Recommended Action

It is recommended that the Board of Governors approve the following resolution:

WHEREAS, in December 2019, an outbreak of respiratory illness due to a novel coronavirus (a disease now known as COVID-19), has impacted more than 75 countries, including the United States; and

WHEREAS, on January 23, 2020, the Center for Disease Control activated its Emergency Response System to provide ongoing support for the response to COVID-19 across the country; and

WHEREAS, on January 24, 2020, the California Department of Public Health activated its Medical and Health Coordination Center and on March 2, 2020, the Office of Emergency Services activated the State Operations Center to support and guide state and local actions to preserve public health; and

WHEREAS, on March 4, 2020, the Governor declared a State of Emergency to make additional resources available to help the state prepare for the broader spread of COVID-19. This proclamation formalized emergency actions already underway across multiple state agencies and departments to respond to the COVID-19 outbreak in California, and commended "all agencies" of the state government to "perform any and all activities consistent with the direction of the Office of Emergency Services and the State Emergency Plan, as well as the California Department of Public Health and the Emergency Medical Services Authority;" and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 to be a worldwide pandemic; and

WHEREAS, on March 12, 2020, the Governor issued Executive Order N-25-20 to further efforts to control the spread of the COVID-19 virus and to minimize the risk of infection; and

WHEREAS, the spread of COVID-19 in California has caused the closure of community college campuses to protect the health and safety of students and district employees, and will require community colleges to adopt alternatives to classroom instruction in order to continue to provide educational services to their students; and

WHEREAS, the Board of Governors wishes to ensure community college districts and campuses are adequately supported and able to continue providing educational services to students during this COVID-19 crisis; and

WHEREAS, the California Emergency Services Act provides that all state agencies "shall render all possible assistance to the Governor and the Director Emergency Services" in carrying out the Act. Additionally, section 71095 of the Education Code requires the Chancellor’s Office to develop standards and guidelines to assist community college districts and campuses in the event of an emergency; and

WHEREAS, the Board of Governors has full authority under Education Code section 70901 to adopt rules and regulations necessary and proper to execute the functions the Board is authorized by law to perform; and

WHEREAS, section 204(b) of the Board of Governors’ Procedures and Standing Orders authorizes the Board to adopt regulatory actions without regular notice upon "an affirmative finding that the regulatory action is necessary for the immediate preservation of the public peace, health and safety, or for the general welfare;" and

WHEREAS, the Board of Governors wishes to provide sufficient regulatory flexibility to the Chancellor’s Office and to community college districts and colleges to meet the challenges presented by the COVID-19 crisis, by directing the Chancellor to take appropriate actions, including by executive order, to allow the continued education of community college students, including the temporary suspension of regulations that pose barriers to the continuity of education.

THEREFORE, BE IT RESOLVED, that the Board of Governors of the California Community Colleges:

1. Finds that the proposed emergency regulatory action is necessary for the immediate preservation of the public peace, health and safety, and for the general welfare; and
2. Adopts the proposed emergency regulatory action adding section 52020, to chapter 3, of division 6, of title 5 of the California Code of Regulations; and
3. Requires that this Resolution and the emergency regulatory action will remain in effect until the state of emergency as determined by the Governor to address the COVID-19 epidemic has ended or, in the event the emergency extends beyond 180 days, requires that the emergency regulatory action shall be repealed by its terms after 180 days from the adoption of this Resolution, subject to subsequent regulatory action by the Board; and
4. Directs the Chancellor to take all necessary and appropriate ministerial and administrative actions to give full effect to this Resolution.
Recommended By

General Counsel Marc LeForestier

Issue

This item requests emergency action by the Board on a resolution adding a new section 52050 to title 5 on an emergency basis that would provide the Chancellor with authority to address the COVID-19 emergency for a period of 180 days, subject to future action by the Board.

Background

The World is in the midst of a declared global pandemic virus, COVID-19. A State of Emergency was declared by the Governor of California on March 4, 2020. In response institutions of higher learning, including California community college campuses, are taking steps to protect students and employees from the spread of the virus, while maintaining the continuity of educational services. The Chancellor’s Office anticipates that there will be regulatory barriers to balancing these sometimes competing objectives, some of which cannot be anticipated due to the quickly evolving nature of the emergency.

In the past week, for example, as a number of colleges moved classroom courses on-line, questions developed concerning the appropriate process for approving such transitions. The Chancellor’s Office believes that time and resources should not be expended in this time of crisis debating who has the authority to makes decisions, but rather on making the best decision under the circumstances.

In considering the Chancellor’s authority in the context of the COVID-19 emergency, it became clear that existing, express emergency powers are limited to addressing public safety issues in the development of emergency plans with the Office of Emergency Services, and holding college districts financially harmless in the wake of campus closures. However, there is no clear direction from the Board to the Chancellor or community college districts regarding how to address academic and procedural issues that arise when educational services are intended to continue during a declared emergency.

In the context of a declared emergency pandemic, where unnecessary barriers to the continuity of educational services exist, the Chancellor should have clear authority to remove them. The proposed emergency regulation would provide that authority on a temporary basis.

The Chancellor’s Office anticipates that a proposed amendment to this emergency regulation will be presented at a future meeting, following an opportunity to consult with community college stakeholders and receive public comment. The purpose of this amendment would be to establish a permanent regulation providing the Chancellor with appropriate authority in a declared emergency.

For additional information about COVID-19, including information on the Governor’s emergency actions, visit the California Department of Public Health Internet site (CDPH.ca.gov).

Proposed Emergency Regulation

Section 52020 of Chapter 3, of Division 6 of Title 5 of the California Code of Regulations is added to read:


The Chancellor is directed to take all appropriate actions, including by executive order, to allow the continued education of community college students during the period of emergency proclaimed by the Governor of the State of California on March 4, 2020. Such actions may include the temporary suspension of regulations adopted by the Board and the suspension of local rules and regulations that are a barrier to the continuity of educational services. Actions taken by the Chancellor pursuant to this authority shall not be subject to Article 3, of Chapter 3, of the Procedures and Standing Orders of the Board of Governors.

This regulation is repealed effective 180 days from its adoption, subject to subsequent action by the Board.


Attachments

None.

https://go.boarddocs.com/ca/cccchan/Board.nsf/Public#