



June 29, 2021

VIA EMAIL

Pamela Haynes, President of California Community Colleges Board of Governors  
Eloy Ortiz Oakley, Chancellor  
1102 Q Street, Suite 4400  
Sacramento, CA 95811

**Re: Petition to Amend the Regulations to Make them Consistent with the Broad Scope of AB 705, Pursuant to Cal. Educ. Code § 70901.5(a)(7) and The Procedures and Standing Orders of the Board of Governors § 212**

Dear President Haynes and Chancellor Oakley,

We are writing to express concern that the current regulations under California Code of Regulations Title 5, Section 55522 do not ensure that all community colleges' placement models maximize the probability that their students will enter and complete a transfer-level math and English course within one year, as required by AB 705, codified in California Education Code Section 78213. Despite the enactment of AB 705 in 2017 and the adoption of corresponding regulations in 2019, current data shows that too many community college students continue to be enrolled in remedial courses and are not completing a transfer-level math course within one year. This is due, in part, to significant inconsistencies and shortcomings in the regulations that allow colleges to fall short of their affirmative duty to maximize student completion of transfer-level math and English within one year ***We write to request the following amendments be made to California Code of Regulations Title 5, Section 55522 to ensure it is consistent with the broad scope of AB 705, California Education Code Section 78213 and to ensure that all colleges understand their affirmative duty to maximize completion under AB 705, California Education Code Section 78213:***

- Amend Cal. Code Regs. tit. 5, § 55522(c)(2) to ensure that the regulations limit enrollment--not just placement--in remedial courses to only those students who are determined to be highly unlikely to succeed in a transfer-level course
- Amend Cal. Code Regs. tit. 5, § 55522 to require that colleges' placement models identify and proactively provide concurrent support at the transfer-level, such as corequisite courses, to students who need them, in order to maximize completion.

- **Amend Cal. Code Regs. tit. 5, § 55522(a)(1) to reflect that the intent of AB 705 is to maximize--not merely increase--student enrollment and completion of transfer-level courses.**

### **Enactment of AB 705 Increased Student Completion of Transfer-Level Courses**

With the enactment of AB 705, California Community College students were finally given a fair shot at a post-secondary degree. AB 705 revolutionized the community college placement process by largely prohibiting the use of assessment tests which were shown to be ineffective in predicting a student's chances of successfully completing a transfer-level course. It instead required colleges to use multiple measures and rely primarily on high school GPA to determine a student's math and English placement and greatly restricted colleges' ability to require a student enroll in a remedial course. Perhaps most importantly, AB 705 placed an affirmative duty on community colleges to "maximize the probability" that all students will complete a transfer-level math and English course within one year.<sup>1</sup>

Since the enactment of AB 705, several colleges have embraced their affirmative duty to maximize student completion and have seen great success in the overall number of students enrolling in transfer-level math and English courses. Indeed, in the fall of 2019, 96 percent of first-time students enrolled in transfer-level English courses and 78 percent of first-time students enrolled in transfer-level math courses statewide.<sup>2</sup> Eighteen colleges had 90 percent or more of their first-time math students enrolled in transfer-level math.<sup>3</sup> Many colleges have also made great strides in increasing the completion rates of Black and Latinx students in transfer-level math and English courses. Black students saw an increase statewide in completion rates in English from 15 percent in the Fall of 2015 to 48 percent in the Fall of 2019 and, for math, from 7 percent to 27 percent. Latinx students increased completion rates in English from 20 percent to 56 percent and, in math, from 8 percent to 33 percent.<sup>4</sup>

### **Colleges are Still Not Meeting Their Affirmative Duty to Maximize Completion for All Students**

Despite progress, there are still far too many colleges who are not meeting their affirmative duty to maximize their students' probability of completing transfer-level courses within one year. In the Fall of 2019, only 40 percent of students who took a math course for the first

<sup>1</sup> See Cal. Educ. Code §78213 (West 2020)

<sup>2</sup> Marisol Cuellar Mejia, Olga Rodriguez, and Hans Johnson, *A New Era of Student Access at California's Community Colleges: Technical Appendix*, PUBLIC POLICY INSTITUTE OF CALIFORNIA, 4 (Nov. 2020), <https://www.ppic.org/wp-content/uploads/1120mcr-appendix.pdf>

<sup>3</sup> *Id.* at 11-13

<sup>4</sup> Katie Hern, Myra Snell, and Leslie Henson, *Still Getting There: How California's AB 705 is (and is not) Transforming Community College Remediation and What Needs to Come Next*, CALIFORNIA ACCELERATION PROJECT, 10 (Dec. 2020), [https://accelerationproject.org/Portals/0/Documents/Still\\_Getting\\_There\\_Final.pdf](https://accelerationproject.org/Portals/0/Documents/Still_Getting_There_Final.pdf)

time completed a transfer-level math course, statewide.<sup>5</sup> In the Fall of 2020, there were only 17 colleges where 90% or more of their introductory math courses were transfer-level<sup>6</sup> and 75 colleges still offered more remedial courses than transfer-level courses with corequisite support.<sup>7</sup>

Notably, it is Black and Latinx students that are most impacted when colleges do not meet their affirmative duty to maximize student completion. Black students continue to be significantly underrepresented in successful math completions in 81 percent of colleges.<sup>8</sup> Black and Latinx students are more likely to attend those colleges with a high number of remedial courses and as of Fall 2019, Black and Latinx students continued to be disproportionately enrolled in remedial courses.<sup>9</sup>

### **Amended AB 705 Regulations Would Ensure That Colleges Meet Their Affirmative Duty to Maximize Student Completion of Transfer-Level Courses Within One Year**

AB 705 places an affirmative duty on colleges and districts to maximize the probability that students will complete a transfer-level math and English course within one year. Cal. Educ. Code Section 78213 authorizes the California Community Colleges Board of Governors to provide direction to colleges and districts on how to meet their affirmative duty by promulgating regulations. Specifically, Cal. Educ. Code Section 78213 requires that such regulations, “ensure that the measures, instruments, and placement models selected by a community college demonstrate that they guide English and mathematics placements to achieve the goal of maximizing the probability that a student will enter and complete transfer-level coursework in English and mathematics within a one-year timeframe....”

Section 78213 further requires that the regulations be consistent with the governing statute as defined in Cal. Gov. Code Section 11349(d). Consistency requires that the regulations be “in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or other provisions of law.” Cal. Gov. Code Section 11349(d). The regulations also must not “alter[] or amend[] the governing statute or case law, or enlarge[] or impair[] its scope.” *Samantha C. v. State Dep’t of Developmental Servs.*, 185 Cal. App. 4th 1462,1481-2 (Cal. Ct. App. 2010).

The current AB 705 regulations, codified in Cal. Code Regs. tit. 5, § 55522, however, are not consistent with Section 78213. Specifically, the current regulations fall short of ensuring that colleges’ placement models meet their affirmative duty to maximize the probability that students will complete transfer-level math and English within one year by allowing colleges

<sup>5</sup> Marisol Cuellar Mejia, Olga Rodriguez, and Hans Johnson, *A New Era of Student Access at California’s Community Colleges*, PUBLIC POLICY INSTITUTE OF CALIFORNIA, 53 (Nov. 2020), <https://www.ppic.org/wp-content/uploads/a-new-era-of-student-access-at-californias-community-colleges-november-2020.pdf>

<sup>6</sup> Hern et al., *supra*, at 13

<sup>7</sup> *Id.* at 15

<sup>8</sup> Mejia et. al., *supra* note 5, at 58

<sup>9</sup> Hern et. al., *supra*, at 21

to enroll too many students in remedial courses and not requiring colleges to proactively provide students with concurrent support, such as corequisite courses. Therefore, the regulations are inconsistent with AB 705 because they impair its broad scope. There are, however, two significant changes that can be made to the regulations to make them consistent with the broad scope of AB 705.

*The Regulations Should Limit Enrollment in Remedial Courses to Only Students that Are Highly Unlikely to Succeed*

First, the regulations should ensure that colleges' placement models limit enrollment in remedial courses to only those students who are determined to be highly unlikely to succeed in a transfer-level course and where the remedial course will increase their likelihood of completion. Currently, the regulations only restrict colleges' ability to "authorize placement" in remedial courses.<sup>10</sup> This provision, however, has proven to be insufficient in ensuring that colleges' placement models are guiding students to enroll in transfer-level courses that will maximize their probability of completion. As discussed below, current data indicates that there are a significant number of students who, although not placed in remedial courses, end up enrolling in them and get trapped in delayed completion cycles. AB 705 operates to direct colleges to avoid such pitfalls and expects the regulations to address such critical gaps.

The overarching mandate of AB 705 is that colleges and districts "maximize the probability that a student will enter and complete transfer-level coursework in English and mathematics within a one-year timeframe." Cal Educ. Code Section 78213. Section 78213 goes on to emphasize the centrality of the affirmative duty to enroll students in transfer-level courses by placing an important limitation on remedial course enrollments. Section 78213(d)(2) states in pertinent part:

"Notwithstanding Section 78218 or any other law, a community college district or college shall not require students to enroll in remedial English or mathematics coursework that lengthens their time to complete a degree unless placement research that includes consideration of high school grade point average and coursework shows that those students are highly unlikely to succeed in transfer-level coursework in English and mathematics."

It is clear from the construction of Section 78213 that the legislature has identified inappropriate enrollment in a remedial course as inconsistent with maximizing the probability of completion, so much so, that the statute limits colleges' ability to mandate enrollment in remedial courses to only those students who are highly unlikely to succeed in a transfer-level course.

Indeed, the data that has emerged since AB 705's implementation reifies the statute's core principle that enrollment in transfer-level courses maximizes completion. By the end of the

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<sup>10</sup> See Cal. Code Regs. tit. 5, § 55522(c)(2).

Fall 2019 term, the first term of full implementation of AB 705, the overall math throughput rate increased to 40 percent, up from just 14 percent in the Fall of 2015.<sup>11</sup> Importantly, 55 percent of the change in throughput rate is directly attributable to increased access to transfer-level courses.<sup>12</sup> It is clear and undeniable that, for nearly all students, enrollment in transfer-level courses increases completion rates while enrollment in remedial courses slows student completion down.<sup>13</sup> As such, it follows that the statute’s core principle, that enrollment in transfer-level courses maximizes completion, requires that the regulations ensure that colleges’ placement models avoid inappropriate remedial course enrollments, including student enrollments resulting from ill-advised<sup>14</sup>, misleading or absent information concerning educational options.<sup>15</sup>

Yet, a survey of colleges’ course catalogs suggests that many colleges’ placement models are not guiding students to placements that achieve the goal of maximizing their probability of completion, specifically, enrolling in transfer-level courses. For example, when East Los Angeles College (“ELAC”) provided its validation report to the Chancellor’s office to verify that its math placement models were guiding students to placements that maximized their probability of completion, it reported that **only 91 first time math students** enrolled in remedial math courses in the Fall of 2019<sup>16</sup>. However, this reportedly low number of student enrollments is inconsistent with the number of remedial course sections offered by ELAC. A review of ELAC’s Fall of 2019 course catalog showed that **50% of all their introductory level**

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<sup>11</sup> Mejia et al., *supra* note 5, at 53

<sup>12</sup> *Id.* at 54

<sup>13</sup> Katie Brohawn, Mallory Newell, and Loris Fagioli, *Enrollment and Success in Transfer-Level English and Math in the California Community Colleges System: Fall 2015 to Fall 2019 Statewide Analysis*, The RP Group, 30 (Jan. 2021),

[https://rpgroup.org/Portals/0/Documents/Projects/MultipleMeasures/AB705\\_Workshops/AccessEnrollmentSuccess\\_RPGroup\\_Final2020-1.pdf](https://rpgroup.org/Portals/0/Documents/Projects/MultipleMeasures/AB705_Workshops/AccessEnrollmentSuccess_RPGroup_Final2020-1.pdf) (for all GPA bands in transfer-level math, the largest increase in throughput was from Fall 2018 to Fall 2019, where specifically students in the middle and lowest GPA bands saw a 14 and 11 percentage point increase, respectively); *see also* Mejia et al., *supra* note 5, at 61 (“colleges with the largest increases in access generally see the largest increases in throughput rates.”)

<sup>14</sup> *See* Mejia et. al, *supra* note 5, at 52-53, 76 (Colleges with lower access to transfer-level math courses are more likely to require students to see a counselor before being placed in a math course and some faculty expressed ).

<sup>15</sup> *See* Mejia et. al., *supra* note 5, at 40 (Faculty expressed concern that students may enroll in remedial math courses “whether or not they need them” if remedial math courses are not restricted and also that students with a goal of degree are not aware that a transfer-level SLAM course gives them more options.)

<sup>16</sup> Author’s calculations based on Ex. 1 ELAC Final AB 705 Validation Template, Tab 6, Table 6.5, 6.6, 6.11 & 6.12 (May 2021) (On file with Public Advocates). Calculation includes “pre transfer-level” enrollments for students with a goal of transfer or undetermined and pre college-level enrollments for students with a goal of degree. There was a total of **240 students** reportedly enrolled in a pre-transfer level course if you add all “pre-transfer level” enrollments for students with a goal of transfer, and all “pre-college level” enrollments and “college-level” enrollments for students with a goal of degree. *See* Ex. 1 ELAC Final AB 705 Validation Template, Tab 6, Table 6.5, 6.6, 6.8, 6.9, 6.11, 6.12, 6.14, & 6.15 It should be noted that there is no affirmative showing that the students with a goal of degree enrolled in the college-level courses were enrolled in a certificate or degree program with a math component that could not be satisfied by enrollment in a transfer-level math course, as is required by Cal. Educ. Code Section 78213(d)(1)(E). Thus, it is likely that these students were also inappropriately enrolled in a remedial course.

**math courses--80 sections-- were remedial math courses.**<sup>17</sup> In the Fall of 2020, ELAC increased the number of remedial math course offerings to 86 sections. The high number of remedial math course sections is a clear indication that ELAC's placement models are either guiding hundreds of students, for whom there has been no showing that they are highly unlikely to succeed, to inappropriately enroll in remedial math courses or failing to affirmatively guide these students towards transfer-level courses that will maximize their probability of completion.

Similar inconsistencies exist in other colleges:

- Cosumnes River College reported in their validation report that **only 195** first time math takers were enrolled in a remedial math course in the Fall 2019<sup>18</sup>, but a review of their Fall 2019 course catalog showed **33 remedial math course sections**.<sup>19</sup> The number of remedial math course offerings increased to 38 for the Fall of 2020.<sup>20</sup>
- Contra Costa College reported **only 37** first time math students were enrolled in remedial courses in the Fall of 2019,<sup>21</sup> but their Fall 2019 course catalog showed **18 Sections** of remedial math courses were offered.<sup>22</sup>

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<sup>17</sup> Ex. 3 AB 705 F19 & F20 English Math Sections, Data courtesy of the California Acceleration Project (On file with Public Advocates).

<sup>18</sup> Author's calculations based on Ex. 2 CRC Final AB 705 Validation Template, Tab 4, Table 4.2 & 4.4, Tab. 6, Tables 6.5 & 6.11. (May 2021) (On file with Public Advocates). Calculation includes "pre transfer-level" enrollments for students with a goal of transfer or undetermined and pre college-level enrollments for students with a goal of degree. There was a total of **237 students** reportedly enrolled in a pre-transfer level course if you add all "pre-transfer level" enrollments for students with a goal of transfer, and all "pre-college level" enrollments and "college-level" enrollments for students with a goal of degree. See Ex. 2 CRC Final AB 705 Validation Template, Tab 4, Table 4.2, 4.3, 4.4, & 4.5; Tab. 6, Tables 6.5, 6.8, 6.11, 6.14, & 6.15. It should be noted that there is no affirmative showing that the students with a goal of degree enrolled in the college-level courses were enrolled in a certificate or degree program with a math component that could not be satisfied by enrollment in a transfer-level math course, as is required by Cal. Educ. Code Section 78213(d)(1)(E). Thus, it is likely that these students were also inappropriately enrolled in a remedial course.

<sup>19</sup> Ex. 3 AB 705 F19 & F20 English Math Sections, Data courtesy of the California Acceleration Project (On file with Public Advocates).

<sup>20</sup> *Id.*

<sup>21</sup> Author's calculations based on Ex. 4 CCC Final AB 705 Validation Template, Tab 4, Table 4.2 & 4.4. (May 2021) (On file with Public Advocates). Calculation includes "pre transfer-level" enrollments for students with a goal of transfer. There were no reported college-level enrollments for students with a goal of degree.

<sup>22</sup> Ex. 3 AB 705 F19 & F20 English Math Sections, Data courtesy of the California Acceleration Project (On file with Public Advocates).



- Long Beach City College reported **only 394** students enrolled in remedial courses in the Fall of 2019<sup>23</sup>, but their Fall 2019 course catalog showed **63 remedial math course Sections** were offered.<sup>24</sup>

This high number of unaccounted for enrollments in remedial courses highlights a number of concerns regarding colleges' placement models and implementation of AB 705. In particular is the concern that students are being counseled to enroll in remedial courses despite being eligible to enroll in transfer-level courses.<sup>25</sup> Further still, there is concern that some colleges' guided self-placement models are unduly triggering self-doubt and anxiety, especially for students of color and other historically marginalized students, and often leads to under-placement.<sup>26</sup> Crucially, the high number of unaccounted for remedial enrollments and high count of remedial course offerings has a disparate impact on Black and Latinx students who are more likely to attend a college with a high proportion of remedial course offerings<sup>27</sup> and continue to be disproportionately enrolled in remedial courses.<sup>28</sup>

By allowing--and perhaps often steering, inadvertently or otherwise--so many students, who are otherwise eligible to enroll in transfer-level courses, to enroll in remedial courses, colleges are not meeting their affirmative duty to maximize the probability of student completion. The requirement to maximize the probability of student completion is a broad scope that covers all students and places an affirmative duty on colleges to enroll students in transfer-level courses unless the college can demonstrate that each and every student enrolled in a remedial course is one that is highly unlikely to succeed in a transfer-level course and their likelihood of successful completion would improve by enrolling them in a remedial course. To be consistent with the broad scope of AB 705 and ensure that colleges' placement models are guiding all students to placements that maximize their probability of completion, the regulations should make it clear that colleges' placement models must not authorize the enrollment of students --whether required, counseled into, or chosen-- in

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<sup>23</sup> Author's calculations based on Ex 5 LBCC Final AB 705 Validation Template, Tab 4, Table 4.2 & 4.4; Tab 6, Table 6.4, 6.5, 6.6, 6.10, 6.11, 6.12 (May 2021) (On file with Public Advocates). Calculation includes "pre transfer-level" enrollments for students with a goal of transfer or undetermined and pre college-level enrollments for students with a goal of degree. There was a total of **240 students** reportedly enrolled in a pre-transfer level course if you add all "pre-transfer level" enrollments for students with a goal of transfer, and all "pre-college level" enrollments and "college-level" enrollments for students with a goal of degree. See Ex 5 LBCC Final AB 705 Validation Template, Tab 4, Table 4.2, 4.3, 4.4 & 4.5; Tab 6, Table 6.4, 6.5, 6.6, 6.7, 6.8, 6.9, 6.10, 6.11, 6.12. It should be noted that there is no affirmative showing that the students with a goal of degree enrolled in the college-level courses were enrolled in a certificate or degree program with a math component that could not be satisfied by enrollment in a transfer-level math course, as is required by Cal. Educ. Code Section 78213(d)(1)(E). Thus, it is likely that these students were also inappropriately enrolled in a remedial course.

<sup>24</sup> Ex. 3 AB 705 F19 & F20 English Math Sections, Data courtesy of the California Acceleration Project (On file with Public Advocates).

<sup>25</sup> Mejia et. al., *supra* note 5, at 19.

<sup>26</sup> *Id.* at 50. (Self-assessments ask questions of students that touch on math confidence and anxiety, and can lead students to under-place themselves. Researchers recommend that given how common self-assessments are, it is critical to determine whether these questions unintentionally lead students to enroll in remedial courses).

<sup>27</sup> Hern et al., *supra*, at 21

<sup>28</sup> *Id.* at 11

remedial courses, unless the students are shown to be highly unlikely to succeed in a transfer-level course.

*The Regulations Should Require that Colleges' Placement Models Identify and Proactively Provide Concurrent Support to Students Who Need Them*

Second, the regulations should ensure that colleges' placement models proactively provide concurrent supports, such as corequisite courses, in order to maximize completion for students who are determined to need the support. Several studies have shown that students who enroll directly into transfer-level math courses with corequisite support are more likely to complete the transfer-level course than when they start out enrolling in remedial courses. One Multiple Measures Assessment Project study showed that even math students deemed less prepared were at least 5 times more likely to successfully complete a transfer-level statistics course when directly enrolled in the course with corequisite support than when placed in a course one level below transfer-level.<sup>29</sup> Another study found that students who took a transfer-level math course with a corequisite support course were more than 4 times more likely to complete the transfer-level course than those that started out in a stand-alone remedial course.<sup>30</sup>

Recent statewide data is consistent with these studies. For students who started in a remedial Statistics Liberal Arts Math ("SLAM") course in the Fall of 2018, only 13 percent were able to complete a transfer-level SLAM course within one year.<sup>31</sup> However, 49 percent of students who took a transfer-level SLAM course with a corequisite support class in the Fall of 2019 were able to complete the transfer-level SLAM course in one term.<sup>32</sup> Likewise, only 7 percent of students who started in a Business, Science, Technology and Engineering Math (B-STEM) remedial course in the Fall of 2018 completed a transfer-level course by the Fall of 2019, whereas 39 percent of students who started in a transfer-level B-STEM course with corequisite support were able to complete the course within one term.<sup>33</sup> Importantly, the data also demonstrates that corequisite support courses create more equitable outcomes for Black and Latinx students than stand-alone remedial courses.<sup>34</sup> In light of the overwhelming effectiveness of corequisite support improving the likelihood of students' successful completion, offering corequisite support courses is undeniably a critical component of maximizing the probability of student completion.

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<sup>29</sup> *Id.* at 7; *see also*, Leslie Henson and Katie Hern, *Corequisite Models Yield Gains Across Student GPAs*, The CAPacity Gazette (May 2019), [https://accelerationproject.org/Portals/0/Documents/Cap\\_Gazette\\_2019\\_May\\_WEB.pdf](https://accelerationproject.org/Portals/0/Documents/Cap_Gazette_2019_May_WEB.pdf).

<sup>30</sup> Marisol Cuellar Mejia, Olga Rodriguez, and Hans Johnson, *What Happens When Colleges Broaden Access to transfer-level Courses?* Public Policy Institute of California, 29 (Oct. 2019), [what-happens-when-colleges-broaden-access-to-transfer-level-courses-evidence-from-californias-community-colleges.pdf](https://www.ppic.org/publications/what-happens-when-colleges-broaden-access-to-transfer-level-courses-evidence-from-californias-community-colleges.pdf)

<sup>31</sup> Mejia, et al, *supra* note 5, at 62

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.* at 64. (Black and Latinx students enrolled in a transfer-level SLAM course with corequisite support had equitable or near equitable completion, and Latinx students enrolled in a transfer-level BSTEM course with corequisite support had near equitable completion.)



The current regulations, however, do not provide any direction to colleges about concurrent supports, such as corequisite support course offerings, which impairs the broad scope of AB 705's affirmative duty on colleges to maximize entry and completion of transfer-level math and English courses within one year. Current data, in fact, highlights that without a requirement to proactively provide concurrent support to students, many colleges' will fall short of fully incorporating this highly successful placement model, instead relying on the ineffective remedial model. Indeed, while 95 colleges offered at least one transfer-level math course with corequisite support as of Fall 2019,<sup>35</sup> 23 colleges still did not and, of those 95 that do, 75 colleges still offered more remedial courses than transfer-level courses with corequisite support as of Fall 2020.<sup>36</sup>

As noted above, only 40 percent of students who took math for the first time in the Fall of 2019 completed a transfer-level math course within a year--a fact that undoubtedly could be improved with the offering of more corequisite support courses. The uneven offering of transfer-level courses with corequisite support also has a disparate impact on Black and Latinx students who are currently more likely to attend a college with a higher number of remedial course offerings than transfer-level courses with corequisite support.<sup>37</sup> Requiring colleges to proactively provide concurrent support, particularly corequisite support courses, would ensure that all colleges' placement models are consistent with their affirmative duty to maximize completion and that all students, irrespective of where they attend college, have the same opportunity for success.<sup>38</sup>

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<sup>35</sup> *Id.* at 61.

<sup>36</sup> Hern, et. al., *supra*, at 15

<sup>37</sup> *Id.* at p. 21-22

<sup>38</sup> Note, the issue of what, if any, costs for community colleges may be occasioned by revising the regulations as proposed here is, at most, a matter for the Commission on State Mandates for a future day. Such cost considerations cannot serve as a basis to ignore the Legislature's mandate to enact regulations that maximize completion pursuant to AB 705. The duty to maximize completion includes, as set forth herein, the provision of corequisite support to students who need it to successfully complete math and English transfer-level courses within a year. Should the matter ever reach the Commission, we have our doubts as to its viability, both because *compliance with AB 705 is a minimum condition to receive state aid* pursuant to both California Education Code 70901(b)(6)(A) (West 2020) and also Cal. Code Regs. tit. 5, § 51110(a) (2021) (referencing minimum conditions contained in subchapter 1 (commencing with section 51000) of chapter 2) and by reference, Cal. Code Regs. tit. 5, § 51024(c) (2021) (Student Success and Support Program is listed as a minimum condition within subchapter 1 of chapter 2 and requires each community college district to "provide Student Success and Support Program services to its students in accordance with sections 55520-55525"), Cal. Code Regs. tit. 5, § 55522 (2021) (regulations implementing AB 705, which is part of the Student Success and Support Program services that are a minimum condition to receiving state aid (Cal. Code Regs. tit. 5, § 55522 (2021)) and because *it is doubtful that a higher level of service would necessarily result from full AB 705 implementation*. Colleges would still be serving the same number of students as before but would be eliminating multiple levels of remedial courses and replacing them with a transfer level course and concurrent support, most likely provided by the same instructor.

## Recommended Amendments to Make the Regulations Consistent With AB 705

Given these inconsistencies, the regulations must be updated to:

1. Amend Title 5 CCR Section 55222(c)(2) to read:

“(2) Placement methods authorized by this Section shall be designed to maximize the probability that students will enter and complete transfer-level coursework in English, mathematics (or quantitative reasoning) within one year. Placement methods shall not authorize ***the enrollment*** of students into a remedial sequence or pre-transfer coursework in English or mathematics (or quantitative reasoning) unless:

(A) the student is highly unlikely to succeed in the transfer-level course; and

(B) enrollment in pre-transfer-level coursework will improve the student's likelihood of completing transfer-level courses in one-year.”

By creating a floor, under which only select students may be placed, the regulations would ensure that all colleges’ placement models were guiding students to placements that maximize the probability of completion-transfer-level courses- and therefore meet the broad scope of the affirmative duty articulated in AB 705, codified in Cal Ed Code Section 78213.

2. Amend Cal. Code Regs. tit. 5, § 55522 to require colleges to use high school grades, course-taking, and placement methods in accordance with Title 5 Section 55522 (b) and (c) to identify students who need additional academic support and proactively provide them with concurrent support at the transfer-level, such as corequisite courses, in order to maximize completion.

By requiring colleges to offer concurrent support at the transfer-level, such as corequisite courses, the regulations would ensure that colleges’ placement models were guiding students towards courses that are proven to increase the probability of student completion of transfer-level math courses five-fold.

3. Amend Cal. Code Regs. tit. 5, § 55522(a)(1) to read:

“For students with a goal of transfer to a four-year institution, ***maximize*** the number of students who enter and complete transfer-level English and mathematics (or quantitative reasoning) within one-year;”

This amendment would make the scope and intent of the regulations consistent with the language in AB 705 and ensure colleges understand the broad scope of their affirmative duty to “maximize” student completion, not merely “increase” student completion.

Amending the regulations to correct these critical inconsistencies will ensure that colleges placement models are truly guiding students to placements that will maximize their probability of completing transfer-level courses within one year, as required by AB 705, and will ensure that all students regardless of their race or where they live will have equal access to transfer-level courses and opportunities for success. More importantly, these amendments will ensure that colleges are meeting their affirmative duty to maximize the probability that all students can enter and complete transfer-level English and Math courses within one year.

Thank you for your consideration of these proposed amendments to the regulations.

Respectfully,



Jetaun Stevens  
Senior Staff Attorney, Public Advocates