



INSTRUCTIONAL SERVICES AGREEMENT GUIDELINES FOR COMMUNITY COLLEGE DISTRICTS AND PUBLIC AGENCIES 2015

Community college districts may claim full-time equivalent students (FTES) and state apportionment for courses given through instructional service agreements/contracts provided that California Education Code and title 5 requirements are met. The regulations are contained in California Education Code sections 78015, 84752 and California Code of Regulations, title 5, sections 51006, 53410, 55002, 55003, 55005, 55300, 58050, 58051(c)–(g), 58051.5, 58055, 58056, 58058(b), 58102-58106, 58108. Other regulations and/or statutes may apply.

These guidelines paraphrase applicable sections of Education Code and title 5 and apply only to programs and/or courses conducted in a cooperative instructional service arrangement with public agencies. (As indicated in Legal Advisory 04-01.5, although these guidelines are focused on agreements with public agencies, most of the requirements apply equally to private training partners.) The following list of required elements should be used as a guide in the preparation of agreements/contracts.

1. The governing board of a community college district, prior to establishing a vocational or occupational training program, shall conduct a job market study of the labor market area, and determine whether or not the results justify the proposed vocational education program (Cal. Ed. Code, § 78015).
2. The college or district must have a written agreement/contract with the contractor stating:
 - a. the responsibilities of each party, including a notation that although operated on-site by the contractor, the college or district is responsible for the educational program and/or course(s),
 - b. the procedures, terms and conditions relating to:
 - 1) enrollment period,
 - 2) student enrollment fees,
 - 3) the number of class hours sufficient to meet the stated performance objectives,

- 4) supervision and evaluation of students,
 - 5) withdrawal of students prior to completion of a course or program, and
- c. the terms and conditions relating to cancellation and termination of the arrangement.
3. The college or district has documentation that instruction claimed for apportionment under the agreement/contract is under the immediate supervision and control of an employee of the district (Cal. Code Regs., tit. 5, § 58058) who has met the minimum qualifications for instruction in the discipline of the course in a California community college. 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 the instructional activity. As a general rule, faculty must be physically present in the classroom or lab or within line-of-sight of the students.
- a. Where the instructor is not a paid employee of the district, the college or district has an additional written agreement/contract with each instructor requiring FTES to be reported by the instructor and stating that the college or district has the primary right to control and direct the instructional activities of the instructor.
 - b. The college or district must demonstrate control and direction through such actions as providing the instructor an orientation, instructor's manual, course outlines, curriculum materials, testing and grading procedures, and any other materials and services it would provide to its hourly on-campus instructors.
4. The college or district lists minimum qualifications for instructors teaching agreement/ contract courses and instructor qualifications are consistent with requirements in other similar courses given by the college or district (Cal. Code Regs., tit. 5, § 53410).
5. The course(s) included in the agreement must be held at facilities which are clearly identified as being open to the general public, noting that students may be required to meet course or program prerequisites (Cal. Code Regs., tit. 5, § 58051.5).
- a. Enrollment in the course must be open to any person who has been admitted to the college and has met any applicable prerequisites (Cal. Code Regs., tit. 5, §§ 51006, 58106).
 - b. The district policy on open enrollment (Cal. Code Regs., tit. 5, § 55005) along with a description of the course and information about whether the course is offered for credit and is transferable must be published in the college catalogue, schedule of classes, and any addenda to the schedule of classes (Cal. Code Regs., tit. 5, § 51006).

- c. Course outlines of record for advanced public safety courses, including in-service training courses in the areas of police, fire, corrections, and other criminal justice occupations, will not list as a prerequisite public safety employment, or possession of a basic course diploma. Appropriate health and safety prerequisites and/or enrollment limitations can include the requirement to pass a California Department of Justice Live Scan, as well as additional requirements established at the local level, so long as they do not violate the law, title 5, or this directive (Cal. Code Regs., tit. 5, §§ 55003, 58051(c)-(g) and 58106; Pen. Code § 832.3(c)).
- d. Course outlines of record for advanced public safety courses, including in-service training courses in public safety areas as described above, should include a sufficiently detailed list of prerequisites that are directly related to content of the advanced course, so that all prospective students can be assessed for enrollment eligibility, and shall only be put in place as provided by title 5, section 55003. Prerequisites shall not be established or construed so as to prevent academically qualified persons who are not employed by public safety agencies from enrolling in and attending courses (Cal. Code Regs., tit. 5, §§ 55003, 58051(c)-(g), 58106; Pen. Code § 832.3(c)).
- e. A student may request an evaluation of his/her previous experience and coursework to determine if it is equivalent to the listed requirements. If it is determined that a student does not meet the prerequisite requirements pursuant to title 5 section 55003(o), the student may challenge the prerequisites through the college's prerequisite challenge process pursuant to title 5 section 55003(p). The college shall maintain documentation that demonstrates that its processes for assessing student eligibility for enrollment were followed.
- f. College publications shall inform students regarding the method by which they can seek an evaluation for equivalent enrollment eligibility for advanced public safety courses (Cal. Code Regs., tit. 5, §§ 55003, 58051(c)-(g) and 58106; Pen. Code § 832.3(c)).
- g. College publications, including the course outline of record and course syllabi, shall include a notification that will advise advanced public safety course students that approval of equivalent enrollment eligibility is not a guarantee that state regulatory and licensing authorities will also grant equivalency for licensure or employment purposes.

6. Degree and certificate programs must have been approved by the California Community Colleges Chancellor's Office and courses that make up the programs must be part of the approved programs, or the college must have received delegated authority to separately approve those courses locally.
7. The agreement/contract or addendum must specify all courses conducted in the cooperative arrangement and provide corresponding outlines of record with documentation that each has been approved by the college's curriculum committee, is consistent with title 5 course standards and has been approved by the district board of trustees.
8. Procedures are in place by the college to ensure that faculty teaching different sections of the same course teach in a manner consistent with the approved outline of record for that course. Faculty covered under the agreement and students are held to a comparable level of rigor to all courses offered at the college.
9. Permanent records of student attendance, grades and achievement will be maintained by the public agency or college (as determined appropriate by the community college district). Records will be open for review at all times by college officials and submitted on a schedule developed by the community college district.
10. It is agreed that both contractor and community college district will insure that ancillary and support services are provided for students (e.g. Counseling and Guidance, Placement Assistance, Assessment Tutoring).
11. The community college district must certify that it does not receive full compensation for the direct education costs of the course(s) from any public or private agency, individual, or group.
12. The community college district is responsible for obtaining certification from the public agency verifying that the instructional activity to be conducted will not be fully funded by other sources.*
13. If the course(s) will be located outside the boundaries of the district, the district must comply with the requirements of title 5, sections 55300 et seq., concerning approval by adjoining high school or community college districts and use of non-district facilities.

* In accordance with Assembly Bill 444 (Stats. 1996, ch. 637) effective September 16, 1996; title 5, section 58051.5, was amended to include appropriate language to implement California Education Code Section 84752. See Legal Opinion O 11-01.