

Date of Hearing: April 23, 2024

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Mike Fong, Chair

AB 2931 (Mike Fong) – As Amended April 11, 2024

SUBJECT: Community colleges: classified employees: merit system: part-time student-tutors

SUMMARY: Exempts part-time students employed as student tutors from being identified as part of the classified service at a merit community college district. Specifically, **this bill:**

- 1) States it is not the intent of Legislature for a part-time student employed as a part-time tutors to supplant existing classified staff within the community college district, but rather for the student employee to supplement existing classified staff.
- 2) Adds to the list of employees exempt from classified service and therefore, exempt from the jurisdiction of a personnel commission, to include part-time students who are employed as part-time student tutors by community college district in which they are enrolled to undertake community college courses.
- 3) Includes pro forma provisions relating to the reimbursement of costs.

EXISTING LAW:

- 1) Establishes the California Community College (CCC) under the administration of the Board of Governors of the CCC, as one of the segments of public postsecondary education in California. The CCC shall be comprised of community college districts (Education Code (EDC) Section 70900).
- 2) Permits state funding to be dispersed to the CCC annually in the Budget Act approved by the State Legislature and the Governor. The funding will be allocated to CCC districts and subsequently campuses through an array of complex funding formulas, as defined, including a formula that provides funding per full-time equivalent student (EDC Section 84750.4).
- 3) Permits CCC districts to claim state apportionment funding for noncredit courses if they are one of the following:
 - a) Parenting classes, as defined;
 - b) Courses in elementary and secondary basic skills including remedial academic courses or classes in reading, mathematics, and language arts;
 - c) Classes in English as a second language;
 - d) Courses for immigrants eligible for educational services in citizenship, English as a second language, and workforce preparation classes, as defined;
 - e) Education programs for persons with substantial disabilities;
 - f) Short-term vocational programs with high employment potential;

- g) Education programs for elder adults;
 - h) Education programs in home economics;
 - i) Courses in Health and safety education; and,
 - j) Supervised tutoring for foundation skills, and for degree applicable transfer courses, as authorized pursuant to regulations adopted by the Board of Governors by July 31, 2023, as specified (EDC Section 84757).
- 4) Permits a community college district with 3,000 or more full—time equivalent students to operate as a merit district and to establish a personnel commission, if a petition is created and enough affirmative votes are tabulated, as specified (EDC Section 88050-88057).
- 5) Stipulates the personnel commission of a merit community college district will have jurisdiction over all classified positions and for employees/positions that are known as classified service. The commission will allocate positions to appropriate classes, arrange classes into occupational hierarchies, determine reasonable relationships with occupational hierarchies, and prepare written class specifications. Excludes the following positions from the jurisdiction of the personnel commission include:
- a) Academic positions;
 - b) Full-time students employed part-time;
 - c) Part-time students employed part time employed in a college work-study program or in a work experience education program conducted by a community college that is financed by state or federal funds;
 - d) Apprentice positions;
 - e) Positions established for employment of professional experts on a temporary basis for a special project by the governing board of a community college district or by the commission when so designated.

Clarifies a student employed in the services mentioned above, will not displace a classified personnel or impair existing contracts for service (EDC Section 88076).

FISCAL EFFECT: Unknown

COMMENTS: *Double referral.* This measure was heard by the Assembly Public Employment and Retirement Committee on April 03, 2024 and it passed out of that Committee with a 7-0 vote. Issues germane to public employment and retirement were discussed in the Committee’s analysis.

The intention of the Author. According to the Author, “peer tutoring and peer support are powerful tools for student success. Research has consistently shown the benefits of peer tutoring, so we must continue to encourage this enriching activity between students, and reduce any barriers that exist. This bill expands access for hiring part-time students as part time tutors. It will allow more students to partake in tutoring, which benefits the tutors, tutees, the campuses, and ultimately, as our students succeed, the state of California.”

Merit districts and personnel commissions. The origin of “merit” community college districts, began with the assassination of President Garfield. Prior to the death of President Garfield, civil servants were appointed in a “spoils system” as in to the victor goes the spoils. Civilians would be fired or hired based on who won elections. After President Garfield was assassinated by an attorney who had sought to be appointed to a post in the federal government, the Civil Service Act of 1882 (known as the Pendleton Act) was signed establishing the first civil service merit system. Merit system are a management system where employees are hired based abilities or merit and not on political affiliation.

In 1935, California lead the nation in expanding the merit system to public school systems, including the community colleges, after more than 700 employees were fired after an election in order to make way for the hiring of friends of the newly elected governing board of the Los Angeles Unified School District.

According to the California School Personnel Commission Association as of 2024, there are only six community college districts with personnel commissions and merit system: Grossmont-Cuyamaca Community College District, Los Angeles Community College District, State Center Community College District, Ventura Community College District, Compton Community College District, and Long Beach Community College District.

To ensure independence and separation from the political whims of locally elected governing boards, the merit system is overseen by a personnel commission. The purpose of the personnel commission is to maintain a merit system for classified employees of the district and to ensure fair and objective treatment of all applicants and employees.

Established in EDC Section 88060 through 88139, a personnel commission is comprised of three to five citizens who are appointed into staggering terms to oversee the work of the personnel commission staff. In some K-12 and community college districts the personnel commission staff are the human resources staff of either the district or a campus within the district. However, that is not always the case and for many the personnel commission staff are independent positions separate from the district.

Since personnel commission only oversee classified staff, EDC Section 88076 establishes the positions within the community college district that are not considered classified and therefore exempt from the jurisdiction of the personnel commission and the merit system. Those who are exempt include: faculty or academic positions, full-time students employed part-time, part-time students employed part-time in specific positions, apprentices, and specific temporary positions.

AB 2931 (M. Fong) seeks to expand the number of positions that are considered exempt from classified service to include part-time students, who are employed as part-time tutors by their college.

Tutoring on community college campuses. In fall 2021, the Academic Senate of the CCC published a position paper titled “The role of faculty in tutoring and learning centers in the community college,” which provided a definition of tutoring as, “facilitated learning of course content in a number of modalities – one-on-one, group, online, in tutoring centers, in labs, in the classroom – by a peer or professional in a role other than teacher.” The paper further suggests tutoring takes place as:

- 1) An embedded support during the class or lab;

- 2) In tutoring and learning centers; and,
- 3) Online through a tutoring consortia or through third-party vendors.

The above methods of tutoring can be offered by faculty, classified staff, and in some cases by students.

Supervised tutoring. According to a memorandum published by the CCC Chancellor's Office, supervised tutoring has been available at the CCC since 1984. Supervised tutoring is a method of instruction where student tutors provide academic assistance to their peers.¹ The student tutors have been academically successful in the subject matter they provide tutoring in.

California Code of Regulations (CCR) Title 5, Section 58160 provides that supervised tutoring can be provided for courses in foundational skills and for degree-applicable and transfer-level courses. Community college districts are required to offer supervised tutoring for students who need or desire extra academic support for transfer-level mathematics or English courses. CCR Title 5, Section 58160 permits districts to receive state apportionment for supervised tutoring.

CCR Title 5, Section 58168 states supervised tutoring must take place or be coordinated through a designated learning center and can be conducted online or in-person. Students who elect to be tutors, can be paid and are supervised by faculty members who have a Master's Degree in one of the subject matters being tutored. The faculty member provides academic support and expertise to the student tutors. Classified staff operate the learning centers and may provide support to the student tutors consistent with the local community college district policy.

Since student tutors can be paid and can be employed either as part-time employees of the community college district, AB 2931 (M. Fong) seeks to rectify an oversight by permitting merit community college districts to comply with the regulations without concerns of legal ramifications for merit districts. AB 2931 (M. Fong) would expand eligibility of supervised tutoring positions in merit districts by permitting part-time students to be able to be employed as part-time tutors instead of relegating the positions to full-time students.

Committee Staff note it has always been the intention for student employees to be exempt from personnel commissions so they are not competing with "adult" employees for positions based on merit.

Arguments in support. As explained by the Community College League of California, AB 2931 (M. Fong) is a matter of parity and equity as, "The California Community Colleges are integral to our state's education system, providing accessible and affordable education to thousands of students. However, current law has created an administrative burden for merit districts by requiring them to classify part-time student tutors, if hired, through a costly and complex process designed for fulltime staff. AB 2931 seeks to address this issue by exempting part-time student tutors from the classification process, allowing them more flexibility in hiring practices. This change is particularly important as more than 65% of all community college students are enrolled as part-time students, and merit system colleges have over 200,000 total part-time students who can benefit from the financial and rewarding educational role of being a student-tutor. Research

¹ <https://www.cccco.edu/-/media/CCCCO-Website/docs/memo/ESLEI-24-06-Implementation-Guidance-for-Supervised-Tutoring-Regulations-Revisions.pdf>

has shown that tutoring increases student engagement and improves education outcomes. AB 2931 will ensure that community college students have access to valuable tutoring opportunities, enhancing their educational experience and helping them succeed.”

Prior legislation. AB 1187 (Irwin), Chapter 927, Statutes of 2022, expanded the type of noncredit courses eligible for apportionment funding to include supervised tutoring for foundational skills and transfer-level courses offered by California Community Colleges (CCC) after regulations are adopted by the CCC Board of Governors by July 31, 2023.

REGISTERED SUPPORT / OPPOSITION:**Support**

Andrés Y María Cárdenas Family Foundation
Center for Powerful Public Schools
Community College League of California
Junior Achievement of Southern California
Los Angeles Community College District
Los Angeles Community College District Academic Senate

Opposition

None on file.

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