

Minors on Campus: Underage Students at Community Colleges

THE ACADEMIC SENATE FOR CALIFORNIA COMMUNITY COLLEGES

Educational Policies Committee 2005-2006

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Executive Summary

Fall 2005 enrollment data show approximately 73,000 students under the age of 18 enrolled in California community colleges. Of this number only 19,083 had already graduated from high school, and more than 2,500 were under 14. Given that students under the age of 18 are legally considered minors, community college faculty and staff are often uncertain about their roles and responsibilities for these students.

Laws governing the opportunities for minors on community college campuses and the responsibilities colleges have for them while they are enrolled come from California Education Code, California Penal Code, and California Welfare and Institutions Code.

Education Code §§76001 and 76002 authorize colleges to admit minors but also permits colleges to establish criteria for admission based on age, grade level, and eligibility. Penal Code §§11165 and 11166 include information about child abuse reporting and states that faculty and any community college employee who has direct contact with enrolled minors are considered mandated reporters. The Family Educational Rights and Privacy Act (FERPA) makes it clear that only a student can authorize release of his/her community college records.

Issues related to minors on community college campuses can be divided into three areas: parental, health and safety, and curricular issues.

While parents are expected to be involved in a child's decision to attend a community college, FERPA prevents a parent from accessing a student's grade records without the student's permission. Parents also need to know that admission to a college is not the same as enrollment in a specific course. Many colleges reserve permission to enroll in a course to the instructor.

Faculty are not obligated to act in loco parentis for minors in their classes. Such students are expected to take primary responsibility for their own safety and conduct. However, faculty are required by law to report suspected child abuse. Some colleges identify minors on course rosters with a special notation.

Admissions offices generally prepare orientation packets for minors (also known as “special admits”) and their parents that make it clear that minors are entering an adult environment. Faculty have control of course curriculum, and course syllabi represent a contract between the instructor and students in the course. Both parents and minor students need to realize that they are bound by the terms of the syllabus in order to earn a grade for the class and that parental approval of the course content or assignments is not required. Parents also need to know that student communication with counseling faculty is confidential.

The local academic senate should work with relevant college constituencies to create clear policies for the enrollment of minors, including an affirmation that enrollment in a specific course is dependent on instructor approval. Other areas that should be covered include policies explicitly addressing the participation of minors in international programs, athletics, and performing arts. Faculty should also be involved in the development of orientations for minors and their parents.

In addition to recommendations regarding the involvement of faculty in developing board policies related to the admission and enrollment of minors, this paper includes recommendations for mandated reporter training regarding child abuse for all faculty and clear notification of faculty when there are minors in their courses. The Academic Senate should work with the System Office for legal clarification on issues of liability related to having minors enrolled on campus and bring the work of the 2003 Minors in Higher Education Task Force to the Consultation Council for review and consideration of further action.

Introduction

The open door policy for the California community colleges has led to access, educational opportunity, and growth for many Californians. While the primary mission of the community colleges is to serve the needs of adults, one group that has benefited from the excellent educational opportunities at the community colleges in California are those under 18 years of age and who have not yet achieved a high school diploma. Fall 2005 enrollment data for credit and noncredit courses show 791 students 10 years of age or younger, 1,965 between the ages of 11 and 13, and 24,853 between the ages of 14 and 16. Of the 46,654 17 year-olds enrolled, only 19,083 had already graduated from high school. (Huffman, 2006) These students are finding their way to colleges across the state in increasing numbers and for a variety of reasons. Some find that their high schools lack advanced course level offerings, some are home schooled, and some seek variety and a head start on college work.

Given that students under the age of 18 are legally considered minors, community college faculty and staff are often uncertain about their roles and responsibilities for these students. The following examples illustrate some of the safety and educational concerns involved. At one California community college, a 12-year-old student was enrolled in a nighttime mathematics class. The instructor became ill shortly after the class began, and the class had to be dismissed early. The youth couldn't reach her parents and stood alone, outside in the dark, by the parking lot area, where her parents eventually picked her up—three hours later. Faculty have been challenged by parents of minors regarding course content. For a health class, one parent of an adolescent enrolled in the course asked the faculty member not to use the word “penis” in a discussion of human sexuality. For a composition class, the parent of a 13-year-old student asked that the faculty member not use the book *Catcher in the Rye* because it taught children to disrespect their parents. Faculty also often find that the presence of minors in the classroom changes the dynamic of a class. In a California community college, a 12-year-old student was enrolled in a history course. At one point in the semester, what was typically a lively discourse about historical methods of dealing with child birth was hampered by the discomfort of the other students in candidly and graphically discussing labor and birth in front of a child.

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In response to the concerns being expressed in the System and among faculty, the Academic Senate passed the following resolution in Fall 2001 (F01 13.03):

Whereas, K-12 students are eligible for special admission as both part-time and full-time students of California Community Colleges under Education Code §§48800, 48800.5, 76001, 76001.5, and 76002;

Whereas, The provisions of Education Code §§76001.5 and 76002 leave the determination of admission to the college president, once parental and K-12 permission has been granted; apply the same regulations to all K-12 students regardless of grade level; specify that the admissions decision is to be made only by the college president; and provide no guidance to assist in the decision;

Whereas, The education of minor children involves consideration of content, pedagogy, legal responsibility, and safety provisions different from those involved in the education of adults, which is the primary focus and concern of community colleges; and

Whereas, The population of K-12 students enrolled in California community colleges is growing and despite, or perhaps because of, the vague language of current law, K-12 admissions policies vary widely across California community college districts;

Resolved, That the Academic Senate define good practices for admission of and service to minor K-12 students and develop a position paper outlining those good practices and making recommendations if necessary to change Title 5 and the California Education Code on this issue; and

Resolved, That the Academic Senate request an opinion from the Chancellor's Office regarding the legal issues surrounding the admission of minor K-12 students.

A digest on minors in the California Community College System was brought to Consultation Council in the Fall of 2002 and a task force was convened to discuss how to address the wide range of issues including health and safety, educational policy, fiscal and legal implications. The task force met several times in the Spring of 2003 and drafted recommendations for discussion by the Consultation Council. However, the work of the group was disrupted by legislative concerns over concurrent enrollment, and the recommendations of the task force were put aside.

In the intervening years, the concerns about minors on community college campuses have remained. The Academic Senate has continued the focus on the issue with discussions at plenary sessions and in *Rostrum* articles. With this paper, the Academic Senate hopes to provide faculty and staff with a clear understanding of the issues involved in having minors on our campuses.

First, a note about what this paper will NOT cover. Some students who graduate from traditional high schools are 16 or 17 years of age when they begin classes and programs at the colleges and are not the focus of this discussion even though they are considered children for the purposes of child abuse reporting. Some minors attend classes with their parents¹ or come to work with their parents, and the effects these minors have on a campus will not be addressed here, although the impact of these children on community colleges campuses poses its own set of concerns. Often minors are involved in a college-sponsored program such as summer learning or sports programs offered for children of a specific age or grade level. These students along with students in Middle College High Schools (MCHS) are outside the scope of this paper as well.

What this paper WILL cover are students under the age of 18, who have not yet attained a high school diploma and are attending classes on our campuses. The minor that seeks higher-level or alternate courses from those currently available at his/her school will be the focus for this paper. The paper will focus primarily on issues related to health and safety, educational policy, and legal implications.

The paper begins with a discussion of Education Code, Title 5 Regulation, and legal advisories issued by the California Community College System Office. The paper then raises issues related to the presence of minors on campus, which leads to a section on the local senate's role in discussion on campuses and the creation of policies and procedures that will support the presence of minors on campus while providing campuses with policies and procedures that should be in place. The next section takes the form of "frequently asked questions" (FAQs) to provide faculty and staff with an easy way to find answers to common questions. This paper concludes with recommendations for dealing with issues concerning minors that remain ambiguous.

¹ Throughout this paper, the use of the word "parent" implicitly includes legal guardian as well.

Laws Concerning Minors in Community Colleges

Even before minors appear on community college campuses, it is useful to examine laws governing their opportunities and the responsibilities campuses have for them while they are enrolled.

Although the community colleges are authorized to provide instruction to anyone who has obtained a high school diploma or equivalent or is 18 years of age or older (Education Code §76000), permission for students younger than 18 (who do not have a high school diploma) to enroll in community colleges is provided through an interplay of different sections of Education Code §§76001 and 76002 authorize local boards to enroll “special admit” students such as those deemed gifted and high school students in general, and §48800 even allows elementary school children access to community colleges. Under §48800.5, parents are authorized to petition any governing board to allow a pupil to take courses at a community college.

While minors are permitted to enroll in community college courses, §76002 of Education Code allows colleges and districts to explicitly limit enrollment in any course or program based on age or grade level. System Office Legal Advisory 05-01 (CCCCO 2005) clarifies:

Section 76002(b) clearly authorizes districts to restrict either “admission” or “enrollment” based on age, grade level, or results of an assessment. Since enrollment occurs on a course-by-course basis, a district could admit pupils and then impose such limitations in one course but not in another.

The rights and responsibilities of parents with respect to the enrolled minor are also explained in Education Code. Sections 76032 and 87044 stipulate when parents need to be notified of the actions of a minor, such as in the case of suspension from a class or release of a student to a peace officer. Section 48906 also includes provisions for parental notification when the minor is released to a peace officer as a victim of suspected child abuse.

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Another governing body that provides guidance for dealing with all students on a community college campus is the Family Educational Rights and Privacy Act (FERPA). While protecting the rights and privacy of students, FERPA also identifies institutional rights with regard to release of student information and grades.

At the postsecondary level, parents have no inherent rights to inspect a student's education records. The right to inspect is limited solely to the student.

Records may be released to parents only under the following circumstances: 1) through the written consent of the student, 2) in compliance with a subpoena, and 3) by submission of evidence that the parents declare the student as a dependent on their most recent Federal Income Tax form. An institution is not required to disclose information from the student's education record to the parents of a dependent student. It may, however, exercise its discretion to do so. (AACRAO, 1995)

California Penal Code §§11165 and 11166 include information about child abuse reporting requirements and who is considered a mandated reporter. Faculty are considered mandated reporters, and any community college employee who has direct contact with minors may also be considered a mandated reporter of child abuse or neglect.

Issues Related to Minors on Community College Campuses

Parental Issues

Central to this discussion of minors on campus is an understanding of why minors and their parents want them to enroll in college courses. The majority of minors on campus are concurrently enrolled in a high school and are taking courses at a community college for a variety of reasons. Many are enrolled in community college courses because their high schools are not able to offer classes in a particular subject or at a particular level. Some high schools do not offer Advance Placement (AP) courses, so high school students enroll in college courses in order to earn college credit prior to graduation. Some high school students are enrolled in vocational programs articulated between the high school and community college, and these involve enrollment in college courses while in high school as part of the agreement.

While high school students often make the decision to take college courses on their own, there is a significant parental role in situations where minors younger than high school age enroll in community college courses. Some of these younger minors are labeled “gifted” and “talented,” and parents enroll them in college-level courses because of their advanced abilities and the need to be challenged in their education. The other major group of younger minors has been home-schooled.

While parents of high school students are involved in their children’s decision to enroll in college classes, the level of involvement is generally greater with children younger than high-school age. In both situations, parental involvement, while important and to be expected, can present challenges for a community college.

The first significant challenge may come from a parent’s expectation that his/her child is entitled to enroll in a community college course. Colleges retain the right to determine admission of minors into the college, and board policy should affirm that individual instructors retain the right to determine enrollment of minors into their courses. Therefore, it is essential for colleges to have clear policies and procedures for the admission and enrollment of minors that explicitly spell out all the conditions and caveats for minors taking college courses.

The second significant challenge, especially for parents of minors younger than high-school age, may come from a parent’s expectation of involvement in his/her child’s coursework. Some parents want to accompany their child to class. Others want to be able

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to review course assignments and their child's work for the course. Most want to be apprised of the child's progress and the grades he/she receives for assignments and the course. Again, college policies need to clarify a parent's role in the child's coursework. Most college policies prohibit family members from accompanying students to class. For the most part, this

policy addresses the issue of students bringing children to class; however, the policy may also apply to students bringing their parents to class. FERPA clearly spells out that the records of a student enrolled in higher education are under the control of the student. However, many colleges include on enrollment forms a space where a minor may authorize access to college records by a parent.

Most colleges require meetings with the parents of minors planning to enroll in college courses. At such meetings, an orientation that clarifies these issues and the ones in the following sections goes a long way to reducing the chance for misunderstanding. In addition, colleges may use such meetings to better evaluate whether or not college coursework is appropriate for the minor applicant. While most parents have the best interests of their children at heart, faculty and staff have cited problems that enrolled minors have with lack of maturity, inability to work independently, and immature cognitive development, issues that are not always perceived clearly by the parents.

Health and Safety Issues

Many faculty and staff are concerned about a minor's safety while on campus. While community college staff and faculty have some measure of responsibility for the safety of their students, the degree of responsibility is less than that in K-12 situations since community college students are adults. Therefore, while faculty and staff take responsibility for routing students to exits in the case of fire drills or cautioning students about leaving unattended articles in the library because of recent thefts, faculty and staff do not take a count of students in fire drills nor do they constantly monitor a student's belongings. Community college students are expected to take primary responsibility for their own safety and conduct, and this applies to minors on campus as well.

Faculty are not always aware that they have minors in their classrooms. A common observation among faculty is that the students look younger every year. As a result, faculty often cannot distinguish between an 18-year-old and a 15-year-old since both look very young to them. Some colleges provide a notation on course rosters to show which students are under the age of 18. This informs a faculty member that child abuse

reporting requirements come into play. Furthermore, should an emergency occur, the faculty member knows to contact the admissions office for emergency contact information for the minor.

Beyond the classroom, however, there are other questions of safety; and there are no clear cut answers. Who monitors a minor's interaction with other students outside of the classroom? What happens if a minor is stranded at the college because his/her ride is delayed? What happens if an instructor releases a class earlier than expected? In general, the expectation is that the parents have discussed with the minor how being on a college campus is different than being in school. Such a discussion would include what to do in an emergency, common sense safety precautions, and where to wait if class ends early or a ride is late.

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Curricular Issues

Since the community college environment addresses the learning needs of adults, there are some concerns to consider when parents and their children are added to the mix: the possibly controversial content of courses, the maturity level of minor students that enables them to learn the content and perform as equals to the adults in the classroom, the ability for minors to perform out-of-class assignments that may require travel or admission to adult environments such as R-rated movies. Communication to the parents and minor students about the nature of college courses and the adult environment at a college campus is a shared responsibility of the admissions office through documents provided to "special admit" or minor students and their parents, the faculty through the course syllabi, the board through its policies, and the counseling office through orientations for parents of "special admit" students.

The admissions office at each college has prepared materials to provide to parents of "special admit" students and their parents. These materials probably include regular admissions forms such as for residency and enrollment. Included should also be a description of the college environment and considerations for a minor entering a largely adult environment. In addition, there should be an explanation of orientation options and a general statement about the fact that the minor is establishing a college transcript, a document that will stay with the individual for the rest of his/her life. Counseling faculty have an important role to play here. Some colleges, like Diablo Valley College, require that a parent signs the form affirming that information was provided to them that describes the college environment and some of the obvious consequences of participating in it.

A parent signature seems to be a minimal requirement but a useful step in communicating the critical aspects of participation of a minor in an environment designed for adults.

Faculty will communicate to minors and their parents the nature of the course through syllabi. The content for a college course is determined by the faculty of the discipline and approved through the college Curriculum Committee and other locally determined processes. Faculty establish syllabi for the course, which include the course content or objectives, assignments, a general guide to the pacing of the course, and information about how grades will be determined. Once a student receives the syllabi for the course from the instructor, and the student decides to remain enrolled in the course, the syllabus becomes the contract between the student and teacher. It is non-negotiable, although faculty retain the authority to make accommodations for students as required by law (as in provisions for more testing time or a notetaker for students with disabilities).

Acceptance of the syllabus as a contract is an important consideration for minor students and their parents. Where parents may have found other school systems more likely to negotiate the extent or type of assignments or due dates for these assignments, this is not likely to be the case on a college campus. Both parents and minor students need to realize that they are bound by the terms of the syllabus in order to earn a grade for the class, that parental approval of the assignments is not required, and that alternate assignments are offered at the sole discretion of the instructor. It is recommended that the parent and minor student carefully review the syllabus for the course to ascertain the student's ability to fully participate in the class. An instructor may wish to request a second parent signature on the course syllabus prior to enrollment of the child to indicate that the parent understands the contractual nature of the syllabus.

The importance of the primacy of the faculty member over course content cannot be over emphasized. Not only the parents of enrolled minors but individual adult students have objected to particular course content. It may be obvious that some courses in biology (e.g. human sexuality), religious studies, or in the arts and humanities may be challenging and perceived as inappropriate for minors by their parents; but even apparently non-controversial courses can be problematic. At the college of one of the Educational Policies Committee members, a third-semester Spanish course was targeted by parents of a minor for its discussion of Frida Kahlo, an individual important to Mexican culture but controversial to some because of her sexuality. However, course content is not the only

potential issue. Class discussions may enter into areas objectionable to certain individuals. Local senates may want to encourage faculty to include a disclaimer on all syllabi that states that all classes are designed for adults, and minors will be exposed to adult language and themes without warning.

Community college students are expected to take primary responsibility for their own safety and conduct, and this applies to minors on campus as well.

Counseling faculty have a potentially difficult role to play. While counselors are required by law to report suspected child abuse, other communications with a student, whether a minor or not, are considered confidential. Such communications may involve issues such as substance abuse, sexual activity, or pregnancy. Parents should be apprised of the confidentiality of such information as a part of the orientation to college life.

Both parents and minor students need to realize that they are bound by the terms of the syllabus in order to earn a grade for the class, that parental approval of the assignments is not required, and that alternate assignments are offered at the sole discretion of the instructor.

The Role of the Local Academic Senate

The process of developing policies that address the needs of minors enrolled at the college should be undertaken with the involvement of the faculty senate and other relevant college constituencies. At a minimum, governing boards should adopt policies on admissions, enrollment, child abuse reporting, the authority of faculty in the classroom, and required matriculation as each relates to minors.

In consultation with the academic senate, local boards should discuss admissions requirements for minors. Some issues to be considered include whether different requirements should be established for high school students and those younger than high-school age, whether a consent to release a minor's academic records to parents be included on the special admissions form, and clarification of the number of units that minors may take each term.

Enrollment policies are especially needful of consultation with the local senate. Key provisions should include the provision that enrollment in a course is dependent upon instructor approval and admission of non-registered persons to the classroom takes place only with instructor approval. The contractual nature of the syllabus can also be included in a board policy that identifies "special admit" students or in a policy that communicates the board's position on academic freedom. Statements emphasizing that minors are entering an adult environment are also useful in preserving the integrity of the curriculum and the authority of the instructor over course content. Districts may also want to include policies explicitly addressing the participation of minors in international programs, athletics, and performing arts.

Local senates will want to consult collegially with local governing boards about how to best communicate the information through board policies. While the Community College League of California (CCLC) provides templates to get started with the development of policies, specific provisions are not provided, so local senates may need to be the initiators of the recommended language for local policies.

Academic senates should also work with counseling faculty in development of orientations for minors and their parents. Such orientations can communicate to parents and minor students the expectations for participating in the adult environment on a college campus, the rigor of college classes, personal responsibility and independence, and the importance of a creating a college transcript. Senates may want to argue for mandatory participation by parents in such sessions as a prerequisite to enrollment for their minor children in any college course. Middle College High School programs generally have mandated meetings with parents and can provide models for the creation of such orientation sessions.

Frequently Asked Questions

Are community colleges required to admit minors?

Education Code §§76001 and 76002 make it clear that colleges are not required to admit a “special part-time or full-time student,” a student that is given permission by a local school board to enroll in a community college. Colleges may establish admissions restrictions for minors based on age, grade level, and demonstrated eligibility. However, if the college denies admission to a minor that is identified as “highly gifted,” the Board must record the reasons for denial within 60 days.

What is a special admit?

This term is often used to refer to minors that are admitted to community colleges and is based on the language from Education Code section 76001. The term is used differently on different campuses, so a single definition is not possible. For some colleges, special admits include all minors enrolled at the college. For other colleges, special admits refer only to minors that are not currently enrolled in a high school.

What is the youngest age that can be admitted to a community college?

There is no age threshold for admission to a community college as a special admit. Education Code authorizes even elementary age children to enroll in a community college. However, districts are authorized to limit admissions and enrollments based on age and grade level. Several districts specify an age threshold of 12 for admission. Many districts also establish different admissions policies for minors in different age ranges, e.g. over 15 (high school age), 12-15 (middle school age), under 12.

How can a faculty member know that a student is a minor?

At this point, most colleges do not inform faculty that there are minors in their classrooms. However, given that faculty are mandated reporters for child abuse and given the concerns outlined in this paper, faculty should have access to this information. One college adds a symbol next to names on course rosters to show which students are minors.

Even though a college’s admissions policy permits the admission of minors, is an individual instructor obligated to enroll a minor in a specific course?

The Academic Senate supports the right of a faculty member to deny enrollment to an individual student if the faculty member deems the student unable to benefit from instruction. However, the right of a faculty member to have final say in enrollment of

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minors, and students in general, should be made clear in board policy. See the resource section in the appendices for samples of such language.

A faculty member has allowed a 13 year old to enroll in her course. A few weeks into the term, the student's mother accompanies him and requests

to sit in on the class. What should the faculty member do in this situation?

All districts should have in board policy stipulations about non-enrolled persons attending a course. Most of these policies are in place to limit a district's liability, but such policies can also be used in situations such as this. Some policies prohibit non-enrolled persons from attending a course. A few policies leave such decisions to the discretion of the instructor. In general, however, instructors are empowered in board policies to deny such a request. Faculty are encouraged to review their board policies in this area and to discuss with their local senates changes that may need to be made.

The parent of a minor enrolled in a course at your college has requested a copy of the syllabus and that he/she be regularly informed of the student's progress and grades. Is the college required to pass on this information to the parent?

The Family Educational Rights and Privacy Act (FERPA) stipulates that students enrolled in a postsecondary institution have sole rights to their educational records. Most parents are probably not aware of FERPA requirements and may assume that since the situation concerns a minor they automatically have authority with regards to the educational records of their children or other minors in their care. It is the responsibility of colleges and districts to adequately inform parents of this change in practice once the minors in their care become college students. It is the responsibility of academic senates to communicate to faculty that they are not required to provide information about any students to family members, whether they are minors or not.

When minors are enrolled in a course, does the instructor act "in loco parentis," i.e. act with the authority and responsibility of the absent parent?

At this time, we have no definitive answer to this question. However, beyond the socially expected responsibility an adult would take for any child, there does not appear to be any legal precedent assigning especial responsibility for the health and safety of a minor enrolled in a course to the instructor.

Does a district need special policies to deal with minors enrolled in distance education courses?

No. General policies for admission and enrollment of minors should also cover enrollment in distance education courses. Parents should be aware of course content prior to enrollment, and faculty should be aware that a student is a minor, just as for a face-to-face course.

Are faculty required under the law to report suspected child abuse of minors enrolled in their courses?

Yes, they are. Based on a legal opinion from the System Office (CCCCO 2002), which itself was based on a ruling by the Attorney General in 1989, the term “teacher” used in Penal Code §11165.7 regarding mandated reporters, while arguably a reference to K-12 and not community colleges, should not be construed narrowly and applies to community college faculty. Counseling faculty are explicitly enjoined to report abuse in Education Code §72621.

Are other staff at community colleges required under the law to report suspected child abuse and neglect of minors on campus?

System Office Legal Opinion 02-03 also stresses a broad understanding of the term “school” in the same Penal Code §11165.7 which includes “A classified employee of any public school” as a mandated reporter. Therefore, the responsibility for reporting “includes community college district classified employees if their scope of employment places them in similar contact with children on a regular and continuous basis such that evidence of child abuse or neglect would be readily apparent.” (CCCCO 2002)

Beyond this, the language is less clear. Another group of mandated reporters is “administrator[s] or employee[s] of a public or private organization whose duties require direct contact and supervision of children.” This language potentially encompasses all other college/district employees on a campus who fit the definition.

What is required of a “mandated reporter” of suspected child abuse?

When there is an informed suspicion of child abuse, mandated reporters are required to make an initial report immediately (see below for whom to report to). This initial report can be made by telephone, but must be followed by a written report within 36 hours. The report should include information concerning the incident and any “nonprivileged documentary evidence...related to the incident.” (Penal Code §11166)

Since faculty are “mandated reporters” of suspected child abuse, are districts required to provide faculty with training in the identification of child abuse and neglect?

No, they are not. Penal Code §11165.7(c) encourages employers to provide such training, but it does not require such training. Employers are required to ensure that employees have read Penal Code §11166, which details the circumstances and procedure for child abuse reporting. In addition, districts that do not provide such training must report to the State Department of Education the reasons why this training is not provided.

Many districts ask faculty to sign a document certifying that they have read Penal Code §11166. Is this signature a condition of employment in a community college?

No. The signature is not required by law or regulation and is not a condition of employment. However, regardless of whether a faculty member signs such a document, he/she is still a mandated reporter of suspected child abuse.

Whom should faculty and staff report suspected child abuse or neglect to?

It is not enough to simply report suspicions to a supervisor or administrator. Reports must be made personally to a police or sheriff's department or a county welfare department. Campus police departments are explicitly not included as places to make such a report. (Penal Code §11165.9). However, one exception to this provision is when a campus police officer is a sworn officer of the peace. In such a situation, a report may be made to this member of the campus police.

Recommendations

- 1) The Academic Senate for California Community Colleges should bring to the Consultation Council the recommendations of the 2003 Minors in Higher Education Task Force for review and consideration of further action (see Appendix B).
- 2) The Academic Senate should continue to work with the System Office on a legal advisory to clarify issues of liability related to having minors enrolled on campus.
- 3) Districts should ensure that faculty are informed as to minors enrolled in their courses.
- 4) Districts should provide mandated reporter training regarding suspected child abuse to all faculty.
- 5) Local senates should ensure that faculty are aware of current board policy regarding enrollment of minors and the authority of the instructor in the classroom.
- 6) Local Senates should work with the governing boards of their colleges to develop clear policies for the enrollment of high school students and other minors in college courses. Such policies should make clear the possible limitations on enrollment, the right of the instructor to refuse to accept a minor in the course, rights of the parent to student records, and the fact that the minor is entering an adult environment and that curriculum and college processes will not be changed to accommodate the minor.

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Appendices

A. Resources

Although districts are not mandated to provide training for mandated reporters of child abuse, Sonoma State University offers a two-hour online training for educators. You can get more information about their training at <http://www.sonoma.edu/cihs/mr/index.html>.

Two sources for information about FERPA are:

- ▶ American Associate of Collegiate Registrars and Admissions Officers (AACRAO). 1995. *Guidelines for Postsecondary Institutions for Implementation of the Family Educational Rights and Privacy Act of 1974 as Amended*. Washington, D.C.
- ▶ Van Dusen, Jr., William R. 2004. *FERPA: Basic Guidelines for Faculty and Staff A Simple Step-by-Step Approach For Compliance*. National Academic Advising Association. Available from <http://www.nacada.ksu.edu/Resources/FERPA-Overview.htm>.

The Attorney General's Office offers a document *Child Abuse: Educator's Responsibilities*, which is used for mandated reporter training at Mission College. You can access the document at <http://www.safestate.org/shop/files/CAEd.Resp.pdf>.

The Community College League of California (CCLC) provides templates to help faculty senates and boards develop policies related to minors on campus. In particular, districts that subscribe to this service may want to refer to the models for board policy on Admissions (BP 5010), Child Abuse Reporting (BP 3518), Children on Campus (BP 3840), Student Records and Directory Information (BP 5040), and Student Records and Privacy (AP 5040).

The following examples of special admissions materials, forms, and relevant board policies are intended to show how some community colleges have addressed issues raised in this paper.

- ▶ Diablo Valley has a comprehensive enrollment form for minors. It includes an explicit statement about the fact that the student is entering an adult environment and clarifies the limited access parents may have to student records. You can access the form at http://www.dvc.edu/admissions/pdf/Special_Admission_Form.pdf.

- ▶ Foothill Middle College requires interviews with prospective Middle College High School participants and meetings with their parents. Materials related to application and participation in the program are available at <http://www.mvla.net/MiddleCollege/index.html>.
- ▶ Palomar College Board Policy 400 makes clear that enrollment in a course is dependent upon instructor approval, and admission to the classroom takes place only with instructor approval. It also states that persons not registered for the course are considered visitors, and may attend a course only with the permission of the instructor. You can access the Palomar College Governing Board Manual, which includes all board policies, at <http://www.palomar.edu/GB/manuals/BoardMan.pdf>.
- ▶ The Santa Barbara City College policy section related to the enrollment of minors provides an example of a provision that the student and parent submit evidence of the student's academic ability (3121.2(g)), and special provisions for minors younger than high school age. You can access the section at <http://www.sbcc.edu/policies/index.php?sec=1567>.

B. Recommendations from the Minors in Higher Education Task Force—for consideration by the Consultation Council (April 2003)

Potential Recommendations

- 1) Draft or revise Education Code, Regulations, and/or Board Guidelines adding optional district authority for admission to community colleges pupils who are under age 18 and who lack a high school diploma (or equivalent); such admission would be based on (a) existing code that requires the high school district to make a "determination of ability to benefit" and (b) community college district determination of "eligibility" through placement test, audition, or portfolio.
- 2) Design a uniform (district use optional) K-12 "access form" that provides a checklist for all community college districts to use enumerating the various means through which a minor may qualify for consideration for admission to the community college system.
- 3) Design a health and safety "sign-off" form for parents of minors attending community colleges that is comprehensive with regard to adult college environment, mature content of some courses, responsibilities of student, rights of privacy for student, oversight expectations with respect to normal campus access and emergency situations.

- 4) Prepare, through the System Office, a concurrent enrollment manual including procedures for qualifying minors as able to benefit and eligible for admission as well as the circumstances under which such pupils participate in the college community, the programs/courses for which enrollment of minors is appropriate, and apportionment rules.

Supporting Research and Additional Activities (ongoing)

- ▶ Prepare a context statement describing the place of minors in the community college mission; issues raised by the presence of minors on college campuses; provide relevant definitions; and delineate the scope of the task force recommendations (credit, noncredit, not for credit, community service).
- ▶ Review Education Code and Title 5 relative to determination of “ability to benefit” and “eligibility for admission”.
- ▶ Formulate comprehensive list of health and safety issues for parental release form.
- ▶ Identify the various means by which minors (and their parents) seek admission to community colleges (traditional high school programs, sanctioned and unsanctioned home schooling situations, international student status).
- ▶ Look into potential minimum age or grade level consistent with law for admission of minors - consult and coordinate with K-12 and Child Protective Services to develop guidelines for identification and training of mandated reporters on campuses.
- ▶ Demonstrate how these proposed solutions address the concurrent enrollment issue and provide a mechanism to eliminate any potential “double dipping” while retaining needed outreach and appropriate programs and courses.
- ▶ Suggest amendments for current budget trailer language addressing the concurrent enrollment issue.

C. Code and Regulation

(accessed from <http://www.leginfo.ca.gov/calaw.html>)

California Education Code

48800. (a) The governing board of a school district may determine which pupils would benefit from advanced scholastic or vocational work. The intent of this section is to provide educational enrichment opportunities for a limited number of eligible pupils, rather than to reduce current course requirements of elementary and secondary schools, and also to help ensure a smoother transition from high school to college for pupils by providing them with greater exposure to the collegiate atmosphere. The governing board may authorize those pupils, upon recommendation of the principal of the pupil's school of attendance, and with parental consent, to attend a community college during any session or term as special part-time or full-time students and to undertake one or more courses of instruction offered at the community college level.

(b) If the governing board denies a request for a special part-time or full-time enrollment at a community college for any session or term for a pupil who is identified as highly gifted, the board shall issue its written recommendation and the reasons for the denial within 60 days. The written recommendation and denial shall be issued at the next regularly scheduled board meeting that falls at least 30 days after the request has been submitted.

(c) The students shall receive credit for community college courses that they complete at the level determined appropriate by the school district and community college district governing boards.

(d) (1) The principal of a school may recommend a pupil for community college summer session only if that pupil meets all of the following criteria: (A) Demonstrates adequate preparation in the discipline to be studied.

(B) Exhausts all opportunities to enroll in an equivalent course, if any, at his or her school of attendance.

(2) For any particular grade level, a principal may not recommend for community college summer session attendance more than 5 percent of the total number of pupils who completed that grade immediately prior to the time of recommendation.

(3) A pupil recommended by his or her principal for enrollment in a college-level advanced scholastic summer session course or in a vocational community college summer session course shall not be included in determining the 5 percent of pupils recommended if all of the following criteria are met:

(A) The course is offered by a middle college high school or an early college high school, as defined by paragraph (4).

(B) The high school principal who makes the recommendation provides data to the Chancellor of the California Community Colleges at the request of that office for purposes of preparing the annual report pursuant to paragraph (5).

(C) The course meets one of the following criteria:

(i) It is a for credit, lower division, college-level course that is designated as part of the Intersegmental General Education Transfer Curriculum or applies toward the general education breadth requirements of the California State University.

(ii) The course is a for credit, college-level, occupational course assigned a Priority code of "A," "B," or "C," pursuant to the Student Accountability Model, as defined by the Chancellor of the California Community Colleges and reported in the management information system, and the course is part of a sequence of vocational or career technical education courses leading to a degree or certificate in the subject area covered by the sequence.

(4) For purposes of this section, a "middle college high school" or an "early college high school" means a high school that meets all of the following criteria:

(A) The school has an enrollment of 400 or fewer pupils, and is recognized by the department and by the Chancellor of the California Community Colleges as a district school that has been assigned a County-District-School code by the department.

(B) The school's program is sponsored by a legally binding memorandum of understanding or similar formal agreement between a sponsoring local educational agency and a community college district that establishes cogovernance and resource allocation policies and procedures for the cosponsored school. (C) The school serves cohortsof pupils in a coherent high school and community college program of study that includes, as a clearly identified outcome for each pupil, a high school diploma and achievement of,

or preparation for, completion of an associate degree, eligibility for transfer to a four-year college or university, or completion of a community college certificate program in a vocational, technical, or business occupation.

(5) On or before January 1, 2007, and on or before January 1 of each year thereafter, the Chancellor of the California Community Colleges shall report to the Department of Finance the number of pupils recommended pursuant to paragraph (3) who enroll in community college summer session courses.

(6) The Board of Governors of the California Community Colleges may not include enrollment growth attributable to paragraph (3) as part of its annual budget request for the California Community Colleges.

(7) Notwithstanding Article 3 (commencing with Section 33050) of Chapter 1 of Part 20, compliance with this subdivision may not be waived.

(e) Paragraphs (3), (4), (5), and (6) of subdivision (d) shall become inoperative on January 1, 2011.

48800.5. (a) A parent or guardian of a pupil, regardless of the pupil's age or class level, may petition the governing board of the school district in which the pupil is enrolled to authorize the attendance of the pupil at a community college as a special full-time student on the ground that the pupil would benefit from advanced scholastic or vocational work that would thereby be available. If the governing board denies the petition, the pupil's parent or guardian may file an appeal with the county board of education, which shall render a final decision on the petition in writing within 30 days.

(b) A pupil who attends a community college as a special full-time student pursuant to this section is exempt from compulsory school attendance under Chapter 2 (commencing with Section 46100) of Part 26.

(c) A parent or guardian of a pupil who is not enrolled in a public school may directly petition the president of any community college to authorize the attendance of the pupil at the community college as a special part-time or full-time student on the ground that the pupil would benefit from advanced scholastic or vocational work that would thereby be available.

(d) Any pupil authorized to attend a community college as a special full-time student shall, nevertheless, be required to undertake courses of instruction of a scope and duration sufficient to satisfy the requirements of law.

(e) For purposes of allowances and apportionments from the State

School Fund, a community college shall be credited with additional units of average daily attendance attributable to the attendance of special full-time students at the community college.

48906. When a principal or other school official releases a minor pupil to a peace officer for the purpose of removing the minor from the school premises, the school official shall take immediate steps to notify the parent, guardian, or responsible relative of the minor regarding the release of the minor to the officer, and regarding the place to which the minor is reportedly being taken, except when a minor has been taken into custody as a victim of suspected child abuse, as defined in Section 11165.6 of the Penal Code, or pursuant to Section 305 of the Welfare and Institutions Code. In those cases, the school official shall provide the peace officer with the address and telephone number of the minor's parent or guardian. The peace officer shall take immediate steps to notify the parent, guardian, or responsible relative of the minor that the minor is in custody and the place where he or she is being held. If the officer has a reasonable belief that the minor would be endangered by a disclosure of the place where the minor is being held, or that the disclosure would cause the custody of the minor to be disturbed, the officer may refuse to disclose the place where the minor is being held for a period not to exceed 24 hours. The officer shall, however, inform the parent, guardian, or responsible relative whether the child requires and is receiving medical or other treatment. The juvenile court shall review any decision not to disclose the place where the minor is being held at a subsequent detention hearing.

52610.5. Notwithstanding Section 52610, any minor, regardless of age, who is pregnant or is a parent actively engaged in raising one or more of his or her children, is eligible to enroll in any adult education course or class described in subdivision (a) of Section 41976 or in Section 52616.2. The attendance of that pupil in that course or class shall be counted for adult education apportionment purposes, except that no district shall be entitled to claim average daily attendance for apportionment purposes in excess of the amount authorized by subdivision (b) of Section 52616. In addition, no district may count the attendance of any pupil toward the computation of both adult average daily attendance, as computed pursuant to Section 41601, and regular average daily attendance, as computed pursuant to Section 46300.

72621. Any information of a personal nature disclosed by a student 12 years of age or older in the process of receiving counseling from a school counselor as specified in Section 72620 is confidential. Any information of a personal nature disclosed to a school counselor by a parent or guardian of a student who is 12 years of age or older and who is in the process of

receiving counseling from a school counselor as specified in Section 72620 is confidential. The information shall not become part of the student record, as defined in Section 76210, without the written consent of the person who disclosed the confidential information. The information shall not be revealed, released, discussed, or referred to, except as follows: (a) Discussion with psychotherapists as defined by Section 1010 of the Evidence Code, other health care providers, or the college nurse, for the sole purpose of referring the student for treatment.

(b) Reporting of child abuse or neglect as required by Article 2.5 (commencing with Section 11165) of Chapter 2 of Title 1 of Part 4 of the Penal Code.

76000. The governing board of a community college district shall admit to the community college any California resident, and may admit any nonresident, possessing a high school diploma or the equivalent thereof.

The governing board may admit to the community college any apprentice, as defined in Section 3077 of the Labor Code, who, in the judgment of the governing board, is capable of profiting from the instruction offered.

The governing board may by rule determine whether there shall be admitted to the community college any other person who is over 18 years of age and who, in the judgment of the board, is capable of profiting from the instruction offered. If the governing board determines to admit other persons, those persons shall be admitted as provisional students and thereafter shall be required to comply with the rules and regulations prescribed by the board of governors pertaining to the scholastic achievement and other standards to be met by provisional or probationary students, as a condition to being readmitted in any succeeding semester. This paragraph shall not apply to persons in attendance in special classes and programs established for adults pursuant to Section 78401 or to any persons attending on a part-time basis only.

76001. (a) The governing board of a community college district may admit to any community college under its jurisdiction as a special part-time or full-time student in any session or term any student who is eligible to attend community college pursuant to Section 48800 or 48800.5.

(b) If the governing board denies a request for a special part-time or full-time enrollment at a community college for a pupil who is identified as highly gifted, the board shall record its findings and the reasons for denial of the request in writing within 60 days. The written recommendation and denial

shall be issued at the next regularly scheduled board meeting that falls at least 30 days after the request has been submitted.

(c) The attendance of a pupil at a community college as a special part-time or full-time student pursuant to this section is authorized attendance, for which the community college shall be credited or reimbursed pursuant to Sections 48802 and 76002. Credit for courses completed shall be at the level determined to be appropriate by the school district and community college district governing boards.

(d) For purposes of this section, a special part-time student may enroll in up to, and including, 11 units per semester, or the equivalent thereof, at the community college.

(e) The governing board of a community college district shall assign a low enrollment priority to special part-time or full-time students described in subdivision (a) in order to ensure that these students do not displace regularly admitted students.

76002. (a) For the purposes of receiving state apportionments, a community college district may include high school pupils who attend a community college within the district pursuant to Sections 48800 and 76001 in the district's report of full-time equivalent students (FTES) only if those pupils are enrolled in community college classes that meet all of the following criteria:

(1) The class is open to the general public.

(2) (A) The class is advertised as open to the general public in one or more of the following:

(i) The college catalog.

(ii) The regular schedule of classes.

(iii) An addenda to the college catalog or regular schedule of classes.

(B) If a decision to offer a class on a high school campus is made after the publication of the regular schedule of classes, and the class is solely advertised to the general public through electronic media, the class shall be so advertised for a minimum of 30 continuous days prior to the first meeting of the class.

(3) If the class is offered at a high school campus, the class may not be held during the time the campus is closed to the general public, as defined by the governing board of the school district during a regularly scheduled board meeting.

(4) If the class is a physical education class, no more than 10 percent of its enrollment may be comprised of special part-time or full-time students. A community college district may not receive state apportionments for special part-time and full-time students enrolled in physical education courses in excess of 5 percent of the district's total reported full-time equivalent enrollment of special part-time and full-time students.

(b) The governing board of a community college district may restrict the admission or enrollment of a special part-time or full-time student during any session based on any of the following criteria:

(1) Age.

(2) Completion of a specified grade level.

(3) Demonstrated eligibility for instruction using assessment methods and procedures established pursuant to Chapter 2 (commencing with Section 78210) of Part 48 and regulations adopted by the Board of Governors of the California Community Colleges.

(c) The Chancellor of the California Community Colleges shall prepare and submit to the Department of Finance and the Legislature, on or before March 1, 2004, and March 1 of each year thereafter, a report on the amount of FTES claimed by each community college district for special part-time and special full-time students for the preceding academic year in each of the following class categories:

(1) Noncredit.

(2) Nondegree-applicable.

(3) Degree-applicable, excluding physical education.

(4) Degree-applicable physical education.

(d) The Board of Governors of the California Community Colleges shall adopt rules and regulations to implement this section.

76032. The adopted rules of student conduct may authorize an instructor to remove a student from his or her class for the day of the removal and the next class meeting. The instructor shall immediately report the removal to the chief administrative officer for appropriate action.

If the student removed by an instructor is a minor, the college president or the president's designee shall ask the parent or guardian of the student to attend a parent conference regarding the removal as soon as possible. If the instructor or the parent or guardian so requests, a college administrator shall attend the conference. During the period of removal, a student shall not be returned to the class from which he or she was removed without the concurrence of the instructor of the class.

87044. When a president or other community college official releases a minor student of such school to a peace officer for the purpose of removing the minor from the school premises, such school official shall take immediate steps to notify the parent, guardian, or responsible relative of the minor regarding the release of the minor to such officer, and regarding the place to which the minor is reportedly being taken.

California Penal Code

11165.7. (a) As used in this article, "mandated reporter" is defined as any of the following:

- (1) A teacher.
- (4) A classified employee of any public school.
- (5) An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of any public or private school.
- (8) An administrator or employee of a public or private organization whose duties require direct contact and supervision of children.
- (10) A licensee, an administrator, or an employee of a licensed community care or child day care facility.
- (16) An employee of a school district police or security department.

11165.9. Reports of suspected child abuse or neglect shall be made by mandated reporters to any police department or sheriff's department, not

including a school district police or security department, county probation department, if designated by the county to receive mandated reports, or the county welfare department. Any of those agencies shall accept a report of suspected child abuse or neglect whether offered by a mandated reporter or another person, or referred by another agency, even if the agency to whom the report is being made lacks subject matter or geographical jurisdiction to investigate the reported case, unless the agency can immediately electronically transfer the call to an agency with proper jurisdiction. When an agency takes a report about a case of suspected child abuse or neglect in which that agency lacks jurisdiction, the agency shall immediately refer the case by telephone, fax, or electronic transmission to an agency with proper jurisdiction. Agencies that are required to receive reports of suspected child abuse or neglect may not refuse to accept a report of suspected child abuse or neglect from a mandated reporter or another person unless otherwise authorized pursuant to this section, and shall maintain a record of all reports received.

11166. (a) Except as provided in subdivision (d), a mandated reporter shall make a report to an agency specified in Section 11165.9 whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. The mandated reporter shall make an initial report to the agency immediately or as soon as is practicably possible by telephone and the mandated reporter shall prepare and send, fax, or electronically transmit a written followup report thereof within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any nonprivileged documentary evidence the mandated reporter possesses relating to the incident.

11166.5. (a) On and after January 1, 1985, any mandated reporter as specified in Section 11165.7, with the exception of child visitation monitors, prior to commencing his or her employment, and as a prerequisite to that employment, shall sign a statement on a form provided to him or her by his or her employer to the effect that he or she has knowledge of the provisions of Section 11166 and will comply with those provisions. The statement shall inform the employee that he or she is a mandated reporter and inform the

employee of his or her reporting obligations under Section 11166 and of his or her confidentiality rights under subdivision (d) of Section 11167. The employer shall provide a copy of Sections 11165.7, 11166, and 11167 to the employee.

On and after January 1, 1993, any person who acts as a child visitation monitor, as defined in paragraph (30) of subdivision (a) of Section 11165.7, prior to engaging in monitoring the first visit in a case, shall sign a statement on a form provided to him or her by the court which ordered the presence of that third person during the visit, to the effect that he or she has knowledge of the provisions of Section 11166 and will comply with those provisions.

The signed statements shall be retained by the employer or the court, as the case may be. The cost of printing, distribution, and filing of these statements shall be borne by the employer or the court.

This subdivision is not applicable to persons employed by public or private youth centers, youth recreation programs, and youth organizations as members of the support staff or maintenance staff and who do not work with, observe, or have knowledge of children as part of their official duties.

(b) On and after January 1, 1986, when a person is issued a state license or certificate to engage in a profession or occupation, the members of which are required to make a report pursuant to Section 11166, the state agency issuing the license or certificate shall send a statement substantially similar to the one contained in subdivision (a) to the person at the same time as it transmits the document indicating licensure or certification to the person. In addition to the requirements contained in subdivision (a), the statement also shall indicate that failure to comply with the requirements of Section 11166 is a misdemeanor, punishable by up to six months in a county jail, by a fine of one thousand dollars (\$1,000), or by both that imprisonment and fine.

(c) As an alternative to the procedure required by subdivision (b), a state agency may cause the required statement to be printed on all application forms for a license or certificate printed on or after January 1, 1986.

(d) On and after January 1, 1993, any child visitation monitor, as defined in paragraph (30) of subdivision (a) of Section 11165.7, who desires to act in that capacity shall have received training in the duties imposed by this article, including training in child abuse identification and child abuse reporting. The person, prior to engaging in monitoring the first visit in a case, shall sign a statement on a form provided to him or her by the court which ordered the presence of that third person during the visit, to the effect that he or she has received this training. This statement may be included in the statement required by subdivision (a) or it may be a separate statement. This statement shall be filed, along with the statement required by subdivision (a), in the court file of the case for which the visitation monitoring is being provided.

(e) Any person providing services to a minor child, as described in paragraph (37) of subdivision (a) of Section 11165.7, shall not be required to make a report pursuant to Section 11166 unless that person has received training, or instructional materials in the appropriate language, on the duties imposed by this article, including identifying and reporting child abuse and neglect.

California Welfare and Institutions Code

300. Any child who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge that person to be a dependent child of the court:

(d) The child has been sexually abused, or there is a substantial risk that the child will be sexually abused, as defined in Section 11165.1 of the Penal Code, by his or her parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the child from sexual abuse when the parent or guardian knew or reasonably should have known that the child was in danger of sexual abuse.

305. Any peace officer may, without a warrant, take into temporary custody a minor:

(a) When the officer has reasonable cause for believing that the minor is a person described in Section 300, and, in addition, that the minor has an immediate need for medical care, or the minor is in immediate danger of physical or sexual abuse, or the physical environment or the fact that the child is left unattended poses an immediate threat to the child's health or safety. In cases in which the child is left unattended, the peace officer shall first attempt to contact the child's parent or guardian to determine if the parent or guardian is able to assume custody of the child. If the parent or guardian cannot be contacted, the peace officer shall notify a social worker in the county welfare department to assume custody of the child.

