



MEMORANDUM

April 18, 2019

ES 19-13 | Via Email

TO: Chief Executive Officers
Chief Financial Aid Officers
Chief Student Services Officer

FROM: Michael R. Quiaoit, Dean
Dean, Educational Services and Support

RE: Categorical Program Questions

Over the past several months, questions have arisen from the field that needed clarification from the Chancellor's Office. Below are a few of the questions that we are able to answer at this time. Districts are advised to consult with their district's legal counsel in some of these instances.

AB 19

Question 1:

In order for a student to receive AB 19 funding for a summer term, must they be enrolled in 12 units for the summer term? Or, is a district/college able to define "full-time" for summer to be a number of units less than 12 for this purpose?

Answer: No. AB 19 updated the Education Code, in subsection 76396.3(c) to define "full-time" as "12 or more semester units or the equivalent" and "one academic year" as "the total of the summer term that immediately precedes the first semester or quarter of the fall term, and the two consecutive semesters or three quarters that immediately follow that summer term." By including the summer term as one of the terms which comprise the "academic year" and for which a fee waiver would be available, the Legislature clearly intended that the summer term be seen as equal to the academic terms.

We understand that with some categorical programs, districts are permitted to define what constitutes "full-time" enrollment for summer sessions or "intersessions." While a district is specifically authorized to define "full-time" for a summer term with respect to some programs, authorization does not currently exist for AB 19 purposes. To receive using AB 19 funds, a student must attend 12 units during the summer term. Going forward, colleges that have previously paid summer term fees should pay only if the student attends at least 12 units.

Question 2:

Some students with disabilities are provided an "accommodation" whereby they are considered full-time at less than 12 units. Are students with disabilities required to take 12 units per term to be considered full-time and receive AB 19 fee assistance?

Answer: The Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, and Government Code section 11135, prohibit discrimination in programs that receive state funding. A strong argument can be made that disabled students whose Academic

Accommodation Plan (AAP) permits them to take less than 12 units should be considered full-time for eligibility under AB 19.

A local decision would have to be made to determine if disabled students should be considered full-time for eligibility under AB 19, if enrolled in less than 12 units based on a fact-intensive analysis that would depend on the student's specific circumstances. Such a factually-dependent analysis is most appropriately conducted by a district's legal counsel.

STUDENT EQUITY AND ACHIEVEMENT PROGRAM

Question 3:

Can SEA Program funds be used for activities such as tutoring, or non-credit support courses that generate FTES?

Answer: Yes, SEA Program funds may be used for activities such as tutoring and non-credit support courses that generate FTES, so long as the financial support from SEA Program funds is proportionate to the services provided to students eligible for services under the SEA Program. As with other categorical program funds, SEA funds cannot be used to support general FTES.

CALWORKS PROGRAM

Question 4:

Can the Promise Grant (fee waiver) and Pell Grant funds be used as match for CalWORKs?

Answer: The matching funds language applicable to the CalWORKs program is found in the 2018-2019 Budget Act (S.B. 840) states: "A community college district is required to spend \$1 from local or other resources for every \$1 received pursuant to this provision, except for any funds received pursuant to paragraph (1) of subdivision (b)." (Stats. 2018, ch. 33, § 65, p. 82)

Neither Pell Grant nor Promise Grant funds meet this requirement. Pell Grant funds are grant awards to students. Although they pass through district financial aid offices and are used to pay off student expenses first, they are "spent" by the students to pay for their education and not by the district on eligible programs. Promise Grant funds are funds that are as part of the district state apportionment. These funds are general apportionment funds received by the district that unless actually spent in pursuit of CalWORKs program purposes would not otherwise qualify as matching funds.

Despite the above, the Chancellor's Office has stated in the past that that Pell Grant and Promise Grant funds could be used as matching funds for CalWORKs purposes.

Colleges will be held harmless for 2018-19 and 2019-20. The Chancellor's Office will be asking for a legislative change to remove the match requirement.

Question 5:

Can other categorical funds, such as those from EOPS/CARE be used as match for CalWORKs or for other categorical programs?

Answer: No. Categorical funds may only be used for the specific purposes authorized by the categorical program and may not, absent specific statutory authorization, be diverted to other purposes.

We appreciate everyone's patience and diligence during this time of change. We will continue to provide programmatic clarification as needed.

cc: Marty Alvarado, Executive Vice Chancellor
Rhonda Mohr, Vice Chancellor
Mia Keeley, Dean