

**CALIFORNIA COMMUNITY COLLEGES
CHANCELLOR'S OFFICE**

1102 Q STREET
SACRAMENTO, CA 95814-6511
(916) 445-8752
HTTP://WWW.CCCCO.EDU



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To: Superintendents and Presidents
Chief Instructional Officers
Chief Student Services Officers
Chief Business Officials
Academic Senate Presidents
Admissions Officers and Registrars
Other Interested Parties

From: Dona Boatright, Vice Chancellor for Educational Services
Ralph Black, General Counsel

**Subject: Withdrawal and Course Repetition
Legal Advisory 04-01**

In recent months a number of questions have been raised about course repetition, withdrawal and related issues. In the fall of 2003, the Chancellor's Office convened a task force to discuss these issues. The group included representatives of the Chief Instructional Officers, the statewide Academic Senate, the Chief Student Services Officers, and several divisions within the Chancellor's Office. This Question and Answer piece reflects the discussion that occurred in the task force and provides advice from the Chancellor's Office in response to the inquiries we have received. Districts that follow the advice provided herein will be deemed to be in compliance with applicable regulatory requirements. Districts are reminded that grading policies and policies pertaining to student preparation and success must be developed in consultation with the academic senate.

Question 1. What are the basic rules concerning when a student may repeat a course?

Answer. California Code of Regulations, title 5, section 55761¹ requires each district to adopt a policy on repetition of courses to alleviate substandard work and section 55763 permits, but does not require, districts to adopt policies providing for repetition of courses where substandard work has not previously been recorded. Where a student repeats a course after having previously received a substandard grade (i.e., a "D," an "F," or an "NC") the student may repeat the course and have his or her new grade and credit substituted for the prior grade and credit in computing grade point average (GPA), provided that all work remains legible on the student's transcript. (§ 55761.) Section 55763 provides that, if a district permits repetition of a course where the student has not previously received a substandard grade, the governing board or its designee

¹ All section references herein are to title 5 of the California Code of Regulations.

must determine that there are special circumstances that justify permitting repetition. In such cases, the new grade the student receives is not counted for calculating GPA. If a district does permit repetition of courses where substandard work has not previously been recorded, it must also permit repetition of courses needed for legally mandated training and count the resulting grades and credits in calculating GPA.

Question 2. Are there limits on how many times a course can be repeated?

Answer. Yes. Title 5, section 58161 imposes limitations on the number of times a student may repeat a course and be claimed for state apportionment. It recognizes three basic situations:

First, a student may be claimed for apportionment for one repetition if the student has previously received a substandard grade (D, F, or NC), if the district determines that the student needs to repeat the course due to lapse of time, or if the student can demonstrate that his or her previous grade was, at least in part, the result of extenuating circumstances. Extenuating circumstances are cases of accident, illness, or other circumstances beyond the control of the student.

Second, a student may repeat a course and be claimed for apportionment any number of times to meet a legally mandated training requirement.

Finally, a student may repeat a course and be claimed for apportionment for three semesters or five quarters where the course content changes each time the course is taken and the student is gaining an expanded educational experience either because skills or proficiencies are enhanced by supervised repetition or because active participation in individual or group assignments is the basic means of learning.

Question 3. Can a district permit additional repetitions if it does not claim the student for apportionment?

Answer. Yes, but credit cannot be granted for such additional repetitions.

Title 5, section 55002 defines the standards applicable to different types of courses. In order to be approved and offered for college credit, a course must among other things, meet the course repetition standards set forth in sections 55761-55763 and 58161. Thus, the restrictions contained in sections 55761-55763 and 58161 are fundamental to the granting of credit and apply even though a district does not claim state apportionment.

However, any district may permit unlimited course repetition so long as it does not claim apportionment or award credit for repetitions in excess of the limits imposed by the regulations.

Question 4. Can a student receive credit each time an activity course is repeated, even if he or she did not previously receive a substandard grade?

Answer. Yes. Sections 55761-55763 do not mention repetition of activity courses and under those provisions a student may only receive credit when repeating a course if it is needed for legally mandated training or where the student has previously received a substandard grade.

While section 58161(d) authorizes a student to repeat activity courses for three semesters or five quarters, it is silent about whether or not they may earn credit for such repetitions. Nevertheless, we believe that the circumstances surrounding the adoption of this provision suggest that students who repeat these "activity courses" may earn credit each time the course is taken, regardless of whether or not they previously received a substandard grade.

Question 5. Do these rules apply to repetition of noncredit courses?

Answer. No. As discussed in the answer to Question 3, section 55002 provides that in order for a course to be approved as a credit course it must be subject to limitations on course repetition. However, section 55002(c) does not impose this same requirement on approval of noncredit courses.

Question 6. Are students with disabilities allowed additional repetitions?

Answer. Yes, under certain limited circumstances. Title 5, section 56029 provides that a district may authorize repetition of special classes for students with disabilities beyond the limits imposed by section 55761-55763 and 58161 where this is necessary to accommodate a student with a disability pursuant to state or federal nondiscrimination laws. A special class is one that is taught by an instructor possessing minimum qualifications set forth in section 53414 and which uses curriculum and materials specifically designed to address the educational limitations of students with disabilities. A district may permit a student to repeat a specific special class more often than would normally be permitted under section 58161, where this is necessary to prepare a student for enrollment in other special or general classes or to allow him or her to continue to be successful in those other courses. Additional repetitions of a special class are also authorized where the student's educational contract (see § 56022) sets forth a goal other than completion of the special class and repetition of the special class will further achievement of that greater goal.

It should be noted that section 56029 does not authorize students with disabilities to exceed the normal repetition limits when they are taking regular classes. Nor does it provide a blanket authorization for unlimited repetition of all special classes. The determination of whether a particular repetition is necessary to accommodate a student's needs should be made on a case-by-case basis for each student depending on whether or not one of the circumstances described in the regulation exists.

Question 7. Are there any limits on how many times a student can withdraw before the end of a course and subsequently re-enroll in that course?

Answer. Yes, but the result depends on when the student withdraws.

Title 5, section 55758 defines the rules for withdrawal. A student who withdraws during the first four weeks or 30 percent of the term (or such shorter period as a district governing board may establish) does not have a "W" or any other symbol recorded on his or her academic record. Such a student may re-enroll in the same class again without being affected by rules related to course repetition or progress probation.

On the other hand, section 55758 also indicates that a student who remains in class past the fourteenth week of instruction or 75 percent of the term (or such shorter time as the district governing board may establish) will be given a grade unless he or she can demonstrate extenuating circumstances that would justify late withdrawal denoted by a "W." If a student receives a grade, then he or she is subject to the limitations on course repetition contained in title 5, sections 55761-55763 and 58161.

Sections 55761-55763 and 58161 do not explicitly address what happens when a student withdraws before completing a course, receives a "W" and then subsequently re-enrolls. However, it is clear that a "W" counts for purposes of progress probation and dismissal pursuant to sections 55754-55756. Moreover, it is the view of the Chancellor's Office that districts should adopt policies to impose other restrictions on re-enrollment after withdrawal. Such policies should limit re-enrollment after withdrawal in "activity courses" in a manner parallel to the restrictions on repetition of such courses imposed by subsection (d) of section 58161. Districts should also consult collegially with the local academic senate concerning reasonable limitations on withdrawal and re-enrollment in other types of courses. Such an approach would ensure that state funds and district resources are used responsibly. Moreover, such a policy will promote student success because a student who cannot complete a class after multiple attempts may not be adequately prepared or may be facing other barriers to course completion and may need guidance or counseling to identify other steps the student should take to further his or her goal.

See the answer to Question 12 for special considerations that apply in the case of military withdrawal.

Question 8. Can a district assign lower registration priority to students with excessive numbers of withdrawals?

Answer. Yes. Section 58108 allows a district to establish a priority registration system and assign priority to students on any nondiscriminatory basis which does not result in limiting enrollment in a particular course or program to a "specialized clientele." In Legal Opinion 92-07 we held that this provision does permit giving lower registration priority to students with excessive "Ws."

Question 9. Can a district limit the number of times a student can take a course and receive a "W"?

Answer. Yes. Technically, a district need not permit withdrawal at all, so if it does adopt a withdrawal policy it may limit the circumstances under which a student may withdraw and receive a "W," so long as such limitations are not inconsistent with section 55758. That section does not impose rules regarding the number of times a student may withdraw and receive a "W" and it explicitly authorizes a district to control the time period during which such withdrawal is allowed. Thus, a district might provide that, in the event a student has previously withdrawn two or three times from a particular course, he or she must withdraw by the end of the fourth week of instruction (or 30 percent of the term) and that remaining in the class after that time will result in assignment of an appropriate grade.

Question 10. Can a district bar a student from re-enrolling in a course and instead require that he or she take a different course before retaking the original course?

Answer. No. Title 5, sections 55200 et seq. prescribe rules governing the establishment of prerequisites. If a district has not established any prerequisite for a particular course, students may freely enroll in the course. As discussed in the answer to Question 7, a district may bar a student who has previously withdrawn from a course from re-enrolling, but requiring that the student take another course before re-enrolling would amount to establishing a prerequisite without following the regulatory requirements. However, a district can and should establish advisories on recommended preparation that encourage students to take courses which will better prepare them to take a course without a prerequisite.

Of course, a student may withdraw from a course for a variety of reasons. However, a student who has withdrawn from a course because he or she is not doing well in a course should be counseled to take a course that has been established as an advisory on recommended preparation.

Question 11. What are the financial aid implications for students who withdraw and re-enroll in a course?

Answer. A student who withdraws and receives a "W" is deemed to have attempted the course for purposes of the "quantitative component" of the satisfactory academic progress requirements for federal financial aid. The quantitative component requires that a student complete his or her educational program within 150 percent of the length of time needed for completion of that program, as published by the institution. Thus, a student who frequently withdraws and re-enrolls in courses may eventually endanger his or her financial aid eligibility.

Question 12. Are there different considerations that would apply in the case of military withdrawal?

Answer. Yes. Section 55758 specifies that if a district provides for a withdrawal policy it must allow withdrawal in the event a student is called to active military service. Military withdrawal is typically denoted by the "MW" symbol and is not restricted by the same time limitations discussed in the answer to Question 7. Also, military withdrawal does not count against a student for purposes of progress probation or dismissal calculations. Although a district would have the authority to impose limitations on re-enrollment after military withdrawal, it seems unlikely that a student would withdraw from a particular course more than once due to military orders.

Question 13. Should an "FW" be treated in the same way as a "W"?

Answer. No. Subsection (c) of section 55758 permits a district to provide for an "FW" grade to be used when a student is failing a course, has ceased to participate, but remains in the course past the fourteenth week of instruction or 75 percent of the term (or such shorter time period as may be established by the district) and does not petition for withdrawal due to extenuating circumstances. However, there is an important difference between an "FW" and an ordinary "W." The "W" is designated as a "nonevaluative symbol" whereas the "FW" is a "grade."

Sections 55761-55763 and 58161 limit course repetition where a student has received a grade, so they are applicable to a student who has received an "FW." There are specific rules which apply where a student has received a "substandard grade." Although the definition of "substandard grade" has not been revised to incorporate the possibility that a district may utilize the "FW" grade, an "FW" reflects the fact that a student is failing the course and it is the view of the Chancellor's Office that it should be considered to be a "substandard grade" for purposes of course repetition policies.

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