



# Guidelines for Required Instructional Materials in the California Community Colleges

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California Community Colleges  
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# Instructional Materials Guidelines

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## Instructional Materials Guidelines

On September 7, 2012, the Board of Governors for the California Community Colleges modifications to the California Code of Regulations, title 5, on Instructional Materials became final. The proposed regulations were approved at the May 7, 2012 meeting of the Board of Governors. The guidelines for these changes as developed by the California Community Colleges Chancellor’s Office (CCCCO) as required by section 59400 (e) of the regulations are provided in this document.

### Introduction

California Education Code, Section 76365, provides the authority and existing title 5 regulations address the extent to which students can be required to purchase or otherwise obtain instructional materials for courses offered in the California Community Colleges. In the past, instructional materials consisted primarily of printed textbooks and other limited items needed for class. These amendments update the regulations to address the increasing availability and use of online instructional materials. For a more comprehensive explanation of instructional materials, in general, please refer to the Student Fee Handbook ([http://extranet.cccco.edu/Portals/1/Legal/Ops/12-09\\_StudentFeeHandbook2012.pdf](http://extranet.cccco.edu/Portals/1/Legal/Ops/12-09_StudentFeeHandbook2012.pdf)).

*Except as provided in Section 3074.7 of the Labor Code, no charges or fees shall be required to be paid by a resident or nonresident apprentice, or by his or her parent or guardian, for admission or attendance in any course of activity that is offered pursuant to Section 3074 of the Labor Code in accordance with the instructional hours requirements specified in subdivision (d) of Section 3078 of the Labor Code.*

California Education Code, Section 76350.

### Background

On September 27, 2011, the Chancellor’s Office identified a broad range of stakeholders to serve on the Online Materials Fees Advisory Committee. The advisory committee was made up of a variety of representatives from the community college field including faculty, students, the Academic Senate, the Student Senate, a Chief Instructional Officer, a Chief Student Services Officer, a Librarian, Board of Governors members, CCCCCO staff and others. There was considerable input from this committee and others.

The purpose of the advisory committee was to evaluate current practice and regulations related to the use of these materials within California community colleges and make recommendations on possible changes to regulations or best practices that would then be communicated to the field. Specifically, the committee discussed the developing practice among faculty members of requiring online materials in the place of

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and in addition to traditional printed textbooks. In many cases, the preexisting regulations limited the use of such materials.

## Guidelines to Various Sections of the Regulations

The following title 5 sections have been amended: 59400, 59402, 59404, 59406, and 59408. Each section is divided and discussed in the following manner: A brief introduction to the section discussing the changes to the section, followed by the actual language to the section including new language, followed by the guidelines for that section. In a few cases, the changes are not substantive and will therefore include less discussion.

### **Regulation Section 59400. Required Instructional Materials**

There were significant changes to this section including modifying the title to reflect the same changes as the subchapter title. Three new sections were added, (b), (c) and (e). Section (b) addresses restrictions on instructional materials and section (c) addresses various options available to students regarding the length of time they may keep the materials and that they must be clearly informed of those time periods. Section (e) requires the adoption of these guidelines. Subsection (a) was revised to remove the words “and other” because the words “and other” are superfluous. Corresponding changes were made in other sections as well.

#### **The Regulation Section**

The following is the actual regulation section from the California Code of Regulations, title 5.

#### **§ 59400. Required Instructional Materials.**

*(a) The governing board of a district may, consistent with the provisions of this subchapter, require students to provide instructional materials required for a credit or noncredit course, provided that such materials are of continuing value to a student outside of the classroom setting, and provided that such materials are not solely or exclusively available from the district.*

*(b) Required instructional materials shall not include materials used or designed primarily for administrative purposes, class management, course management or supervision.*

*(c) Where instructional materials are available to a student temporarily through a license or access fee, the student shall be provided options at the time of purchase to maintain full access to the instructional materials for varying periods of time ranging from the length of the class up to at least two years. The terms of the license or access fee shall be provided to the student in a clear and understandable manner prior to purchase.*

*(d) Except as specifically authorized or required in the Education Code, the governing board of a community college district shall not require a student to pay a fee for any instructional materials required for a credit or noncredit course.*

*(e) The Chancellor’s Office shall adopt guidelines for districts implementing this subchapter.*

#### **The Guidelines for the Regulation Section**

Section 59400 specifies the circumstances in which districts may require students to “provide” their own instructional materials at the student’s cost. The instructional materials must meet the following criteria:

1. They must be of continuing value to the student outside of the classroom setting, and
2. The materials are not solely or exclusively from the district

This is a continuation from the previous regulation. However, the definition of “required instructional materials” has been modified which has important implications. Previously, instructional materials could be required only if the materials were “tangible.” The amendments delete the term tangible, which now allows districts to require students to provide non-tangible online materials in some cases. This is the most significant change brought about by these amendments.

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Subsection (b) is a new section that has been added to these regulations to identify what instructional materials are not. This was added directly in response to the elimination of the “tangible” requirement. They explicitly cannot be “materials used or designed primarily for administrative purposes.” Publishers typically blend into one product both legitimate instructional materials and impermissible non-instructional materials. Class or course management systems, as well as any supervision software are not to be provided by students. If it is primarily beneficial to the college or district it is not allowed. It must benefit the student directly, not indirectly. Students may be burdened with legitimate non-tangible instructional materials, but should not be expected to provide resources that should be provided by the district.

The third subsection (c) is new and addresses instructional materials that are temporarily available to the student through a license or “access fee.” This section recognizes that online materials do not have the same permanent life as a textbook, and students should not be expected to pay for periodic updates or improvements provided by an online publisher after the class has been completed. This situation creates some complicated marketing issues for publishers. The solution provided by the regulation is a requirement that students be given options of varying lengths of times they can have access to the materials, presumably at varying prices.

At a minimum, students must be given the option to purchase or otherwise obtain the materials for the length of the class. Also at a minimum, students must have the ability to purchase or to otherwise obtain the materials for at least two (2) years. The number of points and the range of time in between those two (2) points are not specified; that would be up to the publisher. Beyond two (2) years, there is no upper limit of time the materials can be made available; again, that would be the publisher’s option. It is to be expected that there will be varying costs associated with the varying lengths of time. These costs must be detailed in a clear and understandable manner to the student prior to the purchase of the material by the student.

### **Regulation Section 59402, Definitions**

Subsection (a) was removed to eliminate the definition of “Instructional and other materials.” The primary reason for its deletion was that the definition was not necessary. However, the deletion is important because the deletion of this term eliminates the requirement that the instructional materials must be “tangible.” This change received significant debate within the committee. It was determined and agreed the requirement that the materials be “tangible” was problematic in today’s digital world and was detrimental to learning. However, it was also recognized that this change places an additional burden on students to provide non-tangible materials with the effect of potentially increasing students’ cost of education. It should be noted that this is a decision to be made by districts. If a district does not want students to be required to provide non-tangible materials it can maintain the rules created under the preexisting limitation, but the result will be that students will likely not have access to some of the most useful new educational materials.

### ***The Regulation Section***

The following is the actual regulation section from the California Code of Regulations, title 5.

#### **§ 59402. Definitions.**

*For the purposes of this subchapter the following definitions apply:*

*(a) “Required instructional materials” means any materials which a student must procure or possess as a condition of registration, enrollment or entry into a class; or any such material which is necessary to achieve the required objectives of a course.*

*(b) “Solely or exclusively available from the district” means that the instructional material is not available except through the district, or that the district requires that the instructional material be purchased or procured from it. A material shall not be considered to be solely or exclusively available from the district if it is provided to the student at the district’s actual cost and:*

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*(1) the instructional material is otherwise generally available, but is provided solely or exclusively by the district for health and safety reasons; or*

*(2) the instructional material is provided in lieu of other generally available but more expensive material which would otherwise be required.*

*(c) “Required instructional materials which are of continuing value outside of the classroom setting” are materials which can be taken from the classroom setting, and which are not wholly consumed, used up, or rendered valueless as they are applied in achieving the required objectives of a course which are to be accomplished under the supervision of an instructor during the class.*

### ***The Guidelines for the Regulation Section***

Other than the elimination of the “tangible” requirement discussed above, the changes to section 59402 are not significant. None of the other definitions have changed. For a detailed explanation of instructional materials and further explanation of the various defined terms, please refer to the Student Fee Handbook.

### **Regulation Section 59404. District Policies and Regulations for Instructional Materials**

Subsection (a) was modified to direct faculty to take reasonable steps to minimize cost to students and to determine the necessity of the “required instructional materials.”

### ***The Regulation Section***

The following is the actual regulation section from the California Code of Regulations, title 5.

#### ***§ 59404. District Policies and Regulations for Instructional Materials.***

*(a) The governing board of a community college district which requires that students provide instructional materials for a course shall adopt policies or regulations, consistent with the provisions of this subchapter, which specify the conditions under which such materials will be required. These policies and regulations shall direct instructors to take reasonable steps to minimize the cost and ensure the necessity of instructional materials.*

*(b) The policies or regulations specified in subdivision (a) shall be published in each college catalog developed after the date of adoption.*

### ***The Guidelines for the Regulation Section***

Existing regulations require all districts that use “required instructional materials” for courses to have adopted policies and regulations. Due to the changes made in these regulations, districts are required to amend their existing policies and regulations. The revisions specifically require districts to explicitly include directions to faculty to take reasonable steps to minimize costs and ensure the necessity for the “required instructional materials.” It is generally expected that faculty, when identifying “required instructional materials,” should consider costs and necessity. For instance, consideration of Open Educational Resources (OER) could be a way to help reduce costs to students for “required instructional materials.” There are a significant number of high quality resources and venues to access OER materials and they are growing at significant rates.

### **Regulation Section 59406. Report to the Chancellor**

This section was only slightly modified to remove the words “and other”.

### ***The Regulation Section***

The following is the actual regulation section from the California Code of Regulations, title 5.

#### ***§ 59406. Report to Chancellor.***

*The governing board of a community college district which prescribes required instructional materials for its courses shall respond to periodic surveys or inquiries of the Chancellor on the subject.*

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### **Regulation Section 59408, Violations of Subchapter**

This section was only slightly modified to remove the words “and other.”

#### ***The Regulation Section***

The following is the actual regulation section from the California Code of Regulations, title 5.

#### ***§ 59408. Violations of Subchapter.***

*The governing board of a district which prescribes required instructional materials in violation of this subchapter shall be deemed to have established a student fee not expressly established by law.*