BP 2015  Student Member

Reference:

Education Code Section 72023.5

The Board shall include one non-voting student member. The term of office shall be one year commencing May 15.

The student member shall be a resident of California at the time of nomination, and during the term of service. The student member shall be enrolled in and maintain a minimum of five (5) semester units in the District at the time of nomination and throughout the term of service. The student member is not required to give up employment with the District. The student shall maintain a minimum cumulative grade point average of 2.0. The student member shall conform to any additional requirements of office as given in the Constitution of the Associated Students of Napa Valley College.

The student member shall be seated with the Board and shall be recognized as a full member of the Board at meetings. The student member is entitled to participate in discussion of issues and receive all materials presented to members of the Board (except for closed session). The student member shall be entitled to any mileage allowance necessary to attend board meetings to the same extent as publicly elected trustees.

On or before May 15 of each year, The Board shall consider whether to afford the student member any of the following privileges: The student trustee shall be afforded the following privileges.

- The privilege to attend the student trustee orientation;
- The privilege to make and second motions;
- The student trustee may be invited to closed session when appropriate;
- The privilege to receive compensation for meeting attendance at a level consistent with other board members. See BP 2725 – Board Member Compensation;
- The privilege to serve a term commencing on May 15.
- The privilege to cast an advisory vote, although the vote shall not be included in determining the vote required to carry any measure before the board.

Approved 3/04 (replaces B 8510); Revised 10/08; Revised 4/09

Revised XX/XX

Note: Per the Chancellor's Office General Counsel in January 2009:

Section 72023.5(a) explicitly says that student trustees must "meet and maintain the minimum standards of scholarship for community college students prescribed by the community college district." Had the Legislature intended to allow community college districts to require student trustees to meet standards of scholarship higher than those for all other students, it could simply have said that student trustees must "meet standards of scholarship established by the district governing board." Were this the intent, the reference to minimum standards of scholarship "for community college students" would be surplusage. See attached.
Legal Opinion E 01-09

Subject: Eligibility Requirements for Student Trustees—

Dear Mr. XXXXXX:

Sometime ago you sent an E-mail to Kyle Orr of the Chancellor's Office asking for our interpretation of Education Code section 72023.5 regarding eligibility requirements for student trustees. Specifically, you have asked whether the governing board of a community college district may require student trustees to meet eligibility standards higher than those specified in this statute.

Education Code section 72023.5 requires each community college district to have on its governing board one or more nonvoting student members. Among other things, section 72023.5(a) specifies that:

"A student member shall be required throughout the term of his or her appointment to be enrolled in a community college of the district for at least five semester units, or its equivalent, and shall meet and maintain the minimum standards of scholarship for community college students prescribed by the community college district."

Your question involves two distinct inquiries—whether a district governing board may (1) require student trustees to be enrolled in more than five semester units; or (2) require student trustees to maintain standards of scholarship higher than those required of other students. We consider these two issues separately below.

Before turning to the two specific questions, we first note that community college districts are permitted to take any action which is not "in conflict with or inconsistent with, or preempted by, any law. . . ." (Education Code section 70902(a).) Thus, we must decide whether allowing districts to impose higher eligibility standards for student trustees would be inconsistent with or contrary to the requirements of section 72023.5.

We think the answer is reasonably clear with regard to the imposition of higher standards of scholarship. Section 72023.5(a) explicitly says that student trustees must "meet and maintain the minimum standards of scholarship for community college students prescribed by the community college district." Had the Legislature intended to allow community college districts to require student trustees to meet standards of scholarship higher than those for all other students, it could simply have said that student trustees must "meet standards of scholarship established by the district governing board." Were this the intent, the reference to minimum standards of scholarship "for community college students" would be surplusage. The principles of statutory construction require us to assume that all words in a statute have some meaning. (People v. Gilbert (1969)}
It will be presumed that every word, phrase, and provision of a statute was intended to have some meaning and to perform some useful office. (Van Nuis v. Los Angeles Soap Co. (1973) 36 Cal.App.3d 222, 228-229.) Thus, we must reject this possible interpretation and hold, instead, that student trustees may only be required to meet the same standards of scholarship required of other students of the district.

The portion of section 72023.5 which establishes a minimum unit requirement presents a closer case because it states that student trustees must be enrolled in "at least five semester units." Nevertheless, for the reasons discussed below, we conclude that districts may not require student trustees to maintain enrollment in a greater number of units of instruction.

First, we observe that section 72023.5 appears to clearly identify certain matters over which local district governing boards have discretion, and the unit load requirement is not one. Subdivision (a) of section 72023.5 sets forth a number of rules regarding the eligibility, selection, term, rights and responsibilities of student trustees. Subdivision (b) then goes on to provide that:

"Notwithstanding subdivision (a), the student member or members selected to serve on the governing board of a community college district pursuant to subdivision (a) may do any of the following:
(1) Make and second motions at the discretion of the governing board.
(2) Attend closed sessions, other than closed sessions on personnel matters or collective bargaining matters, at the discretion of the governing board.
(3) Receive compensation, at the discretion of the governing board, up to the amount prescribed by Section 72425.
(4) Serve a term of one year commencing on May 15 of each year, at the discretion of the governing board."

Each of the matters listed in subdivision (b) is entrusted to the "discretion of the governing board." In some instances the governing board is authorized to disregard rules explicitly established in subdivision (a). For example, subdivision (a) emphatically states that "student members shall not have the right, or be afforded the opportunity, to attend executive sessions of the governing board," but subdivision (b)(2) specifically allows districts to override this prohibition in most instances. Similarly, subdivision (a) states that student trustees "are not entitled to the compensation prescribed by Section 72425." Yet, subdivision (b)(3) expressly allows a district governing board to provide compensation.

We find it significant that subdivision (b) does not authorize local boards to alter the eligibility standards spelled out in subdivision (a). Indeed, this fact compels us to conclude that the Legislature did not intend to allow similar local flexibility in this area.

In addition, we think there may be sound public policy reasons for precluding local governing boards from establishing more stringent eligibility requirements for student trustees. The student trustee is presumably supposed to represent the views of all students in the deliberations of the governing board. If the governing board could require, for example, that the student trustee be enrolled in 15 units and have a 4.0 grade point average, it would restrict eligibility to a rather elite...
group of community college students who might not necessarily understand or adequately represent the views of their less academically inclined colleagues. It might even turn out that such students would be less willing or able to serve as trustees because of academic demands.

Finally, we note that in a 1979 opinion the Attorney General specifically held that community college district governing boards cannot impose eligibility requirements beyond those spelled out in section 72023.5. (62 Ops.Cal.Atty.Gen. 126 (1979).) It is true that the sentence we are now considering did not exist at that time, since it was added by Assembly Bill 1914 in 1984 (Stats. 1984, ch. 599). However, at least one of the rationales relied upon by the Attorney General remains equally valid today.

"(S)student members are chosen by the students. The statute does not provide for participation in the selection by the governing board. Thus, while the board may prescribe the procedures by which the students choose their representative, it may not circumscribe their choice by means of imposing eligibility limitations." (62 Ops.Cal.Atty.Gen., supra, at p. 131.)

This certainly suggests that allowing districts flexibility to impose more stringent eligibility requirements on student trustees would be inconsistent with the democratic principles underlying section 72023.5.

For the reasons discussed above, we conclude that district governing boards may not require student trustees to maintain enrollment in more than five semester units (or the equivalent number of quarter units) or to meet standards of scholarship higher than those required of other students.

Sincerely,

Ralph Black,
General Counsel

E 01-09

cc:  Thomas Nussbaum, Chancellor
    Judith James, Vice Chancellor for Student Services
    Lindy Williams, Dean of Student Services
    Carl Ehmann, Superintendent/President, Mendocino Community College District