

CALIFORNIA STUDENT AID COMMISSION
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**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

POLICY STATEMENT OVERVIEW / UPDATED INFORMATIVE DIGEST

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.

On September 7, 2012, Governor Brown signed SB 1103 (Wright) which amended Education Code section 69432.2, to read as follows:

- (a) 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, and as further specified in the institutional participation agreement, both of the following for its undergraduate programs:
 - (1) Enrollment, persistence, and graduation data for all students, including aggregate information on Cal Grant recipients.
 - (2) The job placement rate and salary and wage information for each program that is either designed or advertised to lead to a particular type of job or advertised or promoted with a claim regarding job placement.
- (b) Commencing the year after the commission begins to receive reports pursuant to subdivision (a), the commission shall provide both of the following on its Internet Web site:
 - (1) The information submitted by a Cal Grant participating institution pursuant to subdivision (a), which shall be made available in a searchable database.
 - (2) Other information and links that are useful to students and parents who are in the process of selecting a college or university. This information may include, but not be limited to, local occupational profiles available through the Employment Development Department's Labor Market Information Data Library.

At its September 13-14, 2012 meeting, the Commission heard a staff presentation of the proposed regulations and heard comments from members of the public under the Bagley-Keene Open Meeting Act. The Commission requested that staff meet further with interested stakeholders and schedule an additional Commission meeting in October 2012 to discuss the proposed regulations.

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 rate 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.

Based on public comment and staff recommendation, at its October 12, 2012 meeting the Commission made some limited changes to the text and deleted certain proposed sections which will be the subject of a new rulemaking process in 2013. The Commission deleted sections 30042, 30042.5(a), 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 from the proposed rulemaking and renumbered where appropriate.

On October 16, 2012, the rulemaking file was submitted to the Office of Administrative Law (OAL) for review. Later, in order to make changes recommended by OAL, the file was withdrawn on November 30, 2012.

These changes to the proposed regulations were the subject of an additional 15-day public comment period which originally began on January 17, 2013. Prior to the expiration of the 15-day comment period, errors were discovered in the draft text. A first amended notice was issued and the submission date extended. With the discovery of a second error, a Second Amended 15-day Public Notice and Comment Period was issued on January 31, 2013. The 15-day public comment period ended on February 15, 2013. The Commission received four written comments in response to the 15-day public comment period.

Following the 15-day comment period the Commission has made the following two non-substantive changes to the proposed text: 1) in section 30040(b), the Commission has deleted the first use of the word “longer”; and 2) in section 30042.5(g), the Commission has corrected that the subdivision that discusses the data necessary for the Commission to prepare the annual report for the California community colleges is subdivision (e).

These amendments to the proposed regulations on the SB 70 reporting requirements demonstrates the Commission’s goal to help students make good choices about higher education that is critical to their success, not only as scholars but as the State’s future workforce. Students and their parents need pertinent information that is easy to access, easy to understand and easy to compare. They can search for information today, but it is often difficult to locate, fragmented across different sources, and steeped in the jargon of higher education professionals. With the rising costs of higher education and the increasing length of time to graduation occurring at many institutions, the ability to accurately compare the actual cost and time to degree across institutions has never been more critical.

By establishing specific timeframes for reporting data within six months of the end of an academic year, the Commission will be able to provide to students and parents up-to-date data on an institution for students and parents to evaluate prior to making an enrollment decision. In addition, the proposed regulations gather enrollment,

persistence and graduation data on part-time students, who are currently not included in many areas of the federal Integrated Postsecondary Education Data System (IPEDS) reporting, particularly the graduation reporting. With the number of part-time students increasing, the data is of particular interest to thousands of students considering postsecondary education.

These proposed regulations also define key terms and add consequences to an institution's failure to report data timely and accurately. This ensures that all institutions are reporting the same metrics, and that students and parents making enrollment decisions are being given equivalent data from which to evaluate potential educational choices. Institutions that fail to report data, or that report inaccurate or misleading data will be determined to be out of compliance with its Institutional Participation Agreement.

Lastly, the Commission has deleted certain provisions relating to job placement reporting to obtain further public comment. As originally proposed, the proposed job placement regulations largely mirrored similar reporting that certain private postsecondary institutions operating under the jurisdiction of the Bureau of Private Postsecondary Education are statutorily required to report. These deleted provisions will become the subject of a separate rulemaking following further consultation.

As previously stated within the Notice of Proposed Rulemaking, this Final Statement of Reasons is posted on the Student Aid Commission's website at: <http://www.csac.ca.gov/doc.asp?id=1331>.

UPDATE OF INITIAL STATEMENT OF REASONS

The Initial Statement of Reasons, as published on July 3, 2012 and amended by the Addendum to the Initial Statement of Reasons, as published on January 17, 2013, are included in the file and are hereby incorporated by reference as if fully set forth herein.

With respect to the comments regarding section 30040 in the Addendum to the Initial Statement of Reasons, the comments contained therein are solely a general discussion about the statutory requirement that annual reporting begin in 2012 and that, after consultation with stakeholders, the Commission had selected the 2011-12 academic year as the initial year of data reporting. The discussion on the selection of the 2011-12 academic year was not a reference to a requirement imposed by section 33040, but merely commentary on the consultative process undertaken by the Commission in an effort to comply with the statute while taking into consideration the expressed concerns of the institutions.

The Commission has not added any additional data or any technical, theoretical or empirical studies, reports or similar documents on which the Commission relied on in proposing these amendments.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45-DAY 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. As written, the reporting requirements in Education Code section 69433.2 apply to all Cal Grant participating institutions, including the California Community Colleges.

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. The proposed rulemaking is within the jurisdiction of the regulatory authority of the Commission. In promulgating regulations, the Commission is not limited to the text of the statute. Every rule or standard of general application, or procedure that implements, interprets, or makes specific the law must be promulgated by regulation, the Commission has provided definitions of key terms, the process for submitting the data, the specific procedure for how an institution compiles and reports its data, the deadlines for data submission, the appeal process and so forth. These are areas where the Commission may permissibly promulgate regulations.

Furthermore, this “exceeds the scope of SB 70 comment” appears largely directed at the proposed regulations relating to the annual job placement and salary and wage 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 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: The Commission’s ability to provide the data it collected pursuant to SB 70 was not dependent on express statutory authority. As a state agency, many of the records of the Student Aid Commission are subject to the Public Records Act, Government Code section 6250 et seq., and would be available to the any public request thereunder. The Commission already provides information about the programs it administers, its operations and other useful public information on its website. Generally speaking, the aggregate data would be subject to a Public Records Act request and would not be subject to withholding.

Furthermore, 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 30th 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, the express language of the Education code section 69433.2(a) requires that institutions report data on “enrollment, persistence and graduation for all students, including aggregate information on Cal Grant recipients.” As a result, if an institution enrolls part-time students, the data for those students must be reported. In addition, the Commission pays Cal Grant awards to part-time students. 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 and instead is maintaining consistent definitions across all 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 Commission has not conducted a policy discussion on the GE program definitions at this time, and will consider whether such a discussion is warranted when it undertakes the rulemaking for the annual job placement, salary and wage reporting. 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 15th. An Institution that chooses to create its own report must provide that report to the Commission by December 31st. 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: See Response to Comment 2. With respect to the increased administrative burden comment, the reporting requirements are statutory and apply to all Cal Grant participating institutions. The goal is to provide data and information that is useful to students and parents who are in the process of selecting a college or university. There may be additional factors about “what makes a quality educational program” from an institution’s perspective which the institutions themselves may wish to make available to prospective students. 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 Responses to Comment 2 and 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 unitary data is only necessary if an institution wishes to have the Commission prepare its reporting on its behalf. The Commission would need this data to complete all aspects of the report and would additionally need it to confirm whether a student was a Cal Grant recipient or non-Cal Grant recipient from its own records. Because of the similarities in student names, additional information such as date of birth and high school help differentiate between students.

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 student level unitary data with its Cal Grant participating institutions on a daily basis. The Commission also receives unitary data on all students, nationally, who complete the FAFSA and denote either California residency or attendance at a California postsecondary institution. As a result, the unitary data serves in many instances as a match against the Commission's data to ensure accurate reporting.

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 760 expressly allowed the use of existing federal data, but that provision was not included in SB 70. SB 70, which added section 69433.2 to the Education Code and which is the underlying statute that is the subject of this rulemaking, contains terms and reporting that are not captured in the federal data.

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

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 ...”. As a result, the reporting is not considered a state mandated cost. In addition, there has been no information presented on how data reporting will “directly lead to an increase in the cost of attendance at non-public institutions.” The Commission has offered to complete the enrollment, persistence and graduation reports on behalf of all reporting institution that elect to send the Commission the necessary data. 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. No changes to regulations were made in response to this comment.

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, is 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.

No change was made to the regulations 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 Responses to Comment 4-4 and 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) CCCCO 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: See Response to Comment 2. 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 CCCFAAA 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. 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. No changes to the regulations were made in response to this comment.

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:

Mr. Harden's comments relate to a different section of the Education Code which was added by SB 70, namely the amendments to Education Code section 69432.7(l) and the implementation of a cohort default rate. SB 1016 made additional amendments to Education Code section 69432.7(l) by adding a threshold graduation rate. Neither of these provisions is impacted by the current rulemaking. The graduation rate referenced by the commenter is not the graduation data that is referenced in Education Code section 69433.2 and is instead created at the federal level through IPEDS, as is the 2008 Trial 3-year Cohort Default Rate. Mr. Harden was representing Epic Bible College

which was appealing the determination by the Commission that it was ineligible to participate in the Cal Grant Program because it failed to meet the definition of “qualifying institution” found in Education Code section 69432.7(l). No changes to the regulations were made in response to the comments.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 15-DAY PUBLIC NOTICE PERIOD INVOLVING THE PROPOSED REGULATIONS

The Commission received public comment in response to the 15-day public comment period, which began on January 17, 2013 and was extended through February 15, 2013. Letters were received from the following commenters:

- Margie Carrington, California Community Colleges Student Financial Aid Administrators Association (CCCSFAAA);
- Rhonda Mohr, California Community Colleges Chancellor’s Office;
- Mary Gill;
- Marc Beam, Shasta College

1. Comments from CCCSFAAA

1) CCCSFAAA commented that the use of the word “each” in proposed sections 30041 and 30041.5 may be cost prohibitive to the California community colleges because it could be used to expand the enrollment and persistence data that the community colleges would currently have to report. CCCSFAAA indicates that the community colleges do not currently have the required data and that such data could increase the cost of complying with the regulations, which has not been appropriately reflected in the Initial Statement of reasons or the Addendum.

Student Aid Commission Response: The Commission disagrees that the word “each” in proposed sections 30041 and 30041.5 expands the data collection beyond the data elements that are set forth in the following sentence, which states: “Enrollment data shall consist of aggregate data on each of the following student characteristics: race/ethnicity, gender and enrollment status.” The Commission’s use of the word “each” was not meant to require institutions to report by undergraduate major, but instead was intended to ensure that institutions provide data for each and every undergraduate program offered by the institution. The Commission has agreed to address this concern in a separate rulemaking file.

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

2) CCCSFAAA also commented that at the October 4, 2012 meeting, staff was directed to “remove all regulations pertaining to annual job placement rate, salary and wage reporting” and that these issues would be addresses in a separate rulemaking. As a result, CCCSFAAA is requesting that the remaining language be removed from the proposed amendments and deferred. CCCSFAAA is also requesting “early stakeholder

group involvement” before the new set of proposed regulations is posted for public comment.

Student Aid Commission Response: This comment is incorrect. At the regularly-noticed meeting of the Student Aid Commission which occurred on October 12, 2012 (following an October 4, 2012 meeting with staff and stakeholders only), the Commission did not direct all of the proposed regulations pertaining to the annual job placement, salary and wage reporting be removed from the rulemaking file. Certain provisions relating to the annual job placement rate, salary and wage reporting had been removed in advance of the October 12, 2012 meeting and the agenda materials included the proposed regulations, with the relevant job placement provisions already removed. There was no direction by the Commission to remove all provisions relating to the annual job placement, salary and wage reporting. The transcript is included in the rulemaking file.

No changes to the regulations were made in response to the comments.

3) CCCSFAAA commented that the Commission’s Initial Statement of Reasons and Addendum “continue to state that the proposed regulations will help students and families make good choices about higher education” and that CCCSFAAA supports providing good consumer education. However, CCCSFAAA believes that the proposed website will do more harm than good and that the College Navigator website created by the federal government provides “clear, easily accessible comparative data on all Title IV eligible institutions in the nation.” CCCSFAAA encouraged the Commission to engage the U.S. Department of Education on how the College Navigator website can be enhanced to include additional valuable data and that such an action would be worthwhile and comply with statutory intent.

Student Aid Commission Response: The comments do not address the modified text made available as part of the 15-day public notice. Moreover, the Commission disagrees the proposed website “will do more harm than good.” Education Code section 69433.2 requires the Commission to provide the SB 70 data as well as other information and links which are useful to students and parents on its website. The Commission further disagrees that engaging the U.S. Department of Education on enhancements to the College Navigator website would comply with statutory intent. No changes to the regulations were made in response to the comment.

4) CCCSFAAA commented that the community colleges received a letter dated December 10, 2012 with an addendum to the Institutional Participation Agreement (IPA) sent to the presidents and chief financial officers of the institutions without any parallel communication sent to the financial aid officers. The letter implied that the regulations were in process with the Office of Administrative Law and that the institutions must sign the letter to continue to participate in the Cal Grant Program. CCCSFAAA is concerned that the regulations had already been withdrawn and that by signing the addendum the colleges are now required to comply with the terms of the IPA. CCCSFAAA requests

that the IPA addendum be rendered null and void and that a new addendum be issued once the final regulations are adopted.

Student Aid Commission Response: The comments do not address the modified text made available as part of the 15-day public notice. No changes to the regulations were made in response to the comment.

2. Comments from the California Community Colleges Chancellor's Office

1) The California Community Colleges Chancellor's Office (CCCCO) commented that the use of the word "each" in proposed sections 30041 and 30041.5 could be used to expand the enrollment and persistence data that the community colleges would currently have to report because the language mirrors that which is used for the graduation data, where program level data is required. CCCCCO acknowledges that the data file specifications for the enrollment and persistence reporting do not include a field for the submission of program identifier but asks that the word "each" be removed to reduce confusion.

Student Aid Commission Response: See Response to 1-1 above.

2) CCCCCO also commented that the removal of section 30042.5(a) from the proposed regulations revised regulations, as published in the 15-day comment period, is confusing. Institutions were required to sign the Institutional Participation Agreement by January 11, 2012 which included the same language and still requires that institution provide certain provisions relating to job placement. The CCCCCO feels that the placement of the provision in the IPA, while removing it from the proposed regulations, may be technically and legally accurate, but that the CCCCCO would like to "be on record that the tactics employed to get to this point are not conducive to collaboration, trust and partnership."

Student Aid Commission Response: At its October 12, 2012 meeting, the Commission authorized, by motion, to 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 and 2) Amend the 2012-16 Institutional Participation Agreement (IPA) to include the language and substantive requirements of the adopted regulations. As part of the stakeholder meeting held in advance of the October 12, 2012 Commission meeting, the stakeholders agreed that they could provide the graduation data related to the first cohort of the job placement, and that language was included in the proposed regulations and later in the draft IPA. The removal of proposed section 30042.5(a) was largely a by-product of having removed other sections that placed that provision in context. Rather than having to re-work that provision, which would have further delayed the rulemaking, the Commission elected to delete that section from the proposed rulemaking and instead have the IPA serve as the memorialization of the agreement reached between the Commission and the stakeholders on this issue.

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

3) The CCCCO commented that proposed section 30042.5(e) refers to elements of the annual job placement report that have yet to be re-developed and vetted with the stakeholder community and that the Commission has agreed to meet with stakeholders to develop the regulations on the annual job placement rate and salary and wage data. The CCCCO believes that section 30042.5(e) should be removed because it is premature and may cause confusion.

Student Aid Commission Response: The comments do not address the modified text made available as part of the 15-day public notice. This provision was included in the proposed rulemaking as adopted by the Commission at its October 12, 2012 meeting and puts into regulation the Commission's commitment to assist the community colleges in completing the annual job placement, salary and wage reporting. If it is necessary to amend this provision to align it with the future requirements developed for the annual job placement, salary and wage reporting, it will be included in the future rulemaking on that subject.

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

4) Comments regarding the Commission's Amended Statement of Reasons

- "Availability and Value of IPEDS Data"

The CCCCO notes that the federal government has taken many years to improve IPEDS data on part-time students and that collecting data on part-time students is complex. The CCCCO comments that the Commission has not demonstrated sufficiently the need to collect and display data on part-time students. Although the CCCCO will comply with its reporting obligation, it "doubts that the data will be of much value to those interested in determining trends for these students."

Student Aid Commission Response: Education Code section 69433.2 provides specifically that "each Cal Grant participating institution shall ... annually report to the Commission ... for its undergraduate programs: (a) enrollment, persistence and graduation data for all students, including aggregate information on Cal Grant recipients." As a result, institutions that enroll both full-time and part-time students to its undergraduate programs must report for all students. In addition, the Commission pays institutions Cal Grant to students who are both full-time and part-time which also has to be reported. The Commission's request to collect data on part-time students falls squarely within the meaning of the statute.

No change to the regulations was made in response to this comment.

- "Providing Valuable Consumer Information"

The CCCCO comments that the Commission's claim that valuable consumer information is not available to students and their families is "untrue and should

not be used as justification for spending scarce state dollars to create a system that will have very little use ... [t]here are several valuable federal websites available and transparency is a current focus of the U.S. Department of Education.” The CCCCO admits that existing resources do not contain data on Cal Grant recipients and that it is supportive of providing additional data” for this group of students.

Student Aid Commission Response: As noted previously, 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.” While the Commission appreciates the CCCCO’s offer to provide additional data for Cal Grant recipients, Education Code section 69433.2 already specifically requires that “each Cal Grant participating institution shall ... annually report to the Commission ... for its undergraduate programs: (a) enrollment, persistence and graduation data for all students, including aggregate information on Cal Grant recipients.” (emphasis added.) No change to the regulations was made in response to this comment.

- “Updated Economic Impact Analysis”

In response to the Commission’s statement that the costs of complying with the regulations “could be virtually eliminated by the institution,” the CCCCO notes that the actual cost of implementing the as yet undeveloped annual job placement, salary and wage report would have to include the costs associated with human resources (either at the Commission or at the campuses) and that the result is a high cost to the state. The CCCCO will hold further comment on the costs until the additional reporting requirements are developed.

Student Aid Commission Response: The comments do not address the modified text made available as part of the 15-day public notice and, as noted by the commenter, the provisions to which the commenter is responding have been removed from the current rulemaking file. No change to the regulations were made as a result of this comment.

3. Comments from Mary Gill

1) Ms. Gill commented that the use of the word “each” in proposed sections 30041 and 30041.5 are “major amendments” to proposed regulations and that if it is the intent of the Commission to collect program level data there are issues with such a collection. Ms. Gill noted that the California community colleges do not classify students by program until graduation and require them to report data at enrollment would require a new matriculation system for compliance. She further noted that this “enlarges the enabling statute which does not require program specific data. Ms. Gill concludes that the Commission has “contradicted itself in this matter” and that she hopes there has simply been an error in drafting the new regulations.

Student Aid Commission Response: See Response to 1-1.

2) Ms. Gill commented that staff was directed to bifurcate the rulemaking and that all regulations related to the annual job placement rate, salary and wage reporting were to be put in a new rulemaking file pending further consultation and Commission approval. She indicates that the remaining regulations relating to the annual job placement rate, salary and wage reporting is fragmented and not officially approved by the Commission. Ms. Gill further commented that the proposed regulations “lay the ground work for collecting data through student surveys and that the Commission had questioned the value of student surveys and suggested other approaches. She concludes that because further consultation has not occurred, section 30042.5 is premature.

Student Aid Commission Response: See Responses to 1-2 and 2-3 above. In addition, the Commission disagrees that this provision lays the ground work for student surveys. The Commission has agreed to conduct further consultation for the annual job placement, salary and wage reporting, and will when it is ready to commence the rulemaking for those provisions.

No changes to the regulations were made in response to the comments.

3) Comments regarding the Commission’s Amended Statement of Reasons

- “Availability and Value of IPEDS Data”

Ms. Gill notes that the Commission did not cite the comparable federal regulation related to the IPEDS data collection in its original regulatory filing and has now corrected that assertion. She further notes that CSAC accurately states that IPEDS does not collect data on part-time students and that this is a flaw in the IPEDS system that IPEDS is working on correcting. She concludes that CSAC has not made the case as to why the State must have this data, and why it is worth duplicating the federal requirements.

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. The Commission is not required to “make a case” as to why it must have this data, or whether “it is worth duplicating” the federal requirements, it has been directed by statute to collect the data. No change to the regulations was made in response to this comment.

- “Providing Valuable Consumer Information”

Ms. Gill comments that the Commission's claim that valuable consumer information is not available to students and their families is "untrue and should not be used as justification for state expenditure and unnecessary regulations in California." She continues that CSAC has ignored the federal websites available which provide information on all Title IV eligible institutions in the nation. In comparison, the Commission's data will be limited to Cal Grant eligible institutions and that students will not be able to compare those schools with out of state schools and that the data may conflict with data available on IPEDS. She recommends that the Commission seek to complement the federal initiative rather than pursue a time-consuming and expensive system on its own. She contends that such an effort would be least burdensome and would be more effective in implementing Education Code Section 69432.2(a)(1).

Student Aid Commission Response: As noted previously, 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 Commission has not claimed that valuable consumer information is not available to students just that it intends to provide a source of valuable consumer information for California students. The Commission has not "ignored" the federal websites, but it has been statutorily directed to collect certain data and provide a searchable database for students and parents. The justification for the "state expenditure" is the requirement that the Commission comply with the statute.

In addition, the Commission recognizes that its data will be limited to Cal Grant participating institutions because the statute only applies to those institutions. Education Code section 69433.2 did not require the Commission to implement a data system identical to IPEDS nor does it require that the Commission seek to complement the federal IPEDS database.

No change to the regulations was made in response to this comment.

- "Updated Economic Impact Analysis"

Ms. Gill commented that the original economic impact analysis "makes erroneous assumptions that 'the costs for an institution to add the additional fields of data necessary should be negligible' and that 'costs could be virtually eliminated by an institution'." She further comments that although the Commission is willing to absorb the cost of preparing the report, the "cost is not in preparing the report, it is in obtaining the data" and that "any costs absorbed by CSAC are still costs to the State." She worries that Commission already has a "severely limited budget and severe staffing constraints." She reiterates that if the regulations require program specific data for the enrollment and data, it will be costly for the community colleges because they do not currently have this data.

Student Aid Commission Response: The comments do not address the modified text made available as part of the 15-day public notice. Nevertheless, 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. (emphasis added.) The Commission has, within the regulations, offered to complete the reporting on behalf of all institutions for the enrollment, persistence and graduation data and on behalf of the CCCs, for the annual job placement, salary and wage reporting. The Commission appreciates the concern over the Commission’s “severely limited budget and severe staffing constraints.” However, by making these offers the Commission has considered both its budget and staffing, but nonetheless feels that the importance of the data being collected and the concerns expressed by the institutions warranted such an offer. As the Commission works with the stakeholders on the annual job placement, salary and wage report, the Commission will consider all alternatives which may make that reporting less burdensome for the institutions. On the last point, as noted previously, the Commission is not collecting program level data for enrollment and persistence. No changes were made to the regulations in response to this comment.

- “Promulgation Prior to Approval”

Ms. Gill commented that on December 10, 2012, the Commission sent a memo to the presidents and chief financial officers of the institutions implying that the regulations were in process with the Office of Administrative Law (OAL) and requiring that the institutions sign the Institutional Participation Agreement by January 11, 2012 (retroactive to October 13, 2012) and to comply with the October version of the regulations. No mention was made of the withdrawal of the file from OAL, nor was there any mention made of pending changes to the regulations. Ms. Gill indicates that “she is not sure of the role of public comment on these regulations, as CSAC has already enforced the previous version of these rules as sent to OAL in October and withdrawn in November.”

Student Aid Commission Response: At its October 12, 2012 meeting, the Commission authorized, by motion, to 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 and 2) Amend the 2012-16 Institutional Participation Agreement (IPA) to include the language and substantive requirements of the adopted regulations. The IPA is a contract between the Commission and the institutions so as to permit an institution to participate in the Cal Grant program. It is separate and apart from the regulatory process. As part of the stakeholder meeting held in advance of the October 12, 2012 Commission meeting, the stakeholders agreed that they could provide the graduation data related to the first cohort of the job placement, and that language was included in the proposed regulations and later in the draft IPA. The removal of proposed section 30042.5(a) from the rulemaking file was largely a by-product of having removed other sections that placed that provision in context. Rather than having to re-work that provision, which would have further delayed the rulemaking, the Commission elected to

delete that section from the proposed rulemaking and instead have the IPA serve as the memorialization of the agreement reached between the Commission and the stakeholders on this issue.

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

4. Comments from Marc Beam, Shasta College

1) Mr. Beam commented that the “regulations ask colleges to report whether the student is employed in their field of student, and any wage gains after taking courses and/or completing a program of study.” He indicates that without consistent survey components, the results will be inconsistent. Shasta College has completed two different employment outcome surveys and had widely varying response rates. Shasta College did not collect wage gain data and they will continue to improve their data collection, but “response rates may not improve even with multiple efforts to reach every student.” Mr. Beam requested information on “how the Commission expects colleges to report data on survey responses gathered. For example, he asks whether the Commission would want additional data elements added to the unitary student record, which would raise confidentiality issues, or whether the Commission would expect a summary report of the survey results, which would need standard for addressing programs with small numbers of students or low response rates. He notes that “either solution has its own set of challenges.

Student Aid Commission Response: As noted in the 15-day public notice, many of the provisions of the rulemaking file relating to the annual job placement, and salary and wage report have been removed from the rulemaking file and will be part of a new rulemaking file following consultation with stakeholders. Employment surveys are not required by the current rulemaking filing and the Commission will consider the commenters suggestions when it begins the future rulemaking on the annual job placement, salary and wage reporting.

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

2) Mr. Beam also commented that he has concerns over how the “Commission will operationally define ‘enrollment in a program’ and ‘persistence’.” He indicates that there needs to be a clear methodology to determine when a student starts a program of study that addresses undeclared majors and transfer-in/transfer-out students. He notes that students can have an undeclared major, although student must declare a major to qualify for financial aid. He further notes that students can change majors and that the issue become more complicated for students who enrolled in multiple institutions, which is an increasing practice given the online options and reduced class offerings in the state.

Student Aid Commission Response: As drafted, the proposed regulations do not require the reporting of program level data until a student graduates from a program and the program is complete. As a result, whether a student is undeclared or changes

majors is irrelevant for reporting purposes. To determine “when a student starts a program” for enrollment purposes, the institution must consider the definition of “cohort” found in proposed section 30040.2 and the definition of enrollment found in proposed section 30041. Persistence is defined in proposed section 30041.5. In addition, because each institution is required to report this data for all of its students, those student who enroll in and attend multiple institutions will be reported by multiple institutions.

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

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.

DETERMINATION OF ALTERNATIVES CONSIDERED AND EFFECT ON PRIVATE PERSONS

The Commission has determined that no alternative considered would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the adopted regulations, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of 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.