

AMENDED IN SENATE APRIL 10, 2014

SENATE BILL

No. 1369

Introduced by Senator Block

February 21, 2014

An act to amend Section 78214 of, to amend, renumber, and add Section 84850 of, to amend the heading of Article 6 (commencing with Section 84850) of Chapter 5 of Part 50 of Division 7 of Title 3 of, and to add Section 84852 to, the Education Code, relating to community colleges.

LEGISLATIVE COUNSEL'S DIGEST

SB 1369, as amended, Block. Community colleges: Disability Services Program.

(1) Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. Existing law states the intent of the Legislature that the public postsecondary institutions request, and the state provide, through the state budget process, funds to cover the actual cost of providing services and instruction, consistent with specified principles, to disabled students in their respective postsecondary institutions.

Existing law requires the board of governors to adopt rules and regulations for the administration and funding of educational programs and support services provided to disabled students by community colleges for state-funded services. Existing law requires these regulations to provide for the apportionment of funds to each community college district to offset the direct excess cost, as defined, of providing specialized support services or instruction, or both, to disabled students enrolled in state-supported educational programs or courses.

This bill would recast these requirements as the Disability Services Program and would use the term “students with disabilities” instead of disabled students. The bill would instead require the regulations adopted by the board of governors to provide for the apportionment of funds to each community college district to offset the direct excess costs, as defined, of ensuring that students with disabilities enrolled in state-supported programs or courses receive academic adjustments, auxiliary aids, and services that are required by federal and state nondiscrimination laws. In utilizing funds apportioned to a community college district, the bill would require the district to give priority to ensuring that requirements of federal and state nondiscrimination laws have been satisfied with respect to students with disabilities who enroll for specified purposes. The bill would authorize a district to use these funds to provide other specialized services or to offer ~~special classes~~ *educational assistance courses* for students with disabilities so long as specified conditions are met. The bill would also prohibit a district from using these funds ~~for specified purposes: to provide services for students with disabilities participating in classes, courses, or educational programs that do not receive state support. As a condition of receiving these funds, the bill would require a district to cooperate in the conduct of program evaluations, as prescribed, and to promptly take any corrective action required by the Chancellor of the California Community Colleges as a result of the program evaluations. The bill would require the board of governors to request funding for the Disability Services Program that is sufficient to carry out the requirements of the program on a statewide basis in the annual budget request to the Governor and the Legislature.~~

~~(2) Existing law, known as the Seymour-Campbell Student Success Act of 2012, was enacted for the purpose of increasing California community college access and success by providing effective core matriculation services of orientation, assessment and placement, counseling, and other education planning services, and academic interventions. The act specifies the responsibilities of students and institutions in entering into the matriculation process. The act requires the board of governors to develop a formula for allocating funding for the Student Success and Support Program that would be implemented under the act. The act provides that, in the 2012–13 fiscal year and each fiscal year thereafter, it is operative only if funds are specifically appropriated for its purposes.~~

~~This bill would require a district to pay for the costs of providing programmatic adjustments or auxiliary aids and services required by federal and state nondiscrimination laws from funds made available to the Student Success and Support Program in the annual Budget Act. The bill would authorize a district to have certain services that are authorized by the Student Success and Support Program delivered to students with disabilities through the Disability Services Program. The bill would require each district to transfer funds, from its Student Success and Support Program to its Disability Services Program, in an amount sufficient to cover the costs of these services and the cost of coordinating the delivery of these services to students with disabilities participating in both of these programs, as prescribed. By June 30 of each fiscal year, the bill would require a district to report to the chancellor the amount of funding transferred to the Disability Services Program and the number of students receiving these services. By September 30 of each fiscal year, for purposes of calculating that fiscal year's fund transfer amount, the bill would require the chancellor to notify all districts of the average statewide cost of serving all students during the preceding fiscal year.~~

~~(3)~~

~~(2) Existing law requires all participating districts, with *the* assistance of the chancellor, to establish and maintain institutional research to evaluate the effectiveness of the Student Success and Support Program implemented under the Seymour-Campbell Student Success Act of 2012. Existing law requires the research to include certain metrics including, among others, ~~disaggregated~~ *desegregated* data by ethnicity, gender, disability, age, and socioeconomic status, to the extent the information is available.~~

~~This bill would require a district to report a student participating in the Student Success and Support Program as having a disability if the student participates in the Disability Services Program.~~

~~To the extent that the bill would impose new duties on community college districts, it would constitute a state-mandated local program.~~

~~(4)~~

~~(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,~~

reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 78214 of the Education Code is amended
- 2 to read:
- 3 78214. (a) All participating districts shall, with the assistance
- 4 of the chancellor, establish and maintain institutional research to
- 5 evaluate the effectiveness of the Student Success and Support
- 6 Program described by this article and of any other programs or
- 7 services designed to facilitate students' completion of their
- 8 educational goals and courses of study.
- 9 (b) The metrics for this research shall include, but not be limited
- 10 to:
- 11 (1) Prior educational experience, including transcripts when
- 12 appropriate, as determined by the chancellor.
- 13 (2) Educational goals and courses of study.
- 14 (3) Criteria for exemption from orientation, assessment, or
- 15 required counseling or advisement, if applicable.
- 16 (4) Need for financial assistance.
- 17 (5) (A) ~~Disaggregated~~ *Desegregated* data by ethnicity, gender,
- 18 disability, age, and socioeconomic status, to the extent this
- 19 information is available.
- 20 (B) For purposes of this paragraph, unless the chancellor
- 21 establishes a different approach for reporting disability status, a
- 22 district shall report a student as having a disability if the student
- 23 participates in the Disability Services Program established pursuant
- 24 to Article 6 (commencing with Section 84850) of Chapter 5 of
- 25 Part 50.
- 26 (6) Academic performance, such as the completion of specified
- 27 unit thresholds, success in basic skills courses, grade point average,
- 28 course completion outcomes, transfer readiness, and degree and
- 29 certificate completion.
- 30 (7) Any additional information that the chancellor finds
- 31 appropriate.

1 (c) The evaluation provided for by this section shall include an
2 assessment of the effectiveness of the programs and services in
3 attaining at least the following objectives:

4 (1) Helping students to define their academic and career goals
5 and declare a course of study.

6 (2) Assisting institutions in the assessment of students'
7 educational needs and valid course placement.

8 (3) Helping support students' successful course completion and
9 goal attainment.

10 (4) Matching institutional resources with students' educational
11 needs.

12 SEC. 2. The heading of Article 6 (commencing with Section
13 84850) of Chapter 5 of Part 50 of Division 7 of Title 3 of the
14 Education Code is amended to read:

15
16 Article 6. The Disability Services Program

17
18 ~~SEC. 3.— Section 84850 of the Education Code is amended and~~
19 ~~renumbered to read:~~

20 ~~84851.—(a) The board of governors shall adopt rules and~~
21 ~~regulations for the administration and funding of educational~~
22 ~~programs and support services to be provided to students with~~
23 ~~disabilities by community college districts pursuant to Article 3~~
24 ~~(commencing with Section 67310) of Chapter 14 of Part 40. This~~
25 ~~program shall be known and may be cited as the Disability Services~~
26 ~~Program.~~

27 ~~(b) As used in this article, a student with a disability is a person~~
28 ~~who is enrolled, or has been admitted and is planning to enroll, in~~
29 ~~one or more courses at a community college and has been verified~~
30 ~~as being an individual with a disability within the meaning of the~~
31 ~~Americans with Disabilities Act of 1990, as amended (42 U.S.C.~~
32 ~~Sec. 12101 et seq.).~~

33 ~~(c) (1) The regulations adopted by the board of governors shall~~
34 ~~provide for the apportionment of funds to each community college~~
35 ~~district to offset the direct excess cost of ensuring that students~~
36 ~~with disabilities enrolled in state-supported educational programs~~
37 ~~or courses receive academic adjustments, auxiliary aids and~~
38 ~~services that are required by federal and state nondiscrimination~~
39 ~~laws, including, but not limited to:~~

1 ~~(A) The Americans with Disabilities Act of 1990, as amended~~
2 ~~(42 U.S.C. Sec. 12101 et seq.):~~
3 ~~(B) Section 504 of the Rehabilitation Act of 1973, as amended,~~
4 ~~(29 U.S.C. Sec. 794).~~
5 ~~(C) Article 9.5 (commencing with Section 11135) of Chapter~~
6 ~~1 of Part 1 of Division 3 of Title 2 of the Government Code.~~
7 ~~(D) The California Fair Employment and Housing Act (Part 2.8~~
8 ~~(commencing with Section 12900) of Division 3 of Title 2 of the~~
9 ~~Government Code):~~
10 ~~(2) Direct excess costs are those actual fixed, variable, and~~
11 ~~one-time costs, as defined in Section 67311, that exceed the~~
12 ~~combined total of the following:~~
13 ~~(A) The indirect cost to the district of providing facilities and~~
14 ~~support for the administration of services for students with~~
15 ~~disabilities.~~
16 ~~(B) The revenue derived from average daily attendance in~~
17 ~~special classes.~~
18 ~~(C) Any other funds for serving students with disabilities that~~
19 ~~the district receives from federal, state, or local sources.~~
20 ~~(d) (1) In utilizing funds provided pursuant to this section, a~~
21 ~~district shall give priority to ensuring that the requirements of~~
22 ~~federal and state nondiscrimination laws have been satisfied with~~
23 ~~respect to students with disabilities who enroll to earn degrees,~~
24 ~~career technical certificates, transfer preparation, or career~~
25 ~~development or advancement. However, the district remains~~
26 ~~responsible for complying with the requirements of federal and~~
27 ~~state nondiscrimination laws with respect to other students and~~
28 ~~students pursuing other educational objectives.~~
29 ~~(2) In addition, a district may also use funds allocated pursuant~~
30 ~~to this section to provide other specialized services or to offer~~
31 ~~special classes for students with disabilities so long as these~~
32 ~~services or classes satisfy all of the following conditions:~~
33 ~~(A) They are consistent with the regulations adopted by the~~
34 ~~board of governors.~~
35 ~~(B) They further the goal established in Section 67310 of~~
36 ~~promoting the independence of students with disabilities and the~~
37 ~~maximum integration of these students with other students.~~
38 ~~(C) They are provided in the most integrated setting possible.~~
39 ~~(e) A district shall not use funds allocated pursuant to this~~
40 ~~section for either of the following:~~

1 ~~(1) To provide services for students with disabilities participating~~
2 ~~in classes, courses, or educational programs that do not receive~~
3 ~~state support.~~

4 ~~(2) To provide programmatic adjustments or auxiliary aids and~~
5 ~~services, as required by federal and state nondiscrimination laws,~~
6 ~~that students with disabilities need in order to participate in or~~
7 ~~receive the full benefit of the Student Success and Support Program~~
8 ~~established pursuant to Article 1 (commencing with Section 78210)~~
9 ~~of Chapter 2 of Part 48.~~

10 ~~(f) As a condition of receiving funds pursuant to this section,~~
11 ~~each community college district shall certify that reasonable efforts~~
12 ~~have been made to utilize all funds from federal, state, or local~~
13 ~~sources that are available for serving disabled students. Districts~~
14 ~~shall also provide the programmatic and fiscal information~~
15 ~~concerning programs and services for disabled students that the~~
16 ~~regulations of the board of governors require.~~

17 ~~(g) The board of governors may authorize the chancellor,~~
18 ~~consistent with the requirements the board may impose, to~~
19 ~~designate up to 3 percent of the funds allocated pursuant to this~~
20 ~~section for program development and program accountability.~~

21 *SEC. 3. Section 84850 of the Education Code is amended and*
22 *renumbered to read:*

23 ~~84850.~~

24 ~~84851.~~ (a) The Board of Governors of the California
25 Community Colleges shall adopt rules and regulations for the
26 administration and funding of educational programs and support
27 services to be provided to ~~disabled~~ students *with disabilities* by
28 community college districts pursuant to ~~Chapter 14.2 Article 3~~
29 ~~(commencing with Section 67310) of Chapter 14~~ of Part 40. *This*
30 *program shall be known and may be cited as the Disability Services*
31 *Program.*

32 (b) As used in this section, ~~“disabled students” are persons with~~
33 ~~exceptional needs enrolled article, a student with a disability is a~~
34 ~~person who is enrolled, or has been admitted and is planning to~~
35 ~~enroll, in one or more courses at a community college who,~~
36 ~~because of a and has been verified disability, cannot fully benefit~~
37 ~~from classes, activities, and services regularly provided by the~~
38 ~~college without specific additional specialized services or~~
39 ~~educational programs. as being an individual with a disability~~

1 *within the meaning of the Americans with Disabilities Act of 1990,*
 2 *as amended (42 U.S.C. Sec. 12101 et seq.).*
 3 (c) (1) The regulations adopted by the board of governors shall
 4 provide for the apportionment of funds to each community college
 5 district to offset the direct excess cost of ~~providing specialized~~
 6 ~~support services or instruction, or both, to disabled~~ *ensuring that*
 7 *students with disabilities* enrolled in state-supported educational
 8 programs or ~~courses. Direct courses receive academic adjustments,~~
 9 *auxiliary aids, and services that are required by federal and state*
 10 *nondiscrimination laws, including, but not limited to:*
 11 (A) *The Americans with Disabilities Act of 1990, as amended*
 12 *(42 U.S.C. Sec. 12101 et seq.).*
 13 (B) *Section 504 of the Rehabilitation Act of 1973, as amended*
 14 *(29 U.S.C. Sec. 794).*
 15 (C) *Article 9.5 (commencing with Section 11135) of Chapter 1*
 16 *of Part 1 of Division 3 of Title 2 of the Government Code.*
 17 (D) *The Equity in Higher Education Act (Chapter 4.5*
 18 *(commencing with Section 66250) of Part 40 of Division 5).*
 19 (2) *Direct excess costs are those actual fixed, variable, and*
 20 *one-time costs, as defined in Section ~~67312, which 67311, that~~*
 21 *exceed the combined total of the following:*
 22 (1) ~~The average cost to the district of providing services to~~
 23 ~~nondisabled students times the number of students served by~~
 24 ~~disabled student programs and services.~~
 25 (2)
 26 (A) *The indirect cost to the community college district of*
 27 *providing facilities and support for the administration of ~~disabled~~*
 28 *student ~~programs and services. services for students with~~*
 29 *disabilities.*
 30 (3)
 31 (B) *The revenue derived from ~~average daily attendance in special~~*
 32 *classes. ~~full-time equivalent students enrolled in educational~~*
 33 *assistance courses for students with disabilities.*
 34 (C) *The average cost to the community college district of*
 35 *providing comparable services to nondisabled students times the*
 36 *number of students served by the Disability Services Program.*
 37 (4)
 38 (D) *Any other funds for serving ~~disabled students which~~*
 39 *students with disabilities that the district receives from federal,*
 40 *state, or local sources.*

1 (d) (1) In utilizing funds provided pursuant to this section, a
2 community college district shall give priority to ensuring that the
3 requirements of federal and state nondiscrimination laws have
4 been satisfied with respect to students with disabilities who enroll
5 to earn degrees, career technical certificates, transfer preparation,
6 or career development or advancement. However, the community
7 college district remains responsible for complying with the
8 requirements of federal and state nondiscrimination laws with
9 respect to students with disabilities pursuing other educational
10 objectives.

11 (2) In addition, a community college district may also use funds
12 allocated pursuant to this section to provide other specialized
13 services or to offer educational assistance courses for students
14 with disabilities so long as these services or courses satisfy all of
15 the following conditions:

16 (A) They are consistent with the regulations adopted by the
17 board of governors.

18 (B) They further the goal established in Section 67310 of
19 promoting the independence of students with disabilities and the
20 maximum integration of these students with other students.

21 (C) They are provided in the most integrated setting possible.

22 (e) A community college district shall not use funds allocated
23 pursuant to this section to provide services for students with
24 disabilities participating in classes, courses, or educational
25 programs that do not receive state support.

26 ~~(d)~~

27 (f) As a condition of receiving funds pursuant to this section,
28 each community college district shall ~~certify~~ do all of the following:

29 (1) The community college district shall certify that reasonable
30 efforts have been made to utilize all funds from federal, state, or
31 local sources ~~which~~ that are available for serving disabled students.

32 ~~Districts shall also provide~~

33 (2) The community college district shall provide the
34 programmatic and fiscal information concerning programs and
35 services for ~~disabled~~ students with disabilities that the regulations
36 of the board of governors require.

37 (3) The community college district shall cooperate in the conduct
38 of program evaluations conducted pursuant to subdivision (g) and
39 promptly take any corrective actions required by the chancellor
40 as a result of those evaluations.

1 (g) *The board of governors shall require the chancellor to use*
 2 *an amount not less than one-half of 1 percent of the funds allocated*
 3 *pursuant to this section to conduct, or to contract to conduct, an*
 4 *evaluation of program effectiveness as required pursuant to Section*
 5 *67312. In addition to addressing the requirements of Section*
 6 *67312, the evaluations shall determine whether the requirements*
 7 *of this article and those set forth in the regulations adopted by the*
 8 *board of governors have been satisfied. Each community college*
 9 *operating a program pursuant to this section shall be required to*
 10 *participate in a peer-based onsite evaluation during the self-study*
 11 *year of each accreditation cycle. Funds designated for program*
 12 *evaluation purposes under this subdivision may be used to, among*
 13 *other things, compensate and reimburse onsite evaluation teams.*

14 (e)

15 (h) The board of governors may authorize the chancellor,
 16 consistent with the requirements the board may impose, to
 17 designate up to ~~3~~ *an additional 2 1/2* percent of the funds allocated
 18 pursuant to this section for program development and program
 19 accountability.

20 SEC. 4. Section 84850 is added to the Education Code, to read:

21 84850. The Legislature finds and declares all of the following:

22 (a) The Americans with Disabilities Act of 1990 (42 U.S.C.
 23 Sec. 12101 et seq.), and other federal and state nondiscrimination
 24 laws require community college districts to provide academic and
 25 programmatic adjustments, auxiliary aids, and other services
 26 necessary to ensure that students with disabilities are able to
 27 participate in and fully benefit from all programs and activities
 28 operated by those *community college* districts.

29 (b) The board of governors, the California Student Aid
 30 Commission, and other state agencies are responsible for
 31 distributing state and federal funding to community college
 32 districts.

33 (c) As a result, the state shares the responsibility with
 34 community college districts for ensuring that students with
 35 disabilities are able to fully participate in and benefit from the
 36 programs and activities operated by community college districts
 37 in accordance with the requirements of federal and state
 38 nondiscrimination laws.

39 (d) By enacting the Seymour-Campbell Student Success Act of
 40 2012, the Legislature has recognized the importance of ensuring

1 that all students, including students with disabilities, have the
2 resources and support services necessary to establish and achieve
3 their educational goals while attending a community college.

4 (e) The Legislature recognizes that programmatic adjustments,
5 auxiliary aids, and other services may be needed in order for
6 students with disabilities to be able to participate in and fully
7 benefit from the Student Success and Support Program and that
8 providing these adjustments and services will result in additional
9 costs and workload for community college districts.

10 (f) ~~In order~~ *It is the intent of the Legislature that adequate*
11 *funding shall be provided to the Disability Services Program*
12 *through the annual budget process to ensure that each community*
13 *college is able to provide students with disabilities the services*
14 *needed to meet the requirements of federal and state*
15 *nondiscrimination laws and to further the implementation of the*
16 *Seymour-Campbell Student Success Act of 2012, it is essential*
17 *that the Student Success and Support Program and the Disability*
18 *Services Program in each community college district effectively*
19 *coordinate the provision of services to students with disabilities*
20 *and that funding provided for the Student Success and Support*
21 *Program be available to cover the costs of ensuring that students*
22 *with disabilities are able to fully participate in and benefit from*
23 *their participation in the Student Success and Support Program.*

24 ~~SEC. 5.~~ Section 84852 is added to the Education Code, to read:
25 84852. (a) The cost of providing programmatic adjustments
26 or auxiliary aids and services, as required by federal and state
27 nondiscrimination laws, that students with disabilities need in order
28 to participate in or receive the full benefit of the Student Success
29 and Support Program, authorized pursuant to Article 1
30 (commencing with Section 78210) of Chapter 2 of Part 48, shall
31 be paid from the funds made available for that program in the
32 annual Budget Act.

33 (b) A district may arrange to have tutoring, counseling,
34 educational planning, or other student success services, as
35 authorized by Section 78212 and reported for funding pursuant to
36 Section 78216, delivered to students with disabilities through the
37 Disability Services Program so that these services may be tailored
38 to meet the needs of students with disabilities while also permitting
39 those students to participate in and receive the full benefit of the
40 Student Success and Support Program.

1 ~~(e) A district shall transfer from its Student Success and Support~~
2 ~~Program to its Disability Services Program funds sufficient to~~
3 ~~cover the costs of services provided pursuant to subdivisions (a)~~
4 ~~and (b) and the cost of coordinating the delivery of those services~~
5 ~~to students with disabilities participating in both the Disability~~
6 ~~Services Program and the Student Success and Support Program.~~
7 ~~This amount shall be equal to or greater than the average statewide~~
8 ~~cost of serving all students in the Student Success and Support~~
9 ~~Program for the preceding fiscal year, as determined by the~~
10 ~~chancellor pursuant to subdivision (e), times the number of students~~
11 ~~receiving services pursuant to subdivisions (a) and (b).~~

12 ~~(d) By June 30 of each fiscal year, each district shall report to~~
13 ~~the chancellor the amount of funding transferred from the Student~~
14 ~~Success and Support Program to the Disability Services Program~~
15 ~~pursuant to subdivision (e) along with the number of students~~
16 ~~receiving services pursuant to subdivisions (a) and (b).~~

17 ~~(e) By September 30 of each fiscal year, the chancellor shall~~
18 ~~notify all districts of the average statewide cost of serving all~~
19 ~~students in the Student Success and Support Program during the~~
20 ~~preceding fiscal year.~~

21 ~~(f) Notwithstanding the requirements of this section, any student~~
22 ~~who, consistent with Section 67313, declines to participate in the~~
23 ~~Disability Services Program shall receive any programmatic~~
24 ~~adjustments or auxiliary aids and services necessary to participate~~
25 ~~in the Student Success and Support Program directly from that~~
26 ~~program using funds appropriated for the Student Success and~~
27 ~~Support Program through the annual Budget Act.~~

28 ~~(g) Compliance with the requirements of this section shall be a~~
29 ~~minimum condition for receipt of state aid. Any individual or~~
30 ~~organization may file a complaint with the chancellor alleging that~~
31 ~~a district has violated the requirements of this section. Upon~~
32 ~~receiving a complaint, the chancellor shall investigate the complaint~~
33 ~~and, if a violation is found, take appropriate enforcement action.~~

34 *SEC. 5. Section 84852 is added to the Education Code, to read:*
35 *84852. In its annual budget request for the California*
36 *Community Colleges to the Governor and the Legislature, the*
37 *Board of Governors of the California Community Colleges shall*
38 *request funding for the Disability Services Program sufficient to*
39 *carry out the purposes and requirements of this article on a*
40 *statewide basis.*

1 SEC. 6. If the Commission on State Mandates determines that
2 this act contains costs mandated by the state, reimbursement to
3 local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

O