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October 1, 2008

To: Superintendents and Presidents
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From: 
Steven Bruckman
Executive Vice Chancellor and General Counsel

Subject: To Be Arranged (TBA) Hours Compliance Advice
Legal Advisory 08-02

Recently, this office has received a number of inquiries regarding the basic requirements for “to be arranged hours” or “TBA” as part of a course (sometimes referred to as “hours by arrangement” or “HBA”). Some of these inquiries also present concerns over the appropriateness of some district practices related to academic supervision and TBA course scheduling, including where it was believed that conditions for claiming state apportionment were not met. In order to fully address the inquiries and related issues identified as part of recent district reviews, this advisory provides a set of guidelines that are intended to clarify applicable regulatory requirements and to present appropriate practices and conditions for utilizing TBA scheduling.

Please review the guidelines provided below and where state apportionment for TBA is involved, it is requested that you carefully evaluate your local procedures and policies related to TBA course scheduling to assure that all instructional, attendance accounting, and support documentation requirements are being met. An area of special focus should be TBA that is conducted in learning assistance centers or similar settings where the primary course instructor or other instructor who meets minimum qualifications for the particular course may not be present to provide and supervise the TBA instruction. Any deficiencies should be immediately corrected and apportionment claimed only where all applicable requirements are satisfied. As additional guidance, the end of this advisory contains common Questions & Answers related to courses with TBA hours. The System Office will continue compliance monitoring through periodic reviews and in response to compliance complaints. If you have questions, please feel free to contact the following individuals:

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Vice Chancellor of Academic Affairs
(916) 322-6881 or e-mail to cbfeinour@cccco.edu
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To Be Arranged (TBA) Hours Compliance Advice Legal Advisory 08-02

Basic Requirements for “To Be Arranged Hours” or “TBA” as Part of a Course

TBA Definition: **Some courses with regularly scheduled hours of instruction have “hours to be arranged” (TBA) as part of the total contact hours for the course. The TBA portion of the course uses an alternate method for regularly scheduling a credit course for purposes of applying either the Weekly or Daily Census Attendance Accounting Procedures. The procedures which must be followed for the TBA hours are described below. In some situations the entire course might be on TBA, and in that case this course would follow the same rules. (Note: The Student Attendance Accounting Manual, page 3.3, refers to TBA hours or “hours to be arranged,” which for purposes of this advisory have the same meaning as “HBA” or “hours by arrangement” or any other local term used to designate these hours.)**

1. Conduct of Course.

- a. An instructor meets the minimum qualifications or equivalency and is authorized to teach in the discipline in which the course is offered. (Cal. Code Regs., tit. 5, §§ 55002(a)(4), 55002(b)(4), 58050(a)(7).)¹
- b. Specific instructional activities, including those conducted during TBA hours, expected of all students enrolled in the course are included in the official course outline. All enrolled students are informed of these instructional activities and expectations for completion. (§§ 55002(a)(3), 55002(b)(3), 58050(a)(5), 58051(a)(1).)
- c. During TBA hours, there must be some kind of instruction provided (such as course content) and/or activity that is not an activity that should be done independently outside of class time. Pursuant to section 55002(a)(2)(C), students must still be required to study independently outside of class time.
- d. A clear description of the course, including the number of TBA hours required, must be published in the official general catalog or addenda thereto AND in the official schedule of classes or addenda thereto. (§§ 58102, 58104.)
- e. There is a designated location, about which all enrolled students are informed, where the instructional activities will occur. (§§ 58102, 58108.)
- f. Students may demonstrate that they fulfilled their regularly scheduled TBA responsibilities by signing in and out every time they come to the lab or learning assistance center in a manner that documents the days, times, and the number of TBA

¹ All section references are to title 5 of the California Code of Regulations unless otherwise indicated.

hours fulfilled. An electronic system may be used to document regular attendance and fulfillment of the individual TBA schedule. (§§ 58000, 58020, 58030.)

2. Immediate Supervision and Control.

- a. An instructor who meets minimum qualifications in the discipline being taught is available, in physical proximity and range of communication to provide instruction and ensure the safety of students during the hours by arrangement. If the instructor responsible for the TBA hours is not the primary course instructor, follow-up is required by the primary course instructor (instructor of record) to ensure that students are meeting instructional objectives and fulfilling the TBA requirement. (Note: An instructional aide may assist the instructor in working with students, but a qualified instructor must also be available, in physical proximity and in range of communication with the students. In cases when an instructional aide assists the instructor in providing instruction to students, please consult title 5, section 58056(c) and Education Code section 88240 et seq.) (§§ 58050(a)(6), 58051, 58056.)
- b. Instructors need to provide the supervision and control necessary for the protection of the health and safety of students and may not have any other assigned duty during this instructional activity. (§§ 58056(a)(2), 58056(a)(3).) As a general rule, faculty must be physically present in the classroom or lab or within line-of-sight of the students. Even when TBA and supplemental learning assistance are offered through a learning assistance center where an instructor (learning center director/coordinator) is available at all times as well as classified staff, the instructor who meets the minimum qualifications pertaining to the assigned TBA or supplemental learning assistance course, needs to observe the line-of-sight requirement (may be a different faculty member than the primary course instructor). This faculty member needs to be able to respond immediately when students are scheduled in the lab. If not in the lab, he/she needs to be in an area adjacent to the lab where the students are located. (Faculty members could view the classroom through a window or use a two-way video hook-up under certain circumstances, but even in this situation, the faculty member needs to be adjacent to the classroom or lab where the students are located.)

3. Attendance Accounting and Reporting.

- a. Pursuant to title 5, section 55002, the course outline of record shall specify the number of contact hours for the course as a whole, including contact hours related to TBA. Contact hours claimed for apportionment must be consistent with the number of contact hours specified in the course outline of record. (§§ 55002(a)(3), 55002(b)(3), 58050(a)(5).)
- b. There are specific times, of which all enrolled students are informed, when the instructional activities will occur.
- c. Census-based attendance is normally computed on the basis of regularly scheduled class hours applicable to all enrolled students as published in the official schedule of

- classes or addendum (e.g., M-W from 8:00 a.m. to 9:00 a.m. each day). If a credit census-based course includes required instructional hours for enrolled students that are not scheduled in this manner and instead are listed as "TBA" or "Hours to be Arranged" in the official schedule or addenda thereto, documentation is required to demonstrate that each student has completed the TBA requirement as appropriate for either the Weekly or Daily Census attendance accounting procedures. (§§ 58003.1(b), 58003.1(c); Student Attendance Accounting Manual, page 3.3.)
- d. For Weekly Census procedure courses (courses that are coterminous with a primary term), TBA hours must be scheduled the same number of hours each week of the term, and specific days and times for each week must be arranged for each enrolled student. To illustrate, if this course requires two TBA hours per week, students' schedules may be arranged as follows: Student "A" is scheduled to fulfill his/her weekly TBA hours on Mondays and Wednesdays from 3:00 p.m. to 4:00 p.m., and student "B" is scheduled to fulfill his/her weekly TBA hours on Fridays from 3:00 – 5:00 p.m. (Both schedules result in two weekly TBA hours.) (§ 58003.1(b); Student Attendance Accounting Manual, page 3.3.)
 - e. For Daily Census procedure courses, TBA hours must be scheduled for the same number of hours on each scheduled day of the course or as a portion of the hours the course is regularly scheduled for each day it meets. Daily Census courses are those courses that are not coterminous with a primary term, but are scheduled regularly for at least 5 meetings. (§ 58003.1(c); Student Attendance Accounting Manual, page 3.3.)
 - f. When arranging for TBA hour schedules at the start of each term or session, students shall be informed of their schedules or work with the instructor in determining their individual TBA schedules. In order to provide some scheduling flexibility for TBA hours, instructors could provide students specific windows of time and ask students to choose a time to complete TBA hours. If necessary, students could change those hours later and/or substitute other hours on an "emergency" basis. It is possible, however, that the number of stations/seats in the lab/learning center where these students will be accommodated may require general adherence to the hours initially selected by the students. For each course that requires TBA, the district must retain a document or record of individual TBA schedules that students selected or that were assigned. Students also must be informed of their responsibility to adhere to their individual TBA schedule and to complete the tasks assigned. In order to inform students, instructors should indicate in the syllabus or in another required assignment document both the objective and purpose of the TBA hours and the requirement that all enrolled students in the course must adhere to the designated TBA schedule. The syllabus or other document should be distributed in class so that all students have the information needed regarding TBA. (§§ 58003.1(b), 58003.1(c); Student Attendance Accounting Manual, page 3.3.)
 - g. If TBA hours are not scheduled as indicated above, the attendance for the entire course must be on the positive attendance basis (Actual Student Contact Hours of

Attendance Procedure as provided by sections 58003.1(d) and 58006). (Student Attendance Accounting Manual, page 3.3.)

- h. Documentation supporting compliance with the above requirements must be kept on file as a Class 3 record basic to an audit as required by section 59020 et seq. For each course that requires TBA, the district must retain a document or record that displays the individual TBA schedules to which students were expected to adhere.

General Provisions Applicable To TBA

1. Definition of a Unit of Credit (Credit Hour). (§§ 55002(a)(2)(B), 55002(b)(2)(B), 55002.5, 8003.1(c).)
 - a. Section 55002.5 provides that one unit of credit, or credit hour, of community college work requires a minimum of 48 hours of lecture, study, or laboratory work at colleges operating on the semester system (or 33 hours on the quarter system). The basic unit of college credit is defined to avoid reference to specific term lengths (previously described in terms of hours/week over a 16-week term). The section establishes the minimum expected time on task (lecture, study, and or lab work) that is necessary to award one unit of credit. In practice, the number of hours varies among colleges, but the number is generally within the range of 48-54 hours per unit for colleges on the semester system. For each hour of lecture, it is assumed that students will be required to spend an additional two hours of study outside of class. The number of units awarded for laboratory courses is generally based entirely on the number of hours of laboratory work, presuming that students complete most required work in the lab.
 - b. In determining the number of units to be awarded for courses, colleges should consider total lecture, outside study, and/or laboratory hours. Although it is permissible to reduce homework hours and instead have the student complete additional scheduled or arranged instructional activities, the course must still require some independent outside of class study or homework in order for it to qualify as a credit course. Please keep in mind that per section 55002.5, the amount of credit awarded shall be adjusted in proportion to the number of hours of lecture, study, or laboratory work in half unit increments. (A college may elect to adjust the amount of credit awarded in increments of less than one half unit.) So, if the scheduled or arranged hours are not in lieu of some homework and the total number of hours the student must fulfill as provided by the course outline of record are actually increased, it may be necessary to increase the unit value of the course. This part of the section 55002.5 is new and may affect the number of units awarded in some disciplines that offer courses with a number of contact hours mandated by professional certification requirements.
 - c. It is not permissible to approve credit courses with zero units of credit.

2. Technology Mediated Instruction. (§ 58050(a)(5).)
 - a. Where TBA involves student use of college computers or interactive multi-media equipment (technology mediated instruction) some activity needs to occur which involves an instructor being present and facilitating student learning.
 - b. The computer or other equipment will serve as a tool for teaching and evaluating student work. For example, the instructor, rather than providing direct instruction, may complement interactive computer software or multi-media instruction by clarifying explanations and/or directions, checking for understanding of concepts and skills, keeping students on task, providing constructive feedback and answering questions.
 - c. The role of the instructor using technology mediated instruction should be well thought out and clear to the students.
 - d. Student use of college computers or equipment that is not for educational activities specified in the course outline of record and that does not require some level of interaction between an instructor and student does not qualify as hours by arrangement activity and is not eligible to be claimed for state apportionment.
3. Procedures, Guidelines, and Training.
 - a. The district should establish procedures, guidelines, and faculty/administrator training necessary for the proper provision of TBA, with a special emphasis on attendance accounting and retention of related support documentation that would enable an independent determination regarding the accuracy of contact hour tabulations and FTES claimed for state apportionment.
 - b. Faculty should receive as much detailed guidance as possible, either through these guidelines or through "faculty handbooks" or other official documents, that speaks to faculty responsibilities related to course scheduling rules, documentation of student TBA attendance, and record retention requirements. The district should assure that it provides ongoing training for new and current faculty relative to these and other important attendance accounting topics.
4. Official Attendance Accounting Procedures as Required by Section 58030. (§§ 58000, 58030; Student Attendance Accounting Manual, page 4.1.)
 - a. District TBA procedures and guidelines related to attendance accounting and support records must be established and incorporated into its official attendance accounting procedures adopted pursuant to section 58030 and must be uniformly applied at all of the district's colleges.

- b. As required by section 58030, such support documentation procedures must provide for accurate and timely attendance and contact hour data and shall be so structured as to provide for internal controls. In this regard, please be aware of the following:
 - i. The procedures will need to address or specify the systems of internal control that will provide reasonable assurance regarding the reliability of attendance and contact hour data, safeguarding of records (physical records as well as information system data files and applications), and compliance with applicable laws and regulations.
 - ii. Procedures or policies concerning internal control systems should be as specific as possible and should also indicate which group or department head will provide campus/district leadership for ensuring that effective internal control and accountability practices are in place, including ongoing monitoring activities designed to assess internal control effectiveness over time.
 - iii. The district should make special mention of internal controls applicable to information systems, which are designed to maintain the integrity and availability of information processing functions, data files, and associated application systems. These controls also ensure that data processing diagnostics and errors are noted and resolved, applications and functions are processed according to established schedules and reporting periods, file backups are taken at appropriate intervals, recovery procedures for data processing failures are established, and actions of computer operators and system administrators are reviewed.

5. Classification, Retention, and Destruction of Records as Required by Section 59020.

- a. The attendance accounting procedures required by section 58030 should also speak to the proper classification, retention, and destruction of records as required by section 59020 et seq. and other applicable statutes or regulations related to records retention (e.g., primary and support records relating to student attendance, student residency determination, course section contact hour tabulations, and FTES reported for the calculation of state apportionment).
- b. The procedures should also indicate that all student enrollment and attendance records need to be retained for a minimum of three (3) years after the college year in which they originated (i.e., 2006-07 plus 3 = 2009-10). Additionally, the procedures need to indicate that pursuant to section 59118, primary records and support documentation relevant to any Chancellor's Office review or investigation, or any regular or special audit not resolved under section 59112 shall be retained for a period of five (5) years after presentation of the audit or review to the governing board. The 5-year period described here does not apply when the System Office finds deliberate district misrepresentation in connection with claims for state and federal funding. In those instances, primary records and support documentation relevant to the specific matter must be retained until there is resolution.

- c. The procedures should also indicate that records retained pursuant to title 5 requirements shall be available to the auditor retained by the district pursuant to Education Code section 84040, the Department of Finance, the Auditor General, and the Chancellor's Office and that these records may also be required by federal auditors when federal funds are involved. (§§58000, 59020 et seq.)

Common Questions & Answers Related to the Proper Application of TBA Course Scheduling

Question 1. If a course has hours by arrangement (TBA) attached, are there certain activities that the student must do in order for the TBA requirement to be appropriately fulfilled and hours claimed for state apportionment?

Answer. Students assigned TBA hours must participate in some instruction and/or activity that involves objectives and related instructional activities that are specified in an approved course outline of record and that are required of all students enrolled in the course.

Question 2. If a course has TBA attached, is it expected that all of the students enrolled in the class will be required to fulfill the TBA hours requirement or can the TBA hours be optional for students?

Answer. If utilized, TBA is a required component of a course for all students in that course. If a district wishes to provide learning assistance that is optional, title 5, section 58172 permits learning assistance to occur in separate open entry/open exit courses that offer optional enrollment, without requiring the participation of all students enrolled in the primary/parent course or courses. For additional information regarding supplemental learning assistance, please see the “Supplemental Learning Assistance and Tutoring Regulations and Guidelines” available at the following web address:

<http://www.cccco.edu/SystemOffice/Divisions/AcademicAffairs/Title5Guidelines/tabid/1330/Default.aspx>

Question 3. Could TBA be claimed for state apportionment under the auspices of individual student tutoring?

Answer. No. Title 5, sections 58168 and 58170 permit districts to claim (noncredit) apportionment for student tutoring only if the following conditions are met (others may apply):

1. The individual student tutoring is conducted through a designated learning center.
2. The designated learning center is supervised by a person who meets minimum qualifications prescribed by section 53415.
3. Tutors are qualified to provide tutoring as prescribed by these sections.
4. All students receiving individual tutoring have enrolled in a noncredit course carrying Taxonomy of Programs number 4930.09, which is entitled “Supervised Tutoring.” 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.

5. The Positive Attendance accounting procedure is used as the basis for FTES calculations and resulting apportionment claims (note: the district may not claim apportionment for tutoring services for which it is being paid from state categorical funds).

For additional requirements and information regarding tutoring, please see the “Supplemental Learning Assistance and Tutoring Regulations and Guidelines” available at the following web address:

<http://www.cccco.edu/SystemOffice/Divisions/AcademicAffairs/Title5Guidelines/tabid/1330/Default.aspx>

Question 4. Can TBA hours be used for homework assistance?

Answer. No. Districts may not claim TBA hours for student activities that should be done outside of class time. See Question 1 for the kinds of activity that the student must do in order for the TBA to be appropriately claimed for state apportionment purposes.

Question 5. What are some examples of circumstances when TBA hours might be appropriate?

Answer.

1. For some math courses, there are excellent software programs that provide students additional explanation/clarification and enhance student learning and success in the course. This software could be made available to students in a math lab at no additional cost to the student. In completing the software instructional program, students do need the support of those available in the lab and because of the students’ varied class schedules and limited lab space and stations, the students taking the course need to schedule TBA hours at different days and times in the lab. In such circumstances, it would be acceptable to add a TBA hour or two a week (depending on the student objectives) to the course’s scheduled classroom hours.
2. Another example might be including TBA hours in a course such as Early Childhood Education (ECE) when students need an out of classroom experience in a specific lab environment. As part of an ECE course, it might be most advantageous to require student participation in the Child Development Center, an area, however, which can accommodate a limited number of students per hour. In such situations, ECE students may need to schedule the TBA hour(s) with the Child Development Center after the term begins.

3. Another example is one that could apply to a number of instructional areas for which a shared computer lab has been created but one which is limited in size and number of stations. In a life sciences division, for example, creating a computer lab that could make a number of software programs available to students enrolled in different life science courses could be very advantageous to student learning. Such software, which would be cost prohibitive for students to purchase, provides additional instruction and engages students in learning activities that cannot be made available in the classroom. Students engaged in such activities may need some assistance or related instruction to successfully complete the programs. In order to accommodate students with very different course schedules in a space limited in size, adding a TBA hour(s) would be appropriate.

Question 6. In terms of minimum qualifications, could a learning center coordinator/director who meets minimum qualifications for a specific discipline(s) offered there, serve as the instructor for TBA hours in various general education courses, such as chemistry, psychology, music, etc.?

Answer. If you have a learning center where you include TBA hours for courses from a variety of general education areas, it is not correct to assume that an instructor who meets the minimum qualifications for supervising the learning center itself or who meets minimum qualifications for a specific discipline would necessarily meet the minimum qualifications for all general education courses. As such, it is required that an instructor who meets minimum qualifications in the discipline being taught is available, in physical proximity and range of communications to provide instruction and ensure the safety of students during the hours by arrangement.

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