

**Information/Action Item**

***California Student Aid Commission***

Consideration of adopting regulations to interpret and make specific Sections 69433.2 and 69433.6 of the Education Code relating to the Cal Grant Participating Institution Data Reporting Requirements established by Senate Bill 70 (Chapter 7, Statutes of 2011)

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The Commission deferred action on the SB 70 data-reporting regulations at the September Commission meeting, at our recommendation, to allow us to continue our consultation with the regulated institutions, financial aid administrator organizations and others.

Following the meeting, we reviewed our previous version of the SB 70 regulations in light of new, related laws. The Governor signed both of these new laws, Senate Bill 1103 (Wright) and Assembly Bill 2296 (Block), after we had drafted the previous version of the SB 70 regulations.

Senate Bill 1103 requires the Commission to make the SB 70 data available on the web in a searchable data base, along with other information and links that are useful to students and parents who are in the process of selecting a college or university. This bill reinforces SB 70's objective of enabling students and parents to make informed decisions about their higher education options. Assembly Bill 2296 establishes reporting and other requirements for completion rates, placement rates, and salary and wage information on institutions subject to the California Private Postsecondary Act of 2009.

Together, Assembly Bill 2296 and SB 70 establish the legislative intent to enable students and parents to compare all postsecondary institutions so that they can make informed judgments about their higher education options. The Bureau of Private Postsecondary Education will be adopting its own regulations to define standards for the Assembly Bill 2296 reporting requirements.

We approached our review of the previous version of the SB 70 regulations by considering the public comments made at the Commission meeting and by evaluating the data reporting for enrollment, persistence and graduation separately from the data reporting for job placement and salary and wage information.

First, we concluded that we should maintain the reporting requirements for the enrollment, persistence and graduation data that were in the previous version of the SB 70 regulations. UC, CSU and CCC currently collect all the data elements necessary to satisfy the data reporting requirements for enrollment, persistence and graduation in the SB 70 regulations. Tab 1.a compares the requirements of the SB 70 regulations to IPEDS and the data UC, CSU and CCC collect.

Second, we changed the “job placement” data reporting requirements significantly. We removed the reporting requirements for data to be reported in 2013, and kept only the reporting requirement for data necessary to meet the statutory minimum reporting for 2012. The data now required for 2012 is limited to the total number of students who graduated from a vocational, career or technical program and received either a certificate or associate’s degree during the 2011-12 academic year aggregated by campus and CIP code. It does not involve any further data/information gathering by an institution.

We intend to continue to consult with the regulated institutions and interested organizations to develop reporting requirements for job placement and salary and wage data beyond 2012. And, we will start a separate regulations process in 2013 to develop those requirements. We also intend to work very closely with the Bureau of Private Postsecondary Education during its own regulations process to implement Assembly Bill 2296. This will minimize any differences between our reporting requirements, particularly since some private institutions subject to Assembly Bill 2296 may also be subject to the SB 70 regulations.

### **October 4 Consultation Meetings**

After completing our internal review and revision of the SB 70 regulations, we held additional consultation meetings on October 4, 2012 to discuss our revised draft. Our first meeting included the California Community College Chancellor’s Office, representatives from the for-profit segment, and representatives from the two financial aid administrator organizations – CASFAA and CCCSFAAA. We held a second meeting with representatives from the four-year institutions: UC, CSCU, and AICCU, and included the CASFAA representative as well. Representatives from the Governor’s Office, the Legislative Analyst’s Office, and the Assembly Republican Caucus, also attended in person or by phone.

The following are the more significant issues raised at the October 4 meetings:

- **Satisfactory Academic Progress**

Section 30033, “Withdrawal of a Cal Grant”, provides a list of circumstances under which “the Commission may withdraw a Cal Grant ...”. The Commission originally proposed adding a new section (f) relating to the withdrawal of a Cal Grant for a student who fails to meet satisfactory academic progress. In response to questions raised by the public segments the October 4 meetings, we agreed to remove the phrase “two consecutive semesters or three consecutive quarters” and substitute direct language from the Education Code. That change is reflected in the revised draft of the proposed regulations.

- **Reporting Deadline to Commission**

We originally included a December 31<sup>st</sup> deadline in the regulations because SB 70 requires reporting to begin in 2012. During the October 4 meetings, the four-year institutions asked to have the deadline modified for the 2013 reporting cycle to align better with the April IPEDS collection timeframes.

We think this could be appropriate after 2012, and will consider this change in the separate regulations process in 2013.

- **Separation of Cohort into “First-time” and “Transfer/Other” for Purposes of Reporting Enrollment, Persistence And Graduation Data**

Our initial draft of the regulations had contained an “educational level” data element to differentiate students by their educational experience when they reached the institution. This was intended to give a better perspective on what happened with different populations of students as they progressed through their education. However, after the segments expressed concerns about this approach during our earlier consultation discussions, we removed it from the previous version of the regulations.

We kept the same approach in the revised version of the regulations. The revised regulations place all students, regardless of whether they have previous postsecondary experience prior to enrolling in a particular institution, in the same “cohort” for purposes of reporting enrollment, persistence and graduation data.

During the October 4 meetings, however, the four-year institutions indicated that they now would be interested in separating students within the cohort into, at a minimum, first-time students and transfer students. We agree that this should be considered but would like to have further discussions with the segments on their differing concerns. We will consider this change in the separate regulations process in 2013.

- **Reporting on “All Undergraduate Students”**

Education Code section 69433.2 specifies that an institution shall report the required data “for its undergraduate programs”. The revised regulations similarly require that an institution shall report enrollment, persistence and graduation data “for all its undergraduate students ...”. At the October 4 meetings, the four-year institutions indicated a desire to see a change in the “all undergraduate students” language to something like “matriculated,” to avoid counting students who may enroll through an extension program, may not have gone through the normal admissions process and are not pursuing a degree. Another suggestion was to change the language to “all undergraduate students in Cal Grant eligible programs”.

Based on comments during the original consultation process, we had already narrowed this definition to exclude the K-12, basic skills and English as a Second Language students. At this time, we have left the language in its original “for all its undergraduate students” form. We will have further conversations with all of the segments to explore how the requested changes would affect the data across all segments, and to ensure that only appropriate categories of students are excluded from the data reporting. We will consider this issue and develop appropriate language, if necessary, as part of the separate regulations process in 2013.

- **Full-time/Part-Time Definition over an academic year**

The revised regulations require an institution to report total numbers of students who were full-time or part-time over the academic year. At the October 4 meetings, the public segments raised questions about students who are full-time in one term, but part-time in another, or who attend an inter-session or summer session.

The Education Code defines “enrollment status” as “part- or full- time status.” It further defines “full-time status” as “12 or more semester units or the equivalent” and “part-time

status" as "6 to 11 semester units, inclusive, or the equivalent." Under the revised regulations, a student who completes fewer than 24 semester units, or the equivalent, for the academic year would be considered part-time. However, because a student's attendance during the non-traditional winter and summer terms would be included in the 24-unit threshold to determine whether the student was full-time or part-time over the academic year, using this method could potentially result in more "full-time" students for an institution than would be the case on a strictly term-by-term basis.

Since the extent and significance of this difference is not clear at this time, nor is it clear that all segments are comparably affected, we will consider this change as part of the separate regulations process in 2013 amendments. Among other things, we will consider whether a different methodology for handling the non-traditional terms would better represent the student population and would be easier for the institutions to report.

- **Transfer-out Rate**

At the California Community College's request, we revised the regulations to allow the California Community Colleges to report transfer-out data separately for students who transfer to a baccalaureate degree granting institution. We concluded that this was appropriate because this type of transfer is a specific mission for the community colleges.

The proprietary segment asked that they also be allowed to report data on students who transfer out of an institution. It is not immediately clear to us whether there is an identity between the missions of the community colleges and the proprietary institutions, nor if distinctions should be made between the types of transfers from proprietary institutions. We will consider this change as part of the separate regulations process in 2013.

- **Fall Enrollment Data v. Academic Year Data**

Under the revised regulations, the enrollment data includes all students who enroll at any point during the academic year. IPEDS limits certain surveys, such as its enrollment survey, to fall enrollment data. At the October 4 meetings, the CSU and other four-year institutions indicated that they would prefer that the Commission mirror IPEDS and use only fall enrollment data. These segments recognize that a fall-only collection may not be as useful for other segments, which have continuous enrollment. But, they argue that it would be less expensive for the public segments to follow the IPEDS model.

We have not included the change at this time, out of concern that it has the potential to overlook students who may enroll in terms other than fall. Further, in order to maintain the apples-to-apples comparison across segments, there should, conceptually, be consistency across the segments for how the data is required to be reported. However, we will consider this change in the separate regulations process in 2013.

- **"Advertised or Promoted with any Claims Regarding Job Placement"**

One of the three definitions that was proposed to clarify whether a program was being "advertised or promoted with any claims regarding job placement" provided that if "the qualified institution's website hosts a link to either an internal or external website which provides information on the availability of jobs in a specific field or occupation that is related to the program" it was to be included in the job placement reporting.

After discussion at the October 4 meetings, we removed this particular definition since the wording could be overbroad and the remaining definitions appear to be sufficient. We can, if necessary, revisit the need for this language in the context of developing the job placement and salary and wage data reporting requirements in the separate regulations process in 2013.

As mentioned above, the data reporting for 2012 required by the revised regulations is limited to enrollment data and the initial report for job placement, which is merely graduation data for those programs that are subject to reporting. We will continue to consult with the regulated institutions and others, and start the separate regulations process in 2013 to develop the reporting requirements for job placement and salary and wage data, to consider the issues discussed above and other issues raised at the October 4 meetings, and to make any other changes that will improve the information for students and their parents.

We recommend that the Commission adopt the revised regulations to meet its statutory obligation under SB 70. The revised regulations are in Tab 1.b. Because the Office of Administrative Law's review and approval of the regulations can take time to complete, we also recommend that the Commission amend the institutional participation agreement (IPA) with every institution to include the language and substantive requirements of the revised regulations. This can be accomplished through a standalone addendum to the IPA signed by both the institution and the Commission. Amending the IPA to include the regulatory requirements will satisfy the letter of the law. Further, it will remove any uncertainty among the institutions about the timing of any action by the Office of Administrative Law, and will notify them that the initial data reporting is to be implemented by the end of December of this year, consistent with SB 70's mandate.

Implementing SB 70 reporting requirements through an administrative announcement or Grant Operations Memo, as was suggested at the September Commission meeting, is legally insufficient to satisfy the Commission's obligation under SB 70.

We will schedule a meeting shortly with the data people from the segments and institutions to implement and facilitate the data reporting under these regulations.

***Recommended Actions:***

- 1) Adopt the regulations, and authorize staff to complete the regulatory process and request that the effective date of the regulations be the date of filing.
- 2) Amend the 2012-16 Institutional Participation Agreement to include the language and substantive requirements of the adopted regulations.

***Responsible persons:***

Catalina Mistler, Chief  
Program Administration & Services Division

Keri Tippins  
General Counsel

Gus Cubillo, Chief  
Information Technology Services Division

Regulations	IPEDS	Data currently collected?			Value added by regulations	
		UC	CSU	CCC		
<b>Enrollment</b>						
By Cohort	Y	Y	Y	Y	IPEDS DOES NOT COLLECT CAL	
By Campus	Y	Y	Y	Y	GRANT RECIPIENT DATA	
Full-time	Y	Y	Y	Y		
Part-time	Y	Y	Y	Y	IPEDS DATA WILL NOT BE AS	
Race/ethnicity	Y	Y	Y	Y	CURRENT (Longer delay from	
Gender	Y	Y	Y	Y	IPEDS data certification process)	
Latest completed yr	No	Y	Y	Y		
Cal Grant students	No	Y	Y	Y		
<b>Persistence* (Retention) – Bachelor’s Degree seeking only/first time degree/certificate</b>						
By Cohort	Y	Y	Y	Y	IPEDS ONLY COLLECTS ONE	
By Campus	Y	Y	Y	Y	YEAR OF DATA FROM THE FALL	
Full-time	Y	Y	Y	Y	OF THE FIRST YEAR TO THE	
Part-time	No	Y	Y	Y	FALL OF THE SECOND YEAR FOR	
Latest completed yr	No	Y	Y	Y	FIRST TIME STUDENTS ONLY>	
Annually to 200%	No-1 yr only	Y	Y	Y		
Cal Grant students	No-1 yr only	Y	Y	Y	PERSISTENCE EXTENDS TO 200%	
Race/Ethnicity	No	Y	Y	Y	OF THE PUBLISHED PROGRAM	
Gender	No	Y	Y	Y	LENGTH; MORE LIKELY TO	
*IPEDS measures “retention”					CAPTURE WHEN STUDENTS	
CSU publishes continuation rates					DROP FROM PROGRAM.	
<b>Graduation</b>						
By Cohort	Y	Y	Y	Y	IPEDS DOES NOT COLLECT	
By CIP	Y	Y	Y	Y	GRADUATION DATA FOR	
By Campus	Y	Y	Y	Y	PART-TIME OR OTHER NON-	
Race/Ethnicity	Y	Y	Y	Y	TRADITIONAL STUDENTS.	
Gender	Y	Y	Y	Y		
Full-time	Y	Y	Y	Y	ADDITIONAL DATA CAN BE	
First-time	Y	Y	Y	Y	SUBMITTED BEYOND THE 200%	
100%	Y	Y	Y	Y	CAPTURED BY IPEDS. AS NOTED	
150%	Y	Y	Y	Y	IN OUR CONVERSATIONS WITH	
200%	Y	Y	Y	Y	THE CCCs, 200% REPORTING	
250% (optional)	No	Y	Y	Y	DOES NOT ADEQUATELY	
300% (optional)	No	Y	Y	Y	CAPTURE PART-TIME STUDENTS	
350% (optional)	No	Y	Y	Y		
400% (optional)	No	Y	Y	Y		
Latest completed yr	No	Y	Y	Y		
Part-Time	No	Y	Y	Y		
Returning/nontraditional	No	Y	Y	Y		
Cal Grant students	No	Y	Y	Y		
# of students transferring to 4-year institution (for CCC only)	Y	Y	Y	Y		

CALIFORNIA STUDENT AID COMMISSION  
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AMENDMENT TO TITLE 5, DIVISION 4, CHAPTER 1, CA CODE OF  
REGULATIONS REGARDING THE CAL GRANT PROGRAM (EDUCATION  
CODE §§ 69430-69460)

PROPOSED TEXT

Text to be added to the California Code of Regulations is displayed in underline type.  
Text to be deleted is displayed in ~~strikeout~~ type.

ARTICLE 1. DEFINITION OF CERTAIN TERMS

§ 30000. Academic Year.

For Cal Grant A and B an academic year means two semesters or three quarters or their equivalent within a 12-month period between July 1 and June 30. An academic year may include a summer quarter in those colleges which maintain a summer quarter comparable to either the fall, winter or spring quarters. For Cal Grant C an academic year means a period of time usually eight or nine months during which a full-time student would normally be expected to complete the equivalent of two semesters, two trimesters, or three quarters of instruction.

Note: Authority cited: Section ~~69433.7~~69544, Education Code. Reference: Sections 69432.7, 69432.9, 69500-69515 and ~~69530-69547~~, Education Code.

§ 30000.5 Commission.

“Commission” means California Student Aid Commission.

Note: Authority cited: Section 69433.7, Education Code. Reference: Section 69432.7, Education Code.

§ 30001. Grant Recipient.

(a) A grant recipient is a person who has successfully met all of the applicable requirements set forth in Education Code Sections ~~69430 to 69440~~ 69530 to 69547, who has been selected for a grant by the ~~California Student Aid~~ Commission, and who has accepted the grant ~~in terms of by enrolling in and~~ attending a qualifying institution school or college to which he has been admitted.

(1) A Cal Grant A grant recipient, ~~whether entitlement or competitive~~, as defined in

Education Code Sections 69434, 69436, 69532 69437, and 69437.6 may utilize a grant for tuition and fees as in Education Code Section 69434 and 69437.5 69536;

(2) a-A Cal Grant B grant Recipient, whether entitlement or competitive, as defined in Education Code Sections 69435, 69435.3, 69436 and 69437.6 69532, may utilize a grant for tuition, fees, access costs and subsistence as in Education Code Section 69435 and 69437.5 69538;

(3) a-A Cal Grant C grant recipient, as defined in Education Code Section 69439 69532, may utilize a grant for occupational or technical training for tuition and training-related costs as in Education Code Section 69439 69539.

Note: Authority cited: Section 69433.7, Education Code. Reference: Section 69437.5, 69439, Education Code.

§ 30002. Eligible Applicant.

An eligible applicant is any person who has successfully met the requirements for at least one of the Cal Grant programs set forth in Education Code Sections 69430-69440 69530 ~~to 69547, Education Code~~, and has submitted in proper form and prior to established deadlines such applications, supplements and grade point average transcripts of academic record, and financial and other information as the ~~California Student Aid~~ Commission may direct.

Note: Authority cited: Section 69433.7 69544, Education Code. Reference: Sections 69433, 69434, 69435, 69436 69534-69536, 69538, 69539 and 69541, Education Code.

§ 30005. Eligibility Limitations.

Undergraduate course means the first eight semesters or twelve quarters or their equivalent of full-time college attendance beyond the high school graduation and prior to a baccalaureate degree. Eligibility may be extended for two semesters or three quarters or their equivalent for students enrolled in a five-year undergraduate program.

Note: Authority cited: Section 69433.7 69544, Education Code. Reference: Sections 69433.6, 69536 and 69538, Education Code.



§ 30009. Qualifying Institution.

- (a) A "Qualifying Institution" means an institution as defined by Education Code section 69432.7(1).
- (b) An institution qualifying pursuant to section 69432.7(1)(1)(A) must be participating in the Federal Pell Grant program and in at least two of the three federal campus-based programs specifically listed in subdivisions (Ai), (Bii) and (Ciii) of that section. "Participating in federal campus-based programs" means the qualifying institution school has been allocated funds and is spending those funds at each California site which Cal Grant recipients attend.
- ~~(c)(1) An institution qualifying pursuant to section 69432.7(1)(2) means a postsecondary nonprofit institution headquartered and operating in California which:~~
  - ~~(A) certifies to the Commission that 10 percent of the institution's operating budget is expended for insitutionally funded student financial aid in the form of grants; and~~
  - ~~(B) demonstrates to the Commission that it has the administrative capacity to administer the funds; and~~
  - ~~(C) is accredited by the Western Association of Schools and Colleges; and~~
  - ~~(D) meets such other standards adopted by regulation by the Commission in consultation with the Department of Finance.~~
- ~~(2) A regionally accredited institution that was deemed qualified by the Commission to participate in the Cal Grant Program for the 2000-01 academic year shall retain its eligibility as long as it maintains its existing accreditation status.~~
- (c) A qualifying institution or a specific site of an otherwise qualifying institution shall be deemed disqualified if it no longer possesses all of the requirements for a qualifying institution.
- ~~(e)(d)~~ An institution that becomes disqualified pursuant to Part 600 of Title 34 Code of Federal Regulations shall not be a "qualified institution" pursuant to this section.
- ~~(f)(e)~~ An institution disqualified pursuant to this section may become a "qualifying institution" by complying with Education Code section 69432.7 (1) and this section.

Note: Authority cited: Section 69433.7, Education Code. Reference: Section 69432.7(1), Education Code.

§ 30010 Classification of Instructional Programs (CIP) Code

The Classification of Instructional Program (CIP) Code means the 2010 taxonomic scheme developed by the U.S Department of Education, National Center for Education Statistics (NCES) for the tracking and reporting of fields of study and program completion activity as used for the Integrated Postsecondary Education Data System (IPEDS) statistical data gathering and reporting.

Note: Authority cited: Section 69433.7, Education Code. Reference: Section 69433.2, 69439 Education Code.

**ARTICLE 2. APPLICANT QUALIFICATIONS**

§ 30020. Academic Record.

The Commission may establish minimum standards of academic achievement and potential and may adopt criteria for selecting grant recipients ~~recipients of grants~~ from among applicants to qualify for a Cal Grant and may require applicants to submit grade point averages pursuant to section 30007, 30008 or 30026 ~~transcripts of high school and college academic records~~ or other evidence of potential.

Note: Authority cited: Section 69433.7 ~~69544~~, Education Code. Reference: Sections 69434, 69435.3 ~~69500-69515 and 69530-69547~~, Education Code.

§ 30021. Choice of Qualifying Institution ~~School or College~~.

A Cal Grant shall be granted in terms of the applicant's selection of a Commission approved and currently qualifying institution ~~school or college~~ at the time he or she is selected for a grant.

Note: Authority cited: Section 69433.7, Education Code. Reference: Sections 69432.7, \_\_\_\_\_ ~~Education Code~~.

§ 30022. Change in ~~School or College~~ Choice of Qualifying Institution.

Whenever a grant recipient changes his or her choice of qualifying institution ~~school, college or program~~, the Commission must redetermine his or her financial need eligibility should the cost of attendance differ. Subject to such redetermination, a grant recipient may change his or her choice of college-qualifying institution (a) prior to the time of actual enrollment, or (b) at the conclusion of a quarter or semester, provided that any loss of tuition and fee payments shall be borne by the student.

Note: Authority cited: Section 69433.7, 69452, Education Code. Reference: Sections 69432.7, 69433, 69434, and 69435, Education Code.

**ARTICLE 3. USE OF CAL GRANTS**

§ 30030. Application of Cal Grants.

AH (a) Initial Cal Grant A and B awards are awarded for use during a specified academic year, and shall be put into effect in no earlier than the fall term of the ~~September of such~~ specified academic year.

~~(b) Exceptions may be made for s~~Students ~~in newly awarded in the~~ Cal Grant C program may activate their new award starting in the summer term, ~~preceding the award year if the summer term begins July 1 or later of the award year.~~

~~(c) Award activation in all Cal Grant programs may be postponed or~~ when a student has been granted a leave of absence or in such other instances as the Commission may otherwise provide.

Note: Authority cited: Section ~~69433.7 69544~~, Education Code. Reference: Sections ~~69432.7, 69433.9 and 69439, 69500-69515 and 69530-69547~~, Education Code.

§ 30032. Refund of Grant Payments.

Refund of unused award funds previously paid to a qualifying institution school or college shall be based on the published regulations of the qualifying institution school or college concerned, as certified to the Commission by such qualifying institution school or college.

Note: Authority cited: Section 69433.7, Education Code. Reference: Sections 69432.7, Education Code.

§ 30033. Withdrawal of a Cal Grant.

The Commission may withdraw a Cal Grant if the grant recipient:

- (a) Fails to enroll in a qualifying institution school or college and attend classes.
- (b) Withdraws from a qualifying institution school or college without making a request for a leave of absence.
- (c) Fails to maintain a full-time or part-time program in accordance with the regulations of the qualifying institution school or college he or she is attending and the ~~California Student Aid~~ Commission.
- ~~(d) Loses his status as a resident in California~~ Fails to meet applicable residency requirements.
- (e) Fails to continue to demonstrate financial need according to ~~California Student Aid~~ Commission criteria.
- (f) Fails to meet institutional Satisfactory Academic Progress requirements established by the institution in accordance with applicable federal standards published in Title 34 of the Code of Federal Regulations.
- ~~(g)~~ Is in violation of California Student Aid Commission regulations.

Note: Authority cited: Section 69433.7 Education Code. Reference: Sections 69432.7, 69433.5 and 69433.9.

**ARTICLE 4. REPORTING OF PROGRAM DATA****§ 30040 Annual Report on Enrollment, Persistence and Graduation**

(a) A qualifying institution shall annually report to the Commission no later than December 31st, for the academic year ending the preceding June 30<sup>th</sup>, the enrollment data, persistence data and graduation data for all undergraduate students, excluding students concurrently enrolled in K-12, or who are solely enrolled in basic skills instructional courses, remedial courses or English as a Second Language courses. The qualifying institution shall also include in its report aggregate enrollment data, persistence data and graduation data on all Cal Grant recipients attending the institution.

(b) The Commission may extend the period for filing if the institution demonstrates evidence of substantial need, but in no event longer will the deadline be extended longer than 90 days.

(c) The annual report shall be filed electronically by either:

(1) submitting the information required by subdivision (a) via the Commission's WebGrants website; or

(2) providing sufficient student unitary data to the Commission to allow the Commission to prepare the report on the institution's behalf. An institution electing to have the Commission prepare its report shall provide the following student unitary data: student's first, middle initial, and last name; date of birth; social security number; race/ethnicity; gender; original term enrollment date; enrollment status; institution campus code; CIP code for the student's completed educational program; units completed by term for the academic year; and program completion date, if applicable.

(A.) An institution electing to submit data to the Commission under this paragraph shall provide it no later than November 15<sup>th</sup> for the academic year ending the preceding June 30<sup>th</sup>. The Commission will calculate the enrollment, persistence and graduation data and provide a draft report to the institution within fifteen business days of its submission. The institution shall thereafter have fifteen business days to review its report and provide any additional information necessary to ensure the accuracy of the report.

(d) Any qualifying institution that fails to timely submit its annual report, or the data necessary for the Commission to prepare the annual report, shall be considered to be out of compliance with its Institutional Participation Agreement with the Commission.

Note: Authority cited: Section 69433.7 Education Code. Reference: Sections 69433.2, Education Code.

**§ 30040.2 Cohort**

(a) For purposes of reporting enrollment data, persistence data and graduation data, a cohort is defined as the group of students who commenced attendance at the qualifying institution at any point during an academic year. Once assigned to a particular cohort upon initial enrollment, the student remains in that cohort for the duration of his or her

attendance at the institution, or until the student completes his or her program, certificate or degree. Any student who completes his or her program, certificate or degree and pursues a new program, certificate or degree at the same qualifying institution would be assigned to the academic year cohort applicable to the subsequent enrollment.

(b) For purposes of reporting the job placement rate and salary and wage data, a cohort is defined as the group of students who graduated with a certificate, diploma or degree at any point during an academic year. Once assigned to a particular cohort upon graduation, the student remains in that cohort for the duration of institution's reporting obligation.

Note: Authority cited: Section 69433.7, Education Code. Reference: Section 69433.2, Education Code.

#### § 30040.6 Published Program Length

"Published Program Length" shall mean the institution's normal or expected time for completion of the program, certificate or degree as reported to the U.S. Department of Education through the Program Participation Agreement.

Note: Authority cited: Section 69433.7, Education Code. Reference: Section 69433.2, Education Code.

#### § 30041 Enrollment data

Enrollment data shall be reported by cohort for the undergraduate programs offered by the institution, reported separately for each campus. Enrollment data shall consist of aggregate data on each of the following student characteristics: race/ethnicity, gender, enrollment status, and Cal Grant recipient status.

Note: Authority cited: Section 69433.7, Education Code. Reference: Section 69433.2, Education Code.

#### § 30041.5 Persistence data

(a) Persistence data shall consist of the total number of undergraduate by cohort who have continued in, or persisted in, their education by enrolling in and completing at least one course at the institution during the academic year following initial enrollment, and every academic year thereafter, segregated by enrollment status, race/ethnicity, gender and Cal Grant recipient status for each campus.

(b) Persistence data shall be updated annually for each cohort until the number of academic years reported equals at least 200% of the published program length.

Note: Authority cited: Section 69433.7, Education Code. Reference: Section 69433.2, Education Code.

§ 30042 Graduation data

(a) “Graduation data” means, for each undergraduate program offered by a qualifying institution, the number of students within the cohort who complete a program and upon whom the institution has actually conferred the degree, diploma, certificate or other formal award, within 100%, 150% and 200% of the published program length of the program, reported by CIP Code, enrollment status, race/ethnicity, gender and Cal Grant status. Graduation data shall be segregated by each campus of qualifying institution.

(1) In order for an institution to report a student as completing within 100% of the published program length, the student shall have completed the program, certificate or degree in 100% or less of the published program length regardless of the enrollment status of the student.

(2) In order for an institution to report a student as completing within 150% of the published program length, the student shall have completed the program, certificate or degree in 101-150% of the published program length regardless of the enrollment status of the student.

(3) In order for an institution to report a student as completing within 200% of the published program length, the student shall have completed the program, certificate or degree in 151-200% of the published program length, regardless of the enrollment status of the student.

(b) An institution may elect to report graduation data beyond 200% of the published program length of the program in the same format required by subdivision (a). An institution electing to report additional graduation data may report for students completing the program, certificate or degree in 250%, 300%, 350% and 400% of published program length.

(1) In order for an institution to report a student as completing within 250% of the published program length, the student shall have completed the program, certificate or degree in 201-250% of the published program length regardless of the enrollment status of the student.

(2) In order for an institution to report a student as completing within 300% of the published program length, the student shall have completed the program, certificate or degree in 251-300% of the published program length regardless of the enrollment status of the student.

(3) In order for an institution to report a student as completing within 350% of the published program length, the student shall have completed the program, certificate or degree in 301-350% of the published program length, regardless of the enrollment status of the student.

(4) In order for an institution to report a student as completing within 400% of the published program length, the student shall have completed the program, certificate or degree in 351-400% of the published program length, regardless of the enrollment status of the student.

(c) In addition to reporting graduation data, a California community college may report a transfer-out rate by reporting, for each cohort, the number of students who are known to have transferred from the California community college to a baccalaureate degree granting institution.

Note: Authority cited: Section 69433.7, Education Code. Reference: Sections 69433.2, Education Code.

§ 30042.5 Annual Job Placement Rate and Salary and Wage Reporting

(a) Beginning in 2012, a qualifying institution shall report to the Commission no later than December 31st, for the academic year ending the preceding June 30<sup>th</sup>, the total number of students graduating during the 11-12 academic year aggregated by campus and CIP Code from all of its undergraduate programs leading to a certificate or Associate's degree that are either:

- (1) designed or advertised to lead to a particular type of job; or
- (2) advertised or promoted with any claims regarding job placement.

(b) For purposes of this section, an undergraduate program is "designed or advertised to lead to a particular type of job" if it consists of postsecondary vocational, career, and technical workforce education courses, programs and/or training in which specific instruction is provided with an occupationally specific objective and for which a certificate and/or associate's degree is awarded.

(c) An undergraduate program is not "designed or advertised to lead to a particular type of job" if it is either of the following:

(1) A two-academic-year program fully transferrable to a baccalaureate degree program, and specifically designed to be a transfer program, including but not limited to the following programs:

- a. Associate Degree General Education General;
- b. Associates in Arts for Transfer (AA-T) / Associates in Science for Transfer (AS-T) codified in Education Code section 66746-66749;
- c. California State University General Education Breadth course requirements;
- d. Intersegmental General Education Transfer Curriculum (IGETC); or

(2) A course of study that is designed to provide students with basic skills, remedial, English as a Second Language (ESL), or other necessary preparatory coursework for enrollment in a certificate, diploma or degree program.

(d) For purposes of this section, a program is "advertised or promoted with any claim regarding job placement" if it is either of the following:

- (1) The institution advertises, promotes, or otherwise represents to students, whether orally or in writing, that the program will assist students in obtaining gainful employment following graduation; or
- (2) The institution advertises, promotes, solicits, or directly corresponds with a prospective student whether in printed materials or electronic format, the availability of jobs upon graduation.

(e) The annual report shall be electronically filed by submitting the information required via the Commission's WebGrants website.

(f) In lieu of reporting the data required pursuant to subdivision (a) or (b), as applicable, a California community college may provide student data to the Commission so as to allow the Commission to prepare the report on the institution's behalf. An institution electing to have the Commission prepare its report shall provide the following student unitary data: student's first name, middle initial, and last name; date of birth; social security number, if applicable; last known address; email address; institution campus code; CIP code for the student's program; program completion date; and any employer or employment information in the possession of the institution.

(1) A California community college electing to submit data to the Commission shall provide it no later than November 15<sup>th</sup> for the academic year ending the preceding June 30<sup>th</sup>. The Commission will create the institution's draft report and provide it to the institution. The institution shall thereafter have 30 calendar days to review its report and provide any additional information necessary to ensure the accuracy of the report before it becomes final.

(g) The Commission may extend the period for filing the annual Job Placement Rate and Salary and Wage Report if the institution demonstrates evidence of substantial need, but in no event longer will the deadline be extended longer than 90 days.

(h) Any qualifying institution that fails to timely submit its annual report, or the data necessary for the Commission to prepare the annual report under subdivision (g), shall be considered to be out of compliance with its Institutional Participation Agreement with the Commission.

Note: Authority cited: Section 69433.7, Education Code. Reference: Sections 69433.2, Education Code.

#### § 30044.5 Record Maintenance and data audit

The information used to substantiate the reports submitted to the Commission pursuant to sections 69433.2 shall be documented and maintained by the institution for five years from the date of the publication of that data. An institution may retain this information in an electronic format. Failure to maintain the information necessary for the Commission to audit an institution's filing may result in termination of the institution's institutional participation agreement.

Note: Authority cited: Section 69433.7, Education Code. Reference: Sections 69433.2, Education Code.



CALIFORNIA STUDENT AID COMMISSION  
P. O. Box 419029  
Rancho Cordova, CA 95741-9029

**AMENDMENT TO TITLE 5, DIVISION 4, CHAPTER 1  
CALIFORNIA CODE OF REGULATIONS**

**Cal Grant Program and Participating Institution Data Reporting Requirements**

**FINAL STATEMENT OF REASONS**

**INTRODUCTION**

The Student Aid Commission published its Notice of Proposed Rulemaking on July 6, 2012, in the California Regulatory Notice Register. One hearing was scheduled for August 20, 2012 but was rescheduled for August 22, 2012. This rescheduled hearing date was published in the California Regulatory Notice Register on August 17, 2012. No additional hearings were requested by any member of the public.

The last day for written comment on the Notice of the Proposed Rulemaking was August 20, 2012. The Commission received 22 timely written comments. Three additional written comments were received after the conclusion of the 45-day public comment period. A written summary of responses to the comments received is included below.

The Commission's Student Impact Committee held the public hearing on the proposed regulations for SB 70 on August 22, 2012. The Committee heard oral testimony from 10 commenters. The Commission held further discussion of the regulations at its regularly scheduled meeting on September 13-14, 2012. At that time, the Commission was provided with all of the comments received during the regulatory process. It also allowed public comment on the agenda item under the Bagley-Keene Open Meeting Act.

On October 4, 2012, Commission staff met with representatives from the University of California, California State University, California Community Colleges, the Association of Independent California Colleges and Universities, the California Coalition of Accredited Career Schools, representatives from the two financial aid administrator organizations – the California Association of Student Financial Aid Administrators and California Community Colleges Student Financial Aid Administrators Association, Representatives from the Governor's Office, the Legislative Analyst's Office, and the Assembly Republican Caucus – and others to discuss and gain consensus on the regulations, including the decision to remove the 2013 job placement and salary and wage reporting requirements from the current rulemaking file and for the Commission to proceed with these items in a separate, future rulemaking filing.

The final version of the regulations was presented to the Student Aid Commission for its approval at its October 12, 2012 public meeting. The Commission was provided with all of the comments received during the regulatory processes as well as responses to the comments. The Board approved the regulations by a vote of \_\_\_\_\_. The Notice of Commission Action and Approval is included in the rulemaking file as Tab 3.

As previously stated within the Notice of Proposed Rulemaking, this Final Statement of Reasons is posted on the Student Aid Commission's website at: \_\_\_\_\_.

## **UPDATE OF INITIAL STATEMENT OF REASONS**

The Initial Statement of Reasons has been updated as follows:

SECTION 30033(f). The proposed regulation as originally notice to the public would have clarified that the Student Aid Commission may withdraw a Cal Grant recipient from the Cal Grant program if the student fails to meet an institution's satisfactory academic progress policy for a period of time in excess of two consecutive semesters of three consecutive quarters. Some commenters expressed concerns over students who may pursue an appeal of a determination by an institution that the student failed to meet satisfactory academic progress. As a result the timeframe language was removed from the proposed regulation. In addition, some commenters requested that the definition of "satisfactory academic progress" be clarified, and as a result language from the statutory definition of satisfactory academic progress found at Education Code section 69432.7(m) was added for clarity.

DELETED SECTIONS 30042.5(b), 30042(c)(1), 30042(c)(2), 30042(c)(4), 30042(c)(5), 30042(d)(3), 30042(e)(3), 30043, 30043.5, and 30044. These sections of the regulations as originally proposed applied to the "job placement rate and salary and wage reporting" elements of the reporting that would not take effect until 2013. AS a result of the comments and testimony received and to allow additional consultation with interested parties, these proposed regulations have been removed from this proposed rulemaking and will be the subject of a separate rulemaking in 2013.

**NONSUBSTANTIAL CHANGES.** The Commission has made non-substantial changes, including correction of typographical errors, renumbering of sections following the deletion of certain other provisions and other grammatical corrections. Because those changes clarify the text that was made available for public review, and do not alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the originally proposed text, the revisions are non-substantial and need not be circulated for additional public review.

**SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE PUBLIC NOTICE PERIOD INVOLVING THE PROPOSED REGULATIONS**

The Commission received public comment in response to the public comment period, which began on July 6, 2012 and ended on August 20, 2012. Letters were received from the following commenters:

- Steven Spurling, Assistant Director of Research at City College of San Francisco;
- Judy Cohen, Financial Aid Consultant and Peralta Community College District Financial Aid Director (retired);
- Laura Brown, President, The California Coalition of Accredited Career Schools;
- Mary Gill, Higher Education Consultant;
- Deb Barker-Garcia, 2012 CASFAA President and Craig Yamamoto, 2012 Vice President for State Issues, California Association of Student Financial Aid Administrators;
- Joe Wyse, Superintendent/President, Shasta College;
- Maury Pearl, Associate Vice Chancellor for Institutional Effectiveness, Los Angeles Community College District;
- Anthony J. Guida, Jr., Senior Vice President, External Affairs, Argosy University;
- Robert Oakes, Vice President & General Counsel, Association of Independent California Colleges and Universities;
- Norine Fuller, Executive Director of Student Financial Services, Fashion Institute of Design and Merchandising;
- Calvin Rankin, President and Margie Carrington, President-Elect, California Community Colleges Student Financial Aid Administrators Association;
- Robert Johnson, Executive Director, California Association of Private Postsecondary Schools;
- Katherine Lee Carey, General Counsel, American Career College and West Coast University;
- Kathy Booth, Executive Director, Research and Planning Group;
- Susan Lorimer, Vice Chancellor of Education and Technology, Los Rios Community College District;
- Linda Williams, Financial Aid Program Manager, Sierra College;
- Linda Michalowski, Vice Chancellor, Student Services and Special Programs Division, California Community Colleges Chancellor's Office;
- David Alcocer, Interim Director, Student Financial Support, University of California, Office of the President;
- Elisabeth Voight, Senior Staff Attorney and Sophia Lai, Law Fellow and Attorney, Public Advocates, and Ed Howard, Senior Counsel, Center for Public Interest law, Children's Advocacy Institute, University of San Diego;
- Craig Yamamoto, Director of Financial Aid and Scholarships, San Diego State University;
- Ronald Harden, President/CEO, Epic Bible College.

Letters were received after the close of the public comment period from the following commenters:

- Luanne Buchman Canestro;
- Robert Parisi, Dean, Student Services, Hancock College;
- Mary Gill, Higher Education Consultant.

### 1. Comments of Steven Spurling, City College of San Francisco

Mr. Spurling commented that pulling data for federal government programs was a laborious undertaking. He indicated that SB 70 would be an added workload to the community colleges if each college had to provide the data themselves. Mr. Spurling explained that campuses would not be able to access job placement and salary data from the Employment Development Department (EDD) because the data is restricted. Mr. Spurling supported the process to have the Community College Chancellor's Office use their database to provide the information to the Student Aid Commission. He indicated that because each college is ultimately responsible for the data that individual colleges would need to provide final data approval. Mr. Spurling expressed his concerns with the added workload on the colleges which are already burdened with state and federal requirements.

**Student Aid Commission Response:** Education Code section 69433.2 requires Cal Grant participating institutions to report to the Commission certain information relating to their undergraduate programs including data on enrollment, persistence, graduation, and, for undergraduate programs that meet the conditions specified in the section, job placement rate and salary and wage information. The law currently does not provide for an exemption from the reporting requirements for any of the Cal Grant participating institutions. While the Commission has begun consultation with the California Communities Colleges (CCC) Office of the Chancellor to submit data on behalf of the individual campuses, and will continue to do so, that does not relieve the individual campuses from submitting the required reports if the CCC Office of the Chancellor is unable to provide the data directly to the Commission.

Recognizing that this reporting may require additional workload for the CCCs, the Commission has included within the regulations the option for the CCCs to submit unitary data to the Commission so as to permit the Commission to prepare the needed reports on their behalf.

Lastly, because this rulemaking file has been limited to the data necessary for the 2012 reporting of the job placement and salary and wage reporting, it is limited to graduation data which is already in the possession of the institutions themselves and thus, there is no need to obtain data from EDD.

No changes have been made to the regulations in response to this comment.

## 2. Comments of Judy Cohen, Peralta Community College District

Ms. Cohen commented that the proposed regulations exceed the scope of Senate Bill 70 and specified the following: community colleges are not structured to gather and track placement, salary and wage data of graduates; the cost of implementing the regulations would be detrimental to community colleges; implementing the proposed regulations would result in a reduction in services to students; and that the state should not be utilizing resources to create a program that exists at the federal level. Ms. Cohen explained the Community Colleges support the ideals of the Cal Grant program, however, the added administrative requirements is burdensome. Ms. Cohen requested that the Community Colleges be exempt from providing the SB 70 data and that the Student Aid Commission use current Federal and MIS data to satisfy the requirements.

**Student Aid Commission Response:** See Response to Comment 1. Furthermore, the Commission disagrees that the proposed regulation exceeds the scope of Senate Bill (SB) 70, and the commenter has not provided any further explanation other than to state that claim. With respect to the other comments, the reporting requirements in Education Code section 69433.2 apply to all Cal Grant participating institutions, including the California Community Colleges.

Furthermore, the Commission has removed from the current rulemaking file those portions of the job placement and salary and wage data reporting that were applicable to 2013 and beyond. The portions will be the subject of new rulemaking file. By limiting this current rulemaking to the 2012 job placement and salary and wage reporting data only, institutions are only required to provide data on the total number of students who graduated during the 2011-12 academic year. This data is already in the possession of the institution and should not require any additional cost to report.

No changes have been made to the regulations in response to this comment.

## 3. Comments of Laura Brown, The California Coalition of Accredited Career Schools

Ms. Brown commented that the California Coalition of Accredited Career Schools (Coalition) opposes the provision requiring a graduate to be employed for a minimum of 24 weeks as it conflicts with the Bureau of Postsecondary Education (BPPE) regulations. The Coalition also commented that the language "single position" be clarified as it is over reaching and does not include self-employment; however, if the Commission maintains the requirement, the Coalition recommends the regulations be amended as follows: "Nothing in this section prohibits the [Commission] from permitting an institution to aggregate single positions held by a graduate to meet any hours per week requirement." This language is included Assembly Bill 2296, which is pending before the Legislature.

The Coalition also commented that they urge conformity to BPPE regulations and statute with regard to § 30043(e)(3) to minimize duplication and ensure conformity.

**Student Aid Commission Response:** The section of the regulations addressed by this comment was removed from this rulemaking and will be re-visited in a future rulemaking file which specifically addresses the 2013 reporting requirements. The Commission will provide notice to the commenter of the Notice of Proposed Rulemaking addressing the 2013 reporting requirements and will consider and address her comments as part of that process.

#### 4. Mary Gill, Higher Education Consultant Comment Letter

1) Ms. Gill commented that she feels the Commission did not meet the intention of the law regarding the pre-notice publication discussions required by Government Code section 11346.45 for complex regulations. She continued to comment that webinars were scheduled after the regulations had been drafted and alternatives were neither sought nor considered and that the Commission did not respond to requests for meetings on the implementation of the reporting requirements.

**Student Aid Commission Response:** The Commission disagrees with this comment. Prior to drafting the proposed regulations for the SB 70 reporting requirements, Commission staff researched the various data currently required to be reported by postsecondary educational institutions. In addition, Commission staff contacted segmental research staff and the Information Technology (IT) staff to understand the current institutional reporting requirements and to identify how the SB 70 data requirements could be structured based upon data that was already being collected by institutions.

Once the regulations were in draft form, Commission staff also engaged in a more formal consultation process with interested stakeholders prior to filing the proposed regulations with the Office of Administrative Law. The pre-filing consultation process included webinars, conference calls and an in-person meeting, as detailed below. At each of the webinars, staff presented a power point of the regulations, explaining the purpose of each section. Staff also answered numerous questions that participants submitted via the "chat" feature on WebEx.

Following the filing of the proposed regulations with OAL on June 26, 2012, the Commission continued to seek comments from interested stakeholders participating in two additional conference calls and a webinar, prior to the public hearing. The Commission did not turn down a single request for a meeting.

No changes to the regulations were made as a result of this comment.

2) Ms. Gill commented that that the regulations will result in costing community colleges millions of dollars and significant cost to the Commission, which will not be reimbursed by the state.

**Student Aid Commission Response:** See Response to Comment 1.

3) Ms. Gill also commented that the federal government regulates data reporting similar to the requirements in the proposed regulations through the Integrated Postsecondary Education Data System (IPEDS) and Gainful Employment (GE)

**Student Aid Commission Response:** While IPEDS and GE do collect certain information that is similar to that being collected through these regulations, neither IPEDS nor GE collect certain data that is statutorily required such as enrollment, persistence and graduation data on Cal Grant recipients. In addition, certain postsecondary segments do not report “job placement rates” through GE. Education Code section 69433.2 provides specifically that “each Cal Grant participating institution shall ... annually report to the Commission...” the data set forth in that section. No change to the regulations was made in response to this comment.

4) Ms. Gill also commented that the new website the Commission plans to create regarding the proposed reporting requirements exceeds the scope of the statute and could create an inconsistent and misleading tool for students and their families. Ms. Gill goes on to suggest that the use of the federal site “College Navigator” is appropriate and better for Californians.

**Student Aid Commission Response:** On September 7, 2012, SB 1103 (Wright) was chaptered into law. This bill amended Education Code section 69433.2 to require the Student Aid Commission to provide “a searchable database” on its website for the data being gathered under that section and also to provide “other information and links that are useful to students and parents who are in the process of selecting a college or university.” No change to the regulations was made in response to this comment.

5) Ms. Gill also commented that there are alternatives that would be more effective in carrying out the intent of the Legislature while being less burdensome to educational institutions, summarized as follows:

1. The Commission withdraws the proposed regulations.
2. The Commission develops a report from IPEDS and GE to the legislature prior to December 31, 2012, providing the reporting data required by the proposed regulations.
3. The Commission convenes a consultative body, open to the public to discuss improvements in transparency and for California students and families, examining IPEDS and GE data; College Navigator, and “Shopping Sheets.”

**Student Aid Commission Response:** The Commission disagrees this is an alternative that would meet the requirements of Education Code section 69433.2. Neither IPEDS nor GE collects certain data that is statutorily required, such as enrollment, persistence and graduation data on Cal Grant recipients. The above alternative would not be more effective in carrying out the required reporting. No change to the regulations was made in response to this comment.

6) Ms. Gill also commented that clarification and change is needed to proposed regulation § 30033 regarding satisfactory academic progress as it may exceed statutory authority and to mitigate confusion.

**Student Aid Commission Response:** To address concerns expressed over students who may pursue an appeal of a determination by an institution that the student failed to meet satisfactory academic progress the timeframe language of “two consecutive semesters or three consecutive quarters” was removed from the proposed regulation. In addition, the definition of “satisfactory academic progress” was clarified by adding the statutory definition of satisfactory academic progress found at Education Code section 69432.7(m).

7) Ms. Gill also commented that proposed regulation § 30040(a) requires clarification regarding the reporting status for students enrolled in undergraduate coursework after achieving a first baccalaureate degree and specification regarding students solely enrolled in excluded courses.

**Student Aid Commission Response:** The Commission disagrees that additional clarification is needed. Section 30042(a) addresses the issue of how to account for students enrolled in undergraduate coursework following completion of a first baccalaureate degree by providing “any student who completes his or her program, certificate or degree and pursues a new program, certificate or degree at the same qualifying institution would be assigned to the academic year cohort applicable to the subsequent enrollment.” The Commission has inserted the word “solely” into section 30040(a) to address the second concern.

8) Ms. Gill also commented that proposed regulation § 30040(c)(2) needs to be amended to define enrollment status, and to clarify which status or term will be used to determine enrollment status and at what point enrollment status will be determined.

**Student Aid Commission Response:** The Commission disagrees with the commenter. The definition of “enrollment status” is found in Education Code section 69432.7(f). The regulations require reporting to occur for the academic year ending on the June 30<sup>th</sup> prior to the December 30 reporting deadline. As a result, the student’s enrollment status will have to be determined for the academic year.

9) Ms. Gill also commented that proposed regulation § 30040.2 needs to be amended to clarify the distinctions between cohorts and specify the protocol for reporting data for students that have not selected a program.

**Student Aid Commission Response:** The Commission disagrees with the commenter. The Commission believes that the definitions provided for “cohort” accurately describe the different populations being requested in the reporting. In addition, there is no requirement in the regulations that data be reported at the program level until graduation data is reported. Because the student will have completed his or



her program by that point, there are no issues raised by undeclared/undecided students. No changes to the regulations were made as a result of this comment.

**10)** Ms. Gill also commented that proposed regulation § 30040.2(a) needs to be amended to determine how reporting requirements are affected by students who have a gap in attendance and to avoid yielding misleading data when students change programs prior to completion.

**Student Aid Commission Response:** The Commission disagrees with the commenter. The definition of “cohort” in § 30040.2(a) provides that once a student enrolls in an institution, that the student remains in that cohort until the student graduates or completes the program. A student who has a gap in attendance before graduating remain in the cohort associated with his or her enrollment. In addition, there is no requirement in the regulations that data be reported at the program level until graduation data is reported, so while the data about the program changes is not required to be reported, the data may reflect that a student who changes programs took longer to graduate. The Commission disagrees that this results in “misleading data”, it merely reflects that students who change programs may take longer to graduate. No changes to the regulations were made as a result of this comment.

**11)** Ms. Gill also commented that proposed regulation § 30041 needs to be clarified after the previously cited issues in § 30040(c)(2) and § 30040.2 have been resolved.

**Student Aid Commission Response:** The Commission disagrees that § 30041 needs to be clarified and has responded to the comments on § 30040(c)(2) and § 30040.2 above. No changes to the regulations were made as a result of this comment.

**12)** Ms. Gill commented that proposed regulation § 30041.5(a) will be affected by resolution of the previously cited issues in § 30040(c)(2) and § 30040.2 and also that further clarification is needed regarding which enrollment status is to be reported for persistence and how to address programs that start and complete within one academic year.

**Student Aid Commission Response:** The Commission has addressed the claimed issues related to § 30040(c)(2) and § 30040.2 above and disagrees that these sections create an issue with § 30041.5(a). The Commission has also responded to the question of “enrollment status” in response to comment 4-8. Lastly, under the regulations, a student who enrolled and graduated in the same academic year would be subject to reporting in both the enrollment and graduation data. No changes to the regulations were made as a result of this comment.

**13)** Ms. Gill commented that proposed regulation § 30041.5(b) will be affected by resolution of the previously cited issue in § 30040.2 regarding students that have not declared a program and would need to be clarified.

**Student Aid Commission Response:** The Commission has addressed the comments in its response to 4-10 above. No changes to the regulations were made as a result of this comment.

**14)** Ms. Gill also commented that proposed regulation § 30042(a) needs to be amended to clarify which enrollment status will be reported and at what point in time. Ms. Gill also commented that proposed regulation § 30042(a)(1-3) and (b)(1-3) stating “Regardless of enrollment status” contains a problem as the definition is unclear; institutions reporting on part-time students will appear to be less successful; reporting varying enrollment statuses during the course of a student’s program will prove a reporting problem.

**Student Aid Commission Response:** The Commission has addressed the claimed issues related to § 30040(c)(2) and § 30040.2 above. While the Commission disagrees that institutions reporting on part-time students will appear to be less successful, that comment is not related to the substance of the regulations. The Commission also disagrees that institutions will have issues reporting whether a student is full-time or part-time over the course of the student’s program. Institutions currently collect the data on whether a student is enrolled full-time or part-time for each term that a student is enrolled in and should be able to report the academic year data to the Commission as contemplated by the regulations.

**15)** Ms. Gill commented that proposed regulation § 30042(c) poses a problem for California community colleges not being able report data on students that transfer outside of the state. Ms. Gill recommends striking the word “California.”

**Student Aid Commission Response:** The Commission agrees with this comment and has deleted the word “California” from section 30040(c).

**16)** Ms. Gill commented that proposed regulation § 30042.5 creates different definitions from GE program definitions, which many institutions have already incorporated, and would result in burdening public institutions with unnecessary reporting. Ms. Gill explained that, institutions have already structured their data systems to be compatible with the federal definitions of GE programs. Ms. Gill states that the federal definitions are more efficient because they have already been implemented and that significant public and private funds could be saved if the federal definitions were used. Ms. Gill recommends that the Student Aid Commission conduct a policy discussion on the GE program definitions to determine their value for and efficiencies for reporting.

**Student Aid Commission Response:** It is unclear which definitions in § 30042.5 the commenter believes are already defined in federal programs. However, the GE program definitions are broader than the programs which are subject to reporting under Education Code section 69433.2 and the GE definitions vary depending on whether an institution is a “Domestic Proprietary Institution” or “Domestic Postsecondary Vocational Institution” versus a “Domestic Public” or “Domestic Nonprofit Institution”. The Commission does not make this distinction between reporting institutions.

In addition, public institutions are subject to Education Code section 69433.2 and thus required to report if its programs fall within the reporting definitions. The request for a policy discussion on GE program definitions is not related to the substance of these regulations. No change to the regulations was made as a result of this comment.

**17)** Ms. Gill commented that proposed regulation § 30042.5(c)(1-2) includes the term “credit” and indicates that noncredit instruction can lead to certificates as well as courses in extension programs that should be included. Ms. Gill recommends deleting the word “credit”.

**Student Aid Commission Response:** The Commission agrees with this comment and has removed the proposed definitions found in § 30042.5(c)(1-2) because they conflict with the definition found in § 30042.5(c)(3).

**18)** Ms. Gill also commented that proposed regulation § 30042.5(d) may exclude credit-level preparatory or prerequisite coursework required for some degree programs.

**Student Aid Commission Response:** The Commission acknowledges that it is possible that certain “credit-level preparatory or prerequisite coursework required for some degree programs” may be excluded by this provision. However, in order to exclude the transfer-specific programs, it made it possible that certain other programs might fall within the exclusion. No change was made to the regulations as a result of this comment.

**19)** Ms. Gill also commented that proposed regulation § 30042.5(e)(1) is overly broad because many institutions maintain career centers to help students write resumes and prepare for interviews. Therefore, it could be interpreted to specify that all undergraduate programs must be reported if career services are offered.

**Student Aid Commission Response:** The Commission disagrees that this language is overbroad, or that helping write resumes and prepare for interviews falls within the proposed language. Whether an institution will have to report on a particular program will depend on the type of program being offered, and how the institution advertises or promotes its programs and their ability to obtain jobs. The career services offered by institutions vary from segment to segment and from campus to campus. Each institution will have to evaluate if for a particular program offered its “career services” meet the definition in § 30042.5(e)(1). No changes to the regulations were made as a result of this comment.

**20)** Ms. Gill also commented that proposed regulation § 30042.5(g)(1) is unclear regarding the service offered by the Commission; as to how community colleges would verify the accuracy of the data; regarding the time allowed for the Commission to develop the report; and as to how to address the lack of data for students in cases when no information was obtained.

**Student Aid Commission Response:** The Commission acknowledges that § 30042.5(g)(1) does not provide the level of detail noted in the comment. The Commission did not delineate the methods for collecting data, recognizing that there may be many different methods that could be used to seek the necessary data. Because of the potential for a variety of methods to collect data the Commission did not provide a specific timeline in which it would be allowed to develop the report, only that it would create the report and provide the report to the community colleges. The Commission cannot regulate how the community colleges would “verify” the data, but the Commission would provide the community colleges with the underlying data obtained to create the report. The Commission does not believe that it is necessary to address in regulation that data which could not be obtained will not be included in a report. No changes to the regulations were made in response to this request.

**21)** Ms. Gill also commented that proposed regulation § 30043(a-c) does not provide direction regarding students from whom data cannot be obtained. Ms. Gill also commented that proposed regulation § 30043(f) does not consider graduates that have unforeseen personal obligations temporarily preventing employment. Ms. Gill also commented that proposed regulation § 30043(e)(3) needs to be amended to reduce the required average minimum hours per week and minimum number of weeks.

**Student Aid Commission Response:** The sections of the regulations addressed by these comments were removed from this rulemaking and will be re-visited in a future rulemaking file which specifically addresses the 2013 reporting requirements. The Commission will provide notice to the commenter of the Notice of Proposed Rulemaking addressing the 2013 reporting requirements and will consider and address her comments as part of that process.

**22)** Ms. Gill also commented that proposed regulations do not include provisions for students simultaneously enrolled in multiple community colleges nor California State University students taking required community college courses.

**Student Aid Commission Response:** The Student Aid Commission disagrees that the regulations do not include provision for students that are simultaneously enrolled; each institution is required to report on its student population regardless of whether the student is attending multiple institutions.

**23)** Ms. Gill commented that that the following typographic errors (*in italics*) be corrected:

- § 30040(d) ...shall be considered to *be* out of compliance
- § 30042.5(d) Associate Degree General Education *General*

**Student Aid Commission Response:** The Commission has corrected these typographical errors.

## **5. Comments of Deb Barker-Garcia and Craig Yamamoto, California Association of Student Financial Aid Administrators**

1) The California Association of Student Financial Aid Administrators (CASFAA) commented on concerns regarding the pre-notice consultation, specifying that the webinars were ineffective and consisted mainly of one-way communication from the Commission after the regulations had been drafted, and in addition that webinar announcements did not provide adequate time for participants to arrange their schedules to attend.

**Student Aid Commission Response:** The Commission disagrees with this comment. As noted in response to a previous comment, see Student Aid Commission Response to 4-1 above, the Commission held significant pre-notice consultation. In addition, the Commission held two conference calls specifically with CASFAA. The Commission was not required to start from scratch in its consultation with interested parties. The Commission made significant changes to the proposal prior to filing the Notice of Proposed Rulemaking. No changes were made to these regulations in response to this comment.

2) CASFAA commented that comparable Federal regulations exist in requirements for IPEDS and GE reporting and pointed out that the Commission did not indicate when completing the Economic and Fiscal Impact Statement.

**Student Aid Commission Response:** IPEDS and GE do collect certain information that is similar to that being collected through these regulations and the Commission will amend its Economic and Fiscal Impact Statement. No change to the regulations was made in response to this comment.

3) CASFAA also commented that they believe there are alternatives to the proposed regulations, which the Commission has not considered or has not informed the stakeholders of the reasons why the Commission does not consider the alternatives to be effective.

**Student Aid Commission Response:** The potential alternatives to the proposed regulations would necessitate that the data required by the statute is already being collected from the institutions and is being reported to any of the following entities: the U.S Department of Education, the accrediting agencies or another state entity. These alternatives were determined not to be entirely effective because certain elements that are statutorily required by SB 70 are not collected by IPEDS, are not reported for purposes of GE, and are not collected by another state entity or the accrediting agencies. To the extent practicable, the Commission mirrored reporting requirements in those instances where the IPEDS reporting overlapped with the SB 70 requirements. No change to the regulations was made in response to the regulations.

4) CASFAA also commented that the proposed website significantly alters and enlarges the scope of SB 70 and will contain only information for California institutions, which would make it difficult to compare those institutions with out-of-state institutions. In addition, CASFAA pointed out that data exists on currently available websites.

**Student Aid Commission Response:** See Response to Comment 4-4. The Commission acknowledges that institutions that are not Cal Grant participating institutions, including out-of-state institutions, will not be included in the data reporting or the searchable database. This does not change the statutory obligation for a Cal Grant participating institution to report its data and for the Commission to provide the searchable database. No change to the regulations was made in response to this comment.

5) CASFAA commented that the use of CIP codes significantly enlarges the scope of SB 70, exceeds other Cal Grant controlling statutes and that the use of these codes will be confusing and incomplete for students.

**Student Aid Commission Response:** The use of CIP codes for reporting graduation data is a process that institutions participating in the Federal Title IV programs already use when reporting graduation data to IPEDS. The Commission utilized the CIP code methodology, rather than creating its own classification system precisely because institutions already report in this manner and, as a result, no additional workload is associated with this reporting. The use of a CIP Code to differentiate between programs does not “enlarge” the reporting requirement or “exceed other Cal Grant controlling statutes”, it merely allows data for the different programs being reported by the institution to be classified separately from other programs being offered by the same institution. Use of the CIP code in this manner is consistent with how this data is reported nationally. No changes were made to the regulations in response to this comment.

6) CASFAA also commented that the Commission did not accurately describe the cost impact of the proposed regulations to the state and did not solicit alternatives and that they create additional workload for public colleges.

**Student Aid Commission Response:** Education Code section 69433.2 provides that “as a condition for its voluntary participation in the Cal Grant Program, each Cal Grant participating institution shall, beginning in 2012, annually report to the Commission ...”; that data that is the subject of these regulations. The Commission has, within the regulations, offered to complete the enrollment, persistence and graduation reporting on behalf of all institutions. In addition, the Commission offered to prepare the job placement rate and salary and wage reporting for the CCCs. The cost associated with reporting enrollment, persistence and graduation data should be minimal for any institution that chooses to report this data without Commission assistance since the institutions already collect this data.

Furthermore, by limiting this current rulemaking to the 2012 job placement rate and salary and wage reporting data only, institutions are only required to provide data on the total number of students who graduated during the 2011/12 academic year. This data is already in the possession of the institution and should not require any additional cost to report. No changes have been made to the regulations in response to this comment.

7) CASFAA also commented that the timeline for reporting data as specified in the proposed regulations does not provide adequate time to collect the newly required data and does not correlate with federal IPEDS data reporting deadline.

**Student Aid Commission Response:** Education Code section 69433.2 requires that reporting begin in 2012. As a result, December 31, 2012 was chosen as the deadline for the 2011/12 academic year reporting. When the Commission revisits the 2013 reporting requirements, it will revisit the idea of aligning the reporting timeframe with the federal data reporting deadlines. Such a change at this time would not meet the statutory requirements and, as such, no changes were made to the regulations in response to this comment.

8) CASFAA commented that the term “enrollment status” in § 30041.5 is unclear and needs to be clarified and defined.

**Student Aid Commission Response:** The Commission disagrees with the commenter. The definition of enrollment status is found in Education Code section 69432.7(f). No changes to the regulations were made as a result of this comment.

9) CASFAA also commented that the alternative reporting option offered by the commission may conflict with Federal Family Education Reporting Privacy Rights.

**Student Aid Commission Response:** See Response to Comment 10-5.

10) CASFAA commented that § 30042 requires data segregated by “educational level;” however, they are unclear as to what the term means and why it is needed for graduation data and also commented that the regulation appears to enlarge and amend the statute.

**Student Aid Commission Response:** The proposed use of “educational level” as part of the reporting requirements was removed during consultation meetings held by the Commission prior to the filing of the Notice of Proposed Rulemaking. It does not appear in these regulations. No changes to these regulations were made as a result of this comment.

11) CASFAA commented that the placement and salary data required by § 30042.5 is based on a different cohort than the cohort for graduation data as described in § 30042 and that it appears to result in unrelated sets of graduation data being reported.

**Student Aid Commission Response:** Comment noted. The regulations provide the different definitions of the population of student at § 30040.2. The definitions differ because the reports differ. Student enrollment, persistence and graduation data is being reported under § 30042, while the job placement and salary and wage data report is found in § 30042.5. The graduation data for the report set forth in § 30042.5. is a

subset of the data that would be reported under § 30042. No changes to the regulations were made as a result of this comment.

**12)** CASFAA also commented that the Commission should adopt the same standard as the U.S. Department of Education related to teacher certification programs in § 30042.5(c)(5) and that there is no justification to create new standards.

**Student Aid Commission Response:** This section was removed from the job placement rate and salary and wage reporting when it was clarified in a preceding paragraph that the job placement rate and salary and wage reporting would be limited to certificate and associate's degree programs.

**13)** CASFAA also commented that the time periods do not need to be included in § 30033 as they relate to Satisfactory Academic Progress (SAP) because the time periods are either in conflict with or duplicative of federal regulations.

**Student Aid Commission Response:** See Response to Comment 4-6.

**14)** CASFAA also commented that § 30041.5 is unclear, creates confusion, and attempts to amend the statute as the regulation does not include students who complete the program and do not enroll or who have completed a program that is one year in length.

**Student Aid Commission Response:** The Commission disagrees with this comment. Under the regulations, a student who enrolled and graduated in the same academic year would be subject to reporting in both the enrollment and graduation data. No changes to the regulations were made as a result of this comment.

**15)** CASFAA commented that students enrolled part time will not be considered as successful based on § 30042 and in addition, sub section (3) enlarges and amends the statute by restricting reporting of transfers to only California institutions.

**Student Aid Commission Response:** The Commission disagrees that part-time students will appear to be less successful based upon § 30042. That section merely requires an institution to report the length of time that it took a student to graduate, whether full-time or part-time and permits the reporting of graduation data up to 400% of the published program length if the institution so chooses. In addition, the Commission has addressed the second concern by deleting the word "California" from section 30040(c).

## **6. Comments from Joe Wyse, Shasta College**

**1)** Mr. Wyse commented that the data required by the proposed regulations would be impossible to fulfill by deadline of November 15, 2012.



**Student Aid Commission Response:** An institution that chooses to submit unitary data to the Commission so as to allow the Commission to prepare the report on the institution's behalf would generally be required to provide that data by November 15<sup>th</sup>. An Institution that chooses to create its own report must provide that report to the Commission by December 31<sup>st</sup>. The regulations also contemplate that the Commission can extend the deadline by 90 days.

2) Mr. Wyse commented that Shasta College does not have unitary data on student employment status or wages and that other required data obtained by survey would result in a high percentage of uncollected information. He also commented that Shasta College conducted two parallel surveys of former students and based on that experience, pointed out that a community college can collect and report some of the required information, but that it cannot be done within the timeline required by the proposed regulations nor by using individual student records. He further commented that surveys without wage and occupation data from the EDD would result in an estimate for a very small number of students in a program.

**Student Aid Commission Response:** The Commission has removed from the current rulemaking file those portions of the job placement and salary and wage data reporting that were applicable to 2013 and beyond. The portions will be the subject of new rulemaking file. By limiting this current rulemaking to the 2012 job placement and salary and wage reporting data only, institutions are only required to provide data on the total number of students who graduated during the 2011-12 academic year. The Commission will provide notice to the commenter of the Notice of Proposed Rulemaking addressing the 2013 reporting requirements and will consider and address his comments as part of that process.

## 7. Comments from Los Angeles Community College District

The Los Angeles Community College District (LACCD) commented that placement rates in the proposed regulations will not provide the desired information to students and the public and will not reflect the true effectiveness of the college programs. LACCD also commented that the ideal method of collecting data on job placements would be through a system that already collects employment data and that without this, institutions would have to incur substantial cost and time commitments to survey students, resulting in an unfunded mandate. LACCD also commented that surveys suffer from low response rates and would call into question the quality of information, which is compounded by the fact that some programs matriculate only a few students each year. LACCD also commented that reporting by CIP code could lead to programs with a low response rate and erroneously report data that may not accurately represent the program, and went on to comment that LACCD hopes that alternative methods of job placement data collection can be found. LACCD also commented that § 30043 job placement data collected by survey will significantly underestimate job placement rates when counting survey non-respondents as individuals who have not obtained jobs in their field of study and will lead to data results that do not accurately represent the effectiveness of the program. LACCD also commented that proposed regulations §

30040.5 does not take into account students who may complete one certificate and continue on to complete a certificate with higher unit requirements and that these students would be assigned to a cohort in spite of the fact that they are unavailable for employment for the full two years of the reporting requirement. LACCD also commented that the timing of data collection would limit the applicability of any rate determined in the first year of data collection and should allow for reasonable periods for job search, employment, and data collection. Finally, LACCD commented that to fully assess program completion as it relates to continued employment, consideration must be made for students with prior employment or employment during the program.

**Student Aid Commission Response:** The Commission has removed from the current rulemaking file those portions of the job placement and salary and wage data reporting that were applicable to 2013 and beyond. The removed portions will be the subject of a new rulemaking file. The Commission will provide notice to the commenter of the Notice of Proposed Rulemaking addressing the 2013 reporting requirements and will consider and address these comments as part of that process.

#### **8. Comments from Anthony Guida, Jr., Argosy University**

1) Mr. Guida commented that the definition of graduate “employed in the field” in § 30043 is unnecessarily restrictive, that it places new and unduly burdensome collection obligations on institutions and that the proposed regulations does not recognize the possibility that graduates may find employment in multiple positions, in part-time positions, or through self-employment.

**Student Aid Commission Response:** The Commission has removed from the current rulemaking file those portions of the job placement and salary and wage data reporting that were applicable to 2013 and beyond including the definition of graduate “employed in the field.” The removed portions will be the subject of new rulemaking file. The Commission will provide notice to the commenter of the Notice of Proposed Rulemaking addressing the 2013 reporting requirements and will consider and address his comments as part of that process.

2) Mr. Guida commented that the data reporting requirements in the proposed regulations is related to academic years in which the required data was not collected and requests that the reporting requirements not be imposed until the 2013 award year.

**Student Aid Commission Response:** This rulemaking file has been limited to the data necessary for the 2012 reporting of the job placement and salary and wage reporting. As result, the only data being required under the job placement and salary and wage data reporting, is graduation data for those students who completed their program during the 2011-12 academic year. The institution should already have this data available.

## 9. Comments from the Association of Independent California Colleges and Universities

1) The Association of Independent Colleges and Universities (AICCU) commented that the proposed regulations exceed the intent and purpose of SB 70 and increase the administrative burden without improving student or family understanding about what makes a quality educational program.

**Student Aid Commission Response:** The Student Aid Commission disagrees that the proposed regulation exceeds the scope of Senate Bill 70, and the commenter has not provided any further explanation other than to state that claim. With respect to the increased burden comment, the reporting requirements are statutory and apply to all Cal Grant participating institutions. The comment on whether such reporting improves student or family understanding about what make a quality educational program is no substantively related to the regulations. No changes were made to the regulations as based on the comment.

2) AICCU also commented that the proposed regulations are silent as to the Commission's role and responsibility regarding the data collected or to what parties the information can/will be provided.

**Student Aid Commission Response:** See Response to Comment 4-4.

3) AICCU also commented that the proposed use of CIP codes is inconsistent with existing statutes governing Cal Grants and are not defined or referenced within SB 70 and will serve no useful purpose.

**Student Aid Commission Response:** See Response to Comment 5-5.

4) AICCU also commented that the inclusion of CIP codes in reporting of graduation rates is premature and without precedent and that there are numerous unresolved issues about which there is no consensus. AICCU referred to examples cited in the comment letter submitted to the Commission by Dean Kulju, CSU Office of the Chancellor, on June 15, 2012.

**Student Aid Commission Response:** The use of CIP codes for reporting graduation data is a process that the institutions participating in the Federal Title IV programs must already use when reporting graduation data to IPEDS. Since all Cal Grant participating institution must be Title IV program participants, the Commission utilized the CIP code methodology, rather than creating its own classification system precisely because institutions already report in this manner. No changes were made to the regulations in response to this comment.

5) AICCU also commented that the Commission could use comprehensive enrollment, persistence, and graduate data already available from federal agencies and other state agencies using nationally agreed upon standards established through IPEDS.

**Student Aid Commission Response:** Education Code section 69433.2 provides specifically that “each Cal Grant participating institution shall ... annually report to the Commission...” the data set forth in that section. While IPEDS does collect certain information that is similar to that being collected through these regulations, it does not collect all of the data elements that are statutorily required, such as enrollment, persistence and graduation data on Cal Grant recipients. No change to the regulations was made in response to this comment.

6) AICCU also commented that the annual report required by § 33340 should be for Cal Grant eligible undergraduate programs as recognized in SB 760 and that AICCU concurs with the comments provided by CSU and CASFAA.

**Student Aid Commission Response:** SB 760 was not enacted into law. SB 70, which added section 69433.2 to the Education Code, provides that each Cal Grant participating institution shall report “for its undergraduate programs.” This reporting was not limited to Cal Grant eligible undergraduate programs. No changes were made to the regulations as a result of this comment.

7) Finally, AICCU commented that the Commission should adopt the same standard as the U.S. Department of Education as it relates to § 30042.5(c)(5) regarding teacher certification programs.

**Student Aid Commission Response:** See Response to Comment 5-12.

## 10. Comments from the Fashion Institute of Design and Merchandising

1) The Fashion Institute of Design and Merchandizing (FIDM) commented that the proposed regulations are complex, expensive, and not the least burdensome, effective alternative for schools, students, and families.

**Student Aid Commission Response:** The Commission disagrees with this comment. The enrollment, persistence and graduation reporting is substantially similar to the reporting that Title IV schools are required to report to IPEDS, with the addition of some data points, such as data on Cal Grant recipients, that is required by the Education Code. Institutions already possess the requisite data; it is not complex, expensive or burdensome to subsequently report the data to the Commission.

The Commission has removed from the current rulemaking file those portions of the job placement and salary and wage data reporting that were applicable to 2013 and beyond; those reporting requirements will be the subject of new rulemaking file. By limiting this current rulemaking to the 2012 job placement and salary and wage reporting data only, institutions are only required to provide data on the total number of students who graduated during the 11/12 academic year in a program that is subject to reporting under this section. This data is already in the possession of the institution and should not require any additional cost to report. No changes have been made to the regulations in response to this comment.

2) FIDM commented that the proposed regulations duplicate federal gainful employment and IPEDS reporting requirements and requires substantial additional workload and expense at the campus level.

**Student Aid Commission Response:** Education Code section 69433.2 applies to all Cal Grant participating institutions. As has been noted in response to other commenters, neither IPEDS nor GE collects certain data that is statutorily required by Education Code section 69433.2. Furthermore, for the enrollment, persistence and graduation data reporting, the Commission has, within the text of the regulations, established a process for the Commission to complete the reporting on behalf of the institutions. No changes were made to the regulations as a result of this comment.

3) FIDM also commented that the Commission's proposed website exceeds the intent of SB 70, which should focus on holding Cal Grant institutions accountable for student outcomes.

**Student Aid Commission Response:** See Response to Comment 4-4.

4) FIDM also commented that the regulation requirements for reporting data by race/ethnicity, gender and enrollment status is not required by SB 70 and raises serious student and family privacy issues.

**Student Aid Commission Response:** In implementing SB 70, the Commission is not limited solely to the text of the statute. Having the institutions provide additional student characteristics as part of the enrollment, persistence and graduation data will provide valuable information on the students as they progress from enrollment through graduation. Because this information will be included in the searchable database created pursuant to Education Code section 69433.2, students will be able to evaluate their own information against student who share their characteristics. This may help them make better choices when selecting an institution to attend.

In addition, enrollment status (whether a student is full-time or part-time) clearly impacts student graduation data. A part-time student is not likely to complete a program "on time". Rather, the reduced course load requires a part-time student to take additional terms to complete his or her program. In addition, for institutions with significant numbers of part-time students, combining the full-time and part-time students into a single piece of data skews the graduation data to a lower than expected completion rate at 100% (expected time of completion for a full-time student). Students evaluating a particular institution or comparing institutions may wish to consider the length of time that it may take to complete their degree, depending on whether they attend full-time or part-time.

No changes were made to the regulations in response to this comment.

5) FIDM commented that the Commission's proposition of using unitary student specific information appears to be in conflict with FERPA.

**Student Aid Commission Response:** The Family Educational Rights and Privacy Act (FERPA) requires that federally funded institutions, under programs administered by the United States Department of Education, comply with certain procedures with regard to disclosing and maintaining educational records. FERPA was enacted to protect the privacy of education records, specifically the disclosure of personally identifiable information (PII) from education records. As of January 3, 2012, the regulations implementing FERPA were broadened in recognition of the fact that improved access to data will facilitate States' ability to evaluate education programs.

The Commission disagrees that FERPA prohibits the Commission from receiving unitary data from an institution in order to complete the annuals reports on the institution's behalf. The Commission falls within the category of delineated entities that are to receive, without consent, PII from educational records. In addition, the Commission already exchanges unitary data with its Cal Grant participating institutions.

No changes to the regulations were made as a result of this comment.

6) FIDM commented that the language of SB 70 does not reference students, parents or using the data as a college going evaluation tool and that there is no evidence that the legislature intended to have the data used in this manner.

**Student Aid Commission Response:** See Response to Comment 9-2.

7) FIDM commented that the proposed regulations for SB 70 is not consistent with the Commission's previous pursuit of SB 760, which would have allowed use of existing federal data in lieu of requiring institutions to report and that the rejection of SB 760 was not related to the consideration of alternative data sources.

**Student Aid Commission Response:** SB 760 was not enacted into law. SB 70, which added section 69433.2 to the Education Code, and which is the underlying statute that is the subject of this rulemaking. This comment is not related to the substance of these regulations.

8) FIDM commented that the least burdensome and most effective alternatives were not considered in drafting the proposed regulations, in particular the inclusion of CIP codes exceeds the level of detail required by SB 70. FIDM also commented that requiring the use of CIP codes will create major issues in data interpretation

**Student Aid Commission Response:** The use of CIP codes for reporting graduation data does not "exceed" the level of detail for the reporting of data on undergraduate programs. It is a process that the institutions participating in the Federal Title IV programs must already use when reporting graduation data to IPEDS. The Commission utilized the CIP code methodology, rather than creating its own classification system precisely because institutions already report in this manner and, as a result, no

additional workload is associated with this reporting, making it both effect and less burdensome than other methods which could have been used.

In addition, the Commission will work with an institution that feels that the CIP Code name is confusing because of the name of the major or program used by the institution. The Commission has committed to working with institutions on the implementation of the display of the collected data. However, this is not an issue that is applicable to the current proposal as this proposal applies to the collection of data.

9) FIDM also commented that institutions provide extensive data through the federal IPEDS and GE reporting requirements and that there is no evidence in statute or legislative intent that the use of existing data would not meet the reporting requirements under SB 70.

**Student Aid Commission Response:** Education Code section 69433.2 provides specifically that “each Cal Grant participating institution shall ... annually report to the Commission...” the data set forth in that section. As noted in response to comment 8, IPEDS and GE do collect certain information that is similar to that being collected through these regulations, neither IPEDS nor GE collect certain data that is statutorily required such as enrollment, persistence and graduation data on Cal Grant recipients. In addition, certain postsecondary segments do not report “job placement rates”. No change to the regulations was made in response to this comment.

10) FIDM commented that the proposed regulations will require institutions to develop specific reports for the Commission, which will add substantially to the administrative burden of compliance.

**Student Aid Commission Response:** The annual reports required by Education Code section 69433.2 are mandatory for all institutions that participate in the Cal Grant Program. No changes were made to the regulations in response to this comment.

11) FIDM commented that the proposed regulations must be considered a state mandated cost at public institutions and that the proposed regulations will contribute directly to an increase in the cost of attendance at non-public institutions. FIDM also commented that opting out of voluntary participation in the Cal Grant programs is not a viable alternative for any school as the Cal Grant programs are a major statewide student assistance program.

**Student Aid Commission Response:** Education Code section 69433.2 provides that “as a condition for its voluntary participation in the Cal Grant Program, each Cal Grant participating institution shall, beginning in 2012, annually report to the Commission ...”. The remaining comment is not related to the substance of these regulations. No change to the regulations was made as a result of this comment.

12) FIDM also commented that the Commission did not accurately quantify the costs of compliance with the proposed regulations.

**Student Aid Commission Response:** See response to previous comment. In addition, the Commission has, within the regulations, offered to complete the enrollment, persistence and graduation reporting on behalf of all institutions. The cost associated with reporting enrollment, persistence and graduation data should be minimal for any institution that chooses to report this data without Commission assistance since the institutions already collect this data.

Furthermore, by limiting this current rulemaking to the 2012 job placement rate and salary and wage reporting data only, institutions are only required to provide data on the total number of students who graduated during the 2011/12 academic year. This data is already in the possession of the institution and should not require any additional cost to report. No changes have been made to the regulations in response to this comment.

No changes have been made to the regulations in response to this comment.

**13)** FIDM also commented that the draft regulations were significantly delayed, which has provided inadequate opportunity for stakeholders to respond and which thereby creates deadlines for data submission that will be difficult to meet.

**Student Aid Commission Response:** The Commission disagrees with this comment. As noted in response to a previous comment, see Student Aid Commission Response to 4-1 above, the Commission held significant pre-notice consultation and has continued to hold meetings and webinars following the publishing of the Notice of Proposed Rulemaking. The regulations also contemplate that the Commission can extend the deadline by 90 days and the 2012 reporting requirements are limited to information that institutions already possess.

**14)** FIDM also commented that the data collection requirements are unrealistic to obtain and that placement and salary information is not available for all graduates.

**Student Aid Commission Response:** The Commission has removed from the current rulemaking file those portions of the job placement and salary and wage data reporting that were applicable to 2013 and beyond for job placement reporting. The removed portions will be the subject of new rulemaking file. The Commission will provide notice to the commenter of the Notice of Proposed Rulemaking addressing the 2013 reporting requirements and will consider and address this comment as part of that process.

**15)** Finally, FIDM commented that displaying the reported data with no context or ranking of relative performance will not help families identify their options but will only add to the current confusion generation by the profusion of information from multiple sources.

**Student Aid Commission Response:** See Response to comment 17-7.

## **11. Comments from the California Community Colleges Student Financial Aid Administrators Association**



1) The California Community Colleges Student Financial Aid Administrators Association (CCCSFAAA) commented that the proposed regulations exceed the scope of the law; the cost of implementing the regulations as written would be detrimental to California community colleges (CCC); CCCs are not structured to gather and track placement, salary, and wage data of graduates, and that the data required by the proposed regulations available at the federal level.

**Student Aid Commission Response:** See Response to Comment 2.

2) CCCSFAAA commented that job placement as defined in the proposed regulations may result in the underreporting due to the requirement of use of SOC or CIP codes for the programs from which students graduate.

**Student Aid Commission Response:** The Commission has removed from the current rulemaking file those portions of the job placement and salary and wage data reporting that were applicable to 2013 and beyond including the use of CIP and SOC codes for job placement reporting. The portions will be the subject of new rulemaking file. The Commission will provide notice to the commenter of the Notice of Proposed Rulemaking addressing the 2013 reporting requirements and will consider and address his comments as part of that process.

3) CCCSFAAA commented that their institutions will not maintain compliance with the proposed regulations without substantial operational and system changes as they do not currently collect or track data for graduates unavailable for employment, graduates who are employed in their field, and salary and wage information.

**Student Aid Commission Response:** The Commission has removed from the current rulemaking file those portions of the job placement and salary and wage data reporting that were applicable to 2013 and beyond. The removed sections will be the subject of new rulemaking file. By limiting this current rulemaking to the 2012 job placement and salary and wage reporting data only, institutions are only required to provide data on the total number of students who graduated during the 2011-12 academic year. This data is already in the possession of the institution and should not require any additional cost to report.

4) CCCSFAAA also commented that the Commission's offer to collect data on behalf of the CCCs does not address the actual cost to comply with the proposed regulations and that this process may conflict with FERPA. . The Community Colleges are currently reporting placement, salary and wage information to federal government agencies as required for Perkins funding. The Student Aid Commission should use similar data.

**Student Aid Commission Response:** See Responses to Comments 1 and 10-5. The Commission has removed from the current rulemaking file those portions of the job placement and salary and wage data reporting that were applicable to 2013 and beyond. The portions will be the subject of new rulemaking file. By limiting this current

rulemaking to the 2012 job placement and salary and wage reporting data only, institutions are only required to provide data on the total number of students who graduated during the 2011-12 academic year. This data is already in the possession of the institution and should not require any additional cost to report.

5) CCCSFAAA also commented that the CCCs would incur costs on the data they can report and that this potential cost was not disclosed in the Economic and Fiscal Impact Statement.

**Student Aid Commission Response:** See Response to Comment 16-5.

6) CCCSFAAA also commented that the proposed website will not provide accurate consumer information; will have unknown costs; is duplicative of federal reporting; and exceeds the scope of SB 70.

**Student Aid Commission Response:** See Response to Comment 4-4. The reporting established by Education code section 69433.2 is mandatory for all Cal Grant Program participating institutions. The disclosure of the data to students through a “searchable database” is also statutory regardless of whether such data may possibly be in some manner duplicative. The comments regarding whether the required website will provide accurate consumer information or what it will cost the Commission to implement the website are not substantively related to the regulations.

7) CCCSFAAA also commented that the use of surveyed data for the job placement reporting will not be statistically meaningful nor will it provide the best consumer information.

**Student Aid Commission Response:** The section of the regulations addressed by this comment was removed from this rulemaking and will be re-visited in a future rulemaking file which specifically addresses the 2013 reporting requirements. The Commission will provide notice to the commenter of the Notice of Proposed Rulemaking addressing the 2013 reporting requirements and will consider and address the comment as part of that process.

8) CCCSFAAA commented that failure to disclose out-of-state transfer data will result in underreporting of graduation data and inaccurate consumer information.

**Student Aid Commission Response:** See Response to Comment 4-15.

9) CCCSFAAA commented that the creation of another database and website will be confusing for students and is an unnecessary cost.

**Student Aid Commission Response:** See Response to Comment 4-4.

10) Finally, CCCSFAAA commented that recommendations for the proposed regulations were not considered and that the promulgation of the proposed regulations has been rushed.

**Student Aid Commission Response:** The Commission disagrees with this comment. As noted in response to a previous comment, see Response to Comment 4-1 above, the Commission held significant pre-notice consultation and made changes to the proposal prior to the filing of the Notice of Proposed Rulemaking. Following the filing of the Notice, the Commission has continued to hold meetings, conference calls, a public hearing under the Administrative Procedures Act and another opportunity to address the Commission through the Bagley-Keene Open Meeting Act at the Commission's September 13-14, 2012 regular meeting. No changes were made to the regulations in response to this comment.

## 12. Comments from the California Association of Private Postsecondary Schools

1) CAPPs commented that the Commission issued last minute meeting notices and abruptly changed meeting dates.

**Student Aid Commission Response:** The Commission disagrees with this comment. See response to Comment 11-8.

2) CAPPs also commented that it appears the Commission has created a unique set of data reporting requirements that would require institutions to create new data collection software and hire additional staff to complete the reporting.

**Student Aid Commission Response:** The reporting established by Education code section 69433.2 is mandatory for all Cal Grant Program participating institutions. The Commission has, within the regulations, offered to complete the enrollment, persistence and graduation reporting on behalf of all institutions. The cost associated with reporting enrollment, persistence and graduation data should be minimal for any institution that chooses to report this data without Commission assistance since the institutions already collect this data. The Commission has removed from the current rulemaking file those portions of the job placement and salary and wage data reporting that were applicable to 2013 and beyond.

3) CAPPs also commented the Commission's implementation of reporting that does not incorporate existing data and definitions will force additional costs onto the institutions. CAPPs also commented that existing higher education reporting systems contain the data elements that will provide adequate information on eligible institutions. Lastly, CAPPs commented that the proposed regulations promote duplication and that existing data systems provide more comprehensive data on students.

**Student Aid Commission Response:** Education Code section 69433.2 provides specifically that "each Cal Grant participating institution shall ... annually report to the

Commission...” the data set forth in that section. While IPEDS does collect certain information that is similar to that being collected through these regulations, it does not collect all of the data elements that are statutorily required, such as enrollment, persistence and graduation data on Cal Grant recipients which would minimize costs for an institution. No change to the regulations was made in response to this comment.

4) CAPPs also commented that the Commission began the regulatory process fourteen months after SB 70 legislation was passed and that it may result in a poor or incomplete outcome.

**Student Aid Commission Response:** The Commission disagrees with this comment. See Response to Comment 4-1. This comment does not address the substance of the regulations.

5) CAPPs also commented that the fact that the Commission website and data collection will be limited only to Cal Grant students, which mitigates in favor of minimal reporting as opposed to the reporting required by the proposed regulations.

**Student Aid Commission Response:** The Commission disagrees that the Commission website and data collection is limited to Cal Grant students. Education Code section 69433.2 requires data on all undergraduate programs including aggregate data on Cal Grant recipients. No change to the regulations was made in response to this comment.

6) CAPPs also commented that the proposed use of CIP codes would result in misleading, incomplete, and confusing information.

**Student Aid Commission Response:** The Commission disagrees with this comment. The use of CIP codes for reporting graduation data does not result in “misleading, incomplete and confusing information.” It is a process that the institutions participating in the Federal Title IV programs must already use when reporting graduation data to IPEDS. The Commission utilized the CIP code methodology, rather than creating its own classification system precisely because institutions already report in this manner and, as a result, no additional workload is associated with this reporting. Because CIP codes are only used for reporting graduation data, a student will have completed a particular program and will not be undeclared or changing programs; they will have completed a program. No changes were made to the regulations in response to this comment.

7) CAPPs also commented that the proposed timeline does not correlate with other major data reporting.

**Student Aid Commission Response:** Education Code section 69433.2 requires that reporting begin in 2012. As a result, December 2012 was chosen as the deadline for the 2011/12 academic year reporting. When the Commission revisits the 2013 reporting

requirements, it will revisit the idea of aligning the reporting timeframe with the federal data reporting deadlines. No changes were made to the regulations in response to this comment.

8) CAPPS also commented that the use of the term educational level will lead to confusing data reporting.

**Student Aid Commission Response:** The proposed use of “educational level” as part of the reporting requirements was removed during consultation meetings held by the Commission prior to the filing of the Notice of Proposed Rulemaking. It does not appear in these regulations. No changes to these regulations were made as a result of this comment.

9) CAPPS also commented that the proposed definition for annual job placement rate is based on different cohorts and will result in reporting two, different sets of graduation data.

**Student Aid Commission Response:** The Commission has removed from the current rulemaking file those portions of the job placement and salary and wage data reporting that were applicable to 2013 and beyond. The portions will be the subject of new rulemaking file. By limiting this current rulemaking to the 2012 job placement and salary and wage reporting data only, institutions are only required to provide data on the total number of students who graduated during the 2011-12 academic year.

10) CAPPS also commented that the Commission needs to adopt the USDE definition for teacher certification.

**Student Aid Commission Response:** See Response to Comment 5-12.

11) CAPPS also commented that the proposed changes to SAP violates and is inconsistent with USDE and other institutional policies.

**Student Aid Commission Response:** See Response to Comment 4-6.

12) CAPPS also commented that persistence data does not include students who complete a program and do not need to enroll or students who have completed a program in less than one year.

**Student Aid Commission Response:** The commenter is correct that persistence data will not include students who enroll and complete a program in a single year, although the data is captured under both the enrollment and graduation data. No changes were made to the these regulations as a result of this comment.

13) Finally, CAPPS commented that the parameters proposed for graduation data will result in reporting an incorrect outcome and would be biased against students that work and attend school part time.

**Student Aid Commission Response:** The Commission disagrees that graduation data reporting for part-time students results in an incorrect outcome or is biased against that population of students. That section merely requires an institution to report the length of time that it took a student to graduate, whether the student was full-time or part-time. It also permits the reporting of graduation data up to 400% of the published program length, if the institution so chooses, to demonstrate the part-time students are completing the program.

### 13. Comments from American Career College and West Coast University

1) The American Career College and West Coast University (ACCWCU) commented that they are concerned about the additional burden of reporting to the Commission and disclosing complex and duplicative information to students.

**Student Aid Commission Response:** The reporting established by Education code section 69433.2 is mandatory for all Cal Grant Program participating institutions. The disclosure of the data to students through a “searchable database” is also statutory regardless of whether such data may possibly be complex or duplicative. No change to the regulations was made in response to this comment.

2) ACCWCU commented that the required reporting information is already being reported to BPPE; various accrediting agencies; and/or the USDE, and that the information is disclosed to prospective students through BPPE and GE.

**Student Aid Commission Response:** Certain Cal Grant participating institutions are subject to reporting under both the reporting that is the subject of this rulemaking and under BPPE regulation. Both of these reporting requirements are statutory. The Commission has removed from the current rulemaking file those portions of the job placement and salary and wage data reporting that were applicable to 2013 and beyond; those reporting requirements will be the subject of new rulemaking file. By limiting this current rulemaking to the 2012 job placement and salary and wage reporting data only, institutions are only required to provide data on the total number of students who graduated during the 11/12 academic year; which is information that the institution should already possess.

3) ACCWCU commented that the proposed regulations contain inconsistent definitions and timeframes and creates unnecessary, costly, and confusing regulatory reporting requirements.

**Student Aid Commission Response:** See Responses to 4-3, 4-16 and 10-2.

4) ACCWCU commented that the proposed regulations will result in unintended consequences and confusing information for students and families. ACCWCU suggested that the Commission utilize existing data for enrollment, persistence, and

graduation, in addition to wage and salary data available from IPEDS reports; College Navigator; BPPE; or an accrediting agency.

**Student Aid Commission Response:** See Responses to 4-3, 4-16 and 10-2. Use of the potential alternative sources listed would necessitate that the data required by the statute is already being collected and reported. These alternatives were determined not to be entirely effective because certain elements that are statutorily required by SB 70 are not collected by IPEDS, are not reported for purposes of GE, and are not collected by another state entity or the accrediting agencies. To the extent practicable, the Commission mirrored reporting requirements in those instances where the IPEDS reporting overlapped with the SB 70 requirements. No change to the regulations was made in response to the regulations.

5) ACCWCU also commented that institutions would not have to incur the expense and additional manpower if the Commission would accept the BPPE Annual Report and that the proposed regulations does not provide a reasonable amount of time for developing a new reporting structure.

**Student Aid Commission Response:** The section of the regulations addressed by this comment was removed from this rulemaking and will be re-visited in a future rulemaking file which specifically addresses the 2013 reporting requirements. The Commission will provide notice to the commenter of the Notice of Proposed Rulemaking addressing the 2013 reporting requirements and will consider and address her comments as part of that process.

6) ACCWCU also commented that the use of CIP codes seems to enlarge the scope of SB 70; is beyond other Cal Grant controlling statutes; and conflicts with the SOC code identifiers required for GE disclosures. ACCWCU continued to comment that there are no national standards for using CIP codes as outlined in the proposed regulations.

**Student Aid Commission Response:** The use of CIP codes for reporting graduation data is a process that the institutions participating in the Federal Title IV programs must already use when reporting graduation data to IPEDS. The Commission utilized the CIP code methodology, rather than creating its own classification system precisely because institutions already report in this manner and, as a result, no additional workload is associated with this reporting.

With respect to the SOC / CIP Code relationship in the job placement reporting, the Commission has removed from the current rulemaking file those portions of the job placement and salary and wage data reporting that were applicable to 2013 and beyond. The removed provisions will be the subject of new rulemaking file. The Commission will provide notice to the commenter of the Notice of Proposed Rulemaking addressing the 2013 reporting requirements and will consider and address his comments as part of that process.

No changes were made to the regulations in response to this comment.

7) ACCWCU lastly commented that the detailed student data required by the proposed regulations appears to violate FERPA.

**Student Aid Commission Response:** See Response to Comment 10-5.

#### 14. Comments from the Research and Planning Group

1) The Research and Planning Group (RPG) commented that they recommend the term “persistence” be replaced with “retention” in proposed regulation § 30040 to conform to current terminology used both in California and nationally.

**Student Aid Commission Response:** The term “persistence” is used in Education Code section 69433.2 and is similarly used in the regulations. No change to the regulations was made as a result of this comment.

2) RPG also commented the timing specified in proposed regulation § 30042.5 is not advisable for useful reporting because graduates need sufficient time to obtain employment for the institution to collect data.

**Student Aid Commission Response:** The Commission has removed from the current rulemaking file those portions of the job placement and salary and wage data reporting that were applicable to 2013 and beyond; those reporting requirements will be the subject of new rulemaking file. By limiting this current rulemaking to the 2012 job placement and salary and wage reporting data only, institutions are only required to provide data on the total number of students who graduated during the 11/12 academic year. No changes have been made to the regulations in response to this comment.

3) RPG also commented that surveys would be required to collect job placement data and suggested that EDD reporting authority be expanded to include this information in order to comply with local, state, and federal reporting requirements. RPG continued to comment the recommendation that subsection (d) be amended to indicate that data for graduates unavailable for employment should be considered when reasonably available.

**Student Aid Commission Response:** The section of the regulations addressed by this comment was removed from this rulemaking and will be re-visited in a future rulemaking file which specifically addresses the 2013 reporting requirements. The Commission will provide notice to the commenter of the Notice of Proposed Rulemaking addressing the 2013 reporting requirements and will consider and address her comments as part of that process.

4) Finally, RPB commented that they recommend amending proposed regulation § 30044.5 to incorporate the term “securely” maintained by the institution.



**Student Aid Commission Response:** The Commission acknowledges that protecting student privacy is paramount and that institutions must act responsibly to safeguard students education records. However, other laws and regulations outside of these regulations govern data storage for institutions. This regulation was focused on the need to keep the information that substantiates the data submitted to the Commission and not the method by which it was stored. No changes to the regulations were made as a result of this comment.

**15. Comments from the Los Rios Community College District**

1) The Los Rios Community College District (LRCCD) commented that the proposed regulations are of concern since Cal Grant participants make up 4.1% of all Los Rios students and that proposed reporting requirements apply to all students, excluding the proposed exceptions. LRCCD also commented that the proposed regulations will result in a significant workload increase and that California community colleges have experienced a 12% decrease in state funding since 2008.

**Student Aid Commission Response:** See response to Comment 1.

2) LRCCD also commented that community colleges have many students enrolled without declaring a specific program goal and students who “stop in and out of college” or attend multiple institutions simultaneously, which results in difficulty in placing non-Cal Grant students into meaningful program cohorts, and difficulty in tracking those students.

**Student Aid Commission Response:** The Commission disagrees with the commenter. The definition of “cohort” in § 30040.2(a) provides that once a student enrolls in an institution, that the student remains in that cohort until the student graduates or completes the program. A student who has a gap in attendance before graduating remains in the cohort associated with his or her enrollment. In addition, there is no requirement in the regulations that data be reported at the program level until graduation data is reported. Institutions are also not required to track whether the student is attending multiple institutions. Under the regulations an institution is required to report data on a particular student if that student is enrolled at the institution. No changes were made to the regulations in response to this comment.

3) LRCCD also commented that the proposed requirement for reporting job placement rate data will be very costly and difficult to fulfill.

**Student Aid Commission Response:** The Commission has removed from the current rulemaking file those portions of the job placement and salary and wage data reporting that were applicable to 2013 and beyond. The portions will be the subject of new rulemaking file. By limiting this current rulemaking to the 2012 job placement and salary and wage reporting data only, institutions are only required to provide data on the total number of students who graduated during the 2011-12 academic year. This data is

already in the possession of the institution and should not require any additional cost to report.

4) Finally, LRCCD commented that the colleges do not understand why the Commission needs non-Cal Grant graduate data and requests that the proposed regulations be amended to include only Cal Grant program participants.

**Student Aid Commission Response:** Education Code section 69433.2 requires data on all undergraduate programs including aggregate data on Cal Grant recipients. No change to the regulations was made in response to this comment.

#### 16. Comments from Linda Williams, Sierra College

1) Ms. Williams commented that she entered into the new Program Participation Agreement with reservations due to incomplete vetting of SB 70 and that the complex nature of the proposed regulations require more consultation. Ms. Williams also commented that she agrees with CCCSFAAA on several issues identified in their comment letter, specifically that the proposed regulations exceed the scope of the law; the cost of implementing the proposed regulations would be detrimental to the CCCs; the CCCs are not structured to gather and track the required data; and that the Commission should utilize existing disclosures and tools at the federal level.

**Student Aid Commission Response:** See Response to Comment 2.

2) Ms. Williams commented that job placement will be underreported due to the required use of SOC or CIP codes.

**Student Aid Commission Response:** The Commission has removed from the current rulemaking file those portions of the job placement and salary and wage data reporting that were applicable to 2013 and beyond including the use of CIP and SOC codes for job placement reporting. The portions will be the subject of new rulemaking file. The Commission will provide notice to the commenter of the Notice of Proposed Rulemaking addressing the 2013 reporting requirements and will consider and address her comments as part of that process.

3) Ms. Williams commented that CCCs will not be in compliance with the proposed regulations without substantial operational and system changes as the CCCs do not currently track graduates after they leave the institutions, whether they are unavailable for employment, are employed in their field or their salary and wage information.

**Student Aid Commission Response:** The Commission has removed from the current rulemaking file those portions of the job placement and salary and wage data reporting that were applicable to 2013 and beyond; those reporting requirements will be the subject of new rulemaking file. By limiting this current rulemaking to the 2012 job placement and salary and wage reporting data only, institutions are only required to

provide data on the total number of students who graduated during the 11/12 academic year. No changes have been made to the regulations in response to this comment.

4) Ms. Williams commented that the Commission's offer to collect data on behalf of the CCCs does not address the actual cost to comply with the proposed regulations and that this process may conflict with FERPA.

**Student Aid Commission Response:** See Responses to Comments 1 and 10-5.

5) Ms. Williams commented that the CCCs would incur costs on the data they can report and that this potential cost was not disclosed in the Economic and Fiscal Impact Statement.

**Student Aid Commission Response:** The Commission disagrees with this comment. The Economic and Fiscal Impact Statement provided that:

The total statewide dollar costs that businesses may incur to comply with this regulation over its lifetime are unknown, but are limited, and could be virtually eliminated by an institution. For reporting the enrollment, persistence and graduation data, all Cal Grant participating institutions have the option within the regulations to submit electronically to the Commission the student unitary data necessary to satisfy the reporting requirement. It is likely that most institutions already capture the student data necessary to create the report and all Cal Grant participating institutions already utilize the Commission's WebGrants system to provide data to the Commission, thus any additional costs incurred by an institution would be negligible, if any, if the institution chooses this method to report its data.

Where there may be additional costs associated with reporting occurs with the job placement data and salary and wage reporting. The costs associated with this report are also unknown and will depend upon the method the institution chooses to collect the data. Institutions that choose to conduct student surveys may use free survey tools that are available through the internet and send electronic mail to students. Institutions may choose other methods, but the cost would be within the institution's control based upon the method selected; i.e. postage for a mailed survey; staff time to make phone calls, etc. The Commission is, by regulation, offering to perform this reporting for the California Community Colleges if the institution will share student unitary data to allow the Commission to conduct student surveys.

This comment did not address the substance of the regulation, no change was made as a result of this comment.

6) Ms. Williams commented that the proposed website will not provide accurate consumer information; will have unknown costs; is duplicative of federal reporting; and exceeds the scope of SB 70.

**Student Aid Commission Response:** See Response to Comment 11-6.

7) Ms. Williams commented that the use of surveyed data will not be statistically meaningful, and that the use of a data, which is different than the USDE will result in conflicting information, unnecessary cost, and will be confusing for students.

**Student Aid Commission Response:** The section of the regulations addressed by this comment was removed from this rulemaking and will be re-visited in a future rulemaking file which specifically addresses the 2013 reporting requirements. The Commission will provide notice to the commenter of the Notice of Proposed Rulemaking addressing the 2013 reporting requirements and will consider and address this comment as part of that process.

8) Ms. Williams commented that recommendations for the proposed regulations were not considered and that the promulgation of the proposed regulations has been rushed.

**Student Aid Commission Response:** See Response to Comment 4-1

9) Ms. Williams commented that commented that failure to disclose out-of-state transfer data will result in underreporting of graduation data and inaccurate consumer information.

**Student Aid Commission Response:** See Response to Comment 4-15.

#### **17. Comments from the California Community Colleges Chancellor's Office**

1) CCCCCO also commented that the CCCs will be unable to comply with the proposed reporting requirements because they do not currently have the required data nor do they have the resources to create the infrastructure, systems, and staff to collect the information.

**Student Aid Commission Response:** Education Code section 69433.2 requires Cal Grant participating institutions report to the Commission certain information relating to their undergraduate programs including data on enrollment, persistence, graduation, and, for undergraduate programs that meet the conditions specified in the section, job placement rate and salary and wage information. The law currently does not provide for an exemption from the reporting requirements for any of the Cal Grant participating institutions.

2) CCCCCO commented that the Commission did not sufficiently consult with community college stakeholders before developing the proposed regulations and that the webinars regarding the proposed regulations were not designed or conducted as consultation.

**Student Aid Commission Response:** See response to Comment 4-1.

3) CCCCCO also commented that the proposed regulations are appropriate and reasonable for for-profit institutions but not for the other segments of institutions in California and would be detrimental to the CCCs.

**Student Aid Commission Response:** Education Code section 69433.2 requires Cal Grant participating institutions report to the Commission certain information relating to their undergraduate programs including data on enrollment, persistence, graduation, and, for undergraduate programs that meet the conditions specified in the section, job placement rate and salary and wage information. The law currently does not provide for an exemption from the reporting requirements for any of the Cal Grant participating institutions.

4) CCCCCO commented that low per-student funding and budget cuts at the CCCs are additional reasons why they should not be asked to divert resources from serving existing students to tracking former students and that the data collection is duplicative.

**Student Aid Commission Response:** Education Code section 69433.2 provides that “as a condition for its voluntary participation in the Cal Grant Program, each Cal Grant participating institution shall, beginning in 2012, annually report to the Commission ...”; that data that is the subject of these regulations. The Commission has, within the regulations, offered to complete the reporting on behalf of the CCCs, if the CCCs will provide the unitary data that will enable it to do so.

5) CCCCCO commented that it will likely be impossible for institutions to comply with the data reporting requirements by the proposed deadlines and that they recommend amending the proposed regulations to align with federal reporting timelines.

**Student Aid Commission Response:** Education Code section 69433.2 requires that reporting begin in 2012. As a result, December 2012 was chosen as the deadline for the 2012 reporting. No changes were made to the regulations in response to this comment.

6) CCCCCO also commented that IPEDS, GE disclosures, and mechanisms used to report Perkins fund success data can be used by the Commission instead of the proposed reporting requirements.

**Student Aid Commission Response:** The Commission has removed from the current rulemaking file those portions of the job placement and salary and wage data reporting that were applicable to 2013 and beyond. The portions will be the subject of new rulemaking file. By limiting this current rulemaking to the 2012 job placement and salary and wage reporting data only, institutions are only required to provide data on the total number of students who graduated during the 2011-12 academic year. This data is already in the possession of the institution and should not require any additional cost to report. Education Code section 69433.2 provides specifically that “each Cal Grant participating institution shall ... annually report to the Commission...” the data set forth in that section.

7) CCCCCO also commented that good consumer information is already available to students including the College Navigator; the upcoming GE searchable database; and the federal "Shopping Sheet." CCCCCO also commented that comparable federal tools and data reporting structures were not considered by the Commission when completing the Economic and Fiscal Impact Statement.

**Student Aid Commission Response:** On September 7, 2012, SB 1103 (Wright) was chaptered into law. This bill amended Education Code section 69433.2 to require the Student Aid Commission to provide "a searchable database" on its website for the data being gathered under that section and also to provide "other information and links that are useful to students and parents who are in the process of selecting a college or university." The presence of other databases does not negate this requirement. See also the Response to Comment 16-5. No change to the regulations was made in response to this comment.

8) CCCCCO also commented that the estimated costs associated with the CCCs providing student data to the Commission for the collection and tracking of placement, wage, and salary information were not included in the Economic and Fiscal Impact Statement.

**Student Aid Commission Response:** See Responses to Comments 1 and 16-5.

9) CCCCCO also commented that the proposed regulations requiring the use of CIP codes exceeds the scope of SB 70 and presents problems related to CIP codes not corresponding with program names and in cases when students are undeclared or change programs.

**Student Aid Commission Response:** The Commission disagrees with this comment. The use of CIP codes for reporting graduation data is a process that the institutions participating in the Federal Title IV programs must already use when reporting graduation data to IPEDS. The Commission utilized the CIP code methodology, rather than creating its own classification system precisely because institutions already report in this manner and, as a result, no additional workload is associated with this reporting. Because CIP codes are only used for reporting graduation data, a student will have completed a particular program and will not be undeclared or changing programs; they will have completed a program. No changes were made to the regulations in response to this comment.

10) CCCCCO also commented that the change in the proposed regulations to the definition of SAP is beyond the scope of SB 70 and would potentially conflict with federal regulations.

**Student Aid Commission Response:** See Response to Comment 4-6.

11) CCCCCO also commented that the CCCCCO can provide the required enrollment, persistence, and graduation data to the Commission, but that the CCCCCO will incur a cost.

**Student Aid Commission Response:** Education Code section 69433.2 provides that “as a condition for its voluntary participation in the Cal Grant Program, each Cal Grant participating institution shall, beginning in 2012, annually report to the Commission ...” the data that is the subject of these regulations. The Commission has, within the regulations, offered to complete the reporting on behalf of the CCCs, if the CCCs will provide the unitary data that will enable it to do so. No changes were made to the regulations in response to this comment.

12) CCCCCO also commented that they have concerns regarding reporting limitations that may result in underreported graduation data due to students either graduating or transferring during the first year of a program.

**Student Aid Commission Response:** The Commission disagrees with this comment. Under the regulations, a student who enrolled and graduated in the same academic year would be subject to reporting in both the enrollment and graduation data. In addition, a student who enrolled and transferred in the same academic year would be reported in both the enrollment and transfer-out data. No changes were made to the regulations as a result of this comment.

13) CCCCCO also commented that it is unclear whether the Commission will publish any graduation data that exceeds 200% of the normal program length, which will result in underreporting of successful students from the CCCs.

**Student Aid Commission Response:** The Commission has proposed to collect graduation data beyond the 200% of the published program length if the institution chooses to provide the data to the Commission. The Commission will publish that data for those institutions that submit. No changes were made to the regulations as a result of this comment.

14) CCCCCO also commented that they are concerned that students who transfer to institutions outside of California are excluded from the reporting data.

**Student Aid Commission Response:** The Commission agrees and has removed the word “California” from the section.

15) CCCCCO also commented that data derived from student surveys is self-certified by students and may be misreported and inaccurate and went on to comment that many graduates will not be reached by survey and that many will not respond.

**Student Aid Commission Response:** The section of the regulations addressed by this comment was removed from this rulemaking and will be re-visited in a future rulemaking file which specifically addresses the 2013 reporting requirements. The

Commission will provide notice to the commenter of the Notice of Proposed Rulemaking addressing the 2013 reporting requirements and will consider and address this comment as part of that process.

### 18. Comments from the University of California Office of the President

1) The University of California Office of the President (UCOP) commented that the proposed regulations require that institutions provide data that exceeds the scope of SB 70.

**Student Aid Commission Response:** The Student Aid Commission disagrees that the proposed regulation exceeds the scope of Senate Bill 70, and the commenter has not provided any further explanation other than to state that claim. No changes were made to the regulations in response to this comment.

2) UCOP also commented that the proposed requirements will create additional workload at the institutional level and that the collection and reporting of detailed graduation data would likely result in limited added value for students.

**Student Aid Commission Response:** Education Code section 69433.2 requires Cal Grant participating institutions, as a condition of their voluntary participation in the program, to report to the Commission certain information relating to their undergraduate programs including data on enrollment, persistence, graduation, and, for undergraduate programs that meet the conditions specified in the section, job placement rate and salary and wage information. No changes were made to the regulations in response to this comment.

3) UCOP also commented that the proposed CIP reporting data are difficult for students and families to interpret.

**Student Aid Commission Response:** The Commission disagrees with this comment. The use of CIP codes for reporting graduation data is a process that the institutions participating in the Federal Title IV programs must already use when reporting graduation data to IPEDS. The Commission utilized the CIP code methodology, rather than creating its own classification system precisely because institutions already report in this manner and, as a result, no additional workload is associated with this reporting. Because CIP codes are only used for reporting graduation data, a student will have completed a particular program and will not be undeclared or changing programs; they will have completed a program. No changes were made to the regulations in response to this comment. No changes were made to the regulations in response to this comment.

4) UCOP also commented that the proposed regulations, applicable to only Cal Grant participating schools, may not be well aligned with the national effort by the Consumer Financial Protection Bureau and USDE to increase the availability of meaningful,



standardized metrics to student and that the Commission could collect and aggregate the existing information reported at the federal level. It further commented that while the Commission is obligated to execute the responsibilities assigned to it under SB 70, it should do so in a manner that neither diverts scarce resources away from its more central functions, nor create significant workload for participating institutions when less burdensome and equally helpful alternatives are available.

**Student Aid Commission Response:** As noted by UCOP, the requirement for reporting of this data is statutory. The Commission has removed from the current rulemaking file those portions of the job placement and salary and wage data reporting that were applicable to 2013 and beyond. The portions will be the subject of new rulemaking file. By limiting this current rulemaking to the 2012 job placement and salary and wage reporting data only, institutions are only required to provide data that is already in the possession of the institution, thereby limiting the costs, if any.

The most common alternative suggested by the institutions is to permit the institution to submit that data it already submits to IPEDS or under GE to the Commission, or alternatively to have the Commission seek this data from the federal government. Neither of these alternatives satisfies the statutory requirements. Certain data mandated by the statute is not collected by IPEDS or through GE reporting. In addition the statute provides that the institution shall report this data to the Commission. No changes were made to the regulations in response to this comment.

#### 19. Public Advocates, Inc. Comment Letter

Public Advocates commented that § 30043(e) should be amended to ensure that the proposed regulations do not produce misleading job placement information and that the language in proposed § 30043(e)(1)(A) is overly broad and is prone to abuse and that the definition is vulnerable to manipulation by institutions. Public Advocates also commented that the Commission should amend proposed § 30043(e)(2) either to specify that institutions use the six-digit CIP code to establish which jobs are related under the CIP-SOC crosswalk or eliminate the use of CIP codes and use only SOC codes. In addition, Public Advocates also commented that the Commission should consider the BPPE definition of graduates employed in the field, especially in light of the pending legislation AB 2296. Finally, Public Advocates commented that proposed § 30042.5(b) should be amended to fix loopholes in the reporting requirement, and indicated that proposed § 30042.5(d)(3) would improperly exclude many baccalaureate degree programs that lead to particular types of jobs that do not necessarily have licensing exams, credentials, or certifications.

**Student Aid Commission Response:** The section of the regulations addressed by these comments was removed from this rulemaking and will be re-visited in a future rulemaking file which specifically addresses the 2013 reporting requirements. The Commission will provide notice to the commenters of the Notice of Proposed Rulemaking addressing the 2013 reporting requirements and will consider and address these comments as part of that process.

## 20. Luanne Buchman Canestro Comment Letter

Ms. Canestro commented that the proposed regulations exceed the scope of SB 70 to a level that will be detrimental to CCCs and that the CCCs do not have the organizational structure to gather and track placement and income data of graduates. She further commented that the cost of implementing the proposed regulations would be damaging to the CCCs. Ms. Canestro also commented that implementing the proposed regulations would result in a reduction of services to students. Finally, Ms. Canestro commented that the Commission can and should use the current federal data to satisfy the proposed reporting requirements.

**Student Aid Commission Response:** See Response to Comment 2.

## 21. Robert Parisi, Hancock College Comment Letter

Mr. Parisi commented that he fully supports the comments submitted by CCCSFAAA and that the data reporting requirements are onerous and duplicative of that data collected by the federal government. Mr. Parisi also commented that the proposed regulations would not provide students with information of any additional value related to making an informed decision about educational programs. Finally, Mr. Parisi commented that the use of CIP and SOC codes for placement tracking is inaccurate and will result in misleading information.

**Student Aid Commission Response:** The Commission has responded to the CCCAFAA comments under Comment 11 above. Furthermore, Education Code section 69433.2 requires Cal Grant participating institutions report to the Commission certain information relating to their undergraduate programs including data on enrollment, persistence, graduation, and, for undergraduate programs that meet the conditions specified in the section, job placement rate and salary and wage information and that this information be made available in a searchable database on the Commission's website; as a result, the comment about the "additional" value is not responsive to the substance of the regulations. Lastly, the Commission has removed from the current rulemaking file those portions of the job placement and salary and wage data reporting that were applicable to 2013 and beyond including the use of CIP and SOC codes for job placement reporting. The portions will be the subject of new rulemaking file. The Commission will provide notice to the commenter of the Notice of Proposed Rulemaking addressing the 2013 reporting requirements and will consider and address his comments as part of that process.

## 22. Craig Yamamoto, Director of Financial Aid and Scholarships, San Diego State University Comment Letter

1) Mr. Yamamoto commented that he believes the Commission has exceeded its authority in implementing the provisions of SB 70 and that some of the requirements are

unnecessary and duplicative and could result in unintended consequences, creating confusion.

**Student Aid Commission Response:** See Response to Comments 4-4 and 9-1.

2) Mr. Yamamoto also commented that the proposed reporting requirements have been established without sufficient opportunity for interested parties to provide feedback and could result in misleading students and families.

**Student Aid Commission Response:** See response to comment 4-1.

3) Mr. Yamamoto also commented that the enrollment, persistence and graduation data required by the proposed regulations is currently collected on a federal level through IPEDS and that the separate reporting with a different set of conditions may create conflicting institutional information.

**Student Aid Commission Response:** See Response to Comment 4-3.

4) Mr. Yamamoto commented that the proposed regulations would provide an opportunity to categorize students as having persisted but that the same students would not be considered as having persisted based on his institution's criteria.

**Student Aid Commission Response:** The Commission acknowledges that "persistence" from the perspective of the subject reporting and persistence as it applies to a student achieving their educational objective from an institutional perspective are different. The Commission has provided in the regulations the definition of the term as it is meant for purposes of reporting. No change to the regulations has been made as a result of this comment.

5) Mr. Yamamoto commented that CIP codes are not routinely used in the CSU system to classify programs of study and that the proposed requirement for using them is cause for concern.

**Student Aid Commission Response:** See Response to Comment 5-5.

6) Mr. Yamamoto commented that the requirement for reporting job placement data will be problematic as the proposed regulations imply the use of a survey instrument to collect the information, which cannot be validated.

**Student Aid Commission Response:** The Commission has removed from the current rulemaking file those portions of the job placement and salary and wage data reporting that were applicable to 2013 and beyond. The portions will be the subject of new rulemaking file. By limiting this current rulemaking to the 2012 job placement and salary and wage reporting data only, institutions are only required to provide data on the total number of students who graduated during the 2011-12 academic year. This data is

already in the possession of the institution and should not require any additional cost to report. The Commission will provide notice to the commenter of the Notice of Proposed Rulemaking addressing the 2013 reporting requirements and will consider and address his comments as part of that process.

7) Finally, Mr. Yamamoto commented that not all degrees can be directly linked to an occupation, which does not necessarily diminish the value of the degree.

**Student Aid Commission Response:** The Commission has removed from the current rulemaking file those portions of the job placement and salary and wage data reporting that were applicable to 2013 and beyond including the use of CIP and SOC codes for job placement reporting. The portions will be the subject of new rulemaking file. The Commission will provide notice to the commenter of the Notice of Proposed Rulemaking addressing the 2013 reporting requirements and will consider and address his comments as part of that process.

The following comments suggested revisions or requested clarification of issues that were not addressed in this rulemaking package. The Initial Statement of Reasons explained that the focus of this rulemaking is new Education Code section 69433.2 which requires that Cal Grant participating institutions annually report to the Commission certain information relating to their undergraduate programs.

### **23. Ronald Harden, President/CEO, EPIC Bible College Comment Letter**

Mr. Harden commented that EPIC Bible College is in compliance with the graduation rates and CDRs as per SB 1016 and is qualified to remain eligible for the Cal Grant Program through the 2016-17 academic year. Mr. Harden also commented that the IPEDS graduation rate report contains information that distorts statistics and does not accurately reflect the effectiveness of some institutions. Finally, Mr. Harden commented that the 2008 TRIAL 3-Year Cohort Default Rate (CDR) greatly misrepresents EPIC Bible College's CDRs and that the accuracy of this CDR is questionable.

#### **Student Aid Commission Response:**

The comments do not address the substance of the rulemaking package. No changes to the regulations were made in response to the comments.

### **ECONOMIC IMPACT ANALYSIS**

In accordance with Government Code Section 11346.3(b), the Commission has made the following assessments regarding the proposed regulations and did not rely on any other technical, theoretical or empirical study, report or similar document in developing the proposed regulatory action:

The proposed regulations are designed to provide a framework for Cal Grant participating institutions to complete data reporting to the Commission. In clarifying and interpreting CEC sections 69432.7, 96432.9, and 69433.6 no jobs will be created or eliminated; no new businesses will be created or existing businesses eliminated; nor will any existing businesses be expanded or eliminated in California.

The Commission has made a determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business as it affects only institutions of postsecondary education that voluntarily elect to participate in the Cal Grant Program and only requires that such institutions report certain data electronically to the Commission.

**REASONABLE ALTERNATIVES TO THE REGULATION, INCLUDING ALTERNATIVES THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS, AND THE COMMISSION'S REASONS FOR REJECTING THOSE ALTERNATIVES**

The Commission considered reasonable alternatives to the amendments and determined that no reasonable alternative would be more effective in carrying out the purpose for which the action is proposed or would be as effective as, and less burdensome to affected private persons than the amendments. This conclusion is based on the Commission's determination that the amendments are necessary to implement the Legislature's directive in SB 70 in a manner consistent with existing statutes and case law, and the amendments add no new substantive requirements. The Commission rejected the no action alternative because it would not achieve the objectives of the amendments. There are no alternatives available that would lessen any adverse impacts on small businesses, as any impacts would result from the implementation of existing law.

**EVIDENCE SUPPORTING AN INITIAL DETERMINATION THAT THE ACTION WILL NOT HAVE A SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS**

The amendments interpret and make specific statutory Education code provisions. Because the amendments do not add any substantive requirements, they will not result in an adverse impact on businesses in California.

**DETERMINATION REGARDING LOCAL MANDATE**

The California Student Aid Commission has determined that the amendments to the California Code of Regulations (CCR) merely interpret the requirements of new Education Code section 69433.2; therefore, this rulemaking activity does not itself impose any costs on local government or school districts.