

COMMUNITY COLLEGE REGULATIONS

PART 600

DEFINITIONS AND INTRODUCTION

(Statutory authority: Education Law, § 355, subd. 1, par. c)

Sec.

600.1 Definition of terms

600.2 Introduction

§600.1 Definition of terms.

(a) Community College. Colleges established and operated either individually or jointly, by counties, a community college region, cities, intermediate school districts, or school districts approved by the State University trustees pursuant to the provisions of article 126 of the Education Law.

(b) College trustees. The local or regional board of trustees charged by law to administer the college or colleges.

(c) Local sponsor. The local sponsoring agency, such as a county, a community college region, a city or a board of education which, with the State, students and other counties, supplies the basic fiscal support for the college.

(d) State University trustees. The Board of Trustees of the State University of New York which is legally responsible for coordinating the program of the individual colleges.

§600.2 Introduction.

The Education Law of New York State provides that the State University trustees shall provide standards and regulations covering the organization and operation of community colleges. In summary, article 126 of the New York State Education Law prescribes that:

(a) The local sponsor shall be responsible for establishing the college, providing local financing, accepting title to college real property to be held in trust for the college's use and purposes, approving the [total] budget total, and selecting the prescribed procedures for the audit of college funds.

(b) The State University trustees shall be responsible for approving the establishment of the community college and of its programs, curricula and budgets, and for providing standards and regulations to guide and govern its operation.

(c) The college trustees with the approval of the State University trustees shall be responsible for the appointment of the president, adoption of the curricula and preparation of the

budget; and, subject to the general supervision of the State University trustees, shall discharge such other duties as may be appropriate or necessary for the effective operation of the college.

PART 601

**INITIAL ORGANIZATION OF A COMMUNITY COLLEGE
(Statutory authority: Education Law, § 355, subd. 1, par. c)**

Sec.

601.1 Establishment minima

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College full-opportunity plans**

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§601.1 Establishment minima.

(a) *Enrollment.* A proposed college shall have a potential enrollment of at least 1,000 full-time equivalent students from its sponsorship area within four years after its opening.

(b) Financial resources. The local sponsor shall have a true valuation of at least \$1.3 billion and an assessed valuation of at least \$650 million.

(c) Budget. The local sponsor shall make available its share of funds at least one year in advance of the formal opening of the college to assure the availability of sufficient facilities and instructional resources by opening day.

(1) Personnel.

(i) President and staff. The college budget shall provide, at least one year before the formal opening of the college, sufficient funds to appoint a president together with such supporting staff as may be necessary for the organization of the college, including those functions associated with the business affairs, academic development, library and student-personnel program. Sufficient staff shall be employed to provide adequate care and maintenance of buildings, grounds and equipment.

(ii) Faculty. The college budget shall provide for one full-time equivalent classroom teacher for a minimum of each 18.5 full-time students or the equivalent thereof.

(2) Facilities. (i) Classrooms, laboratories, library and other facilities. Sufficient space must be provided to prevent overcrowding as currently defined in statements guiding space requirements issued by State University of New York.

(ii) Library. Upon opening, the college shall have sufficient instructional resources to meet programmatic needs.

§601.2 Programs.

The program shall include both career and college transfer programs on a full- and part-time basis. Such curricula shall be based on surveys of the population of the sponsorship area, their education and training needs, qualifications and interest, and, with reference to career curricula, the prospects for employment of the graduates. The college facilities must be available for use in the late afternoon, evening, and summer to afford an educational opportunity for both full-time and part-time students and to assure maximum utilization of available physical resources. Special emphasis shall be given to community service and economic and workforce development programs and services. Programmatic review shall be conducted periodically as prescribed by the State University trustees.

§601.3 Name of the college.

Any college hereafter established which is by definition a community college shall incorporate in its name (a) the words "community college" and (b) when possible and desirable, the designation of its sponsorship or service area.

601.4 Multiple campus locations

(a) Definitions (Pursuant to Education Law Section 207 and Part 54 and Section 50.1 of this Title)

(1) Branch Campus. Branch campus means a unit of an institution located at a place other than the institution's principal center or another degree-granting institution, at which the institution offers one or more curricula leading to a certificate or degree. The SUNY Master Plan must be amended to include the branch campus and must be approved by the SUNY Provost, Chancellor and Board of Trustees, as well as the Education Commissioner, the Board of Regents and the Governor.

(2) Extension Center or Interinstitutional Center. Extension center means a unit of an institution located at a place other than the institution's principal center or another degree-granting institution, at which the institution does not offer any curricula leading to a certificate or degree, but at which the institution either conducts more than fifteen courses for credit or has more than three hundred fifty course registrations for credit in any academic year. Approval of the SUNY Provost and the Education Commissioner is required.

(3) Extension Site or Interinstitutional Site. Extension site means a unit of an institution located at a place other than the institution's principal center or another degree-granting institution, at which the institution does not offer any curricula leading to a certificate or degree, and at which the institution conducts no more than fifteen courses for credit and has

no more than three hundred fifty course registrations for credit in any academic year. No special approval is required.

(b) Exceptions (Pursuant to Section 54.2 of this Title). The following shall not be subject to the provisions of section (a):

(1) Units of New York institutions located outside the state or on territory over which the Federal government has asserted exclusive jurisdiction.

(2) Registered clinical or field curricula, or components or courses of registered curricula, where such curricula, components, or courses require special facilities unavailable at the principal center.

(3) Courses offered for credit by a degree-granting institution to secondary school students within a secondary school.

(4) Courses or curricula offered by an institution within a correctional facility.

(5) Courses or curricula offered by an institution on the territory of a Native American reservation.

(6) Other off-campus offerings for credit which the commissioner determines warrant exceptional treatment.

(c) Support Services. The services normally afforded to students and faculty at the principal campus center shall also be afforded to students and faculty in off-campus credit activities, to the greatest extent possible. This includes appropriate instructional facilities; access to library resources; access to advisement, financial aid, counseling and other support services; and procedures for faculty hiring, orientation, evaluation and participation.

(d) Application Process. Application forms, guidelines and assistance with pursuing extension center or branch campus approval should be obtained from the office of the SUNY Provost.

(e) Establishment Procedure. The establishment of branch campuses or extension centers for an institution shall be considered by the SUNY Trustees for approval and incorporation in the Master Plan when:

(1) The college Trustees and local sponsor or sponsors endorse the establishment of the additional campus or center;

(2) The local plan for development of the new campus or center indicates an administrative structure that includes a responsible chief administrative officer at each campus site;

(3) A tentative educational plan for the campus or center has been developed on the basis of a local area study of the need for such campus;

(4) A preliminary budget and fiscal plan to finance the campus or center is adopted by the college Trustees and the local sponsor or sponsors;

(5) A permanent site for operation of the campus or center is approved by the college Trustees and the local sponsor or sponsors.

(f) Programs, certificates and degrees. Organized for-credit academic programs at branch campuses shall be evaluated and accredited as institutional operations on their own merits, in accordance with the policies and procedures of SUNY and the relevant regional accrediting

agency. Graduates of programs of multiple campus community colleges shall be granted certificates and degrees by the college Trustees upon the recommendation of the principal campus faculty and administration, in consultation with the faculty and administration of the branch campus.

(g) Budget Procedure. Any college establishing a branch campus pursuant to this section may submit a separate operating budget for each such campus for the organization year and the first two fiscal years in which students are enrolled. For each fiscal year thereafter, the college shall submit a single consolidated operating budget for all its campus locations.

(h) The Chancellor, or designee, may develop and issue appropriate guidelines and procedures for the implementation of this section.

(i) Community College Service Area. Where the location of a branch campus, extension center or extension site is outside of the local sponsorship area, the provisions of subsequent Section 601.5 of this Title shall apply.

601.5 Community college service areas.

(a) In accordance with subdivision 1 of section 6302 and subdivision 2 of section 6305 of the Education Law, a community college may provide educational services beyond its sponsorship area, which may be included in the operating budget for State financial assistance purposes, provided that:

- (1) such services are provided for a contracting local entity or entities who elect to participate in the operations of an existing community college. A contracting local entity shall be defined as:
 - (i) a county which does not sponsor a community college or have located within its geographic boundary a State University agricultural and technical college or College of Technology; or
 - (ii) any city, intermediate school district or school district within such a county; and
- (2) the provision of such educational services is defined in an agreement between the board of trustees of the community college and a contracting local entity or entities, as duly authorized by appropriate local law, resolution, order or ordinance of the local sponsor of the college and the contracting local entity.
- (3) In cases where services are provided by more than one community college, said agreement shall delineate each college's region of operation and programmatic responsibilities in order to avoid unwarranted duplication of services.

- (b) A contracting local entity shall pay an appropriate share of the expense involved in the local sponsor's community college program where students who attend the program reside within the jurisdiction of the contracting local entity.
- (1) The appropriate share with respect to operating costs shall be determined on the basis of the operating chargeback rate on an FTE student basis established for the community college.
 - (2) This chargeback share is applicable to all approved credit courses taken by students approved by the college, regardless of age or current educational status.
 - (3) The appropriate share with respect to capital costs shall be determined on the basis of the capital chargeback rate established for the community college. Capital costs shall be paid by the contracting local entity only in the event that capital costs are generated solely as a result of the program provided by the community college.
 - (4) When students reside outside of the areas of both the sponsor and the **contracting** local entity, the allocable portion to be paid by the county of residence for operating and capital costs shall be the amount established for the residents of the contracting local entity and paid to the college.
- (c) The determination of a community college service area and the provision of educational services therein, as may be defined pursuant to subdivision (a) of this section, shall be subject to the approval of the chancellor or designee, except that where the provision of educational services pursuant to this section would result in the establishment of an institutional branch campus or extension center, such establishment shall be pursuant to the procedures for multiple campuses (§ 601.4 of this Title, supra).
- (d) The Chancellor, or designee, may develop and issue appropriate guidelines and procedures for the implementation of this section.

§601.6 Criteria for State University trustees' approval of community college full-opportunity plans.

An approvable full-opportunity plan, which shall be submitted to the State University trustees after approval by the board of trustees of a community college and the local sponsor or sponsors, should:

- (a) make it possible at least for every applicant who is a high school graduate in the year prior or a veteran, regardless of high school graduation date, and who is a resident in the sponsorship area, to take some appropriate program, credit or noncredit, on a full-time basis; the student's range of choices shall include developmental studies, certificate and diploma studies, and associate-degree studies, either college transfer or career;

(b) commit the college to allowing each student sufficient time to explore appropriate career goals; a student should have an opportunity to change a chosen field of study, the allowable number of such changes to be determined locally.

(c) provide that where the student's basic educational skills need improvement, appropriate instruction will be supplied;

(d) include provisions for the individualization of instruction and a clear explanation of how "nontraditional" learning resources are to be used;

(e) demonstrate that there will be a continuity of counseling of the individual student from the high school through the college program, i.e., show that there is an articulation of counseling between the college and the high schools;

(f) provide evidence of the adequacy of the college faculty to implement the plan;

(g) include specific reference to increased space utilization, extended instructional day, year-round calendar or other administrative expedients which will be employed as economy measures;

(h) show what adaptations of previous admissions office practices, academic grading practices, and counseling practices will be made in service of the new, more heterogeneous student population;

(i) provide specifically for the filing of an annual report with State University of New York on progress towards implementation of the plan, approval of annual payment(s) to be contingent on the filing of such annual report(s). Such annual progress reports shall be submitted to the Chancellor, State University of New York, or designee, according to the following schedule(s): 9/1-8/31 fiscal year by 8/31 of each fiscal year; 7/1-6/30 fiscal year by 6/30 of each fiscal year.

§601.7 Participation in cooperative educational programs, services and arrangements.

Subject to the approval of the local sponsor, the board of trustees of a community college may participate in cooperative educational programs, services and arrangements with colleges, universities, school districts, boards of cooperative educational services, libraries, museums, through contract or otherwise, and join any cooperative association of such educational institutions formed as a corporation pursuant to section 216 of the Education Law, in accordance with further guidelines as shall be developed and issued by the chancellor with the approval of the Director of the Budget, provided that:

(a) the college trustees shall review and approve the terms and conditions of participation in any interinstitutional corporation, including the charter and bylaws thereof, and may thereafter authorize the president of the community college, or designee, to participate on the governing body of such corporation;

(b) the college's commitments, including facilities and resources, to any interinstitutional arrangement, association or corporation, shall be made in compliance with all provisions of law

and regulations governing the community colleges, and shall not exceed funds appropriated or otherwise lawfully available to the community college therefore in the fiscal year in which the commitments are made;

(c) the financial standing and operations of any interinstitutional arrangement, association or corporation shall be subject to post-audit by the State Comptroller.

PART 602

COLLEGE FINANCE AND BUSINESS OPERATIONS (COLLEGE OPERATING FUND)

(Statutory authority: Education Law, §§ 355, 6221, 6302, 6304, 6305;
L. 1984, ch. 762; L. 1993, ch. 53 as amended by L. 1993, ch. 259)

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§602.1 Introduction.

(a) The financial and business policies and practices of the community colleges shall comply with article 126 of the Education Law, the Code of Standards and Procedures for the Administration and Operation of Community Colleges under the Program of State University of New York prescribed by the State University trustees, and a manual for community college business offices, and such other instructions as may be appropriate and necessary from time to time as prescribed by the Chancellor of State University or designee.

(b) Records and accounts must be maintained in accordance with national accounting standards for budgeting and financial reporting as prescribed by the State University Board of Trustees, and shall be subject to audit by the State.

(c) The records and accounts of the community college shall be audited annually by an independent certified public accounting firm.

(d) The college operating fund balance is to be reviewed periodically and maintained at a level consistent with sound fiscal management procedures.

(e) To gain the benefit of interest earnings, operating fund cash in excess of current needs is to be held in authorized investments. The Chancellor or designee shall determine the classification (offset or revenue in lieu of local sponsor share) interest income in the college operating budget and annual financial report.

(f) Subject to the approval of the college sponsor, the college board of trustees may enter into a contract with a not-for-profit corporation for the purpose of operating food-service, bookstore and/or conducting other appropriate auxiliary service activities. Such contract shall provide that the food and bookstore services be provided at the lowest possible cost to the students consistent with sound business and financial practices. Where a not-for-profit corporation has been established for the purpose of operating food service, bookstore and/or conducting other appropriate activities, the rights and responsibilities of the corporation shall be included in the contract between the corporation and the college board of trustees.

§602.2 Preliminary college operating budget estimate.

On or before the date prescribed by the Chancellor of State University or designee, the college shall file a preliminary operating budget estimate with State University of New York for the next succeeding college fiscal year.

§602.3 The college operating budget request.

(a) On or before the date prescribed by the Chancellor of State University or designee, the college shall file the college operating budget request with State University for the college fiscal year commencing on July 1st or September 1st.

(b) Prior to filing the operating budget request with the State University of New York, the sponsor's contribution and budget total shall have been approved by the college trustees and the sponsor, and the request shall contain evidence of such approval.

(c) The State University trustees shall take appropriate action relative to the total operating budget and the State financial assistance, subject to the availability of funds appropriated by the Legislature therefor.

(d) Should the State University trustees and/or the local sponsor fail to approve the budget submitted by the college trustees, the college trustees shall request the Chancellor of State University or designee to arrange for a conference to include representatives of the three bodies to produce agreement on the amount of the budget.

(e) Any needed adjustments in the budget that might result from the outcome of the foregoing negotiations shall be made by the college trustees and within the total amount of funds agreed upon.

§602.4 Revenues and appropriations/expenditures to be reported in the preliminary operating budget estimate, college operating budget request, amendments to college operating budget request and annual financial report.

(a) The college operating budget request shall include all estimated revenues to be received by the college for operating expense purposes. These revenues may include but are not limited to the following:

- (1) student tuition;
- (2) State aid;
- (3) sponsor contribution;
- (4) charges to nonresidents not presenting certificates of residence;
- (5) out-of-State resident tuition;
- (6) operating chargebacks to other counties;
- (7) gifts and donations;
- (8) endowment income;
- (9) unclassified revenue--local sponsor share;
- (10) organized activity income;
- (11) service fees, including parking fees and fines, and library fines;
- (12) interest and earnings on all operating funds and reserve for capital cost chargebacks;
- (13) rental of real property, including rental income on college-owned houses and rental revenue received from bookstore and food-service concessionaires;
- (14) rental of equipment, including locker rentals;
- (15) forfeiture of tuition deposits;
- (16) sales of scrap and excess material;
- (17) other minor sales;
- (18) sales of equipment;
- (19) insurance recoveries;
- (20) other compensation for loss, including reimbursement for laboratory breakage;
- (21) refunds of prior year's expenses;
- (22) unclassified revenues--offset to expenses, including vending machine, bookstore and food-service concession income; telephone commissions; employee jury duty fees paid to the college, parking fees and fines, and library fines; and
- (23) Federal aid provided in the name of the college.
- (24) For other allowable items, please refer to the Manual for Community College Business Officers.

(b) Federal, private or separately funded State revenues received for 100 percent support of student financial aid programs should not be included in the college unrestricted operating budget. However, complete records should be maintained on these funds and any liabilities should be reported in the operating fund balance sheet.

(c) The college operating budget request shall include all valid appropriations for restricted and unrestricted operating expense purposes. These appropriations may include appropriate expenses for the following functions:

Instruction
Public Service
Academic Support

Libraries
Other
Student Services
Institutional Support
 General Administration
 General Institutional Support
Operation and Maintenance of Plant
Scholarships and Fellowships (restricted)
Auxiliary Enterprises (restricted)
Scholarships

(d) The following is a listing of specific operating expenses which are allowable for State aid and support by student tuition revenues. This listing is not intended to be all-inclusive.

(1) Compensation for personal services.

(2) Lease and maintenance costs for rented physical space and equipment where used for college purposes. Rental/leasing of instructional space shall be subject to the approval of the chancellor or designee.

(3) Property and liability insurance. The practice of the local sponsor in regard to insurance coverage may govern in determining allowable insurance charges. Insurance premiums are an allowable expense. If the local sponsor is a self-insurer, no part of the charges should be included in the budget, except for compensation for losses incurred.

(4) Consumable supplies.

(5) Repairs to buildings, grounds and equipment. For purposes of this section, a repair is maintenance expenditure for the purpose of maintaining a facility in an ordinarily efficient operating condition. A repair does not significantly add to the value of the facility, nor does it appreciably prolong its life. It merely keeps the property in an efficient operating condition over its probable useful life for the uses for which it was acquired.

(6) Travel expenses for college purposes, including expenses related to the recruitment of professional staff.

(7) Communications and postage expenses for college purposes.

(8) Printing and advertising expenses for college purposes.

(9) Library acquisitions. For purposes of this section, the initial \$50,000 expenditure for instructional resources for each college or each campus of a multiple campus community college, where such multiple campuses have been approved by the University trustees, must be included as a capital expense.

(10) Institutional membership in local, State and national education-related organizations and associations.

(11) Conference fees and travel expenses related to staff attendance at conferences, where such conferences are related to college purposes.

(12) Expenses related to foreign student exchange programs.

(13) Moving expense of newly appointed members of the professional staff.

(14) Fees and costs for evaluation and accreditation by Middle States Association of Colleges and Secondary Schools and other accreditation associations.

(15) Graduation exercise expenses for speaker, reception for honored guests, music, and decorations for platform, and cost of caps and gowns for guests, speakers, college trustees, faculty and administrative staff.

(16) Expenses relating to refreshments, luncheons and dinners if for the purpose of conducting official college business.

(17) Expenses of moving college furnishings and equipment.

(18) Costs of training programs for college staff, including on- and off-campus seminars for professional staff.

(19) Expenses in accordance with the terms of a collectively negotiated agreement.

(20) Expenses related to appropriate non-revenue producing community service programs.

(21) Equipment costs not included in the capital construction budget.

(22) Employer contributions to fringe benefits negotiated under the terms of a collectively negotiated agreement.

(23) Expenses related to a college operated alumni program.

(24) Other general education expenses.

(25) Personal services and fringe benefit expenses for coaches.

(26) Scholarships

(e) The following is a listing of operating expenses which are not allowable for State aid and support by student tuition revenues:

(1) Expenses of service area educational programs where such programs have not been approved by State University.

(2) Individual memberships in professional organizations and associations, except in those instances where institutional memberships beneficial to the educational purposes of the college are not available, in which instances the individual membership fee will be allowable for State aid purposes.

(3) Contingency accounts.

(4) Food service and bookstore expenses and losses where such services are subcontracted.

(5) Rental of caps and gowns for students.

(6) Student activity functions, such as student receptions, socials, publications, and communication expenses related to student activity programs and faculty-student association activities.

(7) Rental and maintenance costs for property not used for college purposes.

(8) Expenses relating to the activities and administration of faculty-student associations.

(9) Expenses relating to the operation and administration of dormitories.

(10) Penalty fees for overdue payment of legal obligations.

(11) Costs of food, beverages and entertainment for college social functions.

(12) Collection agency fees for delinquent student accounts. This shall not be construed to prohibit the engagement of collection agencies to collect overdue student accounts. However, the collection agency fee shall be added to the student account.

(13) Matching funds for off-campus college work-study programs.

(14) Administrative overhead expenses otherwise chargeable to Federal programs.

(15) Depreciation.

(16) Costs for transportation of intercollegiate athletic teams or of students to attend athletic contests shall be a direct charge to the student-athletic association, faculty-student corporation, or other similar organization. Other expenses, such as payment of officials, purchases of uniforms and athletic equipment, guarantees and other related intercollegiate athletic expenses, shall not be included in the operating budget of the institution.

§602.5 State aid for non-credit remedial programs.

(a) Non-credit remedial programs operated by community colleges are eligible for State aid if the sponsor contributes its share of operating costs and each program meets the following criterion: Instruction concerned with diagnosing, correcting or improving such basic skills as oral and written communications, reading, analytical concepts and general study habits and patterns, to overcome in part or in whole any particular marked deficiency which interferes with a student's ability to pursue an educational objective effectively. State financial assistance shall be allowed for all noncredit remedial requirements heretofore or presently undertaken by community colleges.

(b) Fees for noncredit courses shall not exceed the tuition for credit-bearing courses having an equivalent number of credit hours.

(c) The following courses are specifically not eligible for State aid: avocational, recreational, and social group courses.

(d) The local operating budget shall indicate whether such non-credit courses are offered. Additional procedures for periodic review of all non-credit courses to determine eligibility for State aid shall be in accord with guidelines developed and issued by the Chancellor or designee.

(e) All courses and programs not eligible for State aid shall be in the aggregate self-sustaining. The revenues collectively received for such courses and programs must be adequate to cover the direct costs of all the courses and programs including faculty salaries and fringe benefits, the costs of supplies and materials consumed in the courses and programs, the costs of equipment used only for the programs and other expenses directly incurred by the courses and programs. Each individual course or program need not be operated on a self-sustaining basis.

(e) Fees for noncredit courses which are not eligible for State aid and which have no practical credit equivalency shall be determined by policy of the local trustees or their designee.

(f) In order to receive State financial assistance for noncredit courses, each community college must submit to the Chancellor, or designee, a request for funding which, at a minimum, shall contain the name of any co-sponsoring institutional group or agency, a description of the college's control of operation of the course in the areas of fiscal administration, selection of faculty and course development, a description of the course or program to be offered, the major purpose of the course or program as it relates to the mission of the college, the projected full-time equivalent student or headcount enrollment of the proposed course or program, and such other data as required by the chancellor, or designee, on forms designated for this purpose.

(h) Each community college shall maintain a record of costs and revenues, and other descriptive data in accordance with guidelines issued by the chancellor, or designee, for its total noncredit program in order to be eligible for State financial assistance for such courses. Each community

college shall submit such records to the Chancellor, or designee, at the time and in the manner established by the Chancellor, or designee.

§602.6 Gifts and bequests.

(a) The college is empowered and authorized through its board of trustees to accept gifts, grants, bequests and devises absolutely or in trust for such purposes as the college trustees may deem appropriate or proper for carrying on the programs and objectives of the college. The college shall neither participate in the selection of nor accept contributions which may in any way distinguish among individuals or groups on the basis of sex, age, race, color, religion, creed or national origin.

(b) All gifts of money made in the name of the community college shall be recorded in the college fund or foundation.

(1) Restricted gifts of money shall be used for the purposes specified by the donor.

(2) Unrestricted gifts of money may be used for such purposes as are determined by the college trustees.

(c) Gifts of personal property, instructional equipment, library books or special collections, works of art, and other items of value to the college shall not be considered as part of the operating budget.

§602.7 Sponsor services.

(a) *Sponsor services*, are those direct services rendered on behalf of a community college, by the sponsor, which have been determined by the college board of trustees to be necessary for the maintenance and operation of the college, and which would otherwise be provided by the college staff or a vendor.

(b) The community college board of trustees shall approve or disapprove each sponsor service and its estimated value in advance of the service being rendered, and shall approve the payment for each sponsor service satisfactorily performed. Only services approved by the college trustees shall be deemed eligible for state aid.

(c) In submitting its operating budget request, the college shall provide a listing containing a description of the nature and estimated cost of each approved sponsor service.

(d) In approving the college-operating budget, unless specific exceptions have been taken, the State University trustees shall have approved the valuation of the sponsor services included in the college-operating budget.

(e) The following general types of sponsor services, although not inclusive, will be considered for approval where such direct services are beyond the capability of the college staff and the costs of such direct services are competitive, as demonstrated by competitive bidding, with those of reliable vendors:

(1) Maintenance and repair of college buildings.

- (2) Snow removal from roadways and parking lots.
- (3) Repair of roadways and parking lots.
- (4) Repair of automotive equipment.
- (5) Waste and garbage removal.
- (6) Laundry services.
- (7) Photographic services.
- (8) Provision of equipment, materials and supplies from the sponsor's central stores.
- (9) Academic and administrative computer services.
- (10) Operation of college telephone switchboard.
- (11) Allocation of utility service charges--steam, electricity, water and sewage, where the college is one activity within a larger sponsor complex.

(f) The local sponsor may not bill the community college for indirect costs.

§602.8 Limitations on State financial assistance.

During the community college fiscal years commencing on and after July 1, 1975, State financial assistance for community college operating costs shall be determined by the State University trustees pursuant to section 6304 of the Education Law as follows:

(a) Definitions for this section.

(1) Net operating costs. Gross operating expenditures minus actual offsetting operating revenues, (such as Federal aid) and actual operating expenditures not allowable for State aid.

(2) Net operating budget. Gross operating budget minus budgeted offsetting operating revenues, (such as Federal aid) and budgeted appropriations not allowable for State aid.

(3) Rental cost for physical space. The costs of rented physical space, excluding costs of such services as electricity, gas, heat or janitorial services where the expenses of the latter types of services are included in the rental charges.

(4) Disadvantaged students. Students eligible for supplemental financial assistance in education opportunity programs under criteria established by State University of New York, pursuant to section 6452 of the Education Law and Subpart 27-2 of this Title (rules of the Board of Regents).

(5) Full-time equivalent student. A hypothetical student who has enrolled in a course load consisting of 30 semester credit hours or 45 quarter credit hours or the equivalent of such credit hours in the case of noncredit course offerings, during the course of one college fiscal year.

(6) Full-time equivalent faculty. One full-time faculty position. To ascertain full-time equivalent faculty, divide the total class hours taught at the college, including classroom

hours and laboratory hours, by the average classroom and laboratory hours taught by the college's full-time faculty, excluding overload hours taught for extra compensation. Full-time faculty for this purpose is defined as all personnel holding faculty rank and being paid on a full-time basis, with the exclusion of:

(i) persons assigned to perform nonteaching functions including, for example, personnel holding the title of president, vice-president, dean, librarian, registrar or student counselor;

(ii) personnel holding the title of, or formally designated to function as academic department heads, not to exceed one per department; and

(iii) faculty members granted release time of at least six credits hours per semester to undertake duties required under the terms of a grant or contract funded by an outside agency; provided, however, that such release time is accompanied by an equivalent reduction in salary or an offsetting recovery of revenues by the college.

For example, where 100 full-time faculty as defined above generate 3,200 class hours during the academic year, the average class hours taught are 32; and where the total class hours taught during the same academic year is 3,856, the number of full-time equivalent faculty is 120.5 (3,856 divided by 32).

(7) [(8)] Costs of instruction and departmental research. The costs of personal services, equipment and contractual expenses for instruction and departmental research for the day and evening sessions, winter intercessions, and summer sessions of the college.

(8) [(9)] Full-time credit student. A student who is enrolled in a minimum of 12 credit hours or credit hour equivalents of academic work per semester or quarter.

(9) Diploma and certificate programs. Those programs approved by the State University of New York and the State Education Department as leading to a recognized credential, either diploma or certificate.

(b) Before approving the budget of any community college, the State University trustees shall review such budget and may make such adjustments thereto, in aggregate amount as they may deem appropriate with respect to the programs and operation of the college and in relation to the maximum limitations on State-operating assistance for community colleges prescribed in this Subchapter. Nothing contained in this Subchapter shall be deemed to require the approval of any operating budget at the amounts as herein limited, nor to prevent the operation of a community college in excess of the amount of the costs approved by the State University trustees, provided such excess costs shall be borne and paid for or otherwise made available to or by the local sponsor or sponsors.

(c) **Basic State financial assistance.**

(1) **Full opportunity colleges.** The basic State financial assistance for community colleges, implementing approved full opportunity programs, shall be the lowest of the following:

- (i) two-fifths (40%) of the net operating budget of the college, or campus of a multiple campus college, as approved by the State University trustees;
- (ii) two-fifths (40%) of the net operating costs of the college, or campus of a multiple campus college; or
- (iii) for the current college fiscal year the total of the following:
 - (a) the budgeted or actual number (whichever is less) of full-time equivalent students enrolled in programs eligible for State financial assistance multiplied by \$2300; and
 - (b) up to one-half (50%) of rental costs for physical space.

(2) **Non-full opportunity colleges.** The basic State financial assistance for community colleges not implementing approved full opportunity programs shall be the lowest of the following:

- (i) one-third (33%) of the net operating budget of the college, or campus of a multiple campus college, as approved by the State University trustees;
- (ii) one-third (33%) of the net operating costs of the college, or campus of a multiple campus college; or
- (iii) for the current college fiscal year the total of the following:
 - (a) the budgeted or actual number (whichever is less) of full-time equivalent students enrolled in programs eligible for State financial assistance multiplied by \$1917; and
 - (b) up to one-half (50%) of rental cost for physical space.

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this subdivision, a community college or a new campus of a multiple campus community college in the process of formation shall be eligible for basic State financial assistance in the amount of one-third of the net operating budget or one-third of the net operating costs, whichever is the lesser, for those colleges not implementing an approved full opportunity program plan, or two-fifths of the net operating budget or two-fifths of the net operating costs, whichever is the lesser, for those colleges implementing an approved full opportunity program, during the organization year and the first two fiscal years in which students are enrolled.

d) **Funded enrollment.** Notwithstanding the provisions of this section, assistance payable for the current community college fiscal year on the basis of full-time equivalent credit enrollment and non-credit remedial enrollment shall be paid on an aidable college enrollment defined to be the greater of:

- (1) The actual full-time equivalent credit enrollment and non-credit remedial enrollment for the previous community college fiscal year; or
- (2) The sum of the following: 50 percent of the actual full-time equivalent credit enrollment and non-credit remedial enrollment for college fiscal year plus 30 percent of the actual full-time equivalent credit enrollment and non-credit remedial enrollment for college fiscal year 2 years prior, plus 20 percent of the actual full-time equivalent credit enrollment and non-credit remedial enrollment for college fiscal year 3 years prior. For such enrollment full assistance is payable as provided in clauses (c) (1) (iii) (a) and (2) (iii) (a) of this section.

(e) **Excess student revenues.** Local sponsors may use funds contained in reserves for excess student revenue, excluding any excess student revenues attributable to the current community college fiscal year, for operating support of the community college program even though said expenditure may cause expenses from student revenues to exceed one-third of the college's net operating budget provided that such funds do not cause the college's revenues from the local sponsor's contributions in aggregate to be less than the comparable rates for the previous community college fiscal year.

§602.9 Amendments to college operating budget requests.

(a) Subject to the approval of the sponsor, within the total approved college operating budget, the college trustees may transfer appropriations from one function or object of expense account to another.

(b) Amendments to increase the total college operating budget may be effected by the college trustees with the approval of the sponsor and State University trustees. Anticipated requests for amendments to increase the total operating budget shall be reported to and discussed with the Chancellor of State University or designee at the earliest possible date, in order that the need for changes in college operations from those described in the budget first approved can be fully analyzed and understood.

(c) Prior to filing with the State University of New York, a request to increase the State financial assistance shall have been approved and certified by the college trustees.

(d) The Chancellor of State University shall take appropriate action relative to the request to amend the total operating budget in the amount of five percent or less of the approved total operating budget. The total of all such requests approved by the Chancellor for a community college year shall not exceed five percent of the original approved budgeted amount. The State University Board of Trustees shall take appropriate action relative to the request to amend the

total college operating budget in amounts greater than a five percent of the approved total operating budget.

(e) The Chancellor of State University shall take appropriate action relative to the request to amend the State financial assistance in the amount of five percent or less of the approved State financial assistance. The total of all such requests approved by the Chancellor for a community college year shall not exceed five percent of the original approved budgeted amount. The State University Board of Trustees shall take appropriate action relative to the request to amend the total the State financial assistance in amounts greater than five percent of the approved State financial assistance.

(f) The Chancellor of State University of New York shall annually report to the State University Board of Trustees concerning all amendments to community college operating budget requests approved by the Chancellor during the preceding college year.

§602.10 College tuition and fees.

(a) On or before the date prescribed by the Chancellor of State University or designee, the college shall file the tuition and fee schedule with State University of New York for the college fiscal year commencing on July 1st or September 1st.

(b) The college tuition and fee schedule shall be filed in accordance with article 126 of the Education Law, this Subchapter, and the manual for community college business offices, and on the forms and in accordance with the instructions promulgated by the Chancellor of State University or designee.

(c) Student tuition and fees.

(1) Tuition and student revenue fees shall not exceed, in the aggregate, more than 1/3 (33%) of net operating costs. Student service fees, such as laboratory fees, late registration fees and transcript fees, will be applied as offsetting revenues of the operating costs. Policies governing student revenue fees or any other general fee charged to all students, such as registration fees, shall be determined, as appropriate, by the State University trustees.

(2) The full-time tuition rate for residents of the sponsorship area, and nonresidents of the sponsorship area presenting certificates of residence, shall not exceed the amount authorized by the State University Board of Trustees.

(3) The full-time tuition rate for baccalaureate and master's degree level programs offered pursuant to the authorization set forth in subdivision (3) of section 6302 of the Education Law shall be not more than the rate for such programs at the state-operated units of the State University.

(4) The part-time tuition rates for residents of the sponsorship area, and nonresidents of the sponsorship area presenting certificates of residence, shall be no more than 1/24th the maximum full-time tuition rate per academic year for those colleges operating on a semester system, rounded up to the nearest whole dollar, and no more than 1/36th the maximum full-

time tuition rate per academic year for those colleges operating on a quarter system, rounded up to the nearest whole dollar.

(5) Lower part-time tuition rates may be established for courses offered at off-campus locations, or during winter intersessions and summer sessions, or during off-peak hours as determined by the college trustees, provided, however, that such rates shall not be established on a programmatic basis.

(6) The part-time tuition rates shall be expressed in terms of a rate per credit hour.

(7) The full-time tuition rate shall be applicable to those students enrolled in 12 or more credit hours, or credit hour equivalents in the case of aidable noncredit courses, per academic term; and the part-time tuition rates shall be charged for those students enrolled in less than 12 credit hours, or credit hour equivalents in the case of aidable non-credit courses and programs, per academic term, including individual summer sessions and winter intersessions.

(8) Non-credit courses eligible for State aid shall be equated to credit hours in accordance with the procedures published by the State University of New York in the glossary section of the Official Enrollment Requests in accordance with procedures established by State University trustees.

(9) Fees charged for all courses and programs not allowable for State aid shall be sufficient in the aggregate to support the total direct costs of all such courses and programs.

(10) The full-time and part-time tuition rates for out-of-state students and nonresident students not presenting certificates of residence shall be not more than three times the full-time and part-time tuition rates, respectively, for residents of the sponsorship area and nonresidents of the sponsorship area presenting certificates of residence.

(d) Prior to filing with the State University of New York, the tuition and fee schedule shall have been approved by the college trustees, and shall contain a certification to this effect by either the chairperson or secretary of the college trustees.

(e) The tuition and fee schedule shall be subject to approval by State University trustees.

(f) Deferral of payment of tuition and fees by veterans. Upon request by a student who is an eligible veteran, the payment of tuition and fees, less the amounts payable for such purposes from scholarships or other financial assistance awarded said veteran pursuant to article 13 or 130 of the Education Law or any other community college, State or Federal financial aid program, shall be deferred in such amounts and until such times as the several payments of veterans' benefits under the Veterans' Readjustment Benefit Act of 1966, as amended, are received by the veteran, provided that the veteran has filed a claim for such benefits and presents to the community college proof of eligibility, extent of entitlement to benefits, and the need for deferral until the receipt of such benefits. The board of trustees of a community college may promulgate such additional regulations and procedures, not inconsistent with this section, as may be required to facilitate implementation of this regulation.

(g) Tuition payments are to be recorded for all students except citizens 60 years of age or over who are auditing courses on a space-available basis.

(h) Student revenue surpluses. With the exception of the excess student revenues expended as provided in paragraph (2) of subdivision (d) of section 602.8 of this Part, when a college has accrued excess student revenues, the college when submitting its annual financial report shall submit a plan of action that will effectively reduce the surplus each successive year and eradicate it within five years.

(i) Tuition Limitations

(1) To the extent authorized by law, community colleges of the State University of New York may increase tuition and fees above that allowable under paragraph d of section 6304 of the Education Law, provided the local sponsor's contribution either in the aggregate or per full-time equivalent student shall be no less than the comparable actual rates for the previous community college fiscal year.

(2) Tuition rates shall not exceed the maximum limitations provided in subdivision (c) of this section. However, the State University trustees may, upon a sufficient showing of financial need, approve a tuition rate in excess of the limitations provided in subdivision (c) of this section.

§602.11 Refund of tuition and fees

(a) A student who officially withdraws shall be liable for payment of tuition and refundable fees in accordance with the following schedule:

Schedule of Student Tuition Liability

Liability	Semester	Quarter	8-wk term or less
Prior to first day	0	0	0
During 1 st week	25%	40%	75%
During 2 nd week	50%	70%	100%
During 3 rd week	75%	100%	100%
After 3 rd week	100%	100%	100%

(1) Approval of the cancellation with the date it becomes effective must be certified by the college president or designee. No money shall be refunded unless application for the refund is made within one year after the end of the term for which the tuition requested to be refunded was paid to the college. The first day that classes are offered, as scheduled by the college, shall be considered the first day of the semester, quarter or other term, and the first week of classes for purposes of this section, shall be deemed to have ended when seven calendar days, including the first day of scheduled classes, have elapsed.

(2) A tuition liability schedule for a term of any length other than those listed in the schedule above shall be similarly prorated.

(b) *Exceptions.*

(1) There shall be no tuition or refundable fee liability established for a student who withdraws to enter military service prior to the end of an academic term for those courses in which the student does not receive academic credit, provided the student submits proper certification of such military service from an appropriate military official.

(2) A student who is dismissed for academic or disciplinary reasons prior to the end of an academic term shall be liable for all tuition and fees due for that term.

(3) Tuition and fees collected in error, or in amounts in excess of the required amounts may be refunded. The request for refund shall include the reason for and the amount of the refund.

(4) A student who is receiving Veterans Administration benefits under the Veterans Readjustment Assistance Act of 1952, Pub. L. No. 82-550, 66 Stat. 663 (1952), see subdivision (d) of this section, and is enrolled in a nonaccredited program may not be charged on withdrawal in excess of the approximate prorated portion of the total charges that the length of the completed portion of the program bears to its total length and shall be entitled to a refund of any amount paid in excess thereof.

(5) Notwithstanding any other provisions for refund, when a student has withdrawn through circumstances beyond his or her control, under conditions in which the denial of refund would cause undue hardship, the chief executive officer of the college may, in his or her discretion, determine that no liability for tuition and fees has been incurred by the student, provided the student has not received or will not receive academic credit for the term. Such action, including the reason therefor, shall be in writing.

(c) Military personnel withdrawing from any program or term because of changes of assignment beyond their control and upon proper certification of such change from a base education service officer or other appropriate military official shall be deemed to have incurred no liability for tuition and fees due from such personnel, as opposed to tuition and fees paid by the Federal government in their behalf.

(d) Section 668.22 of title 34 of the Code of Federal Regulations, revised as of July 1, 1997, the Veterans Readjustment Assistance Act of 1952, and Pub. L. No. 82-550, 66 Stat. 663 (1952), and sections 1070, et seq. of title 20 of the United States Code, as amended by Pub. L. No. 105-33, 111 Stat. 648 (1997), which have been incorporated by reference in this section are on file in the Office of the Secretary of State of the State of New York, 41 State Street, Albany, NY 12231-0001. They are also available for public inspection and copying in the State University of New York Office of the Vice Chancellor for Finance and Business, State University Plaza, Albany, New York 12246. The Code of Federal Regulations and the United States Statutes at Large are published by The National Archives and Records Administration's Office of the

Federal Register. The United States Code is published by the Office of the Law Revision Counsel of the United States House of Representatives. Copies of the publications may be obtained from the United States Government Printing Office Superintendent of Documents Sales Service, Washington, D.C. 20402.

§602.12 Operating chargebacks for nonresident students.

(a) Definition of nonresident student. A nonresident student is one who has resided in the State for a period of at least one year but has resided outside of the sponsorship area during a portion or all of the six months preceding the date of the application for a certificate of residence. For tuition purposes, out-of-state students shall be treated the same as nonresident students.

(b) All instructional programs, including off site campus locations (high schools, malls, etc.) supported by State aid shall be entitled to chargeback payment by the county of residence of nonresident students.

(c) Within 30 days after the commencement of a student's initial enrollment, each nonresident student shall submit to the college a valid certificate of residence. Such certificate is valid for one year from the date of issuance and is applicable for all terms or programs commenced and completed within that twelve month period.

(d) Within 45 days after the commencement of each college term or program, the president of the college or designee shall submit to the chief fiscal officer of each county a list of nonresident students attending the college on the basis of a certificate of residence and a voucher for the amount payable by each county for these students. The billing of the county of residence for each nonresident student attending a community college shall be determined on the basis of the fractional full-time equivalent student load that each student is enrolled in as of the census date (as defined by the Student Data File Manual).

(e) The operating chargeback rate per full-time equivalent student shall be an amount equal to the community college sponsor's actual contributions, including appropriated fund balance for the support of a full-time equivalent student attending the community college from the sponsorship area as determined in the college operating budget request approved by the State University Trustees, adjusted by a factor calculated upon the difference between the budgeted and actual operating costs as determined from the college's annual financial reports, rounded downward to the nearest multiple of ten dollars (\$10.00). Such operating chargeback rate and calculated adjustment thereto, shall be determined as follows:

(1) subtract from the approved total operating budget, the budgeted offsetting revenues including Federal aid, other operating expenses not allowable for State aid, budgeted student revenues and budgeted State operating aid;

(2) divide the result of paragraph (1) by the budgeted number of full-time equivalent students;

(3) adjust the result of paragraph (2) by 100% of the difference between budgeted and actual operating cost per full-time equivalent student for the most recent fiscal year for which an annual financial report is available;

(f) On or before March 31, 1995, and every year thereafter, the State University shall, subject to the availability of appropriations therefor, reimburse each county which has issued a certificate of residence for any non-resident student in attendance at the Fashion Institute of Technology during the 1993-94 academic year and every year thereafter in an amount equal to 50 percent of the actual amount paid by each such county on behalf of such students, upon certification of such payment by the Fashion Institute of Technology, and on or before June 1, 1995, and every year thereafter, the State University shall, subject to the availability of appropriations therefor, reimburse each county for the remaining 50 percent of the actual amount paid by each such county on behalf of such students, upon certification of such payment by the Fashion Institute of Technology.

§602.13 Annual financial report.

(a) Pursuant to section 30 of the General Municipal Law, the annual financial report shall be certified by the chief fiscal officer of the college and shall be filed with the State Comptroller within 60 days after the close of the college fiscal year. The chief fiscal officer is the college treasurer for purposes of this certification.

(b) The annual financial report shall be in compliance with article 126 of the Education Law, this Subchapter, and the manual for community college business offices, and on the forms and in accordance with instructions promulgated by the State Comptroller.

(c) The State University of New York, which shall also receive copies of the annual financial report, shall review the annual financial report for the purposes of the initial determination of the State liability.

(d) Any overpayment in State financial assistance for operating costs, as determined in the review of the annual financial report, shall be deducted from the second quarterly advance payment of State aid for the succeeding college fiscal year.

(e) Any underpayment in State financial assistance for operating costs, as determined in the review of the annual financial report, shall be processed in accordance with Sections 602.3 and 602.9 herein.

(f) The college shall be subject to audit by the Office of the State Comptroller for the purpose of the final determination of the State liability.

§602.14 Internal business practices.

(a) Subject to appropriate Federal, State and local laws and regulations, policies and practices relating to the following activities are matters or local college trustees' determination. This list includes but is not limited to:

- (1) internal business and financial policies and practices;
- (2) faculty-student association policies and activities;
- (3) student activity programs and fees;
- (4) equipment and supplies inventory and utilization control;
- (5) administration of Federal and State grants and student financial aid programs;
- (6) the admission of out-of-State and foreign students;
- (7) participation in interstate and international consortia;
- (8) purchasing;
- (9) disbursement;
- (10) attendance;
- (11) payroll;
- (12) cash control; and
- (13) investment procedures;
- (14) employees salaries and benefits.

(b) For purposes of guidance, the State University trustees shall provide the colleges with appropriate guidelines made available by the State Comptroller relating to such activities as cash control, equipment inventory control and utilization, and time-attendance and payroll.

§602.15 Operating Aid Payment Schedule

(a) State operating aid shall be paid quarterly as follows:

- | | |
|-----------------|---|
| First quarter: | September 1 or after college board of trustees, local or regional sponsor, and State University Board of Trustees approve the college operating budget. |
| Second quarter: | December 1 or after the review and approval of the college's prior years annual financial report and FOP annual report. |
| Third quarter: | March 1 or after receipt and review of the college's prior year certified financial statement |
| Fourth quarter: | June 1 |

PART 603

THE COLLEGE CAPITAL BUDGET

(Statutory authority: Education Law, §§ 355, 6221, 6304; L. 1998, ch. 53)

Sec.

- 603.1 State assistance for capital costs
- 603.2 Form of the capital budget
- 603.3 The capital budget, a continuing budget
- 603.4 Architectural fees for design and supervision of construction of buildings
- 603.5 Real property
- 603.6 Amendment to the capital budget
- 603.7 Capital cost chargeback for nonresident students

Section 603.1 State assistance for capital costs.

(a) The maximum amount of State financial aid for capital costs of community colleges shall be limited to one half of the amount of capital expenditures approved by the State University trustees. Such expenditures shall be deemed to include the value of any property or services furnished by a local sponsor or sponsors as its or their share of capital costs as fixed by the State University trustees with the approval of the Director of the Budget in accordance with law.

Proposed capital expenditures shall be submitted for approval in the form of capital budgets. In their determination on such proposals, the State University trustees will give due consideration to the master plan, the relationship of the proposed expenditures to the facilities to be furnished thereby and the need for such facilities with respect to the potential number of students and the area to be served by the community college concerned.

In any case, where a local sponsor has received State financial assistance based on expenditures for capital facilities of a community college and shall thereafter dispose of such facilities either by sale, other than in part payment for a new article, or by discontinuance of their use for community college purposes, State financial assistance for costs of any new capital facilities shall be limited by crediting to such assistance otherwise payable an amount computed as follows:

one half, or if the State contributed less than one half, such lesser percentage of original capital costs as may have been paid by the State, Of the value of such facilities at the time so disposed of as fixed by the State University trustees with the approval of the Director of Budget, but in no event shall such value be fixed for such purpose at more than the original cost of such facilities nor less than the amount actually received by the local sponsor upon sale thereof.

(b) Upon approval by the State University trustees, the capital construction budget shall be forwarded to the Governor with a request for inclusion in the Executive Budget request to the

Legislature. Where an appropriation is passed for a construction project, the local sponsor may arrange for financing and construction with the Dormitory Authority of the State of New York with the approval of the State University trustees and the Director of the Budget. The State University trustees will not approve any application or agreement for financing unless an appropriation has been made for the project.

The capital construction will be financed by the local sponsor with the approval of the Dormitory Authority or pursuant to the terms of an agreement between the local sponsor and the Dormitory Authority with the approval of the Director of the Budget and the State University trustees. The State shall annually thereafter appropriate and pay to the local sponsor 50 percent of the costs of financing, to be disposed of pursuant to the foregoing agreements or approvals.

§ 603.2 Form of the capital budget.

Capital budgets shall be prepared in accordance with procedures and in the form required by the State University and the local sponsor.

§ 603.3 The capital budget, a continuing budget.

Capital budgets, unlike operating budgets, do not terminate annually but are continuing. Once approved by the local sponsor and the University trustees, capital budgets can be amended by action of the sponsor and State University trustees. A separate capital budget is required for each project. The following items are properly included in a capital budget. The list is not intended to be all-inclusive. Other items necessary for the creation of new or additional facilities may be considered for inclusion.

(a) Acquisition of real property.

(b) Site selection studies, surveys, appraisals, relocation of tenants and owners, demolition and other costs of acquiring real property.

(c) Preparation of plans and specifications.

(d) Supervision and inspection of construction.

(e) Construction of new facilities.

(f) Major changes in the function, use or capacity of existing facilities.

(g) Alterations and improvements to existing facilities.

(h) Identification, design and specification of capital equipment.

(i) Acquisition and installation of equipment in new construction.

(j) Acquisition and installation of equipment in projects involving major changes.

§ 603.4 Architectural fees for design and supervision of construction of buildings and sponsor services.

The fees for architectural services shall not exceed the amounts determined from the schedule of fees established by the Chancellor or designee. In addition, the college shall not be charged for duplicate administrative, design, or construction supervision services associated with the project. Any such fees must be approved by the college trustees.

§ 603.5 Real Property.

(a) *Acquisition of real property.* Real property may be acquired for community college facilities by gift only after the State University trustees have approved the selection of the site, and by purchase or condemnation only after an appraisal has been prepared and the State University trustees have approved the selection of the site, the educational value of the property and a capital budget which includes the acquisition costs.

(b) *Appraisal of real property.* Any appraisal of real property required by this Subchapter shall be prepared by an appraiser selected by the State University, approved by the college trustees and engaged by the college or sponsor. Prior to the enactment of an appropriate capital budget, appraisal costs shall be paid in the first instance by the sponsor or the college. Any appraisal required by this Subchapter shall be dated within one year of the date of the transfer of title of the real property.

(c) *Title to real property.* Title to the real property shall be vested with the sponsor, and the real property shall be dedicated to be held in trust for the college with a resolution of the governing legislative body of the sponsor, which resolution shall describe the parcel by a metes and bounds description. The description shall be incorporated into a deed which shall place the property in trust on behalf of the community college, which deed shall be filed and recorded in the office of the county clerk in which the property is located.

(d) *Disposal of real property.* A local sponsor may dispose of real property if the college board of trustees and the State University have passed resolutions declaring that the property is no longer useful or required for community college purposes and the minimum rental and the market value at the time of disposal has been determined by an appraisal and approved by the State University trustees. The following methods of disposal are approved:

- (1) sale to the sponsor for not less than the market value; or
- (2) sale by competitive bidding to the highest bidder as approved by the local sponsor and State University; or
- (3) by method applicable to local sponsor and approved by the State University trustees.

In the event the disposal cannot be prudently considered or no buyer can be found, the sponsor shall endeavor to lease the property in the following matter:

- (4) rental to the sponsor for not less than the minimum rental; or
- (5) rental to a third party for not less than the minimum rental.

In any case, where a local sponsor has received State financial assistance based on expenditures for community college capital facilities and the local sponsor shall thereafter dispose of such facilities by sale or by discontinuance of their use for community college purposes, State financial assistance for costs of any new capital facilities shall be reduced by crediting to such assistance otherwise payable an amount computed as follows:

- (6) one half of the value of such facilities at the time so disposed of as fixed by the State University trustees with the approval of the Director of the Budget; or
- (7) if the State contributed less than one half, such lesser percentage of original capital costs as may have been paid by the State; and
- (8) in no event shall such value be fixed for such purpose at more than the original cost of such facilities nor less than the amount actually received by the local sponsor upon the sale thereof.

Where disposal of the real property is in part payment for a new capital article for community college purposes, this section shall not apply.

§603.6 Amendment to the capital budget.

Action to amend an approved capital budget shall be initiated by the college administration and be approved by the college trustees, sponsor(s) and State University trustees. In requesting action by the State University trustees, the college administration shall submit copies of the official resolutions requesting the amendment and the amount of the amendment as enacted by the college trustees and sponsor(s).

§603.7 Capital cost chargeback for nonresident students.

(a) Monies received from the chargeback to the counties of residence of nonresident students of amounts on account of capital costs of the local sponsor shall be deposited in the community college fund in accordance with subdivision 5-b of section 6304 of the Education law and shall be separately accounted for within said fund, and be used:

- (1) to meet the sponsor's share of the costs of acquisition of land and the acquisition, construction or rehabilitation of buildings;
- (2) to reduce indebtedness of the sponsor incurred for capital costs of a community college;
- (3) to pay the sponsor's costs of financing such indebtedness; and

(4) for the sponsor's share of such other purposes as are normally permitted within an approved capital construction budget.

(b) Capital chargeback monies may be expended to pay for up to one-half the purchase price of equipment. Such purchases shall be limited to those items of equipment which require significant expenditure of funds. For purposes of this section, equipment shall include only those articles that:

- (1) are a tangible asset;
- (2) possess a useful life of at least two years;
- (3) have a unit cost of \$1,000 or more; or
- (4) are purchased in quantity for a single educational or administrative purpose, has a unit cost of \$500 or more, and an aggregate value for all units purchased for such single purpose of \$10,000 or more.

In no event shall expenditures for equipment, made with capital chargeback monies, qualify for State operating aid.

(c) Payment of said monies for the foregoing purposes shall be made to the sponsor of the community college from the community college fund.

(d) The term year shall be defined to mean an academic year with respect to the chargeback of amounts on account of capital costs.

(e) Effective with the academic terms commencing on or before January 1, 1976, the annual charge to the counties by the college, up to a maximum of \$300, shall be apportioned according to the following schedule:

(1) for full-time students—one half of the approved charge per term for those colleges operating on the semester system up to the approved amount, and one third per term for those colleges on the quarter system up to the approved amount; and

(2) for part-time students where the approved rate is \$300--\$10 per semester credit hour or \$6.67 per quarter credit hour; where the approved rate is \$200--\$6.67 per semester credit hour or \$4.43 per quarter credit hour.

(f) Each community college with the submission of its annual budget shall request a capital chargeback rate. Such application shall include justification for approval of the charge, which shall indicate the amount of the approved capital expenses of the college and the chargeback reserves on hand. Determination of chargeback amount shall be based on the following guidelines:

(1) Any community college which has received State University trustee authorization for a capital project as included in the capital construction budget request for purposes set forth in subdivision (a) of this section, may charge \$300 annually until the fund equals the local share and the State's share if the local sponsor is authorized to finance the State's share of any such approved project. Such college may deduct the amount of the local share and the State's share

of such approved project from the accumulated fund prior to calculating the additional capital charge referred to in paragraph (2) of this subdivision; and

(2) Any college which is using at least 50 percent of the capital charge monies collected in the current year for the sponsor's share of expenditures as set forth in subdivision (a) of this section may charge \$300 during such year; provided that if the fund exceeds \$500,000 but is less than \$1,000,000 the college may charge \$200 annually, and if the fund is equal to or greater than \$1,000,000 no charge may be collected. Any college using less than 50 percent of the monies currently collected may not collect a capital charge.

§603.8 Campus reporting system.

The university has developed a reporting system for all capital construction projects at community colleges. This system is known as State University of New York Procedures and Standards for Community College Capital Construction.

PART 604

ADMINISTRATION OF THE COLLEGE (Statutory authority: Education Law, § 355 (1) (e))

Sec.

- 604.1 Responsibilities and duties of the local sponsor
- 604.2 Responsibilities and duties of the college trustees
- 604.3 Responsibilities and duties of the president
- 604.4 Student members of board of trustees

§604.1 Responsibilities and duties of the local sponsor.

(a) Establishment of the college. It is the responsibility of the sponsor to formulate a plan for the establishment of a community college in accordance with article 126 of the New York State Education Law.

(b) Financing of the college. The sponsor, in approving the college budget shall provide one half (50%), or so much as may be necessary, of the amount of the capital costs, and at least one third (33.3%) or, in the case of a college implementing an approved plan of full opportunity, four fifteenths (26.7%), or so much as may be necessary, of the annual operating costs. Approval of the college budgets shall be in accordance with provisions of the standards and regulations of the State University trustees. The expenditure of budgeted funds shall be in accordance with the alternative auditing plans described in article 126 of the New York State Education Law. In addition, upon approval of the college's budget, the sponsor's governing body shall direct that payment of all sponsor appropriations for the community college be made within the college's fiscal year to the college's board of trustees for expenditure by the board and without further pre-audit by the sponsor.

(c) College property. The local board of trustees may acquire and shall control all real and personal property; however, title to all real property shall vest in and be held by the local sponsor in trust for the exclusive use and purposes of the college, as determined by the local board of trustees. Title to all personal property shall vest in the local board of trustees and shall be held and used by the board for college purposes, as determined by the local board of trustees.

§604.2 Responsibilities and duties of the college trustees.

Under the time-honored practice of American colleges, trustees of colleges, as legal official bodies corporate, concentrate on establishing policies governing the college, and delegate responsibility for the administration and execution of those policies to their employed professional administrators. The college trustees, subject to the approval of the State University trustees, shall appoint a president (whether permanent, acting, or interim), approve curricula, prepare, approve and implement budgets, establish tuition and fees (within legal limits), approve sites and temporary and permanent facilities. Approval or disapproval of the appointment of a president by the State University trustees shall be made in accordance with the State University trustees guidelines for the selection and approval of such appointments. The guidelines shall

include a procedure for the State University trustees to receive the recommendation of the Chancellor concerning such appointment. The college trustees shall provide for the awarding of certificates and diplomas, and the conferring of appropriate degrees on the recommendation of the president and the faculty. In addition, the college trustees upon the recommendation of the president shall appoint personnel, determine and implement salary and employee benefits schedules, and approve the organizational pattern of the college.

(a) The college trustees shall formulate and record the policies and procedures of appointment and conditions of employment of the president and other professional administrative personnel.

(b) The college trustees shall establish policies and delegate to the president or designee responsibility for implementation of the following:

(1) personnel policies, including the following:

(i) appointments, promotions, tenure and dismissals of faculty and staff members;
(ii) conditions of employment, leaves of absence and sabbatical leave;
(iii) rules and regulations to which faculty and staff are expected to adhere;
(iv) statements regarding academic freedom; and
(v) subject to the local and State civil service regulations, the working conditions for nonacademic personnel and fixed rates of compensation;

(2) creations of divisions, departments, and appropriate administrative and academic positions and definition of duties to carry out the objectives of the college;

(3) regulations governing the behavior and conduct of students and guiding the cocurricular program of the college;

(4) authorization and supervision of travel for the purposes of the college;

(5) care, custody, control and management of land, grounds, buildings, equipment and supplies used for the purposes of the college for carrying out its objectives;

(6) use of college facilities for outside organizations;

(7) admission of students;

(8) preparation of a budget for operation of the college for submission to and approval by the local sponsor and the State University trustees;

(9) preparation of capital equipment and capital construction budgets;

(10) use of college facilities for research, consultation or other contractual services pursuant to the educational purposes of the college, in accordance with regulations of the college trustees and upon reimbursement to the college on a fair and equitable basis for the use of facilities or equipment; and

(11) make available for inspection all college policies and procedures at the college for the convenience and information of members of the college constituency.

§604.3 Responsibilities and duties of the president

The president of the college, as the chief executive officer responsible to the college trustees, is responsible for providing general educational leadership and for promoting the educational effectiveness of the institution in all its aspects. In this regard, the president will perform the following duties:

- (a) implement, execute and administer all policies of the college trustees and the State University trustees;
- (b) formulate and present to the college trustees, for their action, recommendations on:
 - (1) curriculum;
 - (2) budgets;
 - (3) salary and employee benefits schedules for all professional and non-professional employees;
 - (4) personnel appointments, promotions, tenure, retention and retrenchment; unless this authority has been delegated to the president.
 - (5) organizational structure;
 - (6) planning and management of facilities; and
 - (7) granting of degrees or certificates;
- (c) administration of collective bargaining agreements;
- (d) submit an annual report on the operation of the college to the college trustees, and prepare such other reports as the college trustees or State University of New York may require;
- (e) assure the preparation of a faculty handbook in which the role of the faculty in the administration and advancement of the college is described (see also section 605.1 of this Subchapter); and
- (f) assure the preparation of documents needed for orientation and guidance of students attending the college.

§604.4 Student members of boards of trustees.

(a) General procedures. The following guidelines shall govern the rules and regulations to be promulgated regarding the election of the student members of boards of trustees:

(1) The representative campus student association, hereinafter referred to as the association, shall mean the campus duly recognized representative student governance organization. Where more than one representative student governance organization has been recognized at any campus, representatives of each shall advise, consult and share responsibility for the preparation and promulgation of rules and regulations governing the election of the student member, in such manner as may be mutually agreed upon.

(2) The association or such organization as may be mutually agreed upon pursuant to this subdivision in the case of multiple student governance organizations shall conduct an annual

election and certify a successful candidate to the chairman of the board of trustees. Such member-elect shall hold office from July 1 through June 30. The election shall be conducted prior to July 1 and each elected member shall serve for one calendar year. Campus procedures shall be followed to fill the student trustee position should a vacancy occur.

(b) *Guidelines.* The rules and regulations to be promulgated by the association, or in such manner as may be mutually agreed upon pursuant to paragraph (1) of subdivision (a) of this section in the case of multiple student governance organizations, shall fix and define the following:

- (1) the time and place of such election;
- (2) the eligibility of electors, except that eligibility shall not be limited to undergraduate students or full-time students only;
- (3) the manner of qualifying as a candidate for election, except that in the event that a student member ceases to be a student at the institution, he shall be required to resign;
- (4) the form and content of notification to the electors of the time and place of the election and the duties of the office;
- (5) the form of ballots, the location of polling places, the time such polls shall be open, the manner of casting ballots, the procedures for tallying and reporting the completed vote;
- (6) the manner in which election irregularities, if any, may be expeditiously resolved;
and
- (7) the manner in which an elected student member may be removed.

PART 605

INSTITUTIONAL PROCEDURES AND REGULATIONS (Statutory authority: Education Law, § 355 (1) (c))

Sec.

- 605.1 Faculty role
- 605.2 Admission of students
- 605.3 Academic regulations
- 605.4 Regulations governing students
- 605.5 Intercollegiate sports
- 605.6 Use of college facilities

Section 605.1 Faculty role.

The faculty shall participate in the formulation of the policy relating to student health, scholarship, standards of admission, attendance and discharge of students, curriculum and other study programs, the granting of degrees, student activities, extra-curricular activities and student discipline. The faculty shall also present recommendations to the president regarding (a) the instructional budget, and (b) appointments, reappointments, tenure, special salary increments, promotions and leaves of absence of members of the instructional staff.

§605.2 Admission of students.

Admission to college programs shall be based on the qualifications of the applicant and shall be granted **in** a nondiscriminatory manner. The college shall define and publish admission procedures so that all applicants may know of the policies, standards and admission requirements of the institution.

§605.3 Academic regulations.

(a) Regulations pertaining to length of college year, definition of credit hours, requirements for degrees, extension programs, and summer or special sessions shall be governed by the regulations of the New York State Commissioner of Education.

(b) Student records.

(1) The college shall maintain a permanent individual academic record of all students.

(2) Admission records of students who were rejected for admission or who did not attend, although accepted, shall be kept on file for at least three years.

(3) All other records of the college shall be held in accordance with State and Federal regulations.

(c) College catalog. The college shall publish a catalog containing the academic standards and regulations, including the philosophy and purposes of the college; the requirements for admission for degrees; costs of attendance, including tuition and fees; description of courses and curricula; and regulations and policies pertaining to the dismissal of students.

(d) College calendar. The calendar of scheduled academic and cocurricular activities shall give close consideration to avoidance of conflicts with high religious holidays of the major faiths.

Section 605.4 Regulations governing students.

All student organizations on community college campuses shall file with the **president**, or designee, a certification which is satisfactory to the **president**, or designee, that the constitution, bylaws, policies, regulations and practices of the organization offer open membership on a nondiscriminatory basis.

§605.5 Use of college facilities.

Subject to the approval of the college trustees, and in accordance with college policy, the college may permit the use of college facilities by internal or external groups for programs or meetings or other functions in a non-discriminatory manner.

PART 606

ARTICLES OF ORGANIZATION – FACULTY COUNCIL OF COMMUNITY COLLEGES (Statutory authority: Education Law § 355, subd. 1, par. c)

Sec.

- 606.1 Name
- 606.2 Purposes
- 606.3 Membership
- 606.4 Election and term of delegates
- 606.5 Duties
- 606.6 Vacancies and succession
- 606.7 President: election, duties and term
- 606.8 Vice-president/treasurer: election, duties and term
- 606.9 Secretary: election, duties and term
- 606.10 Executive committee: membership, powers, duties and removal
- 606.11 Regular meetings
- 606.12 Special meetings
- 606.13 Adoption of by-laws
- 606.14 Procedure to amend faculty council regulations

§606.1 Name.

There shall be a Faculty Council of Community Colleges, which operates within the program of the State University of New York.

§606.2 Purposes.

(a) The council shall focus on matters relating to community college faculty and make recommendations regarding academic concerns and issues, policies and programs. Specifically, the Council shall:

(1) provide opportunity and structure for the faculty of community colleges to formulate positions on policy matters of common interest to the community colleges for transmittal to community college presidents, trustees and sponsors;

(2) provide an opportunity for the faculty of the community colleges to act in an advisory, consultative and planning capacity to the Chancellor of the University;

(3) provide a forum for the consideration of matters of common interest to the faculty of the community colleges;

(4) provide means for the interchange of ideas among the faculty of the community colleges and between the faculty and the administration of the university; and

(5) provide an additional channel of communication between the university administration and local governing boards of the community colleges.

(b) The Council will work with the Faculty Senate of the State University of New York on matters of common concern in the conduct of university affairs.

(c) The Council will establish the necessary rules for its operations, consistent with this Part.

§606.3 Membership.

The voting members of the Council shall include one faculty delegate from each community college, the president of the Faculty Council, and the immediate past president of the Faculty Council, the Vice Chancellor for Community Colleges and the Associate Provost for Community Colleges. The president shall be entitled to vote only in the case of a tie. Nonvoting members of the Council shall include the SUNY Faculty Senate President (or designee), and one representative of the Association of Presidents of Public Community Colleges, and one community college representative from the Student Assembly.

§606.4 Election and term of delegates.

The faculty of each community college shall elect a delegate and an alternate in a manner as they may establish by local faculty bylaws. The names of the delegate and alternate shall be forwarded to the President of the Faculty Council. Delegates shall serve for three-year terms. The college shall determine the means of providing a voting representative if neither delegate nor alternate can attend a meeting.

§606.5 Duties.

Council members shall represent the faculty at Faculty Council meetings, participate in committee functions and perform other duties as described by this Part and/or bylaws.

§606.6 Vacancies and succession.

A vacancy will be deemed to exist when a delegate cannot fulfill the responsibilities of the position in accordance with local bylaws or when elected to the position of president. At such time the alternate shall succeed as campus representative to the faculty council for the unexpired term. The local faculty shall hold another election in the same manner as the original to fill the unexpired term of the alternate.

§606.7 President: election, duties and term.

(a) There shall be a President of the Faculty Council that may be filled by one full-time President or two half-time Co-Presidents. Candidates for a co-presidency shall propose a plan to share the responsibilities of the office prior to the election. Candidate(s) for President will obtain clearance for appropriate release time from the Presidents(s) of their home campus (es) prior to declaring candidacy. The (co)President(s) shall be the presiding officer(s) of Faculty Council and shall be elected at the spring meeting of the Faculty Council. The president's power shall include, but not be limited to:

- (1) appointing committees and receiving and transmitting reports of such committees where required;
- (2) representing the Faculty Council at appropriate functions;
- (3) designating the time and place of semi-annual meetings;
- (4) exercising such other powers as granted by this Part, the Faculty Council bylaws and appropriate State laws.

(b) The president shall serve for two years, commencing the first day of June in the year of election, and shall be a voting member of the Council as immediate past president during the term of the successor. In the event that the Faculty Council election is not held prior to the expiration of the term, the president will remain in office until a successor is elected.

§606.8 Vice president/treasurer: election, duties and term.

(a) There shall be a vice president/treasurer of the Faculty Council, who shall be elected at the spring meeting of the Faculty Council. The vice president/treasurer:

- (1) shall preside when the president is absent or unable to act;
- (2) shall succeed the president if the vacancy exists for the duration of the unexpired term;
- (3) shall be responsible for planning the budget; and
- (4) shall perform related duties as designated by the president, this Part or bylaws.

(b) If a vacancy occurs in the office of Vice President/Treasurer, the President will appoint a member of Faculty Council to that position until the next regular meeting. At that time a Vice President/Treasurer will be elected to fill the unexpired term.

(c) The Vice President/Treasurer shall serve for one year, commencing the first day of June in the year of election. The person elected to serve as Vice President/Treasurer during the second year of the (Co) President's term shall be President-elect.

§606.9 Secretary: election, duties and term.

(a) There shall be a Secretary of the Faculty Council, who shall be elected at the annual spring meeting. The Secretary shall:

- (1) make and keep minutes of the Council and meetings of the Executive Committee;
- (2) be custodian of all other records of the Council;
- (3) exercise such other related powers and duties as may be delegated by the president;
- (4) call a special meeting of the Executive Committee in the event vacancies occur in the offices of President and Vice President/Treasurer simultaneously. The purpose of the meeting shall be to appoint an acting president to serve until the next regular meeting, at which time an election shall be held to fill the unexpired terms of President and Vice President/Treasurer.

(b) The Secretary shall serve for a term of one year, commencing the first day of June in the year of election. If a vacancy occurs in the office of Secretary, the President will appoint a member of the Faculty Council to that position for the unexpired term.

§606.10 Executive committee: membership, powers, duties and removal.

There shall be an Executive Committee, which shall be comprised of the (Co) President(s) of the Faculty Council, the Vice President/Treasurer, Secretary, the immediate Past President, the Chairpersons of standing committees, and the Associate Provost for Community Colleges. The duties of the Executive Committee will include planning meetings, developing agendas, and giving counsel to the President. The Executive Committee shall act on behalf of the Faculty Council at times as the Faculty Council is not in plenary session.

§606.11 Regular meetings.

Regular meetings of the Council shall be held twice a year at such times and places as may be designated by the President. All meetings shall be conducted under Robert's Rules of Order.

§606.12 Special meetings.

Special meetings of the Council may be called by the (Co) President(s) at the (Co) President(s) discretion. Also, meetings shall be called by the (Co) President(s) upon the written request of a majority of the Executive Committee or at least one fourth of the members of the Council. The (Co) President(s) shall designate the times and places of such special meetings, which shall be held as early as possible.

§606.13 Adoption of by-laws.

The Council may adopt, amend or repeal such bylaws, as it deems advisable, consistent with this Part, governing its activities and procedures.

§606.14 Procedure to amend faculty council regulations.

(a) Proposed amendments of this Part may be recommended to the Board of Trustees of the University by a two-thirds vote of those faculty delegates present, but in no case shall the total number of confirming votes cast be less than 50 percent of the member community colleges.

PART 607

**PROCEDURE FOR AMENDING REGULATIONS
(Statutory authority: Education Law, § 355, subd. 1, par. c)**

Sec.

§607.1 Amendments

Amendments to this Subchapter may be initiated by community college trustees, members of professional staffs of community colleges, community college sponsors, members of their professional staffs, State University trustees and by members of the professional staff of State University of New York system administration. Proposed amendments shall be reported to the chancellor or designee, who will be responsible for having the proposals reviewed by the appropriate constituent groups and for reporting recommendations to the State University trustees. The chancellor, or designee, shall initiate review of this Subchapter every five years or in accordance with the State Administrative Procedures Act.