred for summer enrollment, although as K-12 and college personnel have become familiar with the reforms in SB 338, several have indicated there is still considerable interest in the elimination of this "5% law".

**Summary of Specific Features:**

1. AB 1819 amends Section 48800 (d) of the Education Code to eliminate the 5% limitation on the number of pupils that may be recommended for summer special-admit enrollment, but maintains two other restrictions on summer attendance and maintains the language that prohibits a waiver of these rules.

(d) (1) The principal of a school may only recommend a pupil for community college summer session if that pupil meets ~~at~~ *both* of the following criteria:

(A) Demonstrates adequate preparation in the discipline to be studied.

(B) Exhausts all opportunities to enroll in an equivalent course, if any, at his or her school of attendance.

~~(2) For any particular grade level, a principal may not recommend for community college summer session attendance more than 5 percent of the total number of pupils who completed that grade immediately prior to the time of recommendation.~~

~~(3) Notwithstanding Article 3 (commencing with Section 33050) of Chapter 1 of Part 20, compliance with this subdivision may not be waived.~~

2. AB 1819 allows FTES to be claimed for high school pupils who attend community college classes held on a high school campus during regular school hours without regard to rules that specify that such classes must be open to the public or rules that specify the class must be advertised in a manner to ensure public awareness of the educational opportunity. (See specific amendments to Education Code Section 76002 below.)
3. AB 1819 removes requirements placed by SB 338 that require a minimum of 30 days of advertising of classes on high school campuses, if the sole medium for such advertising is electronic, (This applies to all classes administered on a high school campus, not just those held during regular school hours). (See specific amendments to Education Code Section 76002 below.)
4. AB 1819 completely removes the restrictions on claiming FTES for PE enrollment of special-admit students as placed by SB 338. (See specific amendments to Education Code Section 76002 below.)

76002. (a) (1) For the purposes of receiving state apportionments, a community college district may include high school pupils who attend a community college within the district pursuant to Sections 48800 and 76001 in the district's report of full-time equivalent students (FTES) only if those pupils are enrolled in community college classes that meet ~~at~~ both of the following criteria:

~~(1)~~

(A) The class is open to the general public.

~~(2) (A)~~

(B) The class is advertised as open to the general public in one or more of the following media:

(i) The college catalog.

(ii) The regular schedule of classes.

(iii) An ~~addenda~~ *addendum* to the college catalog or regular schedule of classes.

~~(B) If a decision to offer a class on a high school campus is made after the publication of the regular schedule of classes, and the class is solely advertised to the general public through electronic media, the class shall be so advertised for a minimum of 30 continuous days prior to the first meeting of the class.~~

~~(3) If the class is offered at a high school campus, the class may not be held during the time the campus is closed to the general public, as defined by the governing board of the school district during a regularly scheduled board meeting.~~

~~(4) If the class is a physical education class, no more than 10 percent of its enrollment may be comprised of special part-time or full-time students. A community college district may not receive state apportionments for special part-time and full-time students enrolled in physical education courses in excess of 5 percent of the district's total reported full-time equivalent enrollment of special part-time and full-time students.~~

(2) Notwithstanding paragraph (1), high school pupils who attend a community college class that is offered on a high school campus during regular school hours may be included in a community college district's report of FTES.

## **Background and Policy Analysis:**

### **5% Limit on Recommendation of Students:**

The current language in Education Code Section 48800 (d) is newly placed in this section and slightly amended from the Education Code existing prior to January 1, 2004. The summer restriction language was previously contained in Education Code Section 76001 (h) and (i). The references were moved in SB 338 so rules pertaining to K-12 would be appropriately contained in the K-12 section of the Education Code, but no policy changes were made nor intended.

The summer restrictions have been in the Education Code since 1963 (added by Chapter 934 of the Statutes of 1963). The original reasons for such restrictions are unknown.

Conditions have changed considerably since that time, both in regard to enrollment patterns (such as year-round schools and greater year-round use of facilities) and high school academic requirements (such as increased focus on Advanced Placement or "AP" classes for admission to the more competitive colleges).

The reasons for placing this specific language in the summer enrollment section are unknown. The restriction now appears arbitrary. Why 5%? Why limited by grade level? Why a limit? The restriction makes it more difficult for some high school students to utilize community college summer opportunities. It is also more burdensome for the smallest K-12 districts, which may be limited to a recommendation for only 2 or 3 students under this rule.

### **Maintenance of Other Summer Special-Admit Enrollment Restrictions**

AB 1819 maintains the requirement that a pupil must demonstrate adequate preparation in the discipline to be studied. The reasons for placing this specific language in the summer enrollment section are unknown. Rules applying to all special-admit enrollment (summer or other terms) already provide that both the K-12 authority to recommend such a student and the community college authority to admit such a student is conditioned upon "ability to benefit" from "advanced scholastic or vocational work". Effective January 1, 2004, community college districts have additional authority to restrict enrollment of a special-admit student based upon "demonstrated eligibility for instruction using assessment methods and procedures established pursuant (to matriculation rules and regulations)."

This measure also maintains the rule that a pupil must exhaust all opportunities to enroll in an equivalent course, if any, at his or her school of attendance. The reasons for placing this specific language in the summer enrollment section are unknown. The requirement is a bit ambiguous and is interpreted differently by school and college districts. Does it mean a student cannot take a course if it is offered at any time by the high school? Or if it is offered at a time the student cannot take the course? Or if it is offered at a time that precludes the student from choosing other desired or required courses? Can a student take a summer course to get a head start on the same course during the year? Etc.

These provisions were also placed in the Education Code many years ago and do not appear to have a relevant policy foundation at this time.

### **Waiver of Compliance**

Also note that AB 1819 maintains the current Education Code rule that prevents an appeal regarding compliance with the 5% summer recommendation limitation, although the bill eliminates the 5% rule, so a waiver would be moot. This may be an oversight.

### **Allowing FTES to be Claimed for Closed Classes on a High School Campus**

This is a major feature of AB 1819. Current law provides that all community college classes for which apportionment may be claimed must be open to the public. This rule is not limited to those classes that enroll high school students.

Closed classes at a high school campus during regular school hours would provide a simpler and safer situation for high schools because visitors would not have to be approved. Given today's heightened security concerns, many would welcome such a provision. However, the ability to conduct closed classes is available at this time without statutory changes. Community college districts may enter into contract education with the local K-12 school district and provide closed classes under the terms of the contract. Such classes are not eligible for FTES claims, but rather are typically funded through the ADA monies provided to the K-12 district or other locally available funding streams.

K-12 districts receive ADA funds for students who attend classes during regular high school hours. If the law were to allow FTES to be claimed for closed classes conducted during regular high school hours, some provision to prevent payment of both ADA and FTES funds for the same educational activity might be necessary.

## **Requirements for Advertising Classes**

Current law provides that any class that is available to high school students for whom the district desires to claim FTES (regardless of its location) must be open to the general public, and advertised as open to the general public in one or more of the following: The college catalog, the regular schedule of classes and/or addendum to the college catalog or regular schedule of classes.

AB 1819 allows districts to claim FTES for classes held on high school campuses during regular school hours notwithstanding these provisions. This is a complement to the intent of this bill, which is to allow closed classes on high school campuses. A class that is closed to the public would not require such advertising.

The language in the bill would leave these advertising rules in effect for classes held at high school campuses in the evenings, early mornings or weekends.

## **Classes at High Schools Advertised Solely Through Electronic Media:**

SB 338 amended the Education Code to require a minimum 30-day posting of class availability if the classes were to be held at a high school campus and if the sole means of advertising the classes were to be through electronic media. Those who were concerned that high school course sections could be posted on the web at the last minute, which would effectively preclude public participation, added this rule. AB 1819 is removing this precaution from the education code.

The language in the bill would delete this requirement for all classes on a high school campus, regardless of the time the class was offered.

## **Deletion of Limitations on Physical Education Concurrent Enrollment:**

These strict provisions were established in response to the significant negative publicity generated by the alleged abuse in PE concurrent enrollment classes. From 1992-93 to 2001-02, special-admit enrollment increased more than three-fold. In the same time period, special-admit enrollment in physical education classes increased nearly eight-fold. It was further apparent, through a preliminary investigation conducted by the Chancellor's Office, that some portion of PE special-admit FTES apportionments were claimed for courses that were not in compliance with state law. Highly negative attitudes toward this coursework combined with the difficult budget times and resulted in the current severe limitation on the claiming of FTES for such classes.

Specifically, districts may not claim apportionment for special-admit FTES in PE classes that exceeds 5% of the overall FTES claimed for such students. Additionally, districts may not claim apportionment for a specific PE class section that exceeds more than 10% special-admit enrollment. These are not enrollment restrictions. The district may enroll as many special-admit students in PE classes as it desires, however it cannot claim apportionment above these levels. This effectively restricts enrollment unless the district finds an alternate source of funding (such as contract education or other funds) or is willing and able to provide such education without funding.

At the time these restrictions were placed in SB 338, the system testified that it opposed, on the principle of local control, legislative mandates regarding such local enrollment management policies. Such decisions are better left with the community, not the State. The local partnerships with K-12 should determine the extent and nature of educational enrichment opportunities provided through this mechanism. However, the system acknowledged the negative publicity and indicated community college officials hoped to return to the Legislature to remove such restrictions when public trust in local concurrent enrollment policies was regained. Since these restrictions have only been in place for a few weeks, it might be difficult to convince the Legislature to restore appropriate local authority in this area at this time.

## **Fiscal Analysis:**

Some aspects of AB 1819 could result in eventual savings to the State; other provisions could result in immediate expenditure and/or cost pressure for additional expenditures in future years.

A provision that allows K-12 principals to recommend students for summer enrollment without regard to the "5% law" is fiscally neutral for the immediate budget year. The local districts decide upon their summer and other term enrollment management policies. AB 1819 might increase the number of students who are recommended for summer enrollment, but the overall FTES paid to a district would still be subject to a cap unrelated to such recommendations. Moreover, from the State's perspective, the amount the State allocates to districts each year is capped by the annual budget act appropriation.

This provision could, however, result in savings for the State in future years. Some portion of the students who avail themselves of these advanced scholastic opportunities will eventually enroll at CSU or UC. To the extent such students complete college-level coursework at the community college marginal rate (rather than the UC or CSU rate), the State saves money on each student. Similarly, if such students enroll in the local community college and local K-12 districts thus do not have to accommodate these students with additional honors or AP courses within the ADA funding stream, the State saves funds compared with the K-12 marginal funding rate.

The provision to allow for FTES to be paid for closed classes at high school campuses during regular school hours could result in additional state expenditure unless there were a provision to ensure that ADA funds were not paid for the same students during the same hours.

Finally, as noted previously, PE special-admit enrollment grew at a significant rate over the last few years until negative publicity and legislative action reversed such growth. Provisions that allow a return to significant growth in such PE enrollment could place cost pressure on future state budget deliberations, although the Administration and the Legislature remain firmly in control of appropriations and would have to make a deliberate decision to increase funding in face of such cost pressure.

## **Position: Oppose, Unless Amended.**

Amendments desired in order to support this measure:

- Elimination of the current Education Code language related to adequate preparation.
- Elimination of the current Education Code language related to exhaustion of all opportunities.
- Elimination of the current Education Code language related to a waiver of compliance.
- Maintenance of provisions requiring open classes at high school campuses regardless of the hours during which a class is held if the class enrolment is to be claimed for FTES apportionment.
- Maintenance of provisions requiring appropriate advertising of classes that include high school students and are claimed for FTES apportionment.
- Maintenance (for the time being) of provisions that strictly limit the amount of PE enrollment by special-admit students that can be claimed for FTES apportionment.

The Board of Governors supports the provision that removes the 5% limit on special-admit students who can be recommended for summer enrollment by K-12 officials. The Board has adopted a neutral position on the elimination of the provision regarding a minimum 30-day posting of electronic advertising if that is the sole means of advertising a class to be held on a high school campus.

## **Reason for Positions:**

### **Support for Elimination of the 5% rule:**

The 5% recommendation rule that restricts summer enrollment is anachronistic. Given the increase in year-round schools, the uniqueness of "summer" has lost its historic relevance for many school districts. Summer enrollment in community colleges provides students with options to respond to the increased focus on AP coursework for competitive college admission. There is no modern policy foundation for a 5% limit. The decision to attend a community college (and the recommendation of the school district to support such a decision) is local and individual and should not be subject to this restriction. The restriction presents barriers for student participation in the highly valuable Middle College and Early College High School programs.

### **Opposition to Other Features**

A rule to ensure academic preparation is redundant; why is such a rule maintained in this bill? AB 1819 also maintains rules that require a student to avail himself or herself of all opportunities in K-12; such a rule is ambiguous and without policy foundation. All community college classes (not just those that admit high school students), which are eligible for FTES reimbursement, are required to be open to the public. If a district desires to hold a closed class, the contract education provisions are available to support such a decision. Partnerships with local high schools can operate under such contracts and meet security and safety concerns without amending state law. The restrictions on PE enrollment were placed in the face of extremely negative publicity and were passed without a single dissenting vote in the Senate or the Assembly. It is premature to request an amendment to these newly adopted enrollment restrictions.

### **Contact:**

Mary Gill, Interim Vice Chancellor of Governmental Relations

916.323.5951 or [mgill@cccco.edu](mailto:mgill@cccco.edu)