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LEGAL UPDATE

December 18, 2015

To: Superintendents, Member School Districts (K-12)

From: Steven P. Reiner 
Assistant General Counsel

Subject: School and College Partnerships Will Expand Dual Enrollment
Options
Memo No. 35-2015

Governor Brown recently signed Assembly Bill (“AB”) 288, which creates a new law that allows school and community college districts to establish a College and Career Access Pathways (“CCAP”) partnership. AB 288 adds new Education Code, section 76004 and takes effect January 1, 2016. The purpose of the partnerships is to expand dual enrollment opportunities for students who may not already be college bound or who are underrepresented in higher education. Dual enrollment, or concurrent enrollment, is the enrollment by a student in postsecondary coursework while also enrolled in the K-12 system.

Background

Current law allows the governing board of a school district to select a limited number of pupils who would benefit from advanced scholastic or vocational work to attend community college as special part-time or full-time students.¹

The intent of the existing law includes providing high-performing students with a smoother transition from high school to college “by providing them with greater exposure to the collegiate atmosphere.” Various conditions apply to dual enrollment, particularly in college summer session courses.²

AB 288

The new law expands dual enrollment to a broader range of students beyond those high-achievers who have historically been involved. The expansion of dual enrollment to a greater and more varied segment of high school pupils has the

¹ Education Code §48800

² Id.



objective of “reducing the number of high school dropouts, increasing the number of community college students who transfer and complete a degree, shortening the time to completion of educational goals, and improve the level of preparation of students to successfully complete for-credit, college-level courses.”³

The expansion of dual enrollment through AB 288 provides “critical support for underachieving students” and “those who are underrepresented in postsecondary education.” The expansion also provides support to “those seeking advanced studies while in high school, and those seeking a career technical education credential or certificate.” The goal is to develop a seamless pathway from high school to community college through the reduction of fiscal and policy barriers.

Each CCAP partnership requires an agreement between a school district and the community college district within the service area of that school district. In establishing CCAP partnerships, a “community college district shall not enter into a CCAP partnership with a school district within the service area of another community college district, except where an agreement exists, or is established, between those community college districts authorizing that CCAP partnership.”

High school students can enroll in up to 15 community college units per term provided that:

- (1) No more than four community college courses are taken per term.
- (2) The units are part of an academic program that is part of the CCAP partnership.
- (3) Students may be able to receive a high school degree or certificate through the CCAP partnership.

Participating colleges “may limit enrollment in a community college course solely to eligible high school students if the CCAP course is offered at a high school campus during the regular school day and the community college course if offered pursuant to a CCAP partnership agreement.” Although the general rule for the collection of apportionment is that the college courses must be open for all students, courses covered by a CCAP agreement may be eligible for apportionment even if they are closed courses on a high school campus.

High schools cannot charge high school pupils enrolled in a course offered through CCAP fees that are prohibited by Education Code, section 49011, and community colleges must exempt such students from enrollment fees, nonresident tuition, transcript fees, student representation fees, apprenticeship fees, and child development center fees.

The CCAP partnership and courses offered may not displace teachers, faculty, or reduce access to courses offered at a community college. As such, a community college course that has a waiting list may not be offered in the CCAP partnership.

The law limits the number of full-time equivalent students (“FTES”) as special admits in CCAP to 10 percent of the total number of FTES claimed statewide and includes a sunset date of January 1, 2022.

CCAP partnership agreements must satisfy a number of conditions that are beyond the scope of this Legal Update. We attach a copy of new Education Code, section 76004 for your information. We encourage you to contact our office if you are considering a CCAP partnership

³ AB 288 – Education Code section 76004; All additional quotes reference AB 288.



so that we may assist you in structuring a partnership agreement that meets the requirements of the new law.

U.S. Department of Education Experimental Pell Grants for Dual Enrollment.

The U.S. Department of Education has also recognized the benefits of dual enrollment and has recently announced an experiment to provide Federal Pell Grant funds to high school students taking college courses for credit.⁴ We will keep you advised as this issue develops.

Please contact our office with questions regarding this Legal Update or any other legal matter.

The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.

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⁴ Fact Sheet: Department of Education Launches Experiment to Provide Federal Pell Grant Funds to High School Students Taking College Courses for Credit, October 30, 2015 Press Release, <https://www.ed.gov/news/press-releases/fact-sheet-department-education-launches-experiment-provide-federal-pell-grant-funds-high-school-students-taking-college-courses-credit>

Assembly Bill No. 288

CHAPTER 618

An act to add and repeal Section 76004 to the Education Code, relating to public schools.

[Approved by Governor October 8, 2015. Filed with
Secretary of State October 8, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 288, Holden. Public schools: College and Career Access Pathways partnerships.

Existing law authorizes the governing board of a school district to allow pupils whom the district has determined would benefit from advanced scholastic or vocational work to attend community college as special part-time or full-time students, subject to parental permission. Existing law requires credit to be awarded to these pupils, as specified, authorizes a school principal to recommend a pupil for community college summer session if the pupil meets specified criteria, and prohibits the principal from recommending more than 5% of the total number of pupils from any particular grade level who completed that grade immediately before the time of recommendation for summer session attendance.

This bill would authorize the governing board of a community college district to enter into a College and Career Access Pathways partnership with the governing board of a school district with the goal of developing seamless pathways from high school to community college for career technical education or preparation for transfer, improving high school graduation rates, or helping high school pupils achieve college and career readiness. The bill would require the partnership agreement to outline the terms of the partnership, as specified, and to establish protocols for information sharing, joint facilities use, and parental consent for high school pupils to enroll in community college courses.

The bill would authorize specified high school pupils to enroll in up to 15 units per term if those units are required for these pupils' partnership programs and specified conditions are satisfied, and would authorize a community college district to exempt special part-time and full-time students taking up to a maximum of 15 units per term from specified fee requirements. The bill would prohibit a district from receiving a state allowance or apportionment for an instructional activity for which the partnering district has been, or will be, paid an allowance or apportionment under a concurrent enrollment partnership agreement. The bill would require, for each partnership agreement entered into under the bill, the affected community college district and school district to provide an annual report, containing specified data, to the office of the Chancellor of the California Community

Colleges. The bill would require the chancellor to prepare a summary report, no later than January 1, 2021, that includes an evaluation of the partnerships, as specified. The bill's provisions would be repealed on January 1, 2022.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Research has shown that dual enrollment can be an effective means of improving the educational outcomes for a broad range of students.

(b) Dual enrollment has historically targeted high-achieving students; however, increasingly, educators and policymakers are looking toward dual enrollment as a strategy to help students who struggle academically or who are at risk of dropping out.

(c) Allowing a greater and more varied segment of high school pupils to take community college courses could provide numerous benefits to both the pupils and the state, such as reducing the number of high school dropouts, increasing the number of community college students who transfer and complete a degree, shortening the time to completion of educational goals, and improving the level of preparation of students to successfully complete for-credit, college-level courses.

(d) California should rethink its policies governing dual enrollment, and establish a policy framework under which school districts and community college districts could create dual enrollment partnerships as one strategy to provide critical support for underachieving students, those from groups underrepresented in postsecondary education, those who are seeking advanced studies while in high school, and those seeking a career technical education credential or certificate.

(e) Through dual enrollment partnerships, school districts and community college districts could create clear pathways of aligned, sequenced coursework that would allow students to more easily and successfully transition to for-credit, college-level coursework leading to an associate degree, transfer to the University of California or the California State University, or to a program leading to a career technical education credential or certificate.

(f) To facilitate the establishment of dual enrollment partnerships, the state should remove fiscal penalties and policy barriers that discourage dual enrollment opportunities. By reducing some of these restrictions, it will be possible to expand dual enrollment opportunities, thereby saving both students and the state valuable time, money, and scarce educational resources.

SEC. 2. Section 76004 is added to the Education Code, to read:

76004. Notwithstanding Section 76001 or any other law:

(a) The governing board of a community college district may enter into a College and Career Access Pathways (CCAP) partnership with the governing board of a school district for the purpose of offering or expanding dual enrollment opportunities for students who may not already be college

bound or who are underrepresented in higher education, with the goal of developing seamless pathways from high school to community college for career technical education or preparation for transfer, improving high school graduation rates, or helping high school pupils achieve college and career readiness.

(b) A participating community college district may enter into a CCAP partnership with a school district partner that is governed by a CCAP partnership agreement approved by the governing boards of both districts. As a condition of, and before adopting, a CCAP partnership agreement, the governing board of each district, at an open public meeting of that board, shall present the dual enrollment partnership agreement as an informational item. The governing board of each district, at a subsequent open public meeting of that board, shall take comments from the public and approve or disapprove the proposed agreement.

(c) (1) The CCAP partnership agreement shall outline the terms of the CCAP partnership and shall include, but not necessarily be limited to, the total number of high school students to be served and the total number of full-time equivalent students projected to be claimed by the community college district for those students; the scope, nature, time, location, and listing of community college courses to be offered; and criteria to assess the ability of pupils to benefit from those courses. The CCAP partnership agreement shall also establish protocols for information sharing, in compliance with all applicable state and federal privacy laws, joint facilities use, and parental consent for high school pupils to enroll in community college courses.

(2) The CCAP partnership agreement shall identify a point of contact for the participating community college district and school district partner.

(3) A copy of the CCAP partnership agreement shall be filed with the office of the Chancellor of the California Community Colleges and with the department before the start of the CCAP partnership. The chancellor may void any CCAP partnership agreement it determines has not complied with the intent of the requirements of this section.

(d) A community college district participating in a CCAP partnership shall not provide physical education course opportunities to high school pupils pursuant to this section or any other course opportunities that do not assist in the attainment of at least one of the goals listed in subdivision (a).

(e) A community college district shall not enter into a CCAP partnership with a school district within the service area of another community college district, except where an agreement exists, or is established, between those community college districts authorizing that CCAP partnership.

(f) A high school pupil enrolled in a course offered through a CCAP partnership shall not be assessed any fee that is prohibited by Section 49011.

(g) A community college district participating in a CCAP partnership may assign priority for enrollment and course registration to a pupil seeking to enroll in a community college course that is required for the pupil's CCAP partnership program that is equivalent to the priority assigned to a pupil

attending a middle college high school as described in Section 11300 and consistent with middle college high school provisions in Section 76001.

(h) The CCAP partnership agreement shall certify that any community college instructor teaching a course on a high school campus has not been convicted of any sex offense as defined in Section 87010, or any controlled substance offense as defined in Section 87011.

(i) The CCAP partnership agreement shall certify that any community college instructor teaching a course at the partnering high school campus has not displaced or resulted in the termination of an existing high school teacher teaching the same course on that high school campus.

(j) The CCAP partnership agreement shall certify that a qualified high school teacher teaching a course offered for college credit at a high school campus has not displaced or resulted in the termination of an existing community college faculty member teaching the same course at the partnering community college campus.

(k) The CCAP partnership agreement shall include a certification by the participating community college district of all of the following:

(1) A community college course offered for college credit at the partnering high school campus does not reduce access to the same course offered at the partnering community college campus.

(2) A community college course that is oversubscribed or has a waiting list shall not be offered in the CCAP partnership.

(3) Participation in a CCAP partnership is consistent with the core mission of the community colleges pursuant to Section 66010.4, and that pupils participating in a CCAP partnership will not lead to enrollment displacement of otherwise eligible adults in the community college.

(l) The CCAP partnership agreement shall certify that both the school district and community college district partners comply with local collective bargaining agreements and all state and federal reporting requirements regarding the qualifications of the teacher or faculty member teaching a CCAP partnership course offered for high school credit.

(m) The CCAP partnership agreement shall specify both of the following:

(1) Which participating district will be the employer of record for purposes of assignment monitoring and reporting to the county office of education.

(2) Which participating district will assume reporting responsibilities pursuant to applicable federal teacher quality mandates.

(n) The CCAP partnership agreement shall certify that any remedial course taught by community college faculty at a partnering high school campus shall be offered only to high school students who do not meet their grade level standard in math, English, or both on an interim assessment in grade 10 or 11, as determined by the partnering school district, and shall involve a collaborative effort between high school and community college faculty to deliver an innovative remediation course as an intervention in the student's junior or senior year to ensure the student is prepared for college-level work upon graduation.

(o) (1) A community college district may limit enrollment in a community college course solely to eligible high school students if the course is offered at a high school campus during the regular school day and the community college course is offered pursuant to a CCAP partnership agreement.

(2) For purposes of allowances and apportionments from Section B of the State School Fund, a community college district conducting a closed course on a high school campus pursuant to paragraph (1) of subdivision (p) shall be credited with those units of full-time equivalent students attributable to the attendance of eligible high school pupils.

(p) A community college district may allow a special part-time student participating in a CCAP partnership agreement established pursuant to this article to enroll in up to a maximum of 15 units per term if all of the following circumstances are satisfied:

(1) The units constitute no more than four community college courses per term.

(2) The units are part of an academic program that is part of a CCAP partnership agreement established pursuant to this article.

(3) The units are part of an academic program that is designed to award students both a high school diploma and an associate degree or a certificate or credential.

(q) The governing board of a community college district participating in a CCAP partnership agreement established pursuant to this article shall exempt special part-time students described in subdivision (p) from the fee requirements in Sections 76060.5, 76140, 76223, 76300, 76350, and 79121.

(r) A district shall not receive a state allowance or apportionment for an instructional activity for which the partnering district has been, or shall be, paid an allowance or apportionment.

(s) The attendance of a high school pupil at a community college as a special part-time or full-time student pursuant to this section is authorized attendance for which the community college shall be credited or reimbursed pursuant to Section 48802 or 76002, provided that no school district has received reimbursement for the same instructional activity.

(t) (1) For each CCAP partnership agreement entered into pursuant to this section, the affected community college district and school district shall report annually to the office of the Chancellor of the California Community Colleges all of the following information:

(A) The total number of high school pupils by schoolsite enrolled in each CCAP partnership, aggregated by gender and ethnicity, and reported in compliance with all applicable state and federal privacy laws.

(B) The total number of community college courses by course category and type and by schoolsite enrolled in by CCAP partnership participants.

(C) The total number and percentage of successful course completions, by course category and type and by schoolsite, of CCAP partnership participants.

(D) The total number of full-time equivalent students generated by CCAP partnership community college district participants.

(2) On or before January 1, 2021, the chancellor shall prepare a summary report that includes an evaluation of the CCAP partnerships, an assessment of trends in the growth of special admits systemwide and by campus, and, based upon the data collected pursuant to this section, recommendations for program improvements, including, but not necessarily limited to, both of the following:

(A) Any recommended changes to the statewide cap on special admit full-time equivalent students to ensure that adults are not being displaced.

(B) Any recommendation concerning the need for additional student assistance or academic resources to ensure the overall success of the CCAP partnerships.

(3) The chancellor shall ensure that the number of full-time equivalent students generated by CCAP partnerships is reported pursuant to the reporting requirements in Section 76002.

(u) The annual report required by subdivision (t) shall also be transmitted to all of the following:

(1) The Legislature, in compliance with Section 9795 of the Government Code.

(2) The Director of Finance.

(3) The Superintendent.

(v) A community college district that violates this article, including, but not necessarily limited to, any restriction imposed by the board of governors pursuant to this article, shall be subject to the same penalty as may be imposed pursuant to subdivision (d) of Section 78032.

(w) The statewide number of full-time equivalent students claimed as special admits shall not exceed 10 percent of the total number of full-time equivalent students claimed statewide.

(x) Nothing in this section is intended to affect a dual enrollment partnership agreement existing on the effective date of this section under which an early college high school, a middle college high school, or California Career Pathways Trust existing on the effective date of this section is operated. An early college high school, middle college high school, or California Career Pathways Trust partnership agreement existing on the effective date of this section shall not operate as a CCAP partnership unless it complies with the provisions of this section.

(y) This section shall remain in effect only until January 1, 2022, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2022, deletes or extends that date.