59402 Definitions

For the purposes of this subchapter the following definitions apply:

(a) "Instructional and other materials" means any tangible personal property which is owned or primarily controlled by an individual student.

(b) "Required instructional and other materials" means any instructional and other 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 those required objectives of a course which are to be accomplished under the supervision of an instructor during class hours.

(c) "Solely or exclusively available from the district" means that the material is not available except through the district, or that the district requires that the 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:

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

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

(d) "Required instructional and other 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 class hours.

(e) "Tangible personal property" includes electronic data that the student may access during the class and store for personal use after the class in a manner comparable to the use available during the class.

Note: Authority cited: Sections 66700, 70901 and 76365, Education Code.
Reference: Sections 70901, 70902 and 76365, Education Code.
Guideline for Section 59402

The revisions to this regulation allow districts to charge students instructional materials fees for access to instructional materials in electronic form, under certain circumstances. The definition of "tangible personal property" is amended to verify that electronic data may be considered instructional materials, so long as the student has the ability to use the materials after the class, in a manner comparable to the student's ability to use the materials during the class.

This expansion of the definition of tangible personal property has significant impact on the district's ability to charge students for license fees or for access codes to electronic data. If students are to be charged for electronic data, the tangible personal property should have a continuing educational value to students. The continuing educational value could be in the form of the electronic course content being equivalent to a textbook, study guide, solutions manual, or test bank that students have access to beyond the class session for which the instructional materials were purchased. Additionally, the text, lessons, and problem materials should be readily printable to hard copy to serve as a permanent record, should the student desire to retain a copy of the instructional materials. If the student can print the materials accessed that are of continuing educational value, charging students for access codes is permissible.

On the other hand, it is not permissible to charge students for internet access or for access to a research database. In these cases, the real benefit of access is the ability to do searches and saving one or more documents or web pages in a static form does not provide equivalent access after the access code is deactivated.

This section of the regulation became effective on April 14, 2006.

B. Tutoring

There are two regulations contained in this section:

58168 - Tutoring
58170 - Apportionment for Tutoring

58168. Tutoring

Tutoring, when provided by the college, shall be considered a method of instruction that involves a student tutor who has been successful in a particular subject or discipline, or who has demonstrated a particular skill, and who has received specific training in tutoring methods and who assists one or more students in need of special supplemental instruction in the subject or skill. Student attendance in tutoring is eligible for apportionment only in a noncredit course offered under the provisions of Education Code section 84757(a)(2).