

Academic Affairs  
DRAFT as of 10/21/13

**BP 4060** NONCREDIT EDUCATION AGREEMENTS

**References:**

Education Code Sections 8535 and 8536

**NOTE:** This policy is **legally advised** if the District engages in adult noncredit instruction.

Whenever a mutual agreement with a school district or other educational entity relating to responsibility for noncredit education programs is required by state law, the Chancellor shall present an appropriate memorandum of understanding to the Board for approval.

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**NOTE:** The **red ink** signifies language that is **legally advised/suggested as good practice** and recommended by the Policy and Procedure Service and its legal counsel. The **green ink** was added during the administrative review on March 21, 2013. This document was reviewed on April 8, 2013 by Chancellor's Cabinet and on April 9, 2013 by the Chancellor's Council. This document was reviewed by representatives of the Academic Senates on October 21, 2013.

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**Date Adopted:**

*(This is a new policy recommended by the  
Policy and Procedure Service)*

## Legal Citations for BP 4060

### EDUCATION CODE SECTIONS 8535 and 8536

**8535.** (a) When governing boards agree to transfer an existing program all legal and contractual obligations of either or both districts under the program shall be clearly stated, with appropriate time requirements, in the written transfer agreement approved by the affected governing boards.

(b) The written transfer agreement approved pursuant to subdivision (a) shall specify the number of units of average daily attendance and the revenue per unit of average daily attendance proposed to be transferred from the district with the existing program. A true copy of the transfer agreement shall be forwarded to the Superintendent of Public Instruction or the Chancellor of the California Community Colleges, or both, as appropriate, no later than three months prior to the effective date of the program transfer.

(c) When part or all of an existing program of a high school or unified school district is to be transferred to a community college district by mutual agreement of the affected governing boards, the transfer agreement shall specify that only courses that qualify as community college noncredit **education** under Section 84711 shall be transferred. A true copy of the complete transfer agreement shall be forwarded by the community college district to the Chancellor of the California Community Colleges as specified in subdivision (b).

When part or all of an existing program of a community college district is transferred to a high school or unified school district by mutual agreement of the affected governing boards, the transfer agreement shall specify that only those adult **education** courses that are described under Section 41976 shall be transferred. A true copy of the complete transfer agreement shall be forwarded by the high school or unified school district to the Superintendent of Public Instruction as specified in subdivision (b).

(d) The Chancellor of the California Community Colleges and the Superintendent of Public Instruction shall jointly verify and approve the courses, the units of average daily attendance, and the revenue per unit of average daily attendance, including applicable inflation adjustment, if any, to be transferred under this section. Additional units of average daily attendance reported by the community college district, or the high school or unified school district, as a result of the transfer shall not be subject to any statutory limitations on fundable increases in average daily attendance, but shall be subject in subsequent years to statutory calculations of noncredit base revenue and units of average daily attendance of the community college district, or the adult base revenue and units of average daily attendance of the high school or unified school district, as applicable.

(e) The Chancellor of the California Community Colleges and the Superintendent of Public Instruction shall jointly determine the amount of apportionment to be transferred or reappropriated, pursuant to subdivision (d), from the affected Budget Act appropriation of the State School Fund by multiplying the units of average daily attendance to be transferred by the revenue limit per unit of average daily attendance of the transferring district at the time of the transfer. The chancellor and the Superintendent of Public Instruction shall submit appropriate budget documents to the

Department of Finance for approval of the transfer of funds from the applicable appropriation. The Director of Finance shall approve that transfer.

**8536.** The governing board of every district affected by this chapter shall make all reasonable efforts to reach a mutual agreement when such an agreement is required and shall develop procedures for this purpose.