

AP 6600 CAPITAL CONSTRUCTION

References:

Education Code Sections 81005 and 81820;
Title 5 Sections 57150 et seq.

NOTE: This procedure is legally required. Local practice may be inserted, but must include the following elements.

Capital Outlay Program

The Chancellor will annually report to the Board and to the California Community Colleges Chancellor's Office a five year capital outlay program. The program will consist of the plans of the District concerning its future academic and student service programs, and the effects of such programs on construction needs.

Specifically, the five year capital outlay program will include the following:

- Statement of educational plans
- Statement of energy plans
- Statement of disabled persons' barrier removal plan
- Location of program delivery
- Location of other owned lands
- District-wide priority lists
- District-wide capacity/load ratios
- District-wide supporting detail

Contracts

Construction contracts will be let in accordance with AP 6350 titled Contracts – Construction and will comply with applicable laws relating to public works.

Conversion of Buildings

State funds earmarked for capital outlay financing may be used to acquire an existing government-owned or privately-owned building and to pay the necessary costs of converting such a building to community college use if all of the following criteria apply:

- The building was constructed as, and continues to qualify as, a school building, as provided by Education Code Sections 81130 et seq., or the building is determined to have, or is rehabilitated to an extent that it is determined to have, a pupil safety performance standard that is equivalent to

- that of a building constructed pursuant to Education Code Sections 81130 et seq. The determination of the pupil safety performance standard must meet all of the requirements of Education Code Section 81149(a)(1)&(2).
- The total cost of purchasing and converting the existing building to community college use is not greater than the estimated cost of constructing an equivalent building.
 - The land associated with the building will be owned by, or controlled through a long-term lease of at least 50 years by, the District.
 - The District has complied with facility site review procedures and guideline recommendations of the California Postsecondary Education Commission pursuant to Education Code Section 66904.
 - The funding for the purchase and conversion of an existing building does not supersede funding for facilities that have previously been prioritized by the Board of Governors and are awaiting state funding.

NOTE: The **red ink** signifies language that is **legally required** and recommended by the Policy and Procedure Service and their legal counsel. This document was reviewed by Doug Horner on January 31, 2014.

Date Approved:

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

Legal Citations for AP 6600

Education Code Sections 81005 and 81820; Title 5 Sections 57150 et seq.

EDUCATION CODE SECTION 81820

81820. The governing board of each community college district shall prepare and submit to the Board of Governors of the California Community Colleges a plan for capital construction for community college purposes of the district. The plan shall reflect capital construction for community college purposes of the district for the five-year period commencing with the next proposed year of funding. **The five-year plan shall be subject to continuing review by the governing board and annually shall be extended one year, and there shall be submitted to the board of governors, on or before the first day of February** in each succeeding year, a report outlining the required modifications or changes, if any, in the five-year plan.

EDUCATION CODE SECTION 81005

81005. (a) State funds provided for the capital outlay financing needs of the California Community Colleges may be used to acquire an existing government-owned or privately-owned building and for the necessary costs of converting that building to community college use.

A community college district that is eligible for state funding for capital outlay financing may purchase an existing government-owned or privately-owned building and convert it to community college use with state funds if all of the following criteria apply:

(1) The building to be purchased was constructed as, and continues to qualify as, a school building pursuant to Article 7 (commencing with Section 81130), or the building is determined to have, or is rehabilitated to an extent that it is determined to have, a pupil safety performance standard that is equivalent to that of a building constructed pursuant to Article 7 (commencing with Section 81130). In making the determination of the pupil safety performance standard as required in this paragraph, all of the requirements of paragraphs (1) and (2) of subdivision (a) of Section 81149 shall be met.

(2) The total cost of purchasing and converting the existing building to community college use is not greater than the estimated cost of constructing an equivalent building.

(3) The land associated with a building to be purchased will be owned by, or controlled through a long-term lease by, the community college district. As used in this section, "long-term lease" means a lease with a term of at least 50 years.

(4) The district has complied with facility site review procedures and guideline recommendations of the California Postsecondary **Education** Commission pursuant to Section 66904.

(b) Funding for a building to be purchased under this section shall not supersede funding for community college facilities that have previously been prioritized by the board of governors and are awaiting state funding.

Buildings purchased under this section shall be subject to the annual prioritization process of the board of governors, and shall not receive higher priority for state funding because they are existing buildings rather than buildings proposed to be constructed.

(c) A community college district that purchases an existing building under this section may request state funding for instructional equipment. Funding for that instructional equipment shall be provided in accordance with Chapter 4.8 (commencing with Section 84670) of Part 50, provided that the chancellor determines that the purchase of this equipment qualifies as a priority for state funding.

5 CCR § 57150

Cal. Admin. Code tit. 5, § 57150

TITLE 5. EDUCATION
DIVISION 6. CALIFORNIA COMMUNITY COLLEGES
CHAPTER 8. CONSTRUCTION
SUBCHAPTER 3. DISTRICT FUNDED CONSTRUCTION PROJECTS

§ 57150. Purpose.

The purpose of these regulations is to provide basic definitions, principles, and standards for use by the Chancellor of the California Community Colleges in considering any district-funded construction project subject to the requirements of section 81837 of the Education Code.

Note: Authority cited: Sections 66700, 70901, and 81836, Education Code. Reference: Sections 81836 and 81837, Education Code.

5 CCR § 57152

Cal. Admin. Code tit. 5, § 57152

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§ 57152. Definitions.

(a) "Capital Outlay Project" includes purchase of land and costs related thereto, including court costs, condemnation costs, legal fees, title fees, etc.; construction projects, including working drawings; and equipment related to a construction project regardless of cost or timing.

(b) "Construction Project" includes new construction, alteration, and extension or betterment of existing structures.

(c) "State-Funded Project" means a capital outlay project qualifying as a project pursuant to section 81805 of the Education Code, and for which a district requests or receives State funding assistance.

(d) "District-Funded Project" means a capital outlay project subject to the provisions of section 81837 of the Education Code for which any funds, other than state funds, are paid or to be paid for erecting, adding to, or altering any community college facility.

(e) "Five-Year Construction Plans" means a plan for capital construction for community college purposes of a community college district for the five-year period commencing with the next proposed year of funding.

Note: Authority cited: Sections 66700, 70901 and 81836, Education Code. Reference: Sections 81836 and 81837, Education Code.

5 CCR § 57154
Cal. Admin. Code tit. 5, § 57154

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§ 57154. Application.

In each case, the application for approval of plans for a district-funded project shall be accompanied by the plans and full, complete and accurate take-off of assignable and gross square feet of space, which shall comply with any and all requirements prescribed by the Chancellor.

Note: Authority cited: Sections 66700, 70901, and 81836, Education Code. Reference: Sections 81836 and 81837, Education Code.

5 CCR § 57156
Cal. Admin. Code tit. 5, § 57156

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§ 57156. Review.

The review and evaluation of plans for a district-funded project by the Chancellor, shall include the following elements:

(a) Review and evaluate each district-funded project with reference to the elements of the capital construction program specified in Education Code section 81821.

(b) The review and evaluation shall be directed particularly to ascertain whether the locally funded project is of appropriate size, is appropriately timed and is justified in terms of the elements of the capital construction plans and where applicable, the standards as adopted by the Board of Governors.

Note: Authority cited: Sections 66700, 70901, and 81836, Education Code. Reference: Sections 81836 and 81837, Education Code.

5 CCR § 57158

Cal. Admin. Code tit. 5, § 57158

TITLE 5. EDUCATION
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§ 57158. Chancellor's Response to Request for Approval of Plans.

(a) When analysis by the Chancellor shows that approval of the plans for a proposed locally-funded construction of a community college facility would not result in facilities which would be substantially at variance with space and utilization standards adopted by the Board of Governors, the Chancellor shall approve the plans.

(b) When analysis by the Chancellor shows that approval of the plans would result in facilities which would be substantially at variance with space and utilization standards adopted by the Board of Governors, the Chancellor shall respond by:

(1) Imposing conditions for the approval of the plans; or

(2) Finding that despite the substantial variance with space standards, the plans, as submitted, are acceptable, and responding to the district with:

(A) Cautions, and/or

(B) Appraisal of the potential consequences of this variance.

Note: Authority cited: Sections 66700, 70901 and 81836, Education Code. Reference: Sections 81836 and 81837, Education Code.

5 CCR § 57200
Cal. Admin. Code tit. 5, § 57200

TITLE 5. EDUCATION
DIVISION 6. CALIFORNIA COMMUNITY COLLEGES
CHAPTER 8. CONSTRUCTION
SUBCHAPTER 4. DEFERRED MAINTENANCE

§ 57200. Purpose.

For the purposes of administration and implementation of the Community Colleges Facility Scheduled Maintenance and Special Repair Program as required by Education Code section 84660, the provisions of this subchapter shall apply.

Note: Authority cited: Sections 66700, 70901 and 84660, Education Code. Reference: Section 84660, Education Code.

5 CCR § 57201
Cal. Admin. Code tit. 5, § 57201

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DIVISION 6. CALIFORNIA COMMUNITY COLLEGES
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SUBCHAPTER 4. DEFERRED MAINTENANCE

§ 57201. General Requirements.

Each community college district applying to receive funds pursuant to this subchapter shall:

(a) Prepare and submit to the Chancellor a current five-year maintenance plan. The plan shall be consistent with the district's five-year capital outlay plan, but shall not duplicate that plan. The plan shall provide for ongoing as well as scheduled maintenance.

(b) Maintain a level of ongoing maintenance during the year for which funds are requested commensurate with the level of activity in prior years.

Note: Authority cited: Sections 66700, 70901 and 84660, Education Code. Reference: Section 84660, Education Code.

5 CCR § 57202
Cal. Admin. Code tit. 5, § 57202

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§ 57202. Application for Funds.

Districts shall apply to the Chancellor's Office for funding for scheduled maintenance in the form and manner specified by the Chancellor.

Note: Authority cited: Sections 66700, 70901 and 84660, Education Code. Reference: Section 84660, Education Code.

5 CCR § 57203
Cal. Admin. Code tit. 5, § 57203

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§ 57203. Allocation of Funds.

The Chancellor shall allocate the funds appropriated by the Legislature as soon as such funds are available, and in accordance with the project priorities established, provided that ten percent (10%) of the funds may be held for contingencies that may occur during the year. Any such funds initially held for contingencies shall be allocated prior to the end of the fiscal year.

Note: Authority cited: Sections 66700, 70901 and 84660, Education Code. Reference: Section 84660, Education Code.

5 CCR § 57204
Cal. Admin. Code tit. 5, § 57204

TITLE 5. EDUCATION
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SUBCHAPTER 4. DEFERRED MAINTENANCE

§ 57204. Selection of Projects.

The Chancellor shall evaluate district applications and rank projects for funding. Projects shall be ranked for funding using the following criteria, which shall be ranked equally:

(a) Health and Safety. Priority shall be given to projects necessary to meet safety requirements and to correct hazardous conditions which, if uncorrected, would result in facility closure or danger to staff and students utilizing the facility.

(b) Prevention of Further More Costly Repairs. Priority shall be given to scheduled maintenance for instructional facilities necessary to prevent substantially increased maintenance or replacement costs in the future.

(c) Disruption of Programs. Priority shall be given to projects necessary to prevent disruption of instructional programs.

Note: Authority cited: Sections 66700, 70901 and 84660, Education Code. Reference: Section 84660, Education Code.

5 CCR § 57205

Cal. Admin. Code tit. 5, § 57205

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§ 57205. District Match.

The Chancellor will allocate funds for only fifty percent of the costs for a scheduled maintenance project. In accepting funds under this subchapter, a district agrees to spend district funds necessary to complete the project. The Chancellor may waive this requirement in whole or in part for projects for which the district demonstrates that it cannot make available fifty percent of the costs for the project from other sources.

The Chancellor shall waive this requirement only for projects with high priority for funding. Highest priority shall be given to those projects which the Chancellor determines are necessary to prevent a facility from being closed.

Where projects would otherwise be of equal rank, first priority shall be given to those projects for which the district provides matching funds.

Note: Authority cited: Sections 66700, 70901 and 84660, Education Code. Reference: Section 84660, Education Code.