

Date of Hearing: June 24, 2025

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Mike Fong, Chair

SB 391 (Laird) – As Amended April 8, 2025

SENATE VOTE: 38-0

SUBJECT: Community colleges: Chancellor of the California Community Colleges: data request fee policy

SUMMARY: Permits the Chancellor of the California Community Colleges to charge a data fee upon researchers seeking to access data housed at the Chancellor's Office. Specifically, **this bill:**

- 1) Permits the Chancellor of the California Community Colleges (CCC) to implement a policy that imposes a fee upon researchers who request access to individually identifiable data, student data, or both. The fee policy imposed by the Chancellor's office must be:
 - a) Reviewed and approved by the Board of Governors (BOG) of the CCC;
 - b) Revised periodically;
 - c) Available to the public;
 - d) Posted on the Chancellor's office website; and,
 - e) In compliance with federal and state privacy laws; including, but not limited to the federal Family Educational Rights and Privacy Act and the section on conditions of disclosure in the California Information Practices Act of 1977.
- 2) Clarifies that if a fee is imposed by the Chancellor's office for data access, the fee will recover the cost of significant data compilation, extraction, programmatic use of the data system typically absorbed by either the requesting data researcher or the data provider, or both.
- 3) Exempts the fee policy from being applied to the following entities:
 - a) A state agency, not including requests for data from the California State University (CSU), the University of California (UC), and the California Department of Education; and,
 - b) An undergraduate or graduate student seeking data for the student's individual studies.

EXISTING LAW: *Federal law.*

- 1) Protects the privacy of student education records in federal law with the Family Educational Rights and Privacy Act (FERPA). The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education. FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level (20 U.S.C. § 1232g; 34 CFR Part 99).

State law.

- 1) Establishes the Information Practices Act of 1977, which declares the right to privacy is a personal and fundamental right protected by Section 1 of Article 1 of the California Constitution and by the United States Constitution. Delineates the responsibilities of agencies regarding data privacy, the requirements for disclosure of data, and the remedies for disclosures including civil remedies and penalties (California Civil Code Sections 1798 – 1798.78).
- 2) Establishes the Cradle-to-Career (C2C) data system, for the purpose of connecting individuals and organizations to trusted information and resources relating to education, workforce training, employment, health and social services. Authorizes the Office of the C2C data also known as the managing entity, to establish the data system, scale up operational tools for the public, and provide technical assistant for the data system. Authorizes data provides to annually provide data points to the data system. Establishes the C2C governing board to oversee the operations of the C2C data system. Authorizes the C2C to establish a fee waiver for excessive use of the data system, to recover the cost otherwise typically borne by the requesting data researcher or by the data system (Education Code (EDC) Section 10860 – 10874).
- 3) Authorizes the California Department of Education (CDE) to impose a fee upon researchers applying to access individual identifiable data in order to cover the cost of responding to the request. The totality of the fees are limited to the actual cost incurred by CDE to respond to the researcher's request and provides an exemption from the fee charge for state agencies, which does not include the UC, CSU, and the Chancellor of the CCC (EDC Section 49079.7).
- 4) Establishes the CCC under the administration of the Board of Governors of the CCC, as one of the segments of public postsecondary education in this state. The CCC shall be comprised of community college districts (EDC Section 70900).
- 5) Permits a community college to disclose statistical data from which no student may be identified to any public agency, private nonprofit college, university, or educational research and development organization when the provision of the data is in the best educational interest of students (EDC Section 76241).

FISCAL EFFECT: According to the Senate Committee on Appropriations:

The Chancellor's office estimates one-time General Fund costs of between \$33,000 and \$53,000 to develop a data request fee policy for review and approval by the Board of Governors. However, by recovering workload costs associated with significant data compilation, extraction, and programing the bill would result in cost savings in the hundreds of thousands that would be directed to Chancellor's office staffing capacity and efficiency.

COMMENTS: *Purpose.* As stated by the Author, "The California Community Colleges system is the largest higher education system in the country, and there is significant interest from research organizations in data sharing with the community college system to explore critical topics from affordability to developmental education reform to transfer and more. The Chancellor's office voluntarily fulfills these research requests, but doing so is both time and labor intensive, and has become a significant portion of the Chancellor's office workload.

Mirroring the authorization to impose fees granted to the California Department of Education and Cradle to Career, Senate Bill 391 will provide the Community College Chancellor's office the ability to impose research fees on research requests to cover the actual costs incurred by the Office for fulfilling data requests. With fair compensation, this bill will ease the capacity of the Chancellor's office to provide this essential service."

Chancellor's office Unit on Research, Analytics, and Data (RAD). The CCC system is home to 116 community colleges overseen by 73 community college districts. The system employed more than 87,409 employees who provided services to more than 2.1 million students in the 2023-2024 academic year.¹ The Chancellor's office of the CCC provides administrative support to the community colleges and to the systemwide Board of Governors. Part of the administrative support provided by the Chancellor's office includes data compilation and public dashboards on the progress of the 116 community colleges in meeting the Executive and Legislative goals of providing foundational education for a skilled and trained workforce.

Within the Chancellor's office, an entire unit is dedicated to research, data analytics, and the compilation of data. The RAD unit handles research queries for the system and uses data from across the system to help the Chancellor's office, Board of Governors and individual colleges make data-informed decision with the intention of improving the academic success of students.² RAD is responsible for:

- 1) Evaluating the effectiveness of program across the system:
- 2) Monitoring systemwide, district, and college performances in meeting the equitable student outcomes set by Chancellor's office; and,
- 3) Conducting research to ensure the CCC system is addressing equity gaps in the educational progress of students.

The RAD also maintains the multiple data systems which are comprised of data elements provided by the 116 community colleges across the system; including, but not limited to student progress in degree attainment, student demographics, financial aid procurement, and financial data. According to the RAD, a team of eight individuals handle all of the above responsibilities in addition to processing data requests from external parties. Due to the limited capacity of staff, the following disclaimer is listed on the Chancellor's office website:

"The Chancellor's office is pleased to work with external individuals, agencies and organizations interested in conducting research on California Community College students or the system. However, due to capacity constraints, requestors seeking access to individual-level data should be prepared for the execution of MOUs to take at least six months. As such, we do not recommend requestors seek restricted data for theses, dissertations or other time-sensitive efforts."²

Data requests at the CCC. The Chancellor's office manages between 25 to 40 data requests throughout the academic year. Each data request requires significant time investments by RAD

¹ https://datamart.cccco.edu/Faculty-Staff/Staff_Annual.aspx and https://datamart.cccco.edu/Students/Student_Headcount_Term_Annual.aspx

² <https://www.cccco.edu/About-Us/Chancellors-Office/Divisions/Research-Analytics-Data>

staff; which subsequently impacts, and often delays, the additional job responsibilities delegated to the Unit.

The intention behind the fee is to help recoup the cost associated with complying with the data requests. According to the Chancellor's office, the fee would provide a necessary revenue stream to assist in modernizing software systems, purchasing new technology systems, paying for additional cloud licenses and server costs, supporting staff professional development, and contracting additional staff.

The Chancellor's office indicated the majority of research requests are from research nonprofits or firms, who have received a grant to conduct research on a specific policy topic. The grant includes funds to procure data and therefore, the data fee imposed by this measure would not result in a barrier to equitable research. The Chancellor's office and the Board of Governors require statutory authority to institute a research fee; otherwise the system will continue to absorb the cost affiliated with each data request.

SB 391 (Laird) would permit the CCC to join the myriad of other state agencies who charge for significant data compilation from non-state researchers, including other public higher education institutions.

Privacy protections for student data. The measure calls for a data fee to be imposed upon data requests for individually identifiable data or student data. The Family Educational Rights and Privacy Act (FERPA) prohibits the disclosure of student identifiable data from a student record to anyone unless the student has explicitly permitted the disclosure. State privacy laws prohibit the disclosure of identifiable data unless specific disclosures are met by the agency and the data is used for a specified purpose including, but not limited to research. Amendments were taken in the California State Senate to ensure the data fee policy and therefore the deployment of data to researchers complies with both state and federal privacy laws.

The Chancellor's office works to ensure researchers are provided data in a manner where the statistical data is not identifiable to a specific student. The term individually identifiable data refers the student identifier assigned to the student to mask their personal information. Instead of providing the student's name with the data, the Chancellor's office assigns a number tag that "hides" the student's personal information. This measure would codify this requirement and would reaffirm the responsibility of the Chancellor's office to comply with existing state and federal privacy laws.

Arguments in support. As stated by the sponsors of SB 391, the Chancellor's Office of the CCC, recognizes "the importance of data accessibility and are deeply committed to making systemwide data available to the public. External research organizations frequently request extensive, detailed datasets for reports on issues such as student transfer, success, and basic needs. Each year, we manage dozens of these requests, which we rarely decline, as we value the insights they provide. However, processing these requests is resource-intensive and currently uncompensated, consuming a significant portion of our staff's workload. Fulfilling a data request requires drafting individual Memorandums of Understanding (MOUs) and conducting extensive data compilation, extraction, and programming. Each request involves at least nine different staff positions, and projects can take anywhere from several weeks to multiple years to complete. Meanwhile, our research and program staff are already responsible for managing a statewide data management system, processing data requests for more than 55 annual and biennial legislative reports and supporting multiple state-level programs and initiatives. This policy is essential to offset the

costs currently absorbed by the Chancellor's Office without dedicated funding. As a lean agency of only 203 permanent staff members, SB 391 is crucial to sustaining our long-term efforts to meet the growing demands for information by multiple entities, including the legislature and external organizations."

Arguments in opposition. The California Teachers Association raises concerns with the measure in print because "Charging a fee to faculty and faculty organizations would result in unbalanced advocacy work. If faculty are unable to access state data within their generally modest budgets, their voice will be diminished, and their responses marginalized during topical deliberations both internally and externally. If this bill passes, it will result in a two tier system of knowledge: those who can afford to pay for the information and those who cannot. Collecting and providing public information about the California Community Colleges furthers the mission of California's public higher education system by creating a repository of data. It is imperative faculty and faculty associations not be charged for data essential when complex issues are under consideration. During local community college district bargaining, it could cause the exclusive bargaining representative to incur additional costs in negotiating for their members if they are charged for data requested from the Chancellor's office, thereby giving local management teams an undue advantage while creating undue barriers for the bargaining unit."

Committee comments and amendments. Proponents of the measure see the data fee as a method to offset significant cost to the system and an opportunity to invest in tools to address the delays in meeting the data requests. Opponents to the measure raise concerns regarding the barrier the data fee may produce for smaller organizations who wish to access systemwide data.

As mentioned previously, the majority of the researchers asking for large swaths of data from the systemwide office intend to use the data to answer a research quandary within the scope of a grant. The language regarding who will be exempt from the data fee mirrors language adopted by the California Department of Education. The authority to levy a fee is already used by the California Department of Education, CSU and UC who charge researchers who requests large amounts of data from the systems. This measure would provide parity and equity between the education systems.

This measure does not implement a fee for those seeking to access publicly available data; which includes, faculty salaries, district expenditures, and student progress data. Furthermore, the measure only produces a fee for data housed at the Chancellor's office. The measure does not introduce a fee for faculty, staff, or third-party researchers who wish to access campus-level or district-level data from community colleges districts.

To provide additional clarity regarding the intent of the Author and Sponsor, the Committee has suggested and the Author has agreed to the following amendments:

1) Amends Section 71094.5, subdivision (a) to read as follows:

(a) (1) The Chancellor of the California Community Colleges may implement a data request fee policy for researchers applying for access to individually identifiable ~~data or data~~, student data, or both.

2) Amends Section 71094.5, subdivision (b) to read as follows:

(b) Fees or charges imposed upon an applicant pursuant to this section shall compensate for significant data compilation, extraction, or programming use of the data system *by the office of the Chancellor of the California Community Colleges* to recover costs that would otherwise typically be borne by the requesting data researcher, *the chancellor's office*, or both.

REGISTERED SUPPORT / OPPOSITION:

Support

California Community Colleges Chancellor's Office
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Opposition

California Teachers Association

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