

2008 Omnibus Version



# Distance Education Guidelines

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# California Community Colleges Distance Education California Code of Regulations Title 5 and Related Guidelines August 15, 2008

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## Overview

The Board of Governor's for the California Community Colleges approval of the California Code of Regulations, Title 5 related to distance education (DE) covered in these guidelines permits colleges to explore and develop educational initiatives using advanced communication and computing technologies to address student access issues related to geographical, cultural, disability, and facility barriers.

This document is designed to provide overall guidance and assistance to individuals seeking to understand the system's rules which apply to the design, approval, conduct, and reporting of distance education within California Community Colleges. It should be noted that the regulations cited in this 2008 Omnibus Version and their accompanying clarifying commentary were not approved by the Board of Governors all at the same time. The regulations regarding the standards and criteria for DE courses were approved by the Board on July 9, 2007. Regulations regarding DE attendance accounting standards were approved by the Board on June 16, 2008. Earlier regulations changes regarding the rules for immediate supervision and control within DE were approved on January 15, 2002. All three sets of regulations and guidelines have been combined in this 2008 Omnibus Version to provide the reader an all inclusive reference on Distance Education regulations.

Draft guideline language was jointly developed by the Educational Technology Advisory Committee working in conjunction with staff from the Academic Affairs Division of the Chancellor's Office. The final version of the guidelines included in this package was reviewed and edited by the Chancellor's Office.

While the clarifying guidelines following each regulation is not legally binding, it is important to note that district and college observance of the guidelines will play an important part in the community college system's continued review and evaluation of Distance Education activities and any subsequent revisions of these regulations. Districts following the guidelines are assured that the Chancellor's Office will likely find them to be in compliance with all regulatory requirements. The guidelines are subject to revision by the Chancellor as deemed necessary, upon the advice from relevant advisory committees and in accordance with the Board of Governors' *Standing Order* 409.

In what follows, the Title 5 section titles are in bold and the regulations are in italics. Each regulation is followed by a guideline. The regulations included are located within two chapters of Title 5: Chapter 6, "Curriculum and Instruction" and Chapter 9, "Fiscal Support." A total of 14 Title 5 DE regulations are included.

# Regulations and Guidelines on Distance Education

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## **Chapter 6, Curriculum and Instruction**

### **Standards and Criteria for Courses**

#### **55200. Definition and Application.**

*Distance education means instruction in which the instructor and student are separated by distance and interact through the assistance of communication technology. 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 that may be imposed by 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).*

**NOTE:** Authority cited: Sections 66700 and 70901, Education Code.

Reference: Sections 70901 and 70902, Education Code; Title 29 United States Code Section 794d, and Title 42 United States Code Section 12100 et seq.

#### **Guideline for Section 55200**

The Board of Governor's approval of distance education (DE) regulations for the California Community Colleges permits colleges to explore and develop educational initiatives using advanced communication and computing technologies to address student access issues related to geographical, cultural, disability or facility barriers.

Ensuring that distance education courses, materials and resources are accessible to students with disabilities is a shared institutional responsibility. Faculty need to receive appropriate training in order to ensure that they understand what constitutes accessibility, and institutions must provide faculty with both the necessary training and resources to ensure accessibility. The Americans with Disabilities Act of 1990 (42 U.S.C. 12100 et seq.), section 508 of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794d), and California Government Code section 11135 all require that accessibility for persons with disabilities be provided in the development, procurement, maintenance, or use of electronic or information technology by a community college district using any source of state funds. (See Legal Opinion M 03-09). Title 5, section 55200 explicitly makes these requirements applicable to all distance education offerings.

The following are a few general principles that should be followed in ensuring that distance education courses are accessible to students with disabilities. They embody the general concepts of the law but do not provide a detailed legal analysis of the ADA requirements. Persons utilizing this document who are unfamiliar with the ADA and

section 508 may wish to consult district legal counsel or the college ADA Coordinator or DSP&S Coordinator for further information. A separate and more detailed set of revised guidelines on accessibility and distance education will be issued by the System Office at a later date.

1. One of the primary concepts of Distance Education (DE) is to offer students "Learning anytime, anywhere." Therefore, all DE resources must be designed to afford students with disabilities maximum opportunity to access distance education resources "anytime, anywhere" without the need for outside assistance (i.e. sign language interpreters, aides, etc.).
2. Distance education resources must generally be designed to provide "built-in" accommodation (i.e. closed or open captioning, descriptive narration) and/or interface design/content layout, which is accessible to "industry standard" assistive computer technology in common use by persons with disabilities.
3. Whenever possible, printed information should be provided in the alternative format preferred by the student (i.e. Braille, audio tape, large print, electronic text, MP3, DAISY). When choosing between possible alternative formats or methods of delivery, consideration should be given to the fact that methods which are adequate for short, simple or less important communications may not be equally effective or appropriate for longer, more complex, or more critical material. (Example: Use of a telephone relay service may be an acceptable method for a faculty member to respond to a brief question from a deaf student during his/her office hours, but would not be appropriate as a means of permitting that same student to participate in a class discussion in a course conducted by teleconference.) Issues concerning accommodation should be resolved through appropriate campus procedures as defined under title 5, section 56027.
4. Adoption of access solutions which include assigning assistants (i.e. sign language interpreters, readers) to work with an individual student to provide access to distance education resources should only be considered as a last resort when all efforts to enhance the native accessibility of the course material have failed. This is particularly true since colleges have for several years received funding to assist them in providing access to distance education. In the event that a student files a discrimination complaint, a district relying on the use of readers or interpreters to make a distance education course accessible will bear the burden of demonstrating that it was not possible to build in accessibility.
5. Access to DE courses, resources and materials include the audio, video and text components of courses or communication delivered via existing and emerging technologies. Access includes the audio, video, multimedia and text components of Web sites, electronic chat rooms, e-mail, instructional software, CD-ROM, DVD, laser disc, video tape, audio tape, electronic text and print materials. Where access to Web sites not controlled by the college is required or realistically necessary to completion of a course, the college must take steps to

ensure that such sites are accessible or provide the same material by other accessible means.

6. Distance education courses, resources and materials must be designed and delivered in such a way that the level of communication and course-taking experience is the same for students with or without disabilities.
7. Any DE courses, resources or materials purchased or leased from a third-party provider, or created or substantially modified “in-house” after August 1999, must be accessible to students with disabilities, unless doing so would fundamentally alter the nature of the instructional activity or result in undue financial and administrative burdens on the district.
8. In August 1999, the Chancellor’s Office began requiring that the curriculum for each DE course and its associated materials and resources be reviewed and revised, as necessary, when the course undergoes curriculum review pursuant to title 5, sections 55002 and 55206, every six years as part of the accreditation process. Thus, this process should now have been completed for all distance education courses. If a college has not yet reviewed its distance education courses to ensure accessibility, it should do so immediately. However, in the event that a student with a disability enrolls in an existing DE course before this review is completed, the college will be responsible for acting in a timely manner and making any requested modifications to the curriculum, materials or resources used in the course, unless doing so would fundamentally alter the nature of the instructional activity or result in undue financial burden on the district.
9. In the event that a discrimination complaint is filed alleging that a college has selected software and/or hardware that is not accessible for persons with disabilities, the Chancellor’s Office and the U.S. Department of Education, Office for Civil Rights will not generally accept a claim of undue burden based on the subsequent substantial expense of providing access, when such costs could have been significantly reduced by considering the issue of accessibility at the time of initial selection.
10. In all cases, even where the college can demonstrate that a requested accommodation would involve a fundamental alteration in the nature of the instructional activity or would impose an undue financial and administrative burden, the college must provide an alternative accommodation which is equally effective for the student if such an accommodation is available.
11. The college is responsible for assuring that distance education courses, materials and resources are accessible to students with disabilities. All college administrators, faculty and staff who are involved in the use of this instructional mode share this obligation. The Chancellor’s Office will make every effort to

provide technical support and training for faculty and staff involved in the creation of accessible distance education courses, resources and materials.

#### **55202. Course Quality Standards.**

*The same standards of course quality shall be applied to any portion of a course conducted through distance education as are applied to traditional classroom courses, in regard to the course quality judgment made pursuant to the requirements of section 55002, and in regard to any local course quality determination or review process. Determinations and judgments about the quality of distance education under the course quality standards shall be made with the full involvement of faculty in accordance with the provisions of subchapter 2 (commencing with section 53200) of chapter 2.*

**NOTE:** Authority cited: Section 66700 and 70901, Education Code.  
References: Sections 70901 and 70902, Education Code.

#### **Guideline for Section 55202**

This section emphasizes the extent to which course quality depends upon the full involvement of faculty in the design and application of DE courses. It discusses course quality standards for distance education and combines language formerly found in sections 55207 and 55209 which it replaces. Language is added to clarify that normal course quality standards apply to any portion of a course conducted through distance education.

#### **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 between instructor and students, through group or individual meetings, orientation and review sessions, supplemental seminar or study sessions, field trips, library workshops, telephone contact, correspondence, voice mail, e-mail, or other activities. Regular effective contact is an academic and professional matter pursuant to sections 53200 et seq.*
- (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.

#### **Guideline for Section 55204**

This section defines what contact must be maintained between instructor and student. It is virtually identical to section 55211 which it replaces, except that language has been

added to clarify that rules related to conduct of distance education and effective instructor contact apply to any portion of a course conducted through distance education.

Subdivision (a) stresses the responsibility of the instructor in a DE course to initiate regular contact with enrolled students to verify their participation and performance status. The use of the term “regular effective contact” in this context suggests that students should have frequent opportunities to ask questions and receive answers from the instructor of record.

The last published Distance Education Guidelines, March 2004, issued by the Chancellor pursuant to section 409 of the Procedures and Standing Orders of the Board of Governors, as referenced in subdivision (b), establishes the principle that for DE courses there are a number of acceptable interactions between instructor and student, not all of which may require in-person contact. Thus, districts and/or colleges will need to define “effective contact” including how often, and in what manner instructor-student interaction is achieved. It is important to document regular effective contact and how it is achieved. Since regular effective contact was declared an academic and professional matter, this documentation must include demonstration of collegial consultation with the academic senate, for example through its delegation to the local curriculum committee. A natural place for this to occur is during the separate course approval process (see section 55206) as well as during faculty evaluations, student surveys, and program review. Documentation should consist of the inclusion of information in applicable outlines of record on the type and frequency of interaction appropriate to each DE course/section or session. Local policies should establish and monitor minimum standards of regular effective contact.

### **55206. Separate Course Approval.**

*If any portion of the instruction in a proposed or existing course or course section is designed to be provided through distance education in lieu of face-to-face interaction between instructor and student, the course shall be separately reviewed and approved according to the district's adopted course approval procedures.*

*NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.*

### **Guideline for Section 55206**

This section has been revised to clarify that separate approval of a DE course is required if any portion of the instruction in a course or course section is designed to be regularly provided through distance education in lieu of face-to-face interaction. While only those courses that are 51% or more DE are reported as DE, the language here is intended to clarify that those courses that are less than 51% DE, but are designed to include a certain number of contact hours offered through DE, still must undergo a separate approval process. The occasional online assignment does not necessitate separate approval.

In making use of the existing local curriculum approval process, there must be documentation of “regular effective contact” as described in section 55204 consistent with local policy. For this reason, a course with any portion of a course section provided through DE in lieu of face-to-face instruction should be separately reviewed.

### **55208. Faculty Selection and Workload**

*(a) Instructors of course sections delivered via distance education 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) 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).*

*(c) 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.

### **Guidelines for 55208**

Section 55208, which addresses faculty selection and workload for distance education, is virtually identical to sections 55215 and 55217, which it replaces. This section emphasizes that faculty delivering DE courses should meet the same minimum qualifications and be selected in the same manner as faculty teaching non-DE courses.

### **55210. Ongoing Responsibility of Districts.**

*If a district offers one or more courses or course sections in which instruction is provided through distance education for at least 51percent of the hours of instruction in the course or course section, the district shall:*

*(a) maintain records and report data through the Chancellor's Office Management Information System on the number of students and faculty participating in new courses or sections of established courses offered through distance education ;*

*(b) provide to the local governing board, no later than August 31st of each year, a report on all distance education activity;*

*(c) provide other information consistent with reporting guidelines developed 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.

### **Guideline for Section 55210**

This section, which addresses ongoing district reporting responsibility for distance education, is virtually identical to former section 55219 which it replaces, except that language is added to clarify that the requirements of this section apply only where distance education is used for 51% or more of the instruction in a course or course section. Districts offering DE courses are required regularly to report all management information system (MIS) elements to the Chancellor's Office Management Information System Division. To fulfill this MIS reporting requirement, districts will need to ensure that data now regularly reported on each session's method of instruction within data element XFO1: "Session Instruction Method" are reliably differentiated between DE and non-DE.

This section also requires districts to report annually all DE activity to their local governing board and respond to any Chancellor's Office request for data on DE which includes the Annual Institutional Survey and the DE Faculty and Student Satisfaction Surveys. To the extent possible, local reports should compare and contrast DE to traditional instructional delivery. The Chancellor's Office will continue electronically to provide all surveys and information regarding timelines, formats, and the reporting instrument annually for the Institutional, Faculty and Student Satisfaction surveys. The results of the annual surveys will be available on the Chancellor's Office (CO) website. The surveys consist of questions relevant to distance education courses/programs offered at CCC campuses. Based on input from the technical advisory committee referenced in the Board of Governors Standing Order 409, the Chancellor may require districts to provide additional information.

## **Chapter 9, Fiscal Support**

### **Attendance**

#### **Section 58003.1. Full-time Equivalent Student; Computation.**

*(a) Pursuant to the provisions of section 58051, the units of full-time equivalent student for apportionment purposes shall be computed for courses, including those delivered by distance education under article 1 (commencing with section 55200) of subchapter 3 of chapter 6, based on the type of course, the way the course is scheduled, and the length of the course.*

*(b) The governing board of each community college district shall, for each of its colleges or its district, select and establish a single primary term length for credit courses that are scheduled regularly with respect to the number of days of the week and the number of hours the course meets each week, inclusive of holidays. The units of full-time equivalent student of credit courses scheduled coterminously with the term, exclusive of independent study and cooperative work-experience education courses, shall be computed by multiplying the student contact hours of active enrollment as of Monday of the weeks nearest to one-fifth of the length of the term, unless other weeks are specified by the Chancellor to incorporate past practice, by the term length multiplier, and divided by 525. The term length multiplier for attendance accounting purposes shall be determined in accordance with this chapter, provided that the maximum multiplier for semester length terms shall be 17.5 and the maximum multiplier for quarter length terms shall be 11.67.*

*(c) For credit courses scheduled to meet for five or more days and scheduled regularly with respect to the number of hours during each scheduled day, but not scheduled coterminously with the college's primary term established pursuant to subdivision (b), or scheduled during the summer or other intersession, the units of full-time equivalent student, exclusive of independent study and cooperative work-experience education courses, shall be computed by multiplying the daily student contact hours of active enrollment as of the census days nearest to one fifth of the length of the course by the number of days the course is scheduled to meet, and dividing by 525.*

*(d) For credit courses scheduled to meet for fewer than five days, and all credit courses scheduled irregularly with respect to the number of days of the week and the number of hours the course meets on the scheduled days, the units of full-time equivalent student, exclusive of independent study and cooperative work-experience education courses, shall be computed by dividing actual student contact hours of attendance by 525.*

*(e) For all open entry-open exit credit courses and for all noncredit courses otherwise eligible for state aid, except those described in subdivision (f), the units of full-time equivalent student shall be computed by dividing actual student contact hours of attendance by 525.*

*(f) For distance education courses not computed using other attendance accounting procedures described in this section and for independent study and cooperative work-experience education courses, the following alternative attendance accounting procedure shall be used:*

*(1) For credit courses, for purposes of computing full-time equivalent student only, one weekly student contact hour shall be counted for each unit of credit for which a student is enrolled in one of those courses. The full-time equivalent student of those courses shall be computed by multiplying the units of credit for which students are enrolled as of the census day prescribed in subdivision (b) or (c), as appropriate, for the primary term or intersession and duration for which the course is scheduled, by the term length multiplier as provided for in subdivision (b), and dividing by 525.*

*(2) For noncredit course sections covered by this subdivision, for purposes of computing full-time equivalent student only, weekly student contact hours shall be derived by counting the total hours of instruction or programming received by the students, plus instructor contact as defined in sections 55204 or 55234 , plus outside-of-class work expected as noted in the course outline of record and approved by the curriculum committee, and dividing the total number of hours for the course thus derived by 54. Hours of instruction or programming received shall be independently verified by the instructor using a method or procedure approved by the district according to policies adopted by the local governing board as required by section 58030. Full-time equivalent student for such noncredit course sections shall be computed by:*

*(A) multiplying the average of the number of students actively enrolled in the section as of each census date (those dates nearest to one-fifth and three-fifths of the length of the course section) by,*

*(B) the weekly student contact hours as derived above in this section, by*

*(C) the primary term length multiplier of 17.5, and*

*(D) dividing by 525.*

*(g) Notwithstanding subdivisions (b) and (c) of this section, the units of full-time equivalent student for any credit course other than independent study and cooperative work-experience education courses may, at the option of the district, be computed by dividing the actual student contact hours of attendance by 525. When a district chooses to exercise the option of computing attendance for any course section by the actual student contact hour's method, such method must be used consistently for all attendance accounting for that section.*

*NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.*

### **Guideline for Section 58003.1**

Distance Education (DE) offerings have been mainstreamed. To effectuate this change, section 58003.1 was revised, effective July, 2002, to reflect the ability of colleges to compute DE Full Time Equivalent Student (FTES) using the same attendance accounting procedures available to a classroom-based course/section (traditional delivery). Additionally at that same time, section 55370, which previously stated, "all distance education is independent study" was deleted. Section 58056 was also revised to exempt DE courses from the "immediate supervision and control" requirements prescribed by that section. It should be noted that prior to the revision of section 58003.1, section 55370, which as noted above has been deleted, did permit "fully interactive" DE courses to use

attendance procedures other than the Independent Study/Work Experience Education procedure.

***The July, 2002, revision to section 58003.1 made it even clearer that DE courses can apply any attendance procedure that they are eligible to use based on the specific criteria applicable to each procedure.***

This section, which describes the several available attendance accounting procedures, has then been further amended in subsection (f) to make technical changes which clarify the treatment of distance education courses. All other provisions of the section remain unchanged. The amendment establishes an “alternative attendance accounting procedure “ (previously referred to as the Independent Study or Work–Experience Attendance Procedure) which can be used to calculate FTES for apportionment purposes for independent study, cooperative work experience, and most importantly in this context also for distance education courses not computed using the other attendance accounting procedures described in this section. For credit distance education courses this alternative method generally consists of counting one weekly student contact hour (WSCH) for each unit of credit for which a student is enrolled (an exception to this general rule is discussed below). For noncredit distance education courses this alternative method consists of determining a WSCH factor from the quotient of the total hours of instruction or programming, plus other allowable instructor contact, plus authorized outside-of-class work expected as noted in the course outline of record, divided by 54. The resultant figure becomes the WSCH to be used when calculating census FTES for noncredit distance education courses.

In spite of the changes noted above, other essential requirements and criteria applicable to the various attendance accounting procedures continue to apply. For example, Title 5 sections 58003.1(b) and (c) relative to counting the student contact hours of active enrollment in the census based attendance procedures have not been amended--and as indicated above, they speak of “regularly scheduled” days and hours. Also, Title 5 section 58023 requires that the class (contact) hour unit for classes be not less than 50 consecutive minutes. Title 5 sections 58000 and 58030 also continue to require detailed tabulations of all course enrollment and attendance and appropriate support records. The Actual Hours of Attendance procedure (Positive Attendance) provided by Title 5 section 58003.1(d) can be used if the course is irregularly scheduled and all applicable requirements are met. If the DE courses cannot meet all of the criteria applicable to the attendance procedures provided by section 58003.1(b), (c), or (d) they must be accounted for using the alternative attendance accounting procedure detailed in section 58003.1(f) and section 58009. The majority of asynchronous online DE courses will likely use this alternative attendance accounting procedure as they are not regularly scheduled nor adhere to the guidelines for “to-be-arranged” (TBA) scheduling. It should be noted that there will typically be no loss of FTES when the alternative method as described in section 5803.1 (f) is employed, unless students are being granted fewer units of credit than would be typical (e.g. if students earned 3 units for a course that meets for 4 hours each week of the term). A complete explanation of these and other essential attendance accounting

and reporting requirements are provided in the *Student Attendance Accounting Manual* (Chapters 1 and 3.)

Thus, **Credit DE courses** can calculate FTES in one of four ways:

- **Weekly Student Contact Hour Procedure (Weekly Census):** Credit DE courses that are regularly scheduled with respect to the number of days of the week and the number of hours the course meets on each scheduled day and scheduled coterminously with the primary term can compute FTES under Section 58003.1(b). Instruction must occur each scheduled class meeting and students and instructor must be able to interact during the class session via some sort of communication technology. An example of a regularly scheduled Credit DE course might be a telecourse that is broadcast at the same time(s) every week of the primary term.
- **Daily Student Contact Hours Procedure (Daily Census):** Credit DE courses scheduled to meet for five or more days and scheduled regularly with respect to the number of hours during each scheduled day, but not scheduled coterminously with the primary term can compute FTES under section 58003.1(c). Instruction must occur each scheduled class meeting and students and instructor must be able to interact during the class session via some sort of communication technology.

*[Note: The Student Attendance Accounting Manual (Chapter 3) provides specific guidance for the “To Be Arranged” (TBA) scheduling option as applicable to Weekly or Daily Census procedure courses. Under this scheduling option, students adhere to individual schedules for meeting with the instructor as opposed to a single scheduled time for all students. However, each individual schedule continues to be based on regular weekly or daily contact hours depending on the applicable census based attendance procedure. In the case of DE courses, the regular contact could be met through online chat rooms, e-mail discussions, or other communication technology that allows for actual interaction between the student and the instructor. Please review the Student Attendance Accounting Manual (Chapter 3) for additional guidance on the TBA scheduling option. While the TBA scheduling option is permissible for credit DE courses, it is not anticipated that this would commonly be used.]*

- **Actual Hours of Attendance Procedure (Positive Attendance):** Credit DE courses scheduled for fewer than five days or that are scheduled irregularly with respect to the number of days of the week and the number of hours the course meets on the scheduled days can use the Positive Attendance procedure under section 58003.1(d). Instruction must occur each scheduled class meeting and students and instructor must be able to interact during the class session via some sort of communication technology. If a college/district wishes to use this attendance procedure for the computation of FTES, the college/district must keep track of the actual student contact hours for the course. It is possible for some Internet-based DE courses to apply to the Positive Attendance procedure. As with the weekly and daily census accounting procedures, this is an option not likely to be commonly employed for credit DE courses.

- **Alternative Attendance Accounting Procedure:** If a DE course is not structured so that it will qualify to use either the weekly or daily census procedure, and the college/district does not wish to keep track of actual student contact hours of attendance for the purposes of computing FTES, the college/district may choose to conduct the course using the alternative attendance accounting procedure under section 58003.1(f).

Please note that prior to a change to section 58009 approved by the Board of Governors at their January 2006 meeting, there was the possibility of a significant difference in the amount of FTES generated between an independent study or distance education **lab** course and a traditional delivery **lab** course. The reason is that the alternative method procedure, at that time known as the Independent Study/Work Experience Attendance Accounting Procedure, **previously used only the number of units of credit** as the basis for determining the student contact hours [§58003.1(f)(1)], while the Weekly Census, Daily Census, and Positive Attendance procedures use either the student contact hours of active enrollment or the actual **number of student contact hours of attendance** [§58003.1 (b, c, or d)]. For example, in a traditional one-unit weekly census **lab** course a student would attend class for three hours a week for 17.5 weeks (52.5 contact hours per student). If this same **lab** course was conducted as an independent study or DE alternative method course, the weekly contact hours would have been based on the number of units and would therefore only generate 17.5 contact hours per student (1 unit of credit x 17.5 weeks = 17.5 hours per student). This is the reason why Section 58009 was amended effective June 16, 2008, to permit weekly student contact hours in distance education or independent study laboratory courses to be calculated as equivalent to those hours which would be generated for the same student effort in a laboratory course not computed using the alternative method such as in a lab course offered on campus. The latest changes to section 58003.1(f) and 58009 effective June 16, 2008, are intended to explicitly indicate that the provisions included in those sections also cover certain distance education courses.

The appropriate attendance procedure for the computation of FTES must be determined by considering the applicable criteria for Weekly Census, Daily Census, Positive Attendance, or Alternative Method such as one offered in a lab on campus, sections 58003.1 (b), (c), (d) or (f). Weekly and Daily Census computations are similar and, therefore, have been combined for the purposes of illustration.

The following are examples of the FTES computation for a course using the Weekly/Daily Census, Positive Attendance, and Alternative Method attendance accounting procedures.

### **Example 1**

#### **Computation of per student FTES for a three unit course**

##### **A. Weekly/Daily Census**

3 hours of weekly student contact x 17.5 weeks in semester = 52.5 hours  
52.5/525 hours = .10 FTES

**B. Positive Attendance**

52.5 actual student contact hours of attendance/525 = .10 FTES

**C. Alternative Method**

3 units of credit x 17.5 weeks in semester = 52.5 hours

52.5/525 hours = .10 FTES

**Example 2**

**Computation of FTES in a three-unit course with 20 enrolled students**

**A. Weekly/Daily Census**

Each student would generate three hours of weekly student contact as of the census. The computation of FTES in a traditional one-unit term-length (17.5 weeks) course is:

3 hours x 20 students x 17.5 weeks = 1,050 hours

1,050/ 525 = 2 FTES

**B. Positive Attendance**

In this example, each student can generate a maximum of 52.5 contact hours of attendance if the student is not “absent” for any of the instruction. In this example, all students were in attendance for all the hours of instruction.

52.5 total actual hours of attendance per student X 20 students = 1,050 hours

1,050/525 = 2 FTES

**C. Alternative Method**

The computation is based on the number of units of credit in which the student is enrolled as of the census. The computation of FTES in a three-unit term length (17.5 weeks) course is:

3 units x 20 students x 17.5 weeks = 1050 hours

1050/525 = 2 FTES

In any of the above situations, the students will need to engage in an additional two (2) hours per week of educational activity for each one (1) hour of “lecture” time in order to meet the Carnegie Unit requirements for academic credit.

**Noncredit DE Courses**

As prescribed by title 5 section 58003.1(f)(2), noncredit DE courses continue to have only one attendance accounting procedure available to them. The noncredit DE procedure

requires two census points (one-fifth and three-fifths point in the length of each course) in which student contact hours and active enrollment are determined. The average of the contact hours generated at these two points is divided by 525 to compute FTES. Detailed guidance applicable to this procedure is provided in the Student Attendance Accounting Manual (Chapter 3).

**Section 58006. Application of Actual Student Contact Hours of Attendance Procedure.**

*The actual student contact hours of attendance procedure is based upon a count of students present at each course meeting, and shall apply to:*

- (a) All credit courses (exclusive of independent study, work experience and distance education courses computed using the alternative attendance accounting procedure described in subdivision (f) of section 58003.1) scheduled to meet for fewer than five days, or credit courses of five or more days which are scheduled irregularly with respect to the number of days of the week and the number of hours the course meets;*
- (b) All open entry/open exit courses;*
- (c) All noncredit courses otherwise eligible for state aid except those computed using the alternative attendance accounting method described in subdivision (f)(2) of section 58003.1;*
- (d) In-service training courses in the areas of police, fire, corrections, and other criminal justice system occupations as defined in subdivision (c) of section 58051.*
- (e) The attendance of students other than indentured apprentices who are actively enrolled in apprenticeship courses of related and supplemental instruction.*
- (f) A district may use, but shall not be required to use the actual student contact hours of attendance procedure for any other credit course, exclusive of independent study and work experience education courses, which it offers.*

*NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 84500, Education Code.*

**Guideline for Section 58006**

This section provides additional detail concerning the positive attendance accounting procedure. It is amended to clarify the application of that procedure to distance education courses so as to conform with changes made to section 58003.1. All other provisions of the section remain unchanged.

**Section 58007. Noncredit Courses.**

*Contact hours of enrollment in noncredit courses, except for noncredit courses using the Alternative attendance accounting procedure described in subdivision (f)(2) of section 58003.1, shall be based upon the count of students present at each course meeting. Full-time equivalent student in noncredit courses shall be computed by dividing the sum of contact hours of enrollment by 525, except for noncredit courses using the alternative attendance Accounting procedure described in section 58003.1(f)(2).*

*Nonresidents may be claimed for purposes of calculating full-time equivalent student only if they are living in California during the period of attendance and are otherwise eligible for such purposes as provided in this chapter.*

*NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.*

### **Guideline for Section 58007**

This section provides additional detail concerning the attendance accounting procedure to be used for noncredit courses. It is amended to conform with changes made to section 58003.1. All other provisions of the section remain unchanged.

The primary student attendance accounting procedure for all but DE noncredit courses consists of a count of students present at each class meeting (positive attendance), with the FTES measure being achieved by dividing that sum of contact hours by 525. For DE noncredit courses an alternative method is authorized for determining full time equivalent student attendance, as described in section 58003.1 (f) (2). For purposes of determining weekly student contact hours, the procedure consists of adding together the total hours of instruction or programming, plus any additional "regular effective contact" as described in section 55204, plus any outside-of-class work noted in the course outline of record and approved by the curriculum committee, and then dividing that sum by 54. Detailed guidance applicable to this procedure is provided in the Student Attendance Accounting Manual (Chapter 3).

### **Section 58009. Application of Alternate Attendance Procedure for Independent Study, Work-Experience and Certain Distance Education Courses.**

*(a) For independent study, cooperative work-experience and distance education courses using the attendance accounting procedure specified in subdivision (f) of section 58003.1, one weekly student contact hour shall be counted for each unit of credit for which the student is enrolled as of the census day prescribed in section 58003.1(b) or (c), except for independent study or distance education laboratory courses. For independent study or distance education laboratory courses, weekly student contact hours shall be equivalent to those which would be generated for the same student effort in a laboratory course computed pursuant to subdivisions (b) or (c) of section 58003.1. For purposes of this section only, a "distance education laboratory course" means a distance education course which consists partly or exclusively of laboratory work.*

*(b) For credit courses, full-time equivalent student in courses described in subdivision (a) offered during primary terms is computed by multiplying the weekly student contact hours authorized pursuant to subdivision (a), generated as of the census date prescribed in section 58003.1(b) by the term length multiplier as provided for in section 58003.1, and dividing by 525.*

*(c) For noncredit courses described in subdivision (a), full-time equivalent student is computed on a census basis as prescribed in section 58003.1(f)(2).*

*(d) Full-time equivalent student in credit courses described in subdivision (a) which are conducted during a summer or other intersession is computed by multiplying the weekly student contact hours, authorized pursuant to subdivision (a) of this section,*

*generated in each course, by a course length multiplier that produces the same total weekly student contact hours for the same student effort as would be generated in such Courses conducted in the primary terms, and dividing by 525.*

*NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.*

### **Guideline for Section 58009**

This section provides additional detail concerning the attendance accounting procedure to be used for independent study and work-experience courses. It is amended to also cover certain distance education courses so as to conform with changes made to section 58003.1 Full-time Equivalent Student; Computation.

Weekly Student Contact Hours (WSCH) in credit distance education laboratory courses shall be determined by counting student contact hours in the same manner as in credit non-distance education laboratory courses (e.g., the contact hours that would have been generated had the course been taught on campus). Non-laboratory credit distance education or independent study courses on the alternative attendance accounting procedure must still determine WSCH based on the number of units of credit. For purposes of this provision only, a “distance education laboratory course” means a distance education course which consists partly or exclusively of laboratory work. The following are examples of the FTES computations for a credit distance education or independent study laboratory course on the alternative attendance accounting procedure.

#### **Example 1**

Computation of a 1 unit distance education or independent study laboratory course (semester length course)

3 WSCH to represent the contact hours that would have normally been generated had the 1-unit laboratory course not been on the alternative attendance accounting procedure – 3 WSCH x 30 students x 17.5 Term Length Multiplier (TLM) = 1,575 hours 1,575/525 = 3.0 FTES.

#### **Example 2**

Computation of a 1 unit Distance Education or Independent Study Laboratory course (Short Term Course)

3 WSCH to represent the contact hours that would have normally been generated had the 1-unit laboratory course not been on the alternative attendance accounting procedure and had actually been conducted during a primary term – 3 WSCH x 30 students x 17.5 TLM\* = 1,575 hours 1,575/525 = 3.0 FTES.

\* Section 58009(d) allows districts to use a course length multiplier that produces the same total weekly student contact hours for the same student effort as would be generated in such courses conducted in the primary term. In this example, the course length multiplier used is 17.5 even though the shortened term is only 8 weeks in length).

FTES for non credit distance education laboratory courses shall be computed on a census basis as prescribed in section 58003.1 (f)(2).

See Guideline for section 58003.1 for additional information concerning the alternative attendance accounting procedure.

### **58051. Method for Computing Full-Time Equivalent Student (FTES).**

*(a)(1) Except as otherwise provided, in computing the full-time equivalent student of a community college district, there shall be included only the attendance of students while they are engaged in educational activities required of students and while they are under the immediate supervision and control of an academic employee of the district authorized to render service in the capacity and during the period in which he or she served.*

*(2)(A) A community college district may also include the attendance of students enrolled in approved courses or programs of independent study who are under the supervision, control, and evaluation, but not necessarily in the immediate presence, of an academic employee of the district who is authorized to render such service.*

*(B) The community college district shall determine the nature, manner, and place of conducting any independent study courses or program in accordance with the requirements of this section and article 3 (commencing with section 55230) of subchapter 3 of chapter 6.*

*(C) Each district conducting independent study courses shall ensure that the components of each independent study course or program for each student shall be set out in a written record or program, including the number of units (if applicable) and hours of study required, the arrangements for consultation with the instructor, and the work product to be evaluated.*

*(3) A community college district may also include the attendance of students enrolled in approved distance education in accordance with the provisions of article 1 (commencing with section 55200) of subchapter 3 of chapter 6.*

*(b) For the purpose of work-experience education programs meeting the standards of the Carl D. Perkins Career Technical Education Act of 2006 California State Plan (or any successor agreement related to career technical education), "immediate supervision" of off-campus work training stations means student participation in on-the-job training as outlined under a training agreement, coordinated by the community college district under a state-approved plan, wherein the employer and academic school personnel share the responsibility for on-the-job supervision. The student/instructor ratio in the work-experience education program shall not exceed 125 students per full-time equivalent academic coordinator.*

*(c) For purposes of computing the full-time equivalent student of a community college district, attendance shall also include student attendance and participation in in-service training courses in the areas of police, fire, corrections, and other criminal justice system*

occupations that conform to all apportionment attendance and course of study requirements otherwise imposed by law, if the courses are fully open to the enrollment and participation of the public. However, prerequisites for the courses shall not be established or construed so as to prevent academically qualified persons who are not employed by agencies in the criminal justice system from enrolling in and attending the courses.

(d) Notwithstanding subdivision (c) and any regulations related thereto, a community college may give preference in enrollment to persons who are employed by, or serving in a voluntary capacity with, a fire protection or fire prevention agency in any course of in-service fire training at the community college in cooperation with any fire protection or fire prevention agency or association. Preference shall only be given when such persons could not otherwise complete the course within a reasonable time and when no other training program is reasonably available. At least 15 percent of the enrollment in in-service fire training courses shall consist of persons who are neither volunteers of, nor employed by, a fire protection or fire prevention agency or association, if the persons are available to attend a course. Full-time equivalent student for the courses may be reported for state aid.

(e) Subdivision (d) shall apply only to the following:

(1) Community colleges which, in cooperation with any fire protection or fire prevention agency or association, have been, as of January 1, 1980, the primary source of in-service fire training for any fire protection or fire prevention agency or association.

(2) Community colleges which, in cooperation with any fire protection or fire prevention agency or association, establish in-service fire training for any fire protection or fire prevention agency or association which did not have in-service fire training, prior to January 1, 1980.

(f) In the event that in-service training courses are restricted to employees of police, fire, corrections, and other criminal justice agencies, attendance for the restricted courses shall not be reported for purposes of state apportionments. A community college district which restricts enrollment in in-service training courses may contract with any public agency to provide compensation for the cost of conducting such courses.

(g) Positive records of student admissions and full-time equivalent student in all in-service training courses in the areas of police, fire, corrections, and other criminal justice system occupations, as described in subdivision (c), shall be maintained by each district.

**NOTE:** Authority cited: Sections 66700 and 70901, Education Code.  
Reference: Section 70901, Education Code.

### **Guideline for Section 58051**

Subdivision (a)(3) has been added to existing language to allow the inclusion of all courses offered through distance education as eligible for FTES apportionment.

### **58056. Immediate Supervision and Control.**

(a) Subdivision (a)(1) of section 58051 requires, as a condition for claiming attendance for apportionment purposes, the immediate supervision and control of an academic

*employee authorized to render service in a capacity and during the period in which he or she served. Immediate supervision and control requires the presence of the authorized employee. More specifically, immediate supervision or presence is characterized by all of the following:*

- (1) The authorized employee is able, in terms of physical proximity and range of communication, to provide immediate instructional supervision and control; and*
- (2) The authorized employee is in a position to provide the supervision and control necessary for the protection of the health and safety of students; and*
- (3) The authorized employee is not to have any other assigned duty during the instructional activity for which attendance is being claimed. The criteria specified above are to be applied in recognition of the fact that the need for immediate supervision will vary according to the course being offered, as well as with the design or mode of instruction of such course or program.*

*(b) Under the following limited circumstances, attendance of students enrolled in a course or program which does not meet the requirements of subdivision (a) shall qualify for apportionment purposes if:*

- (1) The course or program is approved and being conducted as distance education in accordance with article 1 (commencing with section 55205) of subchapter 3 of chapter 6; or*
- (2) The course or program is approved and being conducted as independent study in accordance with subchapter 4 (commencing with section 55300) of chapter 6; or*
- (3) The course or program is approved and being conducted as work experience education in accordance with subchapter 3 (commencing with section 55250) of chapter 6 of this part; or*
- (4) The course or program is approved and is being conducted as health sciences education in accordance with section 58055(a).*

*(c) Attendance generated solely under an instructional assistant or aide does not qualify for apportionment. In addition, instructional aides shall not be used to increase the number of students in relation to the number of classroom instructors in the district. However, attendance may qualify for apportionment under the following limited circumstances:*

- (1) The assistant or aide functions under the exclusive direction of the authorized employee assigned to that educational activity, and not independently; and*
- (2) The assistant or aide performs only those duties specifically authorized by law, including, but not limited to, sections 88240-88249 of the Education Code; and,*
- (3) The authorized employee is able, in terms of physical proximity and range of communication, to provide necessary supervision and control of students, so that by working in conjunction with the assistant or aide, the requirements of subsection (a) of this section are met.*

**NOTE:** Authority cited: Sections 66700, 70901 and 84500, Education Code.  
Reference: Section 70901, and 84500

## **Guidelines for Section 58056**

This section addresses the requirement that students must be under the supervision of an instructor attending an on-campus course. In the 1994 decision to open DE to all areas of instruction during an evaluation period, DE courses could only be offered as independent study. Section 58056 has now been amended to exempt DE courses from the immediate supervision and control requirement. This is critical in order to mainstream DE into the traditional mode of instruction.

### Limitations on State Aid

#### **58170. Apportionment for Tutoring**

*Apportionment may be claimed for individual student tutoring only if all the following conditions are met:*

- (a) The individual student tutoring is conducted through a designated learning center.*
- b) The designated learning center is supervised by a person who meets the minimum qualifications prescribed by section 53415.*
- (c) All tutors successfully complete instruction in tutoring methods and the use of appropriate written and mediated instructional materials, including supervised practice tutoring. This requirement may be waived by the chief instructional or student services officer on the basis of advanced degrees or equivalent training. Academic credit and apportionment for coursework in tutoring methods for purposes of this section shall be limited to two semester or three quarter units of credit, or 96 noncredit hours. All tutors shall be approved by a faculty member from the discipline or disciplines in which the student will tutor.*
- (d) All students receiving individual tutoring have enrolled in a noncredit course carrying Taxonomy of Programs number 4930.09, which is entitled "Supervised Tutoring."*
- (e) Students enroll in the Supervised Tutoring course, through registration procedures established pursuant to section 58108, after referral by a counselor or an instructor on the basis of an identified learning need.*
- (f) An attendance accounting method is established which accurately and rigorously monitors positive attendance.*
- (g) Student tutors may be remunerated but may not be granted academic credit for tutoring beyond that stipulated in (c) above.*
- (h) The district shall not claim state apportionment for tutoring services for which it is being paid from state categorical funds.*

**NOTE:** Authority cited: Sections 70901 and 84500, Education Code.

Reference: Sections 70901, 84500 and 87356, Education Code.

#### **Guideline for Section 58170**

In order for a college to collect noncredit apportionment for students providing tutorial assistance to other students, the tutoring must be conducted through a designated learning center under the supervision of a qualified faculty member who has earned a

Master's Degree in one subject matter being tutored or in education/ instructional psychology/ or other disciplines with an emphasis in adult learning theory, as detailed in Title 5, section 53415. Primarily, students who conduct tutoring are those who have received instruction in tutoring methods and who may use appropriate mediated instructional materials.

Academic credit and apportionment for coursework used to train tutors in tutoring methods is limited to two semester units of credit (three quarter units of credit), or 96 non-credit course hours. Prospective tutors with advanced degrees and equivalent training are not required to complete additional training preparation, although faculty from the discipline or disciplines in which the tutoring is needed must approve all tutors, irrespective of their prior education or experience.

A counselor or an instructor, on the basis of an identified learning need, must refer all students seeking tutoring. Students cannot refer themselves for tutoring. Tutees must enroll in a noncredit Supervised Tutoring course carrying the Taxonomy of Programs number 4930.09. To enroll, students must follow normal registration procedures consistent with Title 5, section 58108. No registration procedure shall be used that results in restricting enrollment to a specialized clientele.

A tutorial center may offer tutoring assistance between a tutor and tutee when they are separated by distance and are using on-line or other synchronous "real time" technologies such as videoconference, web conference, audio conference, etc. When the tutor and tutee are separated such that one or the other is not physically present in the tutoring center, the supervisor must be able to monitor the communication and a mechanism must be in place to accurately track positive attendance hours. If both the tutor and tutee are not physically present in the tutorial center, the district must ensure and be able to document, if audited, that the supervisor was actually able to, and did, monitor the interaction of the tutoring session.

### Instructional and Other Materials

#### **59402 Definitions**

*For the purposes of this subchapter the following definitions apply:*

- (a) "Instructional and other materials" means any tangible personal property which is owned or primarily controlled by an individual student.*
- (b) "Required instructional and other materials" means any instructional and other materials which a student must procure or possess as a condition of registration, enrollment or entry into a class; or any such material which is necessary to achieve those required objectives of a course which are to be accomplished under the supervision of an instructor during class hours.*
- (c) "Solely or exclusively available from the district" means that the material is not available except through the district, or that the district requires that the material be purchased or procured from it. A material shall not be considered to be solely or*

*exclusively available from the district if it is provided to the student at the district's actual cost and:*

*(1) The material is otherwise generally available, but is provided solely or exclusively by the district for health and safety reasons; or*

*(2) The material is provided in lieu of other generally available but more expensive material which would otherwise be required.*

*(d) "Required instructional and other materials which are of continuing value outside of the classroom setting" are materials which can be taken from the classroom setting, and which are not wholly consumed, used up, or rendered valueless as they are applied in achieving the required objectives of a course which are to be accomplished under the supervision of an instructor during class hours.*

*(e) "Tangible personal property" includes electronic data that the student may access during the class and store for personal use after the class in a manner comparable to the use available during the class.*

**NOTE:** Authority cited: Sections 66700, 70901 and 76365, Education Code.

Reference: Sections 70901, 70902 and 76365, Education Code.

### **Guideline for Section 59402**

The revisions to this regulation allow districts, under certain circumstances, to charge students instructional materials fees for access to instructional materials in electronic form.

The definition of "tangible personal property" is amended to verify that electronic media may be considered instructional materials, so long as the student has the ability to use the materials after the class, in a manner comparable to the student's ability to use the materials during the class. This expansion of the definition of tangible personal property has significant impact on the district's ability to charge students for license fees or for access codes to electronic media. If students are to be charged for electronic media, the tangible personal property should have a continuing educational value to students. The continuing educational value could be in the form of the electronic course content being equivalent to a textbook, study guide, solutions manual, or test bank that students have access to beyond the class session for which the instructional materials were purchased. Additionally, the text, lessons, and problem materials should be readily printable to hard copy to serve as a permanent record, should the student desire to retain a copy of the instructional materials. If the student can print and/or save materials accessed that are of continuing educational value, charging students for access codes is permissible. On the other hand, it is not permissible to charge students for internet access or for access to a research database.