

## AB1491 Frequently Asked Questions (FAQ)

### 1. What is carryover?

“Carryover” means the amount of unspent CAEP funds from the prior fiscal year, certified in NOVA on or before September 1 of the current fiscal year, expressed as a percentage of the prior fiscal year’s allocation.

For example, if a member’s allocation was \$500,000 each year, and they *carried over* \$250,000 into the current year giving them a total budget of \$750,000 then they would have a carryover of \$250,000 or 50% of their fiscal year’s allocation. Another example would be if a member has carryover from multiple years: a member’s allocation was \$500,000 each year, and they also had \$200,000 from the prior year, and \$50,000 from the year before that, then they would have a carryover of \$250,000 or 50% of their fiscal year’s allocation.

Note: The carryover amount that may be reduced is a total amount covering multiple years, not a specific annual amount or percentage. The percentage is used only to determine if the carryover meets or exceeds the consortium determined excessive member carryover threshold.

### 2. Is member carryover the same as consortium carryover?

No. Consortium carryover is **one** or more prior fiscal years exceeding 20% and is assessed and acted upon annually. Consortium carryover includes the carryover of all its members.

For example, a consortium receives \$8M a year with four members each receiving \$2M a year for a total of \$8M. When Q4 was certified in NOVA, the consortium had \$2M in carryover or 25% (2M divided by 8M). The carryover was made up of each member having \$500K in carryover (500K X 4 = 2M). This would exceed the consortium 20% threshold as called out in AB1491 legislation.

### 3. What is excessive member carryover?

Excessive member carryover is not defined in the legislation. Therefore, each individual consortium may uniquely define “excessive member carryover” as a specific percentage of any unspent funds from the prior fiscal year. This percentage becomes that consortium’s threshold for determining which members meet or exceed the excessive carryover.

### 4. Who is the “consortium”?

The consortium is considered an adult education region as defined by the Chancellor and the Superintendent which contains a specific list of members (K-12, county office, community college, and/or joint powers authority). The consortium must follow the rules and procedures laid out in Education Code Section 84905, in addition to any local determined by-laws. All members of the consortium shall participate in any decision made by the consortium.

## **5. What is a majority membership vote?**

Education Code Section 84914 (d)(1) was amended to state that a finding to reduce carryover made by a consortium shall require a majority vote (more than half) of its membership to vote and approve.

Membership is defined in Education Code Section 84905(a) as: any community college district, school district, or county office of education, or any joint powers of authority located within the boundaries of the adult education region.

This means each member will have one vote when voting on reducing member carryover.

## **6. What happens if a member has carryover funds?**

AB 1491 authorizes a consortium to reduce a member's allocation by no more than the amount of the member's carryover, if the member has excessive carryover for at least two consecutive fiscal years. This is effective beginning with the 2023–24 fiscal year. There is no percentage threshold mandated in AB1491 for member carryover unless determined by the individual consortium.

## **7. How do we qualify actions to reduce a member's funding based on AB 1491 legislation?**

Listed below are the following steps to take if a consortium decides to vote on reducing a member's funding due to excessive carryover. Please note, excessive member carryover is defined by each individual consortiums and is outlined in the annual Consortium Fiscal Administrative Declaration (CFAD).

1. Beginning in the 2023-24 fiscal year, the consortium must track member carryover to determine if the member has excessive carryover for at least two consecutive fiscal years.
2. Excessive carryover, as determined by the individual consortium, would be based on the certification of Q4 in NOVA on or before September 1 (with the consortium certification by September 30).
3. The consortium must offer members technical assistance to help prevent them from having two consecutive fiscal years of carryover funds.

Note: Technical assistance and reasonable interventions are locally determined. It is recommended that these be defined, agreed to, and added to the consortium's governance documentation.

4. If the consortium determines that a member has excessive carryover for at least two consecutive fiscal years, and a reasonable intervention has not eliminated the carryover, then the consortium can reduce the member's carryover with the required majority vote.

Note: Consortia need to ensure their voting structure on carryover reflects the AB1491 legislation which requires a majority votes of its membership. This would mean one member, one vote. Your governance and by-laws should reflect this voting structure especially if your consortium has a different decision-making/voting process (i.e., consensus, multi-vote members, etc.).

**8. How much can we reduce a member’s carryover?**

AB1491 legislation authorizes a consortium to reduce a member’s allocation by no more than the amount of the member’s carryover. However, **the bill does not mandate a specific amount**, just no more than the amount of the carryover. Consortia will decide how much of a reduction is appropriate, but no more than the amount of the carryover.

**9. If a member’s funding gets reduced due to having exceeded, for two consecutive fiscal years, the consortia determined threshold for excessive member carryover, will this reduction affect the future allocation amount for that member?**

No, there will not be a reduction in the member’s future allocation. The vote to reduce a member’s agreed carryover amount will affect the prior year carryover, not future years’ allocation.

**10. Do we need to change our consortium by-laws?**

A consortium may need to evaluate their by-laws to ensure that they can accommodate or include changes in the law/education code. Listed below are a few examples of by-laws that may need to be evaluated.

1. Consortium decision-making / majority voting process to reduce the carryover.
2. Consortium technical assistance / reasonable intervention to make a finding.
3. Consortium tracking of excessive carryover at the member level and the sharing of that information as part of the reasonable intervention.
4. Consortium agreement on the percentage of carryover that will be defined as excessive.
5. Consortium decision on how to consider carrying over funding for consortium-wide projects and/or consortium-approved projects.

**11. What happens if our consortium doesn’t implement a member carryover reduction plan?**

Consortia that fail to address excessive member carryover could result in the consortium having more than 20% carryover during any fiscal year, which would result in a state review of the consortium (see below for consortium carryover).

**12. When will consortium carryover clock go into effect?**

Carryover tracking will begin in the FY 2023-2024. Due to the time needed to develop

appropriate tracking tools and reports in NOVA to accommodate AB 1491 requirements, the CAEP Office will request expenditure plans from consortia with 20% or more carryover beginning in the 2023-2024 program year (based on Q4 certified data in September 2024).

### **13. What actions will the State take if my consortium has 20% or more of carryover?**

Consortia with 20% or more carryover will be required to submit a written expenditure plan to the State showing how the consortium will work to reduce their carryover below the 20% threshold. The State will also assign technical assistance to those consortia to ensure effective use of funds as specified by policy, and to ensure that the consortium's annual carryover does not continue to exceed the 20% threshold so that it continues to provide adequate adult education services to the region. Additional details on the technical assistance and the State level review to ensure adequate services related to funding received will be forthcoming.

### **14. How can I track carryover funds in NOVA?**

NOVA provides the following resources to assist consortia and members with tracking carryover:

- Forecasting tool – this tool allows members to set spending targets and track their progress.
- Governance - consortia must explain their carryover by-laws/process when certifying their Consortium Fiscal Administration Declaration (CFAD) in the NOVA Governance section (#16, #17). In general, these governance questions in NOVA may also address other areas related to carryover (i.e. decision making, voting structure, public meetings, etc.).
- Annual Plan - consortia must respond to the carryover question in the CAEP Annual Plan's Fiscal Management section.
- NOVA Reports - consortia can use the NOVA Fiscal Reports to track carryover at the member level.

### **15. In addition to the current NOVA resources and professional development offerings, what other tools and training can consortia and members expect to assist with implementing AB1491?**

- Expenditure threshold percentage tool for each consortium and their members – this would allow the consortium to set their own percentage threshold for carryover that would trigger a required corrective action response.
- Corrective action plans – these are plans submitted by members to the consortium when they have exceeded the state level, or the consortium defined carryover threshold.
- Ability to generate NOVA reports throughout the year to identify member's carryover status.
- Ability to generate NOVA reports throughout the year to identify consortia that may exceed the 20% threshold at the end of the year.

- State-generated NOVA reports that identify consortia that met the AB1491 criteria for carryover (to be released in October/November each year).
- Ability to separate out or flag in NOVA consortium wide budget and expenses in quarterly expenditure reports to allow members to see the difference between member-level spending and consortium-level spending.
- For those consortia that exceed 20% of carryover for one or more fiscal years, the ability to submit a written expenditure plan to CCCCO/California Department of Education (CDE) via NOVA.
- Ability for the CCCCO/CDE to track in NOVA the prescribed and assigned technical assistance to the consortia that exceed 20% of carryover to ensure adequate adult education services are provided to the region in proportion to the region's available funding.
- Training webinars on how to draft by-laws to address carryover.

## 16. What are the CAEP Education Code Changes for AB1491?

Note: Changes are highlighted in **blue and brackets**.

SECTION 1. Section 84901 of the Education Code is amended to read:

**84901.** For purposes of this article, the following definitions shall apply, unless otherwise specified:

- (a) "Adult" means a person 18 years of age or older.
- (b) [*"Carryover" means the amount of unspent adult education program funds from the prior fiscal year, certified on or before September 1 of the current fiscal year, expressed as a percentage of the prior fiscal year's allocation.*]
- (c) "Consortium" means an adult education consortium approved pursuant to this article.
- (d) "Executive director" means the executive director of the State Board of Education.
- (e) "Program" means the Adult Education Program established by Section 84900.

SEC. 2. Section 84914 of the Education Code is amended to read:

**84914.**

- (a) As a condition of receipt of an apportionment from the program, a consortium shall approve a distribution schedule that includes both of the following:
  - (1) The amount of funds to be distributed to each member of the consortium for that fiscal year.
  - (2) A narrative justifying how the planned allocations are consistent with the adult education plan.
- (b)
  - (1) For any fiscal year for which the chancellor and the Superintendent allocate an amount of funds to the consortium greater than the amount allocated in the prior

fiscal year, the amount of funds to be distributed to a member of that consortium shall be equal to or greater than the amount distributed in the prior fiscal year, unless the consortium makes at least one of the following findings related to the member for which the distribution would be reduced:

- (A) The member no longer wishes to provide services consistent with the adult education plan.
- (B) The member cannot provide services that address the needs identified in the adult education plan.
- (C) The member has been consistently ineffective in providing services that address the needs identified in the adult education plan, *[including having excessive carryover for at least two consecutive fiscal years beginning with the 2022–23 fiscal year, and each fiscal year thereafter, and]* reasonable interventions have not resulted in improvements.

(2) For any fiscal year for which the chancellor and the Superintendent allocate an amount of funds to the consortium less than the amount allocated in the prior fiscal year, the amount of funds to be distributed to a member of that consortium shall not be reduced by a percentage greater than the percentage by which the total amount of funds allocated to the consortium decreased, unless the consortium makes at least one of the following findings related to the member for which the distribution would be reduced further:

- (A) The member no longer wishes to provide services consistent with the adult education plan.
- (B) The member cannot provide services that address the needs identified in the adult education plan.
- (C) The member has been ineffective in providing services that address the needs identified in the adult education *[plan, including having excessive carryover for at least two consecutive fiscal years beginning with the 2022–23 fiscal year, and each fiscal year thereafter, and]* reasonable interventions have not resulted in improvements.

(c) A distribution schedule shall also include preliminary projections of the amount of funds that would be distributed to each member of the consortium in each of the subsequent two fiscal years. The preliminary projections shall not constitute a binding commitment of funds.

*(d)*

*(1) [For purposes of this section, a finding made by a consortium shall require a majority vote of its membership.]*

*(2) [A consortium that makes a finding by majority vote pursuant to subparagraph (C) of paragraph (1) of subdivision (b) or subparagraph (C) of paragraph (2) of subdivision (b) based on a member having excessive carryover for at least two consecutive fiscal years*

*may reduce the member's allocation by no more than the amount of the member's carryover.]*

*(e)*

*(1) [A consortium with carryover from one or more prior fiscal years exceeding 20 percent shall be required to submit a written expenditure plan, including future corrective actions to reduce the consortium's carryover to below 20 percent, to the chancellor and the Superintendent.]*

*(2) [ For each fiscal year that a consortium has carryover of more than 20 percent, the chancellor and the Superintendent shall prescribe and assign technical assistance to that consortium to ensure that adequate adult education services are provided to the region in proportion to the region's available funding.]*

*(3) [The chancellor and the Superintendent shall ensure that the consortium funding remains dedicated to that consortium's region.]*