

ARTICLE XIX-A.

COMMUNITY COLLEGES.

(Art. added July 1, 1985, P.L.103, No.31)

Section 1901-A. Definitions.--The following words and phrases, as used in this article, shall, unless a different meaning is plainly required by the context, have the following meaning:

(1) "Municipality" shall mean any city, borough, town, township or county.

(2) "Local sponsor" shall mean a school district or a municipality or a county board of school directors or any combination of school districts, municipalities or county boards of school directors which participate or propose to participate in the establishment and operation of a community college.

(3) "Member" of a local sponsor shall mean any school district or municipality which alone is or with other districts and municipalities is included in a local sponsor.

(4) "Community college" shall mean a public college or technical institute which is established and operated in accordance with the provisions of this act by a local sponsor which provides a two-year, postsecondary, college-parallel, terminal-general, terminal-technical, out-of-school youth or adult education program or any combination of these. The community college may also provide area vocational-technical education services and credit, nonremedial college courses to secondary senior high school students. ((4) amended July 13, 2005, P.L.226, No.46)

(5) "Community college plan" shall mean a plan prepared in accordance with the policies, standards, rules and regulations of the State Board of Education for the establishment or operation of a community college and shall include a survey of any industrial development and manpower needs of the area and of any vocational and occupational shortage and the means by which the community college program and curriculum shall further industrial development, reduce unemployment and improve employable skills of residents of the area to be served by the community college.

(6) "Governing body" of a school district or municipality shall mean respectively its board of school directors or its council or board of commissioners or supervisors and may include the county board of school directors.

(7) "Board of trustees" shall mean the board of trustees of a community college.

(8) "Annual" shall mean a twelve-month period coterminous with the Commonwealth fiscal year beginning July 1 and ending June 30; hence, annual capital expenses and reimbursement therefor shall be regarded as those incurred during a full twelve-month fiscal year of operation.

(9) "Academic year" shall mean the period of instruction which includes two semesters, two trimesters, or three terms or quarters; hence, operating expenses for the academic year and reimbursement therefore shall be those incurred during two semesters, two trimesters, or three terms or quarters of college operation.

(10) "Summer term" shall mean an additional session, semester, trimester or quarter offered at the end of the regular academic year.

(11) "Independent certified public accountant" shall mean a member of the American Institute of Certified Public Accountants who has a minimum of five years' verifiable experience in performing audits of government funds for nonprofit organizations with a comparable or larger annual budget. ((11) added July 13, 2005, P.L.226, No.46)

(12) "High-priority and high-instructional-cost occupation program" shall mean a for-credit, two-year or less-than-two-year occupational or technical program approved by the Department of Education to qualify for an economic development stipend in order to prepare students to enter high-priority occupations pursuant to section 1913-A(b)(1.8)(ii). ((12) added July 13, 2005, P.L.226, No.46)

(13) "High-priority occupation program" shall mean a for-credit,two-year or less-than-two-year occupational or technical program approved by the Department of Education to qualify for an economic development stipend in order to prepare students to enter high-priority occupations pursuant to section 1913-A(b)(1.8)(iii). ((13) added July 13, 2005, P.L.226, No.46)

(14) "Noncredit workforce development courses" shall mean noncredit courses approved by the Department of Education to qualify for an economic development stipend pursuant to section 1913-A(b)(1.8)(iii) and having the specific purpose of providing opportunities for students and incumbent workers to develop or upgrade skills necessary in high-priority occupations. Noncredit workforce development courses may be offered by a community college at an off-campus site, at any of its facilities or through any form of distance education. ((14) added July 13, 2005, P.L.226, No.46)

(15) "Workforce development courses" shall mean those noncredit courses having the specific purpose of

providing opportunities for students and incumbent workers to develop or upgrade skills necessary or useful in gainful employment, for promotion or other similar opportunities in existing employment or for learning new job skills and that have, as their subject matter, instruction in any of the following general areas:

(1) Computers and information processing and technology, including the study of both hardware and software applications.

(2) Management, supervision and basic employability skills, including, but not limited to, working in teams, management and supervisory skills, effective interpersonal relations, problem solving, self-management strategies, project management and the application of Federal and State laws to the workplace.

(3) Health professional and allied health job skills.

(4) Technical, manufacturing and service industries, including, but not limited to, jobs in such fields as powdered metals, machine tool and diemaking, electronics, safety, plastics technology, hydraulics, construction, warehouse/materials management, automotive repair and management, heating, ventilation and air conditioning, refrigeration and tourism.

(5) Other similar areas.

((15) added July 13, 2005, P.L.226, No.46)

(1901-A added July 1, 1985, P.L.103, No.31)

Section 1902-A. Powers and Duties of State Board of Education.--(a) The State Board of Education shall have the power, and its duty shall be:

(1) To adopt such policies, standards, rules and regulations formulated by the Council of Higher Education, as may be necessary to provide for the establishment, operation and maintenance of community colleges, including minimum requirements for physical facilities and equipment, curriculum, faculty, standards and professional requirements, qualifications for admission and advancement of students, student enrollment, student population of the area to be served by the community college, requirements for satisfactory completion of a two-year program and the degrees or diplomas or certificates to be awarded therefor, means of financing and financial resources for the establishment and support of the community college, and all matters necessary to effectuate the purposes of this act.

(2) To approve or disapprove plans for the establishment or operation

of a community college.

(3) To approve or disapprove petitions of school districts or municipalities applying for participation in an established community college. No petition may be approved unless it is accompanied by the consent of the governing bodies of the majority of the members of the local sponsor of the established community college to the participation of the petitioning school district or municipality.

(b) In determining such policies, standards, rules and regulations, the State Board of Education may consider relevant all minimum requirements established by statute or by regulation with respect to the State colleges and universities of the Commonwealth and may consider relevant such minimum requirements established by statute or by regulation with respect to secondary and special education programs in the school district or districts of the area to be served by the community college.

(c) In approving or disapproving such plans, the State Board of Education shall consider the needs of areas adjacent to the areas to be served by the community college and of the State with respect to higher education and long range plans therefor established by the State Board of Education. Other school districts and municipalities may petition the State Board of Education to become a part of a local sponsor as hereafter in this act provided.

(d) No plan for the establishment of a community college shall be approved unless the State Board of Education determines that the local sponsor has a population of a sufficient number to assure a sustained minimum enrollment, has sufficient wealth to financially support such college and is not adequately served by established institutions of higher learning. No plan for the establishment of a community college shall be approved unless it contains an estimate of operating cost for administration, instruction, operation and maintenance and such other accounts as the State Board of Education may, from time to time, determine. No plan for the establishment of a community college shall be approved unless it contains an estimate of any proposed capital improvements for the next following ten years.

(e) To confer with and obtain the approval of the Governor's Office as to the number of community colleges which can be approved for participation during the ensuing fiscal period.

(f) Wherever in this act the approval of the State Board of Education is required in any matter, the State Board of Education may require the Department of Education to make and report its findings and recommendations on such matter to the Council of Higher Education for the formulation of policies, standards, rules and regulations for consideration by the State Board of Education.

(1902-A added July 1, 1985, P.L.103, No.31)

Section 1903-A. Plans and Procedures for Establishing.--(a) A proposed community college plan shall be submitted by the local sponsor in such form and containing such information as the State Board of Education may require. The plan shall designate the name of the proposed community college which shall be the "Community College of" or "..... Technical Institute," stating the name of the local sponsor or area of such community college. If there are two or more members of the local sponsor, the plan shall include provisions allocating financial responsibility for the community college among the members of the local sponsor subject to the policies, standards, rules and regulations of the State Board of Education.

(b) The community college plan, when submitted by the local sponsor, shall first be approved by the governing body of each member of the local sponsor and shall be submitted by them jointly in all counties. School directors from school districts of the second, third and fourth class located in two or more counties may meet in convention and approve a community college plan for submission to the State Board of Education.

(c) Upon the approval of the plan by the State Board of Education, the governing bodies of the local sponsor shall appoint a board of trustees of the community college, as hereinafter provided, and, upon such appointment, the community college shall be considered established.

(d) A county board of school directors shall prepare a plan for establishing a community college when required by a convention of school directors from school districts within the county. Such plan shall indicate the school districts to be served by a community college. Thereafter, a convention of school directors from school districts within the proposed area of a community college shall be called to consider:

- (1) The proposed plan.
- (2) The question of authorizing the county board or county boards to sponsor a community college.
- (3) The allocation of the cost of establishing and operating a community college.

Following such consideration, the school directors in convention may approve a plan to establish and operate a community college subject to the approval of the State Board of Education and to determine the share and formula for sharing operating expenses, capital outlay, debt service or lease payment to be borne by the school districts. School directors from the districts not desiring to participate in the establishment of a community college shall not be eligible to vote on any question placed before the convention.

Member districts shall share the cost of establishing and operating a community college.

(1903-A added July 1, 1985, P.L.103, No.31)

Section 1904-A. Election or Appointment; Term and Organization of Board of Trustees.--(a) The board of trustees of a community college shall be elected by the vote of a majority of the members of the governing body or governing bodies of the local sponsor within sixty (60) days of the approval of the plan by the State Board of Education, except that the board of trustees of a community college sponsored by a city of the second class shall be appointed by the mayor, with approval of city council, and in cities of the first class shall be appointed by the mayor from nomination from a nominating panel established in accordance with municipal ordinance.

(b) The board of trustees shall consist of no less than seven nor more than fifteen persons appointed for terms of six years each, except that those persons initially appointed shall draw lots to determine which trustees shall serve for a term of two years, which trustees shall serve for a term of four years and which trustees shall serve for a term of six years. Thereafter, all persons shall be appointed for terms of six years each. A trustee may succeed himself.

(c) The board of trustees shall organize itself at such times each year as it determines and shall choose from among its members a chairman and vice-chairman and secretary who shall hold such offices for one year. A majority of the members of the board shall be a quorum. Vacancies on the board shall be filled by the appointing authority for the unexpired terms. Trustees shall serve without compensation, except that they shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

(d) Notwithstanding the provisions of subsections (a) and (b), the board of trustees of a community college may appoint a trustee from each county where a campus or satellite classroom is located for which no local sponsor exists. The trustee shall be selected by the board of trustees of the community college. Trustees appointed under the provisions of this subsection shall be appointed for terms of two years. ((d) added July 4, 2004, P.L.536, No.70)

(1904-A added July 1, 1985, P.L.103, No.31)

Section 1905-A. Powers and Duties of Board of Trustees.--(a) The affairs of any community college established under this act shall be administered and supervised by a board of trustees. Subject to any law and to any policies, standards, rules and regulations adopted by the State Board of Education provided for community colleges, the board shall, for the purpose of establishing, operating and maintaining a community college, have the power, and its duty shall be:

(1) To appoint and fix the salary of a president.

(2) To hold, rent, lease, sell, purchase and improve land, buildings, furnishings, equipment, materials, books and supplies.

(3) To enter into contracts for services with schools, colleges or universities, or with school districts or municipalities, to effectuate the purposes of this act.

(4) To accept and receive gifts of real and personal property and Federal, State and local moneys and grants, and to expend the same.

(5) To make policies providing for the admission and expulsion of students, the courses of instruction, the tuition and fees to be charged and for all matters related to the government and administration of the college.

(6) To submit to the State Board of Education for its approval proposed amendments to the community college plan.

(7) To enter into contracts for services to high schools of member districts to provide area vocational-technical education services.

(8) To exercise such other powers and perform such other duties as are necessary to carry into effect the purposes of this act.

(b) Contracts shall be entered into and other acts shall be done by the board of trustees of a community college in the name of the community college. The board of trustees shall submit an annual budget for consideration and approval by the local sponsor. The submission of the budget by the board of trustees shall constitute a "formal action" as defined by the act of July 19, 1974 (P.L.486, No.175), referred to as the Public Agency Open Meeting Law. The board of trustees shall supervise the expenditure of appropriations made by the local sponsor and shall conduct the business affairs of the community college in accordance with rules, regulations and procedures approved by the local sponsor. All property purchased by or granted to the board of trustees of a community college shall be held in the name of a community college on behalf of the local sponsor of the college.

(c) Each member of a local sponsor is authorized to enter into a written agreement with the board of trustees of the community college for the purpose of providing operating expenses for at least a five-year period and for capital expenses for such term or period as is necessary for the reduction of capital indebtedness not to exceed thirty years.

(d) In no event shall the obligation of any member of the sponsor for the operating and capital expenses of a community college exceed the limit of such member's authority to levy taxes pursuant to this act or any other act

of the General Assembly or its right to incur or increase its indebtedness under Article IX of the Constitution of Pennsylvania.

(1905-A added July 1, 1985, P.L.103, No.31)

Section 1906-A. Officers of the Community College.--(a) The president shall be the chief executive and administrative officer of the college and shall perform all duties which the board of trustees may prescribe. He shall have the right to attend all meetings of the board and to be heard on all matters before it, but shall have no right to vote on any matter.

(b) The treasurer of the college shall give a proper bond in such amount and with such corporate surety as is approved by the board of trustees, which shall be filed with the board. The account of the treasurer shall be audited annually by a certified public accountant or other qualified public accountant selected by the board of trustees.

(1906-A added July 1, 1985, P.L.103, No.31)

Section 1907-A. Students.--Any resident of the Commonwealth may apply for admission to any community college established under this act. The State Board of Education may provide for the admission to community colleges of persons who are not residents of the Commonwealth, but no college shall admit such persons unless the admission is in accordance with the policies, standards, rules and regulations of the State Board of Education. The State Board of Education may prescribe standards for determining the place of residence of students and applicants for admission to community colleges.

(1907-A added July 1, 1985, P.L.103, No.31)

Section 1908-A. Tuition.--(a) The normal tuition charged by each community college shall be an amount fixed by the board of trustees of the community college, in accordance with policies, standards, rules and regulations of the State Board of Education, determined by apportioning among the students enrolled in such college not more than one-third of its annual operating costs.

(b) A student who is not a resident in the area of the local sponsor of the community college in which he is enrolled and who enrolled himself in such college with the approval of the board of trustees of the community college established in the area in which he resides, if there be one, shall pay the normal tuition charge of the college he attends, but the board of trustees of the college established in his area of residence shall pay on behalf of such student to the college in which he is enrolled an amount equal to the amount established by the board of trustees of

the attended college as its own sponsor share of the cost per equivalent full-time student. The community college at which the student registers shall be entitled to State reimbursement on behalf of that student in the same manner as a student resident in the sponsorship area as hereinafter provided.

(c) A student who is a resident of the Commonwealth in an area which is not a local sponsor of a community college and who is enrolled in a community college in accordance with the policies, standards, rules and regulations of the State Board of Education shall pay a tuition charge fixed by the board of trustees of the college attended. Such tuition shall total the amount representing the difference between total operating cost per equivalent full-time student and the amount payable by the State on behalf of each equivalent full-time student enrolled. The community college enrolling such student shall be entitled to State reimbursement as hereinafter provided.

(d) A student who is not a resident in the area of the local sponsor of the community college in which he is enrolled and who has enrolled himself in such college without the approval of the board of trustees of the community college established in the area in which he resides, if there is one, shall pay a tuition charge which shall be equal to twice the normal tuition charge of the community college in which he is enrolled. The community college at which the student registers shall be entitled to State reimbursement on behalf of that student in the same manner as a student resident in the sponsorship area as hereinafter provided.

(e) A student who is not a resident of the Commonwealth and who is enrolled in a community college in accordance with the policies, standards, rules and regulations of the State Board of Education shall pay such tuition charge as is approved by the Department of Education.

(1908-A added July 1, 1985, P.L.103, No.31)

Section 1909-A. Taxation.--The governing body of each school district or municipality comprising a local sponsor may levy, annually, taxes on subjects of taxation as prescribed by law in such school district or municipality for the purpose of establishing, operating and maintaining a community college. This tax levy shall be in excess of and beyond the millage fixed or limited by law, so long as the aggregate amount of all taxes imposed by any local sponsor, other than a school district of the first class or a city of the first class or county of the first class, for the establishment, operation and maintenance of a community college shall not exceed an amount equal to the product obtained by multiplying the latest total market value of the local sponsor as determined by the State Tax Equalization Board in the case of school districts, and by the Board of Assessment and Revision of Taxes or any other similar board which determines market values of real estate in the case of municipalities, by five mills. Where

a county levies such a tax for the establishment, operation and maintenance of a community college, no such tax shall be levied upon the property in a municipality situate in such county if the school district in which the municipality is situate levies a tax on the property in the municipality for the establishment, operation and maintenance of a community college situate in a county other than the one in which the municipality is located. The aggregate amount of all taxes imposed by a school district of the first class or a city of the first class or county of the first class for the establishment, operation and maintenance of a community college shall not exceed an amount equal to the product obtained by multiplying the latest total market value of the school district of the first class as determined by the State Tax Equalization Board and by the Board of Assessment and Revision of Taxes or any other similar board which determines market values of real estate in the case of cities of the first class or counties of the first class, by one mill.

(1909-A added July 1, 1985, P.L.103, No.31)

Section 1910-A. Withdrawal of Sponsorship; Dissolution of Community College.--No school district or municipality which is a local sponsor or a part of a local sponsor may withdraw its sponsorship from a community college nor may any community college be disestablished without the approval of the State Board of Education.

(1910-A added July 1, 1985, P.L.103, No.31)

Section 1911-A. Participation in or Admission to Established Community College.--(a) The governing body of any school district or of any municipality desiring to have such school district or municipality participate in an established community college shall present a petition to the State Board of Education in such form as the board may prescribe requesting approval to participate in or to be admitted to the community college.

(b) Upon the approval of the State Board of Education of a petition submitted by a governing body, such petitioning school district or municipality shall be considered a local sponsor of the community college and be admitted thereto.

(1911-A added July 1, 1985, P.L.103, No.31)

Section 1912-A. Degrees.--The State Board of Education shall prescribe the types of diplomas, certificates or degrees that may be granted students who complete post-secondary education courses in community colleges.

(1912-A added July 1, 1985, P.L.103, No.31)

Section 1913-A. Financial Program; Reimbursement of Payments.--(Hdg. amended June 22, 2001, P.L.530, No.35) (a) The plan submitted by the local sponsor shall set forth a financial program for the operation of

the community college. The plan shall provide that the local sponsor shall appropriate or provide to the community college an amount at least equal to the community college's annual operating costs less the student tuition as determined in section 1908-A(a) less the Commonwealth's payment as determined in subsection (b)(1) of this section. The plan shall also provide that one-half of the annual capital expenses shall be appropriated or provided by the local sponsor to the community college. The local sponsor's appropriation for annual operating costs and annual capital expenses may in part be represented by real or personal property or services made available to the community college. The plan shall indicate whether the appropriation shall come from general revenues, loan funds, special tax levies or from other sources, including student tuitions. ((a) amended June 7, 1993, P.L.49, No.16)

(b) (1) The Commonwealth shall pay to a community college on behalf of the sponsor on account of its operating costs during the fiscal year from funds appropriated for that purpose an amount equal to:

(i) for the 1993-1994 fiscal year through the 2000-2001 fiscal year, the lesser of such college's variable State share ceiling as determined in clause (1.3) or such college's equivalent full-time student reimbursement as determined in clause (1.4);

(ii) for the 2001-2002 fiscal year through the 2004-2005 fiscal year, the college's equivalent full-time student reimbursement as determined in clause (1.4);

(iii) for the 2005-2006 fiscal year, the college's payment as determined in clause (1.5); and

(iv) for the 2006-2007 fiscal year and each fiscal year thereafter, the college's payment as determined in clause (1.6).

((1) amended July 13, 2005, P.L.226, No.46)

(1.2) The Secretary of Education, in consultation with the community colleges, shall promulgate standards for credit courses and for noncredit courses that will be eligible for Commonwealth reimbursement. The standards shall specifically exclude from eligibility for reimbursement any course or program in avocational or recreational pursuits. The standards shall be promulgated by the beginning of the 1994-1995 fiscal year. Until such standards are promulgated, no community college will be reimbursed for any credit course which was offered by such college as a noncredit course during the college's 1992-1993 fiscal year.

(1.3) The variable State share ceiling of a community college shall be determined as follows:

(i) Subtract the taxable income per person of the local sponsor from the highest taxable income per person of any county in the Commonwealth.

(ii) Divide the amount determined under subclause (i) by the difference between the highest taxable income per person of any county in the Commonwealth and the lowest taxable income per person of any county in the Commonwealth.

(iii) Multiply the quotient determined under subclause (ii) by one-sixth.

(iv) Add one-third to the product determined under paragraph (iii).

(v) Multiply the sum determined under subclause (iv) by the community college's operating costs in the year for which reimbursement is being claimed.

(vi) The taxable income per person data used in the preceding calculation shall be data certified to the Secretary of Education by the Secretary of Revenue under section 2501(9.1) for school district local sponsors or data otherwise published by the Secretary of Revenue for a municipal local sponsor.

(1.4) The equivalent full-time student reimbursement of a community college shall be the sum of credit course, noncredit course and stipend reimbursements. These reimbursements shall be calculated using a reimbursement factor of one thousand and forty dollars (\$1,040) for the 1993-1994 fiscal year, of one thousand eighty dollars (\$1,080) for the 1994-1995 fiscal year and of one thousand one hundred eighty dollars (\$1,180) for the 1995-1996 fiscal year and one thousand and two hundred and ten dollars (\$1,210) for the 1996-1997 fiscal year and one thousand two hundred sixty dollars (\$1,260) for the 1997-1998 fiscal year and the 1998-1999 fiscal year and one thousand three hundred dollars (\$1,300) for the 1999-2000 fiscal year and one thousand four hundred dollars (\$1,400) for the 2000-2001 fiscal year and one thousand five hundred dollars (\$1,500) for the 2001-2002 fiscal year and for each year thereafter and shall be determined as follows:

(i) Credit course reimbursement shall be calculated by multiplying the reimbursement factor by the number of equivalent full-time students enrolled in credit courses as determined by an audit to be made in a manner prescribed by the State Board of Education.

(ii) Noncredit course reimbursement shall be calculated as follows:

(A) eighty percent (80%) of the reimbursement factor multiplied by the number of equivalent full-time students enrolled in eligible noncredit courses for the 1993-1994 fiscal year, as determined by the audit referred to in paragraph (i);

(B) seventy percent (70%) of the reimbursement factor multiplied by the number of equivalent full-time students enrolled in eligible noncredit courses for the 1994-1995 fiscal year and for each year thereafter, as determined by the audit referred to in paragraph (i); or

(C) one hundred percent (100%) of the reimbursement factor multiplied by the number of equivalent full-time students enrolled in eligible noncredit public safety courses that provide training for volunteer firefighters and emergency medical services for the 1995-1996 fiscal year and for each year thereafter, as determined by the audit referred to in paragraph (i).

(iii) Stipend reimbursement on account of a community college's operating costs for all equivalent full-time students enrolled in the following categories of two-year or less than two-year occupational or technical programs, shall be the sum of the following:

(A) One thousand one hundred dollars (\$1,100) per full-time equivalent student enrolled in advanced technology programs. For the fiscal year 1995-1996, 1996-1997 and 1997-1998, the reimbursement rate shall be calculated at one thousand one hundred seventy-five dollars (\$1,175) per full-time equivalent student enrolled in advanced technology programs. For the fiscal year 1998-1999 and each year thereafter, the reimbursement rate shall be calculated at one thousand four hundred sixty dollars (\$1,460) per full-time equivalent student enrolled in advanced technology programs. Advanced technology programs are programs using new or advanced technologies which hold promise for creating new job opportunities, including such fields as robotics, biotechnology, specialized materials and engineering and engineering-related programs.

(B) One thousand dollars (\$1,000) per full-time equivalent student enrolled in programs designated as Statewide programs. For the fiscal year 1995-1996, 1996-1997 and 1997-1998, the reimbursement rate shall be calculated at one thousand seventy-five dollars (\$1,075) per full-time equivalent student enrolled in programs designated as Statewide programs. For the fiscal year 1998-1999 and each year thereafter, the reimbursement rate shall be calculated at one thousand three hundred sixty dollars (\$1,360) per full-time equivalent student enrolled in programs designated as Statewide programs. A Statewide program is a program which meets one or more of the following criteria:

(I) Program enrollment from out-of-sponsor area is twenty per cent or more of the enrollment for the program.

(II) A consortial arrangement exists with another community college to cooperatively operate a program or share regions in order to avoid unnecessary program duplication.

(C) Five hundred dollars (\$500) per full-time equivalent student enrolled in other occupational or technical programs. For the fiscal year 1995-1996, 1996-1997 and 1997-1998, the reimbursement rate shall be calculated at five hundred seventy-five dollars (\$575) per full-time equivalent student enrolled in other occupational or technical programs. For the fiscal year 1998-1999 and each year thereafter, the reimbursement rate shall be calculated at eight hundred sixty dollars (\$860) per full-time equivalent student enrolled in other occupational or technical programs.

((1.4) amended June 22, 2001, P.L.530, No.35)

(1.5) For the 2005-2006 fiscal year, the payment for a community college shall consist of the following:

(i) Each community college shall receive reimbursement for operating costs equal to the reimbursement for the 2004-2005 fiscal year as determined under clause (1.4)(i) and (ii). This amount shall be determined based upon the midyear rebudget submitted by a community college in February 2005.

(ii) Each community college shall receive an economic development stipend as calculated under clause (1.7).

(iii) Each community college shall receive a base supplement determined by:

(A) subtracting the total amount of funds determined under subclauses (i) and (ii) from the State appropriation for payment of approved operating expenses of community colleges for the 2005-2006 fiscal year;

(B) dividing the payment under subclauses (i) and (ii) by the sum of the amounts determined for all community colleges under subclauses (i) and (ii); and

(C) multiplying the quotient from subparagraph (B) by an amount equal to seventy-five percent (75%) of the amount determined under paragraph (A).

(iv) Each community college with a 2003-2004 equivalent full-time enrollment in credit, noncredit and workforce development courses greater than its 2002-2003 equivalent full-time enrollment in credit, noncredit and workforce development courses shall receive a growth supplement amount determined by:

(A) subtracting its 2002-2003 equivalent full-time enrollment in credit, noncredit and workforce development courses from its 2003-2004 equivalent full-time enrollment in credit, noncredit and workforce development courses;

(B) dividing the difference from paragraph (A) by the sum of the differences from paragraph (A) for all community colleges; and

(C) multiplying the quotient from paragraph (B) by an amount equal to twenty-five percent (25%) of the amount determined under subclause (iii)(A).

Calculations under this subclause shall be based upon the final claim forms submitted by a community college for the 2002-2003 and 2003-2004 fiscal years.

((1.5) added July 13, 2005, P.L.226, No.46)

(1.6) For the 2006-2007 fiscal year and each fiscal year thereafter, the payment for a community college shall consist of the following:

(i) Each community college shall receive an amount equal to the reimbursement for operating costs, base supplement and growth supplement amounts it received in the immediately preceding fiscal year.

(ii) Each community college shall receive an economic development stipend as calculated under clause (1.7). The amount available for economic development stipends shall increase each year by the percent increase in the State appropriation for payment of approved operating expenses of community colleges.

(iii) Each community college shall receive a base supplement determined by:

(A) subtracting the total amount of funds determined under subclauses (i) and (ii) from the State appropriation for payment of approved operating expenses of community colleges;

(B) dividing the payment under subclause (i) by the sum of the amounts determined for all community colleges under subclause (i); and

(C) multiplying the quotient from paragraph (B) by an amount equal to seventy-five percent (75%) of the amount determined under paragraph (A).

(iv) Each community college with an equivalent full-time enrollment in credit, noncredit and workforce development courses for the year prior to the immediately preceding year greater than its equivalent full-time enrollment in credit, noncredit and workforce development courses for the second year prior to the immediately preceding year shall receive a growth supplement amount determined by:

(A) subtracting its equivalent full-time enrollment in credit, noncredit and workforce development courses for the second year prior to the immediately preceding year from its equivalent full-time enrollment in credit, noncredit and workforce development courses for the year prior to the immediately preceding year;

(B) dividing the difference from paragraph (A) by the sum of the differences from paragraph (A) for all community colleges; and

(C) multiplying the amount from paragraph (B) by an amount equal to twenty-five percent (25%) of the amount determined under subclause (iii)(A).

Secondary senior high school students enrolled in credit-bearing, nonremedial college courses shall be included in the calculation under paragraph (A). Calculations under this subclause shall be based upon the audited financial statements submitted by a community college pursuant to subsection (k.1).

((1.6) added July 13, 2005, P.L.226, No.46)

(1.7) The payment for a community college shall include an economic development stipend which shall consist of the following:

(i) For the 2005-2006 fiscal year, each community college shall receive an amount equal to the reimbursement for the 2004-2005 fiscal year as determined under clause (1.4)(iii) and under section 1501 of the act of December 18, 2001 (P.L.949, No.114), known as the "Workforce Development Act." This amount shall be determined based upon the midyear rebudget submitted by a community college in February 2005.

(ii) For the 2006-2007 fiscal year and each fiscal year thereafter, each community college shall receive, subject to the provisions of subclause (iii), an amount determined by:

(A) Adding the following:

(I) the number of full-time equivalent students enrolled in high-priority and high-instructional-cost occupation programs at the community college multiplied by 1.50;

(II) the number of full-time equivalent students enrolled in high-priority occupation programs at the community college multiplied by 1.25; and

(III) the number of full-time equivalent students enrolled in noncredit workforce development courses at the community college.

(B) Dividing the total from paragraph (A) by the sum of the totals from paragraph (A) for all community colleges.

(C) Multiplying the amount from paragraph (B) by the amount allocated for the economic development stipend pursuant to clause (1.6)(ii).

The number of full-time equivalent students shall be determined based upon the final midyear rebudget submitted by a community college for the prior fiscal year. Such rebudget shall be submitted, as required by the Department of Education, no later than May 31, 2006, and May 31 of each year thereafter.

(iii) For the 2006-2007 and 2007-2008 fiscal years, the following shall apply:

(A) Full-time equivalent students enrolled in stipend advanced technology programs shall be counted as full-time equivalent students enrolled in high-priority and high-instructional-cost occupation programs for the purpose of the calculation in subclause (ii).

(B) Full-time equivalent students enrolled in stipend Statewide programs shall be counted as full-time equivalent students enrolled in high-priority occupation programs for the purpose of the calculation in subclause (ii).

(C) Full-time equivalent students enrolled in other stipend occupational programs and workforce development courses shall be counted as full-time equivalent students enrolled in noncredit workforce development courses for the purpose of the calculation in subclause (ii).

(D) For reimbursement for any semester that begins on or after January 1, 2006, this subclause shall only apply for students who were enrolled in such programs during the fall 2005 semester.

((1.7) added July 13, 2005, P.L.226, No.46)

(1.8) (i) The Department of Education shall annually approve high-priority and high-instructional-cost occupation programs, high-priority occupation programs and noncredit workforce development courses.

(ii) In order to qualify as a high-priority and high-instructional-cost occupation program, the program must:

(A) Provide training:

(I) in a high-priority occupation as defined by the Center for Workforce Information and Analysis within the Department of Labor and Industry; or

(II) in an occupation designed to meet regional workforce needs as documented through collaboration with one or more employers.

(B) Bear an instructional cost to the community college, per full-time-equivalent student, of at least one hundred thirty percent (130%) of the average cost per full-time-equivalent student enrolled in the community college's credit courses. Instructional costs shall be defined by the Department of Education and may include personnel, equipment, curricula and other costs necessary for the program.

(iii) In order to qualify as a high-priority occupation program or a noncredit workforce development course, the high-priority occupation program or noncredit workforce development course must:

(A) provide training in a high-priority occupation as defined by the Center for Workforce Information and Analysis within the Department of Labor and Industry; or

(B) provide training in an occupation designed to meet regional workforce needs as documented through collaboration with one or more employers.

(iv) In order to qualify under subclause (ii)(A)(II) or (iii)(B), the community college shall submit an application to the Department of Education. The application shall contain:

(A) Evidence of collaboration with one or more employers.

(B) Information as to the nature of the proposed program.

(C) Evidence as to how the program will increase workforce opportunities for participants.

(v) The Department of Education shall:

(A) Determine the form and manner by which applications are to be submitted under subclause (iv).

(B) Approve or reject applications received pursuant to subclause (iv) within twenty (20) days of receipt of a completed application; otherwise, such applications will be deemed approved.

(C) Annually publish guidelines listing criteria and establishing the approval process for programs and courses under this clause.

((1.8) added July 13, 2005, P.L.226, No.46)

(2) For the 1993-1994 fiscal year, each community college shall be reimbursed under clause (1) in an amount which is at least equal to a one percent (1%) increase over its 1992-1993 operating cost and stipend reimbursement. In no case shall a community college's 1993-1994 reimbursement under clause (1) per full-time equivalent student, insofar as said reimbursement does not include a proportionate share attributable to stipend reimbursement under clause (1.4)(iii), exceed its 1992-1993 operating cost reimbursement per full-time equivalent student by more than ten percent (10%).

(2.1) For the 1994-1995 fiscal year, each community college shall be reimbursed under clause (1) in an amount which is at least equal to a one percent (1%) increase over its 1993-1994 reimbursement under clause (1). In no case shall a community college's 1994-1995 reimbursement under clause (1) per full-time equivalent student, insofar as said reimbursement does not include the proportionate share attributable to stipend reimbursement under

clause (1.4)(iii), exceed its 1993-1994 reimbursement under clause (1) per full-time equivalent student, insofar as said reimbursement does not include the proportionate share attributable to stipend reimbursement under clause (1.4)(iii) by more than ten percent (10%).

(2.2) For the 1995-1996 fiscal year, each community college shall be reimbursed under clause (1) in an amount which is at least equal to its 1994-1995 reimbursement under clause (1).

(3) The Secretary of Education annually shall establish criteria to be used to determine eligibility of programs for each of the above stipend categories, shall approve programs for funding in the following fiscal year according to these criteria and shall submit to chairmen of the committees of education in the House of Representatives and Senate a report setting forth the established criteria, any programs approved for funding under these criteria and the recipient community colleges.

(4) Each community college shall maintain such accounting and student attendance records on generally accepted principles and standards as will lend themselves to satisfactory audit. The Commonwealth shall pay to a community college on behalf of the sponsor on account of its capital expenses an amount equal to one-half of such college's annual capital expenses from funds appropriated for that purpose to the extent that said capital expenses have been approved as herein provided.

(5) For purposes of determining Commonwealth reimbursement of operating costs, Federally funded expenditures for those programs in which the Commonwealth participates in the cost shall be deducted from total operating expenditures to determine net reimbursable operating costs.

((b) amended June 7, 1993, P.L.49, No.16)

(c) (1) Capital expenses shall mean only such expenses as are incurred with the approval of the Department of Education for amortization of the purchase of lands; purchase, construction or improvement of buildings for administrative and instructional purposes, including libraries; the lease of lands or buildings, or for rentals to an authority for the same purpose; and, prior to July 1, 2005, for the purchase, lease or rental of capital equipment and furniture used for instructional or administrative purposes. Capital expenses shall include library books and complementary audio-visual equipment purchased during the first five years after establishment. On or after July 1, 2005, capital expenses may include such expenses as are incurred with the approval of the Department of Education for the purchase, lease or rental of capital equipment and furniture used for instructional or administrative purposes. For the purpose of calculating the Commonwealth's share of operating, and capital costs

incurred prior to the actual admission of students to a community college, all such costs shall be interpreted as capital costs. No costs and expenses incurred in the establishment, construction, operation or maintenance of dormitories, or the equipment or furnishings for such purposes, shall be included in capital expenses or operating costs for purposes of Commonwealth reimbursement.

(2) The provisions of this subsection shall not prevent the Commonwealth from reimbursing a community college for capital expenses incurred prior to the effective date of this act. Such reimbursement must have approval of the Secretary of Education.

(3) Notwithstanding any other provision of this act, a community college may use a portion of its payment of approved operating expenses for capital expenses not otherwise reimbursed by the Department of Education.

((c) amended July 13, 2005, P.L.226, No.46)

(c.1) Notwithstanding any provision of law to the contrary, two or more community colleges may jointly enter into a financing arrangement through the State Public School Building Authority for the purchase, lease or construction of capital projects deemed necessary by the community colleges. The terms and conditions of the financing arrangement shall be consistent with the terms and conditions set forth in the act of July 5, 1947 (P.L.1217, No.498), known as the "State Public School Building Authority Act." ((c.1) added July 13, 2005, P.L.226, No.46)

(d) The State Board of Education shall adopt policies, standards, rules and regulations for determining reimbursable capital expenses and operating costs, and the Department of Education shall approve such expenses and costs for the purpose of reimbursement by the Commonwealth.

(e) The State Board of Education shall apply for, receive and administer, subject to any applicable regulations or laws of the Federal Government or any agency thereof, any Federal grants, appropriations, allocations and programs to fulfill the purpose of this act.

(f) All administrative personnel, faculty, and other employees of the community colleges in the Commonwealth shall be eligible for inclusion in the Public School Employees' Retirement System of Pennsylvania, the Pennsylvania State Employees' Retirement System, or any independent retirement program approved by the Board of Trustees of a community college, and the Secretary of Education.

(g) The community college in the Commonwealth shall be eligible for participation in the act of July 5, 1947 (P.L.1217, No.498), known as the "State Public School Building Authority Act," and the act of May 2, 1945 (P.L.382, No.164), known as the "Municipality Authorities Act of 1945."

(h) In all cases where the board of trustees of any community college fails to pay or provide for the payment of any rental or rentals due the State Public School Building Authority or any municipality authority for any period in accordance with the terms of any lease entered into between the board of trustees of any community college and the State Public School Building Authority or any municipality authority, or fails to pay or to provide for the payment of any other indebtedness when due, upon written notice thereof from the State Public School Building Authority or any municipality authority, or in such cases where an audit reveals any unpaid indebtedness due, the Secretary of Education shall notify the board of trustees of its obligation and shall withhold out of any State appropriation that may be due to such community college an amount equal to the amount of rental or rentals owing by such board of trustees to the State Public School Building Authority or any municipality authority, or an amount equal to the amount of any other indebtedness owing by such board of trustees, and shall pay over the amount or amounts so withheld to the State Public School Building Authority or any municipality authority or to whomsoever any other indebtedness is due and owing.

(i) The amount payable to each community college Board of Trustees on behalf of the sponsor shall be paid in the year in which the costs and expenses are incurred in quarterly installments and the Secretary of Education shall draw his requisition quarterly upon the State Treasurer in favor of each community college for the amount of reimbursement to which it is entitled. Reimbursement or payment by the Commonwealth for the operational expenses and capital equipment and the furnishings shall be made on or before the end of the fiscal quarters ended on September 30, December 31, March 31 and June 30 of each Commonwealth fiscal year. Reimbursements or payments shall be made semi-annually for the Commonwealth's share of the annual rentals to an authority or the sponsor or sinking fund or debt-service payments and other leases upon submission of a community college requisition in the form required by the Commonwealth, the reimbursement or payment to be made from funds appropriated for that purpose. Money that is appropriated under this subsection but not expended by a community college Board of Trustees shall not be distributed to a local sponsor. ((i) amended Oct. 20, 1988, P.L.827, No.110)

(j) In no event shall the payments or final reimbursement made by the department following audit exceed the appropriation available for community colleges. ((j) added June 7, 1993, P.L.49, No.16)

(k) For fiscal years up to and including the 2004-2005 fiscal year, audits of community colleges shall be conducted as follows:

(1) Unless otherwise prescribed by the State Board of Education, the Commonwealth's fiscal audits of community colleges under this section shall be conducted in accordance with "Government Auditing Standards," latest revision, promulgated by the United States General Accounting Office. Written audit reports will be produced and will be sent to the community college by the Commissioner of Postsecondary/Higher Education. Any cost disallowed under findings contained in the audit report shall be considered an adjudication within the meaning of 2 Pa.C.S. (relating to administrative law and procedure) and regulations promulgated thereunder.

(2) The Secretary of Education is hereby specifically authorized and shall be required to resolve audit findings involving disallowed costs that are contested by community colleges except for audit findings that involve mathematical errors, violation of regulations or alleged illegal activities. The proposed resolution of the Secretary of Education shall not be subject to the provisions of 2 Pa.C.S. The Secretary of Education's notice to resolve audit findings shall be sent to the community college in writing. The Secretary of Education may resolve the audit findings by reducing the disallowed costs related thereto in whole or in part.

(3) The Secretary of Education's notice to resolve an audit finding by reducing or eliminating the disallowed costs must be made contingent upon the community college developing and implementing a corrective action plan to address the audit finding. The community college must submit a corrective action plan to the Secretary of Education within 60 days after receipt of the Secretary of Education's written notice to resolve the audit finding. The Secretary of Education shall approve, reject or alter the plan submitted by the community college within thirty (30) days of submission. After the community college receives written notice of approval or agrees in writing to the Secretary of Education's alterations of the corrective action plan, said plan shall be implemented and shall be binding on the community college. Implementation of the approved or agreed upon corrective action plan will be verified by an audit conducted by the department no later than the end of the fiscal year following the fiscal year during which the plan is implemented. If no agreed upon corrective action plan is in place within one year after the date of the Secretary of Education's written notice to resolve audit findings or if the agreed upon corrective action has not been implemented within one year after the date of the Secretary of Education's written notice to resolve the audit findings, then the Secretary of Education is authorized to adjust payments to the community

college to collect any amounts due based upon the findings contained in the audit report that was issued to the college by the commissioner.

(4) The department shall deduct any amounts due the Commonwealth as a result of audit findings that are resolved under this subsection from any future payment due to the community college from the Commonwealth. The Secretary of Education is authorized to approve a payment schedule in cases where immediate repayment of the full amount due the Commonwealth would jeopardize the ability of the community college to continue operations.

(5) Resolution authority provided to the Secretary of Education in this subsection shall be limited to disallowed cost findings relating to policy and/or administrative practices. The resolution authority shall not be used for audit findings in which the audited community college data and documentation is in error, where a violation of applicable law or regulation is found or where criminal violations are suspected by the Commonwealth auditors and brought to the Secretary of Education's attention in writing. Notwithstanding the limitations of this subsection, until June 30, 1995, the Secretary of Education is authorized to resolve audit findings involving disallowed costs for fiscal years prior to and including 1992-1993 when such disallowed costs result from violation of regulations.

(6) The department, through the Secretary of Education, is authorized to issue guidelines for the operation of the community college educational and financial programs. The department shall amend these guidelines on an annual basis to reflect the department's position on issues that require resolution under this subsection.

(7) The provisions of subsection (d) are repealed insofar as they are inconsistent with the provisions of this subsection.

((k) amended July 13, 2005, P.L.226, No.46)

(k.1) (1) By January 1, 2007, and January 1 of each year thereafter, a community college shall submit to the department an audited financial statement for the immediately preceding fiscal year. The audited financial statement shall be consistent with the generally accepted accounting principles prescribed by the National Association of College and University Business Officers or its successor, by the American Institute of Certified Public Accountants or its successor or by any other recognized authoritative body and consistent with the financial reporting policies and standards promulgated by Federal Government and State government which apply to community colleges, provided that an audited financial statement shall not be acceptable if the audit is conducted by an employe or member of the board of trustees of the community college or by an organization or firm associated with any employe or member of the board of trustees of the community college. The Department of Education may

withhold funds appropriated to community colleges as necessary to ensure that audit reports are submitted in the prescribed fashion.

(2) The audited financial statement required under clause (1) shall include:

(i) results of the tests of the community college's accounting records and other procedures that are considered necessary to enable the independent certified public accountant to express an opinion as to whether the community college's financial statements are fairly presented, in all material respects, consistent with the accounting principles set forth in clause (1);

(ii) a schedule of operating expenses that presents all operating expenses pertaining to the community college's educational program; and

(iii) a verification of equivalent full-time students enrolled in the community college in each of the following categories: credit, noncredit and each economic development stipend category, during the fiscal year for which the audited financial statement is presented.

(3) The department shall review the audited financial statement of a community college to determine whether the State funds allocated to the community college have been expended in accordance with the accounting principles set forth in clause (1). The department shall have ninety (90) days from the receipt of an audited financial statement to review the audited financial statement and notify the community college of any material failure to meet the requirements of this subsection.

(4) A community college that receives notice from the department under clause (3) shall have ninety (90) days from the receipt of such notice to submit a corrective action plan to the department.

(5) The department shall approve, reject or alter the corrective action plan within thirty (30) days of submission. After the community college receives written notice of approval of the corrective action plan or agrees in writing to the department's alterations of the corrective action plan, the plan shall be implemented and binding on the community college. Implementation of the approved or agreed-upon corrective action plan shall be verified by an audit conducted by the department no later than the end of the fiscal year following the fiscal year during which the plan is implemented. If no agreed-upon corrective action plan is in place within one year after the date of the department's written notice under clause (4) or if the agreed-upon corrective action plan has not been implemented within one year after the date of the department's written notice under clause (4), then the department shall adjust payments to the community college to collect any amounts due based upon the findings contained in the audit report.

(6) The State Board of Education shall promulgate final-omitted regulations pursuant to the act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review Act," as necessary to implement this subsection.

((k.1) added July 13, 2005, P.L.226, No.46)

(l) For the fiscal year 1992-1993, if insufficient funds are appropriated to make Commonwealth payments pursuant to this section, such payments shall be made on a pro rata basis. ((l) added June 7, 1993, P.L.49, No.16)

(1913-A added July 1, 1985, P.L.103, No. 31)

Section 1914-A. Dissolution of Certain Community Colleges.--(a) Notwithstanding the provisions of section 1910-A, any community college that was approved as a community college by the State Board of Education after January 1, 1990, may be dissolved after a determination by the Secretary of Education that the majority of the education and training programs operated by the college are nonacademic in nature and upon notice of said determination to the community college.

(b) Upon the Secretary of Education's notice as described in subsection (a), a dissolved community college shall cease to be a public instrumentality. If the dissolved community college desires to continue to offer degree programs, provide specialized job training or provide professional development training, those programs must be transferred to a corporate successor organized as a nonprofit corporation under 15 Pa.C.S. (relating to corporations and unincorporated associations).

(c) The corporate successor of a dissolved community college shall continue to have the authority to grant associate degrees and certificates in those programs in which the dissolved community college had the authority to grant degrees during the last complete school year of operation as a community college. If a corporate successor desires to offer additional associate degree programs, it must apply to the Department of Education to obtain approval in accordance with applicable regulations. If a corporate successor desires to offer additional certificates, it shall apply for licensure to the State Board of Private Licensed Schools. A corporate successor of a dissolved community college is not authorized to award baccalaureate degrees.

(d) All indebtedness of any community college dissolved under this section shall be transferred to and become the responsibility of its corporate successor. Nothing in this section shall be construed so as to waive the obligations or debts of any dissolved community college to any entity other than the Commonwealth. Any indebtedness of a dissolved community college to the Commonwealth or to the department, determined pursuant to audits of the dissolved community college conducted under section 1913-A(k), shall be deferred for one fiscal year

subsequent to dissolution. Thereafter the amount and terms of repayment of the indebtedness to the Commonwealth shall be determined by the Secretary of the Budget.

(e) Any Workforce Development Challenge Grant awarded to a dissolved community college prior to dissolution shall be transferred to and become an asset of its corporate successor.

(f) The Commonwealth shall retain the right to have access to and the authority to review financial records of any community college dissolved under this section, including records created up through dissolution until such time as all information required to be reviewed under section 1913-A(k) has been reviewed and any indebtedness owed to the Commonwealth has been repaid. Any audits prepared as a result of the review conducted under this section must be completed and issued to the corporate successor of a dissolved community college within one year of dissolution.

(1914-A added June 22, 2001, P.L.530, No.35)

Section 1915-A. Work Force Development Courses.--No later than January 1, 2002, the Department of Education shall, in consultation with the community colleges and the State Workforce Investment Board, establish criteria to identify noncredit courses which emphasize work force development and for which additional reimbursement may be required above the current noncredit reimbursement factor. The department shall also provide an estimate of the number of equivalent full-time students enrolled in noncredit courses which emphasize work force development had these criteria been in effect in the 2000-2001 fiscal year. This information shall be furnished to the chairman and minority chairman of the Appropriations and Education Committees of the Senate and the chairman and minority chairman of the Appropriations and Education Committees of the House of Representatives.

(1915-A added June 22, 2001, P.L.530, No.35)

Section 1916-A. Community College Nonmandated Capital Restricted Account.--(a) There is hereby established the Community College Nonmandated Capital Restricted Account for the purpose of making payments to community colleges for certain nonmandated capital projects.

(b) The sources of the restricted account may include:

(1) With the approval of the Secretary of the Budget, in consultation with the Secretary of Education, reimbursements repaid by community colleges to the Commonwealth pursuant to audits under section 1913-A and regulations under that section.

(2) Appropriations.

(3) Earnings on money in the restricted account.

(c) The restricted account shall be used for nonmandated capital projects in community colleges. The Department of Education shall develop guidelines for disbursement in consultation with community colleges.

(d) The money in the restricted account is hereby appropriated to the department on a continuing basis for the purposes identified in this section.

(1916-A added July 4, 2004, P.L.536, No.70)

Section 1917-A. Community College Capital Fund.--(a) The Community College Capital Fund is hereby established as a separate fund in the State Treasury for the purpose of making payments to community colleges for capital expenses approved under section 1913-A(b)(4). The moneys of the fund are hereby appropriated to the Department of Education to carry out the provisions of this section.

(b) The Community College Capital Fund shall consist of all funds appropriated and allocated during the 2005-2006 fiscal year and each fiscal year thereafter for capital expenses approved for payment by the Department of Education under section 1913-A(b)(4).

(c) At the end of each fiscal year, any unencumbered funds shall not lapse to the General Fund and shall be available for payment of any capital expenses approved under section 1913-A(b) any subsequent fiscal year.

(d) Payments for capital expenses approved under section 1913-A(b)(4) shall be limited to the total amount of funds included in the Community College Capital Fund.

(1917-A added July 13, 2005, P.L.226, No.46)

Section 1918-A. Annual Report.--(a) No later than January 1, 2006, the Department of Education shall, in consultation with the community colleges, complete development of a format for collecting uniform data relative to the operations of community colleges. The data shall be used in making an annual report to the Governor and the chairmen and minority chairmen of the Appropriations and Education Committees of the Senate and the chairmen and minority chairmen of the Appropriations and Education Committees of the House of Representatives. The report and the data shall be made available to the Governor and the committees via electronic transmission. The report shall cover the immediately preceding academic year and shall include, but not be limited to:

(1) Demographic and program data, including information on full-time and part-time faculty and student enrollments, in total and within curricular areas, dual enrollment participation, credit hours taught by faculty,

distance learning courses offered, articulation agreements with higher education institutions, numbers and courses with fewer than twenty (20) students and numbers and courses with more than fifty (50) students.

(2) Student progress and achievement measures, including retention rates, first-time, full-time graduation rates after two, three and four years, passing rates on certification and licensure examinations, number of students employed within one year of program completion and placement into additional education or employment in the student's field of study.

(3) Economic and workforce development measures, including employer satisfaction, customized job training offerings, employment status and numbers of businesses and organizations served.

(b) Where available, data shall be disaggregated by categories, including gender, race and age.

(c) The Department of Education, in consultation with the community colleges, shall annually review the uniform data collection format and make any revisions deemed necessary.

(d) Reports required under this section shall be submitted prior to September 1, 2006, and September 1 of each year thereafter.

(1918-A added July 13, 2005, P.L.226, No.46)

CHAPTER 35. COMMUNITY COLLEGES

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Authority

The provisions of this Chapter 35 issued under the Community College Act of 1963 (24 P. S. §§ 5201—5214), unless otherwise noted.

Source

The provisions of this Chapter 35 adopted September 12, 1969, amended through May 27, 1977, 7 Pa.B. 1426, unless otherwise noted.

Cross References

This chapter cited in 22 Pa. Code § 31.1 (relating to purpose and scope); 22 Pa. Code § 31.21 (relating to curricula); 22 Pa. Code § 335.12 (relating to standards for reimbursable credit courses at community colleges); 22 Pa. Code § 335.32 (relating to existing credit courses); 22 Pa. Code § 335.33 (relating to existing noncredit courses); and 22 Pa. Code § 335.43 (relating to program approval policy and records).

GENERAL PROVISIONS

§ 35.1. Scope.

This chapter and applicable provisions of Chapter 31 (relating to general provisions) and Chapter 42 (relating to program approval) apply to a college or technical institute which offers a 2-year, postsecondary, college parallel, terminal-general, terminal-technical, out-of-school youth or adult education program or any combination of these, grants certificates and associate degrees and is established and operated under the act.

Authority

The provisions of this § 35.1 amended under sections 1317 and 1319(c) of The Administrative Code of 1929 (71 P. S. §§ 367 and 369(c)); and Article XIX-A of the Public School Code of 1949 (24 P. S. §§ 19-1901-A—19-1913-A).

Source

The provisions of this § 35.1 amended February 9, 1973, effective February 10, 1973, 3 Pa.B. 281; amended May 27, 1977, effective May 28, 1977, 7 Pa.B. 1426; amended July 16, 1982, effective July 17, 1982, 12 Pa.B. 2282; amended December 25, 1987, effective December 26, 1987, 17 Pa.B. 5323. Immediately preceding text appears at serial page (71507).

§ 35.1a. Statement of policy.

The policy of the Board is to encourage and facilitate the development of community colleges within reasonable commuting distances of every citizen of this Commonwealth. These colleges may be developed in various forms and by various organizations provided they are consistent with the act and this chapter.

Source

The provisions of this § 35.1a adopted July 16, 1982, effective July 17, 1982, 12 Pa.B. 2282.

§ 35.2. Statement of philosophy.

The board of trustees of each community college approved under this chapter shall prepare and file with the Department an official statement of philosophy outlining its purposes and objectives and a continuing long-range institutional plan.

Source

The provisions of this § 35.2 amended February 9, 1973, effective February 10, 1973, 3 Pa.B. 281; amended May 27, 1977, effective May 28, 1977, 7 Pa.B. 1426. Immediately preceding text appears at serial page (10397).

§ 35.3. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—Article XIX-A of the Public School Code of 1949 (24 P. S. §§ 19-1901-A—19-1913-A).

College—A locally sponsored public college or technical institute established and operated in accordance with the provisions of the act and which provides a 2-year, postsecondary, college parallel, terminal-general, terminal-technical, out-of-school youth or adult education program, or combination of these.

Local sponsor—A school district or a municipality or combination of school districts or municipalities or both which participate or propose to participate in the establishment and operation of a community college.

Member—A school district or municipality which alone or with other districts and municipalities is included in a local sponsor.

Municipality—A city, borough, town, township or county.

Authority

The provisions of this § 35.3 amended under sections 1317 and 1319(c) of The Administrative Code of 1929 (71 P. S. §§ 367 and 369(c)); and Article XIX-A of the Public School Code of 1949 (24 P. S. §§ 19-1901-A—19-1913-A).

Source

The provisions of this § 35.3 adopted May 27, 1977, effective May 28, 1977, 7 Pa.B. 1426; amended December 25, 1987, effective December 26, 1987, 17 Pa.B. 5323. Immediately preceding text appears at serial page (71508).

§ 35.4. Visitation.

To assure maintenance of the quality of program offered by community colleges, a community college shall be subject to visitation and inspection by the Department.

Authority

The provisions of this § 35.4 issued under sections 1317 and 1319(c) of The Administrative Code of 1929 (71 P. S. §§ 367 and 369(c)); and Article XIX-A of the Public School Code of 1949 (24 P. S. §§ 19-1901-A—19-1913-A).

Source

The provisions of this § 35.4 adopted December 25, 1987, effective December 26, 1987, 17 Pa.B. 5323.

ADMINISTRATION**§ 35.11. Board of trustees.**

(a) Upon Board approval of a plan for the establishment of a college, the local sponsor shall appoint a board of trustees within 60 days.

(b) The composition of the board of trustees shall be representative of the geographical area to be served by the college and shall include members of the professions, business, industry and other organizations or lay persons. Each college shall file with the Department the names of the members of the board and their affiliation along with the list of elected officers.

(c) The board of trustees shall adopt bylaws, articles of agreement and policy or other appropriate organizational procedures to provide for the operation of the college. Included shall be full cognizance of the necessity for the active membership roles of individual trustees. Bylaws, articles of agreement and policies adopted by the board of trustees shall be filed with the Department.

(d) A final plan for the college shall be prepared by the board of trustees and shall be submitted to the Department at least 120 days prior to the opening of the college. This plan shall include articles of agreement between the sponsor and the board of trustees which provides anticipated capital needs, planning, programs and student services.

Source

The provisions of this § 35.11 amended February 9, 1973, effective February 10, 1973, 3 Pa.B. 281; amended May 27, 1977, effective May 28, 1977, 7 Pa.B. 1426. Immediately preceding text appears at serial page (10397).

§ 35.12. President.

The president shall be appointed by the board of trustees. This individual shall be the chief executive and chief educational officer of the college and shall perform all duties in accordance with policies adopted by the board of trustees.

Source

The provisions of this § 35.12 amended February 9, 1973, effective February 10, 1973, 3 Pa.B. 281; amended May 27, 1977, effective May 28, 1977, 7 Pa.B. 1426. Immediately preceding text appears at serial page (10397).

§ 35.13. Organization chart.

A college shall file with the Department a current chart of its administrative organization.

Source

The provisions of this § 35.13 amended February 9, 1973, effective February 10, 1973, 3 Pa.B. 281; amended May 27, 1977, effective May 28, 1977, 7 Pa.B. 1426. Immediately preceding text appears at serial page (10397).

ACADEMIC PROGRAM**§ 35.21. Curricula.**

(a) Program shall be determined to mean a planned series or sequence of events which may include life experiences, college courses, other experiences and general studies designed to raise the student to the level of competence for which the program was offered.

(b) A college shall conduct a thorough academic audit of programs as necessary, but not less than every 5 years to determine whether each program should be continued, revised or discontinued on the basis of local and student needs of the area served.

(c) A college wishing to establish an upper division program, not culminating in a baccalaureate degree, shall use the procedure as specified in applicable provisions of Chapter 42 (relating to program approval).

(d) A college shall file its official catalog and other necessary documents with the Department upon request by the Department.

Source

The provisions of this § 35.21 amended February 9, 1973, effective February 10, 1973, 3 Pa.B. 281; amended May 27, 1977, effective May 28, 1977, 7 Pa.B. 1426; amended June 10, 1977, effective June 11, 1977, 7 Pa.B. 1577; amended July 16, 1982, effective July 17, 1982, 12 Pa.B. 2282. Immediately preceding text appears at serial page (34893).

Cross References

This section cited in 22 Pa. Code § 335.12 (relating to standards for reimbursable credit courses at community colleges); and 22 Pa. Code § 335.44 (relating to course evaluation and program audit).

§ 35.22. Degrees and certificates.

(a) A community college is authorized to award associate degrees in the arts, sciences, technologies or general education upon successful completion of programs authorized by the board of trustees.

(b) A community college is authorized to award certificates upon successful completion of programs authorized by the board of trustees.

(c) The associate degree shall require the satisfactory completion of a planned program consisting of a minimum of 60 semester credits or the equivalent.

Source

The provisions of this § 35.22 amended February 9, 1973, effective February 10, 1973, 3 Pa.B. 281; amended August 3, 1973, effective August 4, 1973, 3 Pa.B. 1470; amended May 27, 1977, effective May 28, 1977, 7 Pa.B. 1426. Immediately preceding text appears at serial page (11191).

§ 35.23. Academic year.

(a) A semester or trimester shall include not fewer than 15 weeks of instruction. A quarter shall include not fewer than 10 weeks of instruction. Quarter credits shall be converted to semester credits for purposes of fulfilling the requirements of this section.

(b) Other approved sessions, including the summer session, shall require an amount of instructional time proportionate to the requirements described in subsection (a).

(c) Registration, orientation, final examination periods and interruptions to instructional time shall be in addition to the periods described in subsections (a) and (b).

(d) The minimum number of weeks indicated may not be interpreted as a constraint upon innovative calendar arrangements.

Source

The provisions of this § 35.23 amended February 9, 1973, effective February 10, 1973, 3 Pa.B. 281; amended May 27, 1977, effective May 28, 1977, 7 Pa.B. 1426. Immediately preceding text appears at serial page (11192).

§ 35.24. Faculty.

(a) Full-time faculty members of colleges existing prior to January 1, 1977, shall constitute a majority of the total full-time equivalent faculty employed. The faculty shall have competencies in their assigned area of responsibility as required by the curriculum of the college.

(b) A college created in the mode of colleges approved prior to January 1, 1977 shall comply with provisions of subsection (a).

(c) A college approved in a nontraditional mode after January 1, 1977, for which educational services are contracted shall insure that appropriate student and academic services, in addition to classroom instruction, are provided.

(d) Persons who are employed for teaching continuing education and community service offerings are not to be counted in the determination of full-time equivalent faculty.

(e) Full-time and part-time faculty employed in colleges cited in subsections (b) and (c) shall be sufficient in number to provide the opportunity for instruction designed to meet student needs and academic counseling appropriate to the level of instruction.

Source

The provisions of this § 35.24 amended February 9, 1973, effective February 10, 1973, 3 Pa.B. 281; amended May 27, 1977, effective May 28, 1977, 7 Pa.B. 1426; amended June 10, 1977, effective June 11, 1977, 7 Pa.B. 1577. Immediately preceding text appears at serial page (11192).

§ 35.25. [Reserved].

Source

The provisions of this § 35.25 amended February 9, 1973, effective February 10, 1973, 3 Pa.B. 281; reserved May 27, 1977, effective May 28, 1977, 7 Pa.B. 1426. Immediately preceding text appears at serial page (3037).

§ 35.26. Grading standards.

Standards for grading and qualifications for graduation shall be established at each community college by the board of trustees after advice from college administrators, faculty and students.

Source

The provisions of this § 35.26 amended February 9, 1973, effective February 10, 1973, 3 Pa.B. 281; amended May 27, 1977, effective May 28, 1977, 7 Pa.B. 1426. Immediately preceding text appears at serial page (3037).

§ 35.27. Student records.

Academic records shall be maintained for students. Appropriate standards of confidentiality for the records shall be defined in the college policies and the college catalog and shall be administered accordingly. Students shall be granted the right to access, under the requirements of law, to their respective files.

Source

The provisions of this § 35.27 amended February 9, 1973, effective February 10, 1973, 3 Pa.B. 281; amended May 27, 1977, effective May 28, 1977, 7 Pa.B. 1426. Immediately preceding text appears at serial page (3037).

§ 35.28. Student services.

A college shall provide a comprehensive program of student services to include financial aid counseling, orientation, counseling and guidance, placement services and follow-up studies on the progress of former students.

Authority

The provisions of this § 35.28 amended under sections 1317 and 1319(c) of The Administrative Code of 1929 (71 P. S. §§ 367 and 369(c)); and Article XIX-A of the Public School Code of 1949 (24 P. S. §§ 19-1901-A—19-1913-A).

Source

The provisions of this § 35.28 amended February 9, 1973, effective February 10, 1973, 3 Pa.B. 281; amended May 27, 1977, effective May 28, 1977, 7 Pa.B. 1426; amended December 25, 1987, effective December 26, 1987, 17 Pa.B. 5323. Immediately preceding text appears at serial page (34895).

§ 35.29. Tuition.

(a) The normal tuition charged each student shall be an amount fixed by the board of trustees of the college attended by apportioning among the students enrolled not more than 1/3 of the budgeted annual operating costs of the college.

(b) For tuition purposes, students shall be classified as resident or nonresident students according to the appropriate sections of this chapter.

(c) Part-time students shall be charged tuition on a per credit basis by prorating the number of credits for which they are enrolled as a proportion of 12 semester credits during a semester.

(d) Where an annual audit reveals that income from student tuition exceeds the legislatively prescribed share of the total operating costs, the college shall be required to submit a written justification to assure that it is making appropriate efforts to comply with the intent of the legislation concerning the share of operating costs to be borne by the student.

Source

The provisions of this § 35.29 adopted February 9, 1973, effective February 10, 1973, 3 Pa.B. 281; amended May 27, 1977, effective May 28, 1977, 7 Pa.B. 1426. Immediately preceding text appears at serial page (10399).

§ 35.29a. Admission.

(a) A college shall be open to the residents of this Commonwealth without reference to prior educational achievements.

(b) A college may prescribe the minimal level of achievement necessary for admission into and retention in a particular course or program.

(c) Admission to the college may be extended to non-Commonwealth residents. The minimum level of educational attainment for admission of non-Commonwealth residents shall be determined by policy of the college.

Source

The provisions of this § 35.29a adopted May 27, 1977, effective May 28, 1977, 7 Pa.B. 1426; amended June 10, 1977, effective June 11, 1977, 7 Pa.B. 1577. Immediately preceding text appears at serial page (30512).

§ 35.29b. Commonwealth residency.

(a) Domicile is the place where one intends to and does, in fact, permanently reside. In order to establish Commonwealth residency, the following presumptions shall be considered along with documentary evidence or statements from disinterested persons, or both:

(1) Continuous residence in this Commonwealth for a period of 12 months prior to registration as a student. A student may rebut this presumption by convincing evidence.

(2) A noncitizen shall have taken formal action toward becoming a citizen or shall have been admitted to the United States on an Immigrant Visa.

(3) A minor, under the age of 18, shall be presumed to have the domicile of parents or guardian. A minor may prove emancipation and independent domicile through convincing evidence.

(4) A United States government employe or a member of the armed forces who was domiciled in this Commonwealth immediately preceding entry into government service, and who continuously maintained legal residence in this Commonwealth, shall be presumed to have domicile. Others in government service may, by convincing evidence, establish domicile.

(b) Domicile may not be established for a student receiving a scholarship or grant dependent upon domicile from another state.

(c) Examples of factors which may provide convincing evidence include the following:

(1) Lease or purchase of a permanent independent residence.

(2) Payment of appropriate State and local taxes. Special attention shall be given to payment of Commonwealth taxes on income earned during periods of temporary absence from this Commonwealth.

(3) Transfer of bank accounts, stock, automobile and other registered property to this Commonwealth.

(4) Pennsylvania driver's license.

(5) Agreement for permanent full-time employment in this Commonwealth.

(6) Membership in Commonwealth social, civic, political, athletic and religious organizations.

(7) Registration to vote in this Commonwealth.

(8) Statement of intention to reside indefinitely in this Commonwealth.

(9) Statement from the parents or guardian of a minor setting forth facts to establish the financial independence and separate residence of the minor.

(d) Cases shall be decided on the basis of facts submitted, with qualitative rather than quantitative emphasis. No given number of factors may be required for domicile, since the determination in each case is one of the subjective intention of the student to reside indefinitely in this Commonwealth.

(e) A student may challenge his residency classification by filing a written petition with the officer or committee designated to consider such challenges at the college.

(f) If the student is not satisfied with the decision made by the officer or committee in response to the challenge, the student may take a written appeal to the office of the Secretary of Education, 333 Market Street, Harrisburg, Pennsylvania 17126-0333. The decision of the Secretary on the challenge is final.

Authority

The provisions of this § 35.29b amended under sections 1317 and 1319(c) of The Administrative Code of 1929 (71 P. S. §§ 367 and 369(c)); and Article XIX-A of the Public School Code of 1949 (24 P. S. §§ 19-1901-A—19-1913-A).

Source

The provisions of this § 35.29b adopted June 10, 1977, effective June 11, 1977, 7 Pa.B. 1577; amended December 25, 1987, effective December 26, 1987, 17 Pa.B. 5323. Immediately preceding text appears at serial pages (34896) to (34898).

§ 35.29c. Local sponsor residency.

(a) The college may adopt residency requirements for the determination of domicile in its own service area. The requirements may be less but not more restrictive than set forth below:

(1) Continuous residence in the area of the member of the local sponsor for a period of 12 months prior to registration as a student. A student may rebut this presumption by convincing evidence.

(2) A minor under the age of 18 shall be presumed to have the domicile of parents or guardian. A minor may prove emancipation and independent domicile through convincing evidence.

(3) A United States government employe or a member of the armed forces domiciled in the area of the member of the local sponsor immediately preceding entry into government service, and who continuously maintained legal residence in the same area, shall be presumed to have domicile. Others in government service may, by convincing evidence, establish domicile.

(b) Local continuous tuition support shall be provided for students who move permanently within the sponsor service area of the college. Local agreements shall determine how the proration of member share will be determined. A copy of this agreement shall be filed with the Department upon request.

(c) Students moving within the sponsor service area of the college who cannot establish domicile at their new address shall continue to be sponsored by the member of the local sponsor in which domicile had previously been established.

Source

The provisions of this § 35.29c adopted June 10, 1977, effective June 11, 1977, 7 Pa.B. 1577.

§ 35.30. Refund policy.

(a) The deadline for withdrawal of students with partial tuition refunds shall be:

- (1) The end of the third week of each semester or trimester.
- (2) The end of the second week of each quarter.
- (3) At the end of 20% of the scheduled instruction for summer sessions, special sessions and irregularly scheduled sessions and courses.

(b) Enrollment at the end of the periods prescribed in subsection (a) shall be considered final for the purposes of § 35.61 (relating to full-time equivalent enrollment).

(c) In the event that a disruption of the academic term occurs through no fault of the student body, which results in loss of opportunity to be provided the scheduled instruction for that academic term within the time frame specified in the catalog, the college shall declare that academic term void and shall provide a refund to students according to policy established by the college and approved by the Secretary.

(1) Loss of opportunity shall mean insufficient time to receive the necessary 15 weeks of instruction through normal scheduling or some other innovative calendar arrangements which do not place an excessive burden on the student.

(2) Time frame specified in the catalog may provide for flexibility in revising the calendar during an academic year in the best interest of the students.

(3) If an academic term is declared void, the audit by the Department for the fiscal year during which it occurred shall show an appropriate reduction in operating expense and full-time equivalent student enrollment upon which State reimbursement is based.

(4) Prior to the closing of a college because of disruption cited in this subsection, the board of trustees shall announce publicly the intent to close, the rationale for the closing and file the intent with the Secretary.

Source

The provisions of this § 35.30 amended February 9, 1973, effective February 10, 1973, 3 Pa.B. 281; amended May 27, 1977, effective May 28, 1977, 7 Pa.B. 1426; amended June 10, 1977, effective June 11, 1977, 7 Pa.B. 1577. Immediately preceding text appears at serial page (10400).

FACILITIES**§ 35.41. Physical plant plan.**

(a) A college shall prepare a long-range physical plant plan according to guidelines approved by the Board, including financial requirements for at least 10 years, for the physical facilities necessary to support the programs of the college.

(b) The college shall submit copies of this plan for approval by the Department as soon as practicable after admitting its first class, but not later than the third year of operation.

Source

The provisions of this § 35.41 amended February 9, 1973, effective February 10, 1973, 3 Pa.B. 281; amended May 27, 1977, effective May 28, 1977, 7 Pa.B. 1426. Immediately preceding text appears at serial page (10400).

Cross References

This section cited in 22 Pa. Code § 35.42 (relating to construction plans).

§ 35.42. Construction plans.

(a) Construction plans and specifications for physical facilities shall be reviewed and approved by the Department prior to awarding contracts. Physical facilities shall meet applicable fire, safety, building, sanitation, heating, lighting and ventilating standards and codes.

(b) It shall be necessary for the college to submit, for Department approval, changes or revisions to its long-range physical plant plan, as described in § 35.41 (relating to physical plant plan), before construction plans and specifications for proposed facilities not previously referred to may be reviewed and approved.

Source

The provisions of this § 35.42 amended February 9, 1973, effective February 10, 1973, 3 Pa.B. 281; amended May 27, 1977, effective May 28, 1977, 7 Pa.B. 1426. Immediately preceding text appears at serial page (10400).

BIDDING AND AWARD OF CONTRACTS

§ 35.51. Construction and repair contracts.

The board of trustees of a college may perform construction, reconstruction, repairs or work of any nature by its own maintenance personnel or may have the work performed under contract in the following circumstances:

- (1) If a contract exceeds \$20,000, a college shall, with public notice, solicit competitive bids and shall award the contract to the lowest responsible bidder.
- (2) If a contract exceeds \$5,000, but is less than \$20,000, a college shall solicit competitive bids from at least three responsible bidders and shall award the contract to the lowest responsible bidder.
- (3) If a contract is less than \$5,000, a college may award the contract without soliciting competitive bids.
- (4) In an emergency in which a part of the college plant may become unusable, on the approval of the Department, a contract may be awarded without soliciting bids.

(5) Bids under public notice shall be received in sealed envelopes at a designated place and time and shall be opened publicly and the contract awarded thereon.

(6) Bids under public notice for construction, reconstruction and repair shall be accompanied by a bond with corporate surety or certified check in an amount as the board of trustees determines, but at least 5% of the amount bid. If a bidder, upon award of the contract, fails to comply with the requirements as to a bond guaranteeing the performance of the contract, the bid bond or certified check shall be forfeited.

(7) The bidder to whom the contract is awarded shall furnish bonds to guarantee the performance of the contract and payment for labor and materials. Bonds shall be in compliance with the Public Works Contractors' Bond Law of 1967 (8 P. S. §§ 191—202). Failure to furnish bonds shall void the previous award.

Source

The provisions of this § 35.51 amended February 9, 1973, effective February 10, 1973, 3 Pa.B. 281; amended May 27, 1977, effective May 28, 1977, 7 Pa.B. 1426; amended July 16, 1982, effective July 17, 1982, 12 Pa.B. 2282; amended December 25, 1987, effective December 26, 1987, 17 Pa.B. 5323. Immediately preceding text appears at serial pages (71514) to (71515).

§ 35.52. [Reserved].

Source

The provisions of this § 35.52 amended February 9, 1973, effective February 10, 1973, 3 Pa.B. 281; amended May 27, 1977, effective May 28, 1977, 7 Pa.B. 1426; reserved July 16, 1982, effective July 17, 1982, 12 Pa.B. 2282. Immediately preceding text appears at serial page (30517).

§ 35.53. [Reserved].

Source

The provisions of this § 35.53 amended February 9, 1973, effective February 10, 1973, 3 Pa.B. 281; amended May 27, 1977, effective May 28, 1977, 7 Pa.B. 1426; reserved July 16, 1982, effective July 17, 1982, 12 Pa.B. 2282. Immediately preceding text appears at serial page (30517).

§ 35.54. Contracts for services and personal property.

(a) The board of trustees of each college shall establish policies and procedures which shall insure that contracts for the purchase of services, except those of a professional nature, and personal property and items of a noncompetitive nature shall be written and shall be made by advertising for, or soliciting, competitive bids.

(b) Policies and procedures adopted under subsection (a) shall be filed with the Department.

Source

The provisions of this § 35.54 amended February 9, 1973, effective February 10, 1973, 3 Pa.B. 281; amended May 27, 1977, effective May 28, 1977, 7 Pa.B. 1426. Immediately preceding text appears at serial page (10396).

FINANCING**§ 35.61. Full-time equivalent enrollment.**

- (a) Full-time students shall be those enrolled for 12 or more credits.
- (b) Full-time equated students shall be determined by dividing by 12 the total credits for which part-time students enroll.
- (c) For noncredit courses, each 15 hours of classroom work and each 30 hours of laboratory work shall be equated to one semester credit for reimbursement purposes.
- (d) For life experience credits, each four credits qualifying for evaluation shall be equated to one semester credit for reimbursement purposes.
- (e) Full-time equivalent enrollment shall be the sum of approved full-time students and approved full-time equated students in attendance at the end of the refund period. Enrollments in both credit and noncredit courses shall be used in this calculation.
- (f) The following full-time and full-time equivalent enrollments shall be deducted from the total full-time equivalent student enrollments:
 - (1) Persons who are not residents of this Commonwealth.
 - (2) Students enrolled under government or private entity contracts which, in the aggregate, provide an average revenue per full-time equivalent student that is equal to, or greater than, the average gross operating costs per full-time equivalent student.

Authority

The provisions of this § 35.61 amended under sections 1317 and 1319(c) of The Administrative Code of 1929 (71 P. S. §§ 367 and 369(c)); and Article XIX-A of the Public School Code of 1949 (24 P. S. §§ 19-1901-A—19-1913-A).

Source

The provisions of this § 35.61 amended February 9, 1973, effective February 10, 1973, 3 Pa.B. 281; amended May 27, 1977, effective May 28, 1977, 7 Pa.B. 1426; amended July 16, 1982, effective July 17, 1982, 12 Pa.B. 2282; amended December 25, 1987, effective December 26, 1987, 17 Pa.B. 5323. Immediately preceding text appears at serial pages (71515) to (71516).

Cross References

This section cited in 22 Pa. Code § 35.30 (relating to refund policy); and 22 Pa. Code § 35.62 (relating to computation of Commonwealth operating payments).

§ 35.62. Computation of Commonwealth operating payments.

The Commonwealth payments shall be computed in the following manner:

(1) Calculate the approved FTE in accordance with § 35.61 (relating to full-time equivalent enrollment) for semesters, trimesters or quarters in the academic year and multiply same by 1/3 of the approved per student operating costs.

(2) The Commonwealth shall participate in the payment of continuing education costs for programs and courses in which students are properly registered on the appropriate college forms on the same basis as it participates in payments for normal operating expenses (FTE reimbursement). Each college shall maintain accurate individual student registration records. Each college shall also maintain an official description of each course or program. For purposes of this chapter the following definition of continuing education is provided:

(i) Continuing education includes those services offered by the college which meet educational objectives not normally a part of the curriculum available to full-time or part-time students.

(ii) Continuing education courses/programs incorporate a structured learning experience, with stated content and verifiable educational objectives.

(3) The Commonwealth shall participate in the payment of operating costs incurred in the awarding of credit for life experiences.

(4) Calculate the approved total credits for all other sessions or special courses and divide by 12 in accordance with § 35.61 (relating to full-time equivalent enrollment) and multiply by 1/3 of the approved per student operating cost.

(5) The Commonwealth shall participate in the payment of operating costs incurred in the operation of a community college prior to the opening of classes.

Source

The provisions of this § 35.62 amended February 9, 1973, effective February 10, 1973, 3 Pa.B. 281; amended May 27, 1977, effective May 28, 1977, 7 Pa.B. 1426; amended October 28, 1977, effective October 29, 1977, 7 Pa.B. 3194; amended March 3, 1978, effective March 4, 1978, 8 Pa.B. 486; amended July 16, 1982, effective July 17, 1982, 12 Pa.B. 2282. Immediately preceding text appears at serial pages (71516) to (71517).

§ 35.63. Computation of capital payments.

The Commonwealth capital payments shall be computed in the following manner:

(1) Commonwealth payment from funds appropriated for that purpose shall be computed as specified by statute.

(2) Capital expenses means only expenses that are incurred as defined in the act.

(3) In those instances where combination of school districts or municipalities are approved as sponsors and they agree to share all or part of the capital obligations according to relative market values, school districts shall use the

State Tax Equalization Board, and municipalities shall use the board of assessment and revision of taxes or other similar boards which determine market value of real estate.

(4) The terms and conditions of agreements for the repayment of indebtedness entered into by a community college, shall be effective only with the prior approval of the Department.

(5) The Commonwealth shall participate in the payment of capital costs incurred in the operation of a college prior to the opening of classes.

Source

The provisions of this § 35.63 amended February 9, 1973, effective February 10, 1973, 3 Pa.B. 281; amended May 27, 1977, effective May 28, 1977, 7 Pa.B. 1426; amended July 16, 1982, effective July 17, 1982, 12 Pa.B. 2282. Immediately preceding text appears at serial pages (71517) to (71518).

§ 35.64. Reports and payments.

(a) Prior to the beginning of the fiscal year of the college, the board of trustees shall have its budget approved by a majority of the members of the local sponsor.

(b) A college shall submit annual budget information in the form and on the schedule specified and provided by the Department.

(c) A college shall use an accounting system approved by the Department.

(d) One copy of the sponsor-approved budget shall be filed with the Department upon request.

(e) For purposes of Commonwealth payments, the following words shall have the following meanings:

(1) *Academic year*—The period of instruction which includes two semesters, two trimesters or three terms or quarters.

(2) *Annual year*—A 12-month period coterminous with the Commonwealth fiscal year beginning July 1 and ending June 30.

(3) *Summer term*—An additional session, semester, trimester or quarter offered at the end of the regular academic year.

(f) Enrollment reports for Commonwealth payments shall be prepared as of the end of the refund period for each semester, trimester, term, quarter, summer session or special session and shall be retained for use by Commonwealth auditors.

(g) Commonwealth payments to each college board of trustees on behalf of the sponsor shall be paid in the year in which the expenses are incurred. Payments shall be made as specified by law subject to compliance with established schedule for submission of appropriate data required by the Department.

(h) Reimbursement claim forms shall be submitted to the Department within 90 days after the close of a fiscal year and shall be used by the Commonwealth for tentative fiscal year-end settlement of payment to the Commonwealth by the

college, payment by the Commonwealth to the college or adjustment by the Commonwealth in the college's next quarterly payment.

Source

The provisions of this § 35.64 amended February 9, 1973, effective February 10, 1973, 3 Pa.B. 281; amended May 27, 1977, effective May 28, 1977, 7 Pa.B. 1426; amended July 16, 1982, effective July 17, 1982, 12 Pa.B. 2282; amended December 25, 1987, effective December 26, 1987, 17 Pa.B. 5323. Immediately preceding text appears at serial pages (71518) and (108465).

§ 35.65. Basis for payment.

(a) The Commonwealth share of capital expenses as defined in this title shall be determined prior to any reduction of expenses to the local sponsor brought about by the receipt of grants, appropriations or allocations to the college from sources other than the Commonwealth, however, in no event shall the amount of funds received from the Commonwealth when added to the above grants, appropriations or allocations for which special accounting is necessary, total in excess of 100%.

(b) The Commonwealth share of operating expenses as defined in this title shall be determined after deducting from total operating expenditures any Federally-funded expenditures for those programs in which the Commonwealth participates in the cost, but prior to any reduction of expenses to the local sponsor brought about by the receipt of other grants, appropriations, or allocations to the colleges from sources other than the Commonwealth. However, in no event shall the amount of funds received from the Commonwealth, when added to the above grants, appropriations, or allocations for which special accounting is necessary, total in excess of 100%.

Source

The provisions of this § 35.65 adopted February 9, 1973, effective February 10, 1973, 3 Pa.B. 281; amended May 27, 1977, effective May 28, 1977, 7 Pa.B. 1426; amended July 16, 1982, effective July 17, 1982, 12 Pa.B. 2282. Immediately preceding text appears at serial pages (34904) and (69409).

§ 35.66. Retention of records.

Official accounts and supporting data shall be retained for a period of 3 years after the close of the fiscal year in which the transaction took place, or until notified that a Commonwealth fiscal audit of the accounts has been made, whichever is later, but not exceeding 5 years. Records of questioned expenditures shall be maintained until final agreement is reached.

Source

The provisions of this § 35.66 adopted February 9, 1973, effective February 10, 1973, 3 Pa.B. 281; amended May 27, 1977, effective May 28, 1977, 7 Pa.B. 1426. Immediately preceding text appears at serial page (10407).

Cross References

This section cited in 22 Pa. Code § 335.43 (relating to program approval policy and records); 22 Pa. Code § 335.44 (relating to course evaluation and program audit); 22 Pa. Code § 335.45 (relating to college catalog); and 22 Pa. Code § 335.46 (relating to faculty qualifications).

[Next page is 36-1.]

CHAPTER 335. COMMUNITY COLLEGE COURSES

Subch.		Sec.
A.	GENERAL PROVISIONS	335.1
B.	CREDIT COURSES	335.11
C.	NONCREDIT COURSES	335.21
D.	IMPLEMENTATION	335.31
E.	DOCUMENTATION	335.41

Authority

The provisions of this Chapter 335 issued under section 1913-A(b)(1.2) of the Public School Code of 1949 (24 P. S. § 19-1913-A(b)(1.2)), unless otherwise noted.

Source

The provisions of this Chapter 335 adopted June 20, 1997, effective June 21, 1997, 27 Pa.B. 2926, unless otherwise noted.

Subchapter A. GENERAL PROVISIONS

Sec.	
335.1.	Definitions.
335.2.	Standards for reimbursement courses—credit and noncredit—at community college.

Cross References

This subchapter cited in 22 Pa. Code § 335.31 (relating to new credit and noncredit courses); 22 Pa. Code § 335.32 (relating to existing credit courses); and 22 Pa. Code § 335.33 (relating to existing noncredit courses).

§ 335.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Public School Code of 1949 (24 P. S. §§ 1-101—27-2702).

Formal college award—A collegiate degree, collegiate certificate or collegiate diploma.

Reimbursement—Commonwealth reimbursement of a portion of a community college's operating costs for equivalent full-time students as defined in section 1913-A of the act (24 P. S. § 19-1913-A).

Remedial or developmental course—A course designed for students who are deficient in the general competencies necessary for a regular postsecondary curriculum and educational setting.

Stipend reimbursement—Commonwealth reimbursement on account of a community college's operating costs for equivalent full-time students enrolled in designated categories of 2-year or less than 2-year occupational or technical programs as defined in section 1913-A(b)(1.4)(iii) of the act.

§ 335.2. Standards for reimbursable courses—credit and noncredit—at community colleges.

To be eligible for reimbursement by the Commonwealth, each credit and each noncredit course that is offered by a community college shall meet the following criteria:

- (1) The course has stated learning goals and consists of a planned sequence of topics or learning activities designed to help students achieve the stated learning goals.
- (2) The course is summarized in an outline which includes at least the following elements:
 - (i) The course title and description.
 - (ii) The learning goals.
 - (iii) A planned sequence of topics or learning activities designed to help students achieve the learning outcomes.
 - (iv) A list of reference, resource or learning materials to be used by the students.
- (3) The course is consistent with the college's mission, and is or was developed, approved and offered in accordance with the policies, standards, guidelines and procedures established by the college for the approval of new courses or programs.
- (4) An accurate description of the course is published in the college's catalog or other official publication pertaining to the academic semesters, terms or years in which the course is offered. This criterion does not apply to noncredit courses which are custom designed to meet the needs of a particular employer or agency and, therefore, which are not available to the general public.

Cross References

This section cited in 22 Pa. Code § 335.12 (relating to standards for reimbursable credit courses at community colleges); 22 Pa. Code § 335.13 (relating to remedial and developmental courses); 22 Pa. Code § 335.22 (relating to standards for reimbursable noncredit courses at community colleges); and 22 Pa. Code § 335.42 (relating to course outlines).

Subchapter B. CREDIT COURSES

- Sec.
 335.11. Credit courses.
 335.12. Standards for reimbursable credit courses at community colleges.
 335.13. Remedial and developmental courses.

Cross References

This subchapter cited in 22 Pa. Code § 335.31 (relating to new credit and noncredit courses); and 22 Pa. Code § 335.32 (relating to existing credit courses).

§ 335.11. Credit courses.

Credit courses are planned, postsecondary activities designed to enable students to achieve stated learning goals.

§ 335.12. Standards for reimbursable credit courses at community colleges.

To be eligible for reimbursement by the Commonwealth, each credit course offered by a community college shall meet the criteria in § 335.2 (relating to standards for reimbursable courses—credit and noncredit—at community colleges) and the following criteria:

- (1) The course is assigned units of credit based on Nationally or regionally accepted practices or guidelines which are consistent with Chapter 35 (relating to community colleges).
- (2) The course is delivered, or directly supervised, by an instructor whose qualifications meet the college's requirements for instructors of credit courses.
- (3) The course's stated learning outcomes are necessary to enable students to attain the essential knowledge and skills embodied in the program's educational objectives, if the course is a requirement of a degree, certificate or diploma program. The college reevaluates the necessity for the course's learning goals when conducting the academic audit required by § 35.21(b) (relating to curricula).
- (4) The course is comparable to similar courses which are generally accepted for transfer of credit to accredited 4-year colleges and universities, if designed for transfer.
- (5) The course is articulated with other courses so that it is an elective or a requirement of at least one of the college's programs of study which lead to a formal college award.
- (6) The course is an elective or a requirement of a program which does not require the student to have more than 30 credit hours of postsecondary study prior to enrolling in the program unless the program is an upper-division program that was approved in accordance with § 42.21 (relating to approval).
- (7) The course is evaluated at least once every 5 years in accordance with § 35.21(b) using a method determined by the college.

Cross References

This section cited in 22 Pa. Code § 335.13 (relating to remedial and developmental courses).

§ 335.13. Remedial and developmental courses.

(a) Remedial and developmental courses are eligible for reimbursement as credit courses, if they meet the criteria in §§ 335.2 and 335.12(1)—(4) (relating to standards for reimbursable courses—credit and noncredit—at community col-

leges; and standards for reimbursable credit courses at community colleges). Each college decides for itself whether the courses are approved for credit toward a formal college award.

(b) Remedial and developmental courses are not eligible for stipend reimbursement by the Commonwealth.

Subchapter C. NONCREDIT COURSES

Sec.

335.21. Noncredit courses.

335.22. Standards for reimbursable noncredit courses at community colleges.

335.23. Courses or programs in avocational and recreational pursuits.

Cross References

This subchapter cited in 22 Pa. Code § 335.31 (relating to new credit and noncredit courses); and 22 Pa. Code § 335.33 (relating to existing noncredit courses).

§ 335.21. Noncredit courses.

Noncredit courses are planned educational activities designed to enable students to achieve stated learning goals. They differ from credit courses by offering less depth or breadth in subject matter; or by being custom designed to meet the workforce training needs of local employers and other community organizations; or by being designed to provide advanced training for professionals or training or retraining for occupational workers; or by not being postsecondary in nature. They also differ from credit courses by not being part of a program of study which leads to a formal college award.

§ 335.22. Standards for reimbursable noncredit courses at community colleges.

To be eligible for reimbursement by the Commonwealth, each noncredit course shall meet the criteria in § 335.2 (relating to standards for reimbursable courses—credit and noncredit—at community colleges) and the following criteria:

- (1) A noncredit course whose topic is the same as, or similar to, that of one of the college's credit courses will differ from the credit course in terms of learning goals or will offer less depth or breadth of subject matter.
- (2) The course outline includes the number of hours of instruction—lecture and laboratory—which comprise the course.
- (3) The course is delivered or directly supervised by an instructor who leads the learning process and assists the students in their learning. The college is responsible for selecting, supervising, and, whenever appropriate, dismissing the instructor.

(4) The course is designed exclusively for education or training in one of the following areas of study:

(i) *Public safety.* Training in firefighting, the handling of hazardous materials, emergency medical services, police work, or, with the approval of the Department of Education, training mandated by a National or State agency to ensure the public safety.

(ii) *Adult basic education or adult literacy.* Training in basic academic skills and life skills.

(iii) *Occupational skills.* Training or retraining in vocational skills and in continuing education for professions such as nursing, accounting and engineering.

(iv) *Academics.* Studies in the arts, sciences, humanities and mathematics.

(5) The quality of the course's content and its learning process is evaluated at least once every 5 years using a method determined by the college.

(6) The course is not a course in recreational or avocational pursuits.

§ 335.23. Courses or programs in avocational and recreational pursuits.

(a) Courses or programs in avocational pursuits are designed to provide enrollees with skills or knowledge to be used in an activity which is subordinate to their current or their planned future customary employment.

(b) Courses or programs in recreational pursuits are designed to provide enrollees with diversion or distraction from workaday routines.

(c) Course topics in avocational and recreational pursuits include:

(i) Leisure activities.

(ii) Hobbies.

(iii) Crafts.

(iv) Sports.

(v) Personal, physical or mental development, fulfillment or fitness.

(vi) Management of personal matters.

(vii) Cultural events.

(viii) Travelogues and tours.

(d) Courses in avocational and recreational pursuits are not reimbursable in accordance with section 1913-A(b)(1.2) of the act (24 P. S. § 19-1913-A(b)(1.2)).

(e) Courses in avocational and recreational pursuits will not be deemed reimbursable by virtue of the possible vocational interests of some or all of the students enrolled therein.

Subchapter D. IMPLEMENTATION SCHEDULE

- Sec.
335.31. New credit and noncredit courses.
335.32. Existing credit courses.
335.33. Existing noncredit courses.

§ 335.31. New credit and noncredit courses.

Beginning July 1, 1997, to be eligible for reimbursement by the Commonwealth, each new credit course for Fiscal Year 1997-98 and for each fiscal year thereafter, shall meet the standards in Subchapters A and B (relating to general provisions; and credit courses), and each new noncredit course shall meet the standards in Subchapter A and Subchapter C (relating to noncredit courses).

§ 335.32. Existing credit courses.

(a) Until the beginning of Fiscal Year 1999-2000, credit courses approved by the college prior to July 1, 1997, will be eligible for reimbursement, if they comply with Chapter 35 (relating to community colleges). Beginning with Fiscal Year 1999-2000 and for each fiscal year thereafter, each credit course claimed for Commonwealth reimbursement shall meet the standards in Subchapters A and B (relating to general provisions; and credit courses).

(b) To verify that existing courses are eligible for reimbursement in Fiscal Years 1997-98 and 1998-99, the college shall prepare a list of all its credit courses approved by the college prior to July 1, 1997. The list shall be prepared and submitted to the Deputy Secretary for Postsecondary and Higher Education by October 1, 1997. The list shall also be retained by the college until its State audits for those years are finalized. The list will be used by the State's auditors to verify each course's eligibility for reimbursement.

§ 335.33. Existing noncredit courses.

(a) Until the beginning of Fiscal Year 1999-2000, noncredit courses, excluding avocational and recreational courses, approved by the college prior to July 1, 1997, will be eligible for reimbursement, if they comply with Chapter 35 (relating to community colleges). Beginning with Fiscal Year 1999-2000 and for each fiscal year thereafter, each noncredit course claimed for Commonwealth reimbursement shall meet the standards in Subchapters A and C (relating to general provisions; and noncredit courses).

(b) To verify that existing courses are eligible for reimbursement in Fiscal Years 1997-98 and 1998-99, the college shall prepare a list of its noncredit courses approved by the college prior to July 1, 1997. The list shall be prepared and submitted to the Deputy Secretary for Postsecondary and Higher Education by October 1, 1997. The list shall also be retained by the college until its State

audits for those years are finalized. The list will be used by the State's auditors to verify each course's eligibility for reimbursement.

Subchapter E. DOCUMENTATION

Sec.	
335.41.	Verification of eligibility for reimbursement.
335.42.	Course outlines.
335.43.	Program approval policy and records.
335.44.	Course evaluation and program audit.
335.45.	College catalog.
335.46.	Faculty qualifications.
335.47.	Source of documentation.

§ 335.41. Verification of eligibility for reimbursement.

Each community college shall maintain and make available for review by the Department of Education or the Department's auditors the documentation provided for in this part to support claims for reimbursement of courses.

Cross References

This section cited in 22 Pa. Code § 335.47 (relating to service of documentation).

§ 335.42. Course outlines.

(a) Each community college shall prepare and maintain an outline for each course. Outlines shall:

- (1) Bear the date on which the course was approved by the college.
- (2) Bear an authorizing signature to indicate that the course was approved by the college and is in compliance with § 335.2(2) (relating to standards for reimbursable courses—credit and noncredit—at community colleges). The signature on the outline shall be that of the incumbent in the position specified in the college's policy on program approval as responsible for approving course outlines.

(b) Each community college shall establish an onsite depository for course outlines where they will be available for review.

§ 335.43. Program approval policy and records.

(a) Each community college shall establish and implement a written policy on program approval. The policy shall, at a minimum:

- (1) Include provisions for ensuring that proposed programs, and the courses which comprise them, are consistent with the college's mission.
- (2) Provide guidance on assigning units of credit to courses to ensure that the assignment complies with Chapter 35 (relating to community colleges) and reflects Nationally or regionally accepted practices.

- (3) Specify the position of the person responsible for approving programs.
- (4) Specify the position of the person responsible for approving course outlines.
- (b) Each community college shall also maintain, in accordance with § 35.66 (relating to retention of records), a record of each approved program bearing the signature of the incumbent in the position specified in the college's policy on program approval as responsible for approving programs.

§ 335.44. Course evaluation and program audit.

(a) Each community college shall conduct course evaluations, which for credit courses shall be part of the academic audit specified in § 35.21(b) (relating to curricula). The college shall develop a written program audit and course evaluation policy that specifies the position of the person responsible for program audits. The policy shall also include provisions which require a review of the program's courses to ensure that:

- (1) Course materials and content reflect current knowledge in the program's field of study.
- (2) Course content is appropriate for both the objectives of the course and the goals of the program.
- (3) The catalog description of the course is accurate.
- (4) Each required course's stated learning goals are necessary to enable students to attain the essential knowledge and skills embodied in the program's educational objectives.
- (5) The content of each course designed for transfer is similar to courses which are generally accepted for transfer of credit to accredited 4-year colleges and universities.

(b) Each community college shall establish an onsite depository of reports on the results of each program audit and course evaluation. The reports shall, at a minimum, demonstrate that the program audit addressed each of the provisions in subsection (a) and shall be signed by the incumbent in the position responsible for program audits to indicate that the program audit was performed and accepted by the college's administration. Each college shall maintain the results of each program audit and course evaluation in accordance with § 35.66 (relating to retention of records).

§ 335.45. College catalog.

(a) Each community college shall publish and maintain a catalog or other official publication of its credit and noncredit courses. The catalog or other publication shall contain accurate descriptions of courses and shall specify their prerequisites, if any. Two catalogs or other publications may be used: one for credit courses and another for noncredit courses. The latter may be an informal publication such as a tabloid or brochure.

(b) Noncredit courses which are custom designed to meet the needs of a particular employer or agency and which are not available to the general public may be omitted from the college's catalog. However, an accurate description of these courses shall be developed and maintained by the college.

(c) Catalogs and other official publications of the college's credit and noncredit programs shall be maintained as official records in accordance with § 35.66 (relating to retention of records).

§ 335.46. Faculty qualifications.

(a) Each community college shall establish and maintain a written policy on the qualifications required for faculty who teach credit courses.

(b) Each college shall also maintain a list of the instructors for its credit and noncredit courses. The list shall be maintained in accordance with § 35.66 (relating to retention of records), and shall include:

- (1) The name of each instructor.
- (2) The course taught by the instructor.
- (3) The academic year and semester or term in which the instructor taught the course.

§ 335.47. Source of documentation.

With the approval of the Department of Education, the college may provide and make available for review the documentation required under § 335.41 (relating to verification of eligibility for reimbursement) by means of media other than paper records.

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