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January 8, 2007

Paula Higashi, Executive Director
Commission on State Mandates
U.S. Bank Plaza Building
980 Ninth Street, Suite 300
Sacramento, CA 95814

RE: No. CSM. 02-TC-46
Discrimination Complaint Procedures

Dear Ms. Higashi:

Please find enclosed a supplement to the test claim filing, specifically, a history of the Title 5, CCR, sections included in the test claim.

Sincerely,

Keith B. Petersen

C: Douglas Brinkley, Vice-Chancellor
Finance and Administration
State Center Community College District
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BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

Supplement to the:	)	No. CSM. 02-TC -46
	)	
Test Claim Filed June 27, 2003	)	Discrimination Complaint Procedures
	)	
	)	History Index for
	)	Title 5, California Code of Regulations
by Santa Monica Community College District	)	
	)	
	)	Section 59300
	)	Section 59303
	)	Section 59304
	)	Section 59310
	)	Section 59311
	)	Section 59320
	)	Section 59322
	)	Section 59324
	)	Section 59326
	)	Section 59327
	)	Section 59328
	)	Section 59329
	)	Section 59330
	)	Section 59332
	)	Section 59334
	)	Section 59336
	)	Section 59338
	)	Section 59339
	)	Section 59340
	)	Section 59342
	)	Section 59350
	)	Section 59351
	)	Section 59352
	)	Section 59354

)	Section 59356
)	Section 59358
)	Section 59360
)	Section 59362
)	
)	

SUPPLEMENTAL INFORMATION

This supplement to the test claim provides an index and copy of each change to the Title 5, CCR, sections included in the test claim. The Registers cited are attached as Exhibit A. Amended language is underlined (new language) or stricken out (deleted language).

HISTORY OF TITLE 5, CCR, SECTIONS INCLUDED IN THE TEST CLAIM

Register 81-16 § 59300: New section added.

§ 59301: New section added.

§ 59302: New section added.

§ 59303: New section added.

§ 59304: New section added.

§ 59305: New section added.

§ 59310: New section added.

§ 59320: New section added.

§ 59322: New section added.

§ 59324: New section added.

§ 59326: New section added.

§ 59328: New section added.

§ 59329: New section added.

§ 59330: New section added.

§ 59332: New section added.

§ 59334: New section added.

§ 59336: New section added.

§ 59338: New section added.

§ 59340: New section added.

§ 59350: New section added.

§ 59352: New section added.

§ 59354: New section added.

§ 59356: New section added.

§ 59358: New section added.

§ 59360: New section added.

§ 59362: New section added.

Register 92-17 § 59324: Amendment of section.

§ 59328: Amendment of section.

§ 59334: Amendment of existing paragraph and NOTE and adoption of subsections (a)-(e).

§ 59336: Repealed, new section added.

§ 59338: Repealed, new section added.

§ 59340: Amendment of section.

§ 59342: New section added.

1 **Register 96-23** § 59300: Amendment of section and NOTE. Submitted to OAL for
2 printing only.
3 § 59327: New section added.
4 § 59328: Repealed subsection (b) and subsection relettering.
5 Submitted to OAL for printing only.
6 § 59333: New section added.
7 **Register 01-06** § 59300: Amendment of section and NOTE. Submitted to OAL for
8 printing only.
9 § 59301: Repealed section. Submitted to OAL for printing only.
10 § 59303: Amendment filed. Submitted to OAL for printing only.
11 § 59311: New section added. Submitted to OAL for printing only.
12 § 59320: Amendment of section and NOTE. Submitted to OAL for
13 printing only.
14 § 59322: Amendment of section and NOTE. Submitted to OAL for
15 printing only.
16 § 59326: Amendment of section and NOTE. Submitted to OAL for
17 printing only.
18 § 59327: Amendment of subsections (a)(3) and (c). Submitted to
19 OAL for printing only.
20 § 59328: Amendment of section heading and subsection (a).
21 Submitted to OAL for printing only.
22 § 59330: Amendment of section and NOTE. Submitted to OAL for

1 printing only.

2 § 59336: Amendment of section. Submitted to OAL for printing

3 only.

4 § 59338: Amendment of section heading and section. Submitted

5 to OAL for printing only.

6 § 59339: New section added. Submitted to OAL for printing only.

7 § 59340: Repealed subsections (a)-(c) and subsection relettering.

8 Submitted to OAL for printing only.

9 § 59342: Amendment of subsections (a), (c), and (d). Submitted to

10 OAL for printing only.

11 § 59350: Amendment of subsections (a) and (b) and NOTE.

12 Submitted to OAL for printing only.

13 § 59351: New section added.

14 § 59356: Amendment of section and NOTE. Submitted to OAL for

15 printing only.

16 § 59358: Amendment of section and NOTE. Submitted to OAL for

17 printing only.

18 § 59360: Amendment of subsections (a), (a)(2) and (b) and

19 amendment of NOTE. Submitted to OAL for printing only.

20 **Register 02-13** § 59300: Amendment of section and NOTE. Submitted to OAL for

21 printing only.

22 § 59302: Amendment of section and NOTE. Submitted to OAL for

1 printing only.

2 § 59303: Amendment filed. Submitted to OAL for printing only.

3 § 59304: Amendment of section and NOTE. Submitted to OAL for

4 printing only.

5 § 59305: Section repealed. Submitted to OAL for printing only.

6 § 59310: Amendment of section and NOTE. Submitted to OAL for

7 printing only.

8 § 59311: Amendment of section and NOTE. Submitted to OAL for

9 printing only.

10 § 59320: Amendment of section. Submitted to OAL for printing

11 only.

12 § 59322: Amendment of section. Submitted to OAL for printing

13 only.

14 § 59324: Amendment of section. Submitted to OAL for printing

15 only.

16 § 59326: Amendment of section. Submitted to OAL for printing

17 only.

18 § 59327: Amendment of section. Submitted to OAL for printing

19 only.

20 § 59328: Amendment of section. Submitted to OAL for printing

21 only.

22 § 59329: Amendment of section and NOTE. Submitted to OAL

for printing only.

§ 59330: Amendment of section and NOTE. Submitted to OAL for printing only.

§ 59333: Amendment of section and NOTE. Submitted to OAL for printing only.

§ 59334: Amendment of section. Submitted to OAL for printing only.

§ 59336: Amendment of section. Submitted to OAL for printing only.

§ 59338: Amendment of section. Submitted to OAL for printing only.

§ 59339: Amendment of section heading and section. Submitted to OAL for printing only.

§ 59340: Amendment of section. Submitted to OAL for printing only.

§ 59342: Amendment of section. Submitted to OAL for printing only.

§ 59350: Amendment of section. Submitted to OAL for printing only.

§ 59351: Amendment of section heading and section. Submitted to OAL for printing only.

§ 59352: Amendment of NOTE. Submitted to OAL for printing only.

§ 59354: Amendment of NOTE. Submitted to OAL for printing only.

§ 59356: Amendment of section. Submitted to OAL for printing only.

§ 59358: Amendment of section. Submitted to OAL for printing only.

§ 59360: Amendment of section. Submitted to OAL for printing only.

§ 59362: Amendment of section and NOTE. Submitted to OAL for printing only.

Register 02-23 § 59311: New subsection (c) and subsection relettering. Submitted to OAL for printing only.

§ 59328: Amendment of subsection (e). Submitted to OAL for printing only.

§ 59342: Amendment of subsection (c). Submitted to OAL for printing only.

Subsequent Registers: There may be changes to the regulations after the test claim was filed, which are not included.

1 CERTIFICATION

2 By my signature below, I hereby declare, under penalty of perjury under the laws
3 of the State of California, that the information in this document is true and complete to
4 the best of my own knowledge or information or belief, and that the attached regulations
5 are true and correct copies of documents from archives of a recognized law library.

6 EXECUTED this 8 day of January 2008, at Sacramento, California

7 _____

8 FOR THE TEST CLAIMANT

9 Keith Petersen, President

10 SixTen and Associates

11 ATTACHMENT

12 Exhibit A Title 5, CCR Registers

Register 81-16

§ 59300
§ 59303
§ 59304
§ 59310
§ 59320
§ 59322
§ 59324
§ 59326
§ 59328
§ 59329
§ 59330
§ 59332
§ 59334
§ 59336
§ 59338
§ 59340
§ 59350
§ 59352
§ 59354
§ 59356
§ 59358
§ 59360
§ 59362

CHAPTER 5. NONDISCRIMINATION IN PROGRAMS RECEIVING STATE FINANCIAL ASSISTANCE THROUGH THE CHANCELLOR OR BOARD OF GOVERNOR OF THE CALIFORNIA COMMUNITY COLLEGES

Article 1. General

59300. Purpose.

The purpose of this chapter is to implement the provisions of California Government Code Sections 11135 through 11139.5 as added by Chapter 972 of the Statutes of 1977, to the end that no person in the State of California shall, on the basis of ethnic group identification, religion, age, sex, color or physical or mental disability, be unlawfully subject to discrimination under any program or activity that is funded directly by, or that receives any financial assistance from, the Chancellor or Board of Governors of the California Community Colleges.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135–11139.5, Government Code.

HISTORY:

1. New Chapter 5 (Articles 1–4, Sections 59300–59362, not consecutive) filed 4-17-81; effective thirtieth day thereafter (Register 81, No. 16). For prior history, see Registers 79, No. 46; and 78, No. 39).

59301. Prohibited Discrimination.

All programs and activities in the California Community Colleges shall be available to all qualified persons without regard to ethnic group identification, religion, age, sex, color or physical or mental disability. No person shall be denied the benefits of any community college program or activity on the basis of ethnic group identification, religion, age, sex, color or physical or mental disability.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135 and 11138, Government Code.

59302. Academic Requirements.

Nothing in this chapter shall be interpreted to prohibit bona fide academic requirements for a specific community college program, course or activity.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135 and 11138, Government Code.

59303. Delegation of Authority.

The Board of Governors hereby delegates responsibility for implementing and enforcing the requirements of Government Code Sections 11135 through 11137 to the Chancellor, except as specifically stated in this chapter.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020, 71025, and 71091, Education Code. Reference: Sections 11135 and 11138, Government Code.

59304. Intent.

It is the intent of the Board of Governors that the Chancellor assist community college districts in recognizing and eliminating unlawful discrimination that may exist from their programs and activities and in meeting the requirements of this chapter. Punitive action authorized by this chapter will be taken only when remedial action has failed to eliminate unlawful discrimination from the programs and activities of a community college district.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11137, 11138, and 11139, Government Code.

59305. Operative Date.

This chapter shall be operative July 1, 1981.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135 and 11138, Government Code.

Article 2. Definitions

59310. Incorporation by Reference.

Those definitions of activities prohibited by and persons protected by Chapter 972 of the Statutes of 1977 set forth in Chapters 2 and 3 of Division 8 of Title 22 of the California Administrative Code (commencing with Section 98100) are incorporated into and made applicable to this Chapter as if fully set forth here.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135 and 11138, Government Code.

Article 3. District Compliance and Enforcement

59320. District Responsibility.

Each community college district has primary responsibility to insure that its programs and activities are available to all persons without regard to ethnic group identification, religion, age, sex, color or physical or mental disability. Therefore, each community college district shall investigate complaints of unlawful discrimination in its programs or activities, and seek to resolve those complaints.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135 and 11138, Government Code.

59322. District Regulations.

Each community college district, no later than 90 days from the operative date of this chapter shall adopt and submit to the Chancellor for approval rules and regulations consistent with this article for the investigation and resolution of complaints of unlawful discrimination.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135 and 11138, Government Code.

59324. Responsible District Officer.

Each community college district shall identify to the Chancellor and to the public a single person as the responsible district officer for insuring district compliance with this chapter.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135 and 11138, Government Code.

59326. Notice to Students and Employees.

Each community college district shall notify students and employees of the provisions of this chapter.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135 and 11138, Government Code.

59328. Complaint.

(a) An investigation of alleged unlawful discrimination prohibited by this chapter will be initiated by filing a complaint which meets the following requirements:

(1) The complaint shall be filed by one who alleges that he or she has personally suffered unlawful discrimination or by one who has learned of such unlawful discrimination in his or her official capacity.

(2) The complaint shall be filed with the Chancellor of the California Community Colleges or with the chief administrative officer of the appropriate community college district.

(3) The complaint shall be in a form prescribed by the Chancellor.

(4) The complaint shall be filed within 120 days of the alleged unlawful discrimination.

(b) Districts may establish procedures for attempting to resolve charges or unlawful discrimination which may be a prerequisite to filing a complaint pursuant to this chapter. Such procedures shall be limited to thirty (30) days.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

59329. Complaints Filed with Chancellor.

Upon receiving a complaint filed pursuant to Section 59328, the Chancellor will immediately forward a copy of the complaint to the appropriate community college district responsible officer who shall respond pursuant to Section 59332 or initiate the investigation required by Section 59334.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

59330. Notice to Chancellor.

Immediately upon receiving a complaint filed in accordance with Section 59328 the district shall notify the Chancellor of the complaint in a form and manner determined by the Chancellor.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

59332. Defective Complaint.

When a district receives a complaint which it finds does not meet the requirements of Section 59328 the district shall immediately notify the complainant that the complaint does not meet the requirements of Section 59328 and shall specify in what requirement the complaint is defective.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

59334. District Investigation.

Within fourteen (14) days of receiving a complaint filed in accordance with Section 59328 the district will commence an investigation of that complaint and notify the complainant that it is doing so.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

59336. District Resolution.

Upon completing the investigation, the district will attempt to resolve the complaint and will take such action as it deems necessary to correct the effects of any unlawful discrimination and to ensure that no unlawful discrimination will occur in the district.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

59338. Notice to Complainant.

Upon resolution of a complaint as required by Section 59336, the district will notify complainant of its proposed resolution. The district will also notify complainant that the complainant may object to the district's proposed resolution by submitting those objections to the Chancellor within thirty (30) days. The notice to complainant will be in the form determined by the Chancellor.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

59340. Forward to Chancellor.

Upon sending the notice pursuant to Section 59338 and within ninety (90) days of initiating the investigation required by Section 59334 the district will forward the following to the Chancellor:

(a) The original complaint;

(b) Report of the nature and extent of the investigation conducted by the district;

(c) Report of any action taken to resolve the complaint;

(d) Evidence that the district has complied with the requirements of Section 59338;

(e) Such other information as the Chancellor may require.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

Article 4. Chancellor's Procedure to Effect Compliance

59350. Review for Reasonable Cause.

(a) The Chancellor shall review the materials submitted by the district pursuant to Section 59340, together with any objection submitted by the complainant, and determine whether there is reasonable cause to believe the district has violated the requirements of this chapter.

(b) Failure by the complainant to file an objection pursuant to Section 59338 shall not preclude the Chancellor from finding reasonable cause to believe the district has violated the requirements of this chapter.

(c) If the Chancellor finds there is no reasonable cause to believe a violation has occurred, the Chancellor shall immediately notify both the complainant and the district.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

59352. Investigation.

If the Chancellor finds there is reasonable cause to believe a violation has occurred, the Chancellor shall investigate to determine whether there is probable cause to believe a violation has occurred.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

59354. Informal Resolution.

During the course of the investigation, the Chancellor shall seek to informally resolve the alleged violation. Such resolution shall be set forth in a written conciliation agreement. A copy of the written agreement shall be sent to the complainant.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

59356. Formal Resolution.

Within 120 days of initiating the investigation, the Chancellor shall:

(a) Notify the district and the complainant that there is probable cause to believe the district has violated the provisions of this chapter. The Chancellor shall allow the district to acquiesce in this finding prior to filing an accusation against the district.

(b) Notify the district and the complainant that there is no reasonable cause to believe the district has violated the provisions of this chapter.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

59358. Hearing.

If the Chancellor finds the district has violated the provisions of this chapter, and if the district does not acquiesce in that finding, the Chancellor shall initiate the hearing process pursuant to Chapter 5 (commencing with Section 11500) of Part I, Division 3, Title 2 of the Government Code, to determine whether the violation did occur.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

59360. Enforcement.

(a) Upon a determination that a district has violated the provisions of this chapter, the Chancellor shall notify the district of the action he or she will take to effect compliance. The Chancellor may use any means authorized by law to effect compliance, including:

(1) Withhold all or part of the district's state support;

(2) Probationary eligibility for future state support, conditional on compliance with specified conditions;

(3) Proceeding in a court of competent jurisdiction for an appropriate order compelling compliance.

(b) No decision to curtail state funding to a district under this chapter shall be made until the Chancellor has determined that compliance cannot be secured by voluntary means.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

59362. Judicial Review.

A decision by the Chancellor pursuant to Section 59360 is subject to judicial review by the district, as provided by Section 1094.5 of the Code of Civil Procedure.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, and 11138, Government Code.

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this list, he or she shall give the board of directors of such organization reasonable notice that a conference will be held to determine whether grounds for removal do in fact exist, and representatives of said board shall be entitled to be present at such conference and to be heard. Based upon such conference, the chief executive officer or other designee shall recommend to the district governing board whether a particular organization should be removed from the list. The district governing board may, in its sole discretion, remove such an auxiliary organization from said list, and may make such other provisions consistent with law as may be appropriate with respect to an auxiliary organization not included on said list.

NOTE: Authority cited: Sections 66700, 70901 and 72672, Education Code. Reference: Section 72672, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 59265. Ongoing Responsibilities.

Each district governing board which establishes one or more auxiliary organizations shall:

(a) Insure that an audit on each auxiliary organization is performed annually in the manner prescribed by subdivision (a) of section 72672 of the Education Code; and that a copy of said audit is submitted to the Chancellor;

(b) Submit any changes in district implementing regulations to the Chancellor for approval;

(c) Submit to the Chancellor any changes made in any written agreement, articles of incorporation, bylaws or other governing instrument pertaining to any established auxiliary organization;

(d) Periodically review each auxiliary organization for compliance with Education Code sections 72670–72682, the regulations contained in this chapter and district implementing regulations, any written agreement, and the auxiliary organization's articles of incorporation, bylaws or other governing instrument. Such review shall be conducted in accordance with the procedure specified in the district implementing regulations;

(e) Prepare and keep current a list of auxiliary organizations in good standing in the manner provided for in section 59263. A copy of the initial list of auxiliary organizations in good standing, as well as any updated version of such list shall be forwarded to the Chancellor; and

(f) Report to the Chancellor, as may be required from time to time, on the operations of its auxiliary organizations.

NOTE: Authority cited: Sections 66700, 70901 and 72672, Education Code. Reference: Article 6 (commencing with Section 72670), Chapter 6, Part 45, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Article 3. Board of Governors and Chancellor's Office Responsibilities

§ 59270. Procedures for Annual Audits and Financial Reporting.

The Chancellor shall have the authority to prescribe the reporting and auditing procedures for auxiliary organizations. Such procedures are contained in the document, *California Community Colleges Auxiliary–Organization Accounting and Reporting System*, which shall be maintained by the Chancellor. Districts and auxiliary organizations shall apply and comply with the provisions of this document.

NOTE: Authority cited: Sections 66700, 70901, 72672, 72675, Education Code. Reference: Sections 72672 and 72675, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 59272. Review of District Implementing Regulations.

The Chancellor shall review and approve or disapprove district implementing regulations no later than 60 days after receipt. Implementing regulations which satisfactorily address the minimum contents specified in section 59257 shall be approved. Implementing regulations which are disapproved shall be returned with a statement of reasons as to why they were rejected.

NOTE: Authority cited: Sections 66700, 70901 and 72672, Education Code. Reference: Section 72672, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 59274. Retention of Documentation.

NOTE: Authority cited: Sections 71020 and 72672, Education Code. Reference: Article 6 (commencing with Section 72670), Chapter 6, Part 45, Education Code.

HISTORY

1. Repeal of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 59276. Annual Report to Legislature.

NOTE: Authority cited: Sections 71020 and 72672, Education Code. Reference: Section 72681, Education Code.

HISTORY

1. Repeal of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Subchapter 5. Nondiscrimination in Programs Receiving State Financial Assistance Through the Chancellor or Board of Governors of the California Community Colleges

Article 1. General

§ 59300. Purpose.

The purpose of this chapter is to implement the provisions of California Government Code Sections 11135 through 11139.5 as added by Chapter 972 of the Statutes of 1977, to the end that no person in the State of California shall, on the basis of ethnic group identification, religion, age, sex, color or physical or mental disability, be unlawfully subject to discrimination under any program or activity that is funded directly by, or that receives any financial assistance from, the Chancellor or Board of Governors of the California Community Colleges.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135–11139.5, Government Code.

HISTORY

1. New Chapter 5 (Articles 1–4, Sections 59300–59362, not consecutive) filed 4–17–81; effective thirtieth day thereafter (Register 81, No. 16). For prior history, see Registers 79, No. 46; and 78, No. 39).

§ 59301. Prohibited Discrimination.

All programs and activities in the California Community Colleges shall be available to all qualified persons without regard to ethnic group identification, religion, age, sex, color or physical or mental disability. No person shall be denied the benefits of any community college program or activity on the basis of ethnic group identification, religion, age, sex, color or physical or mental disability.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135 and 11138, Government Code.

§ 59302. Academic Requirements.

Nothing in this chapter shall be interpreted to prohibit bona fide academic requirements for a specific community college program, course or activity.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135 and 11138, Government Code.

§ 59303. Delegation of Authority.

The Board of Governors hereby delegates responsibility for implementing and enforcing the requirements of Government Code Sections 11135 through 11137 to the Chancellor, except as specifically stated in this chapter.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020, 71025, and 71091, Education Code. Reference: Sections 11135 and 11138, Government Code.

§ 59304. Intent.

It is the intent of the Board of Governors that the Chancellor assist community college districts in recognizing and eliminating unlawful discrimination that may exist from their programs and activities and in meeting the requirements of this chapter. Punitive action authorized by this chapter will be taken only when remedial action has failed to eliminate unlawful discrimination from the programs and activities of a community college district.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11137, 11138, and 11139, Government Code.

§ 59305. Operative Date.

This chapter shall be operative July 1, 1981.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135 and 11138, Government Code.

§ 59306. Visitor Parking for Persons with Disabilities.

(a) Each community college district shall, consistent with the requirements of Education Code Sections 66260 and 67311.5, provide visitor parking at each of its colleges or centers at no charge to persons with disabilities or those providing transportation for such persons.

(b) For purposes of this section, "persons with disabilities" are those who:

(1) qualify as disabled persons pursuant to Section 22511.5 of the Vehicle Code; or

(2) if they were students, would be entitled to special parking provided to students with disabilities pursuant to Subchapter 1 (commencing with Section 56000) of Chapter 7 of this Division.

(c) Parking at no charge shall be available to persons with disabilities who are visitors, and those providing transportation to such persons, in those parking facilities which are most accessible to administrative offices, libraries, and other facilities which the district finds are most used by visitors.

(d) Each community college district shall post in conspicuous places notice that parking is available without charge to persons with disabilities who are visitors and those providing transportation for such persons.

(e) When parking provided pursuant to this section is located in an area where access is controlled by a mechanical gate, the district shall ensure that accommodations are made for persons with disabilities who are unable to operate the gate controls. Accommodations may be provided by an attendant assigned to assist in operation of the gate or by any other effective means deemed appropriate by the district.

(f) Parking fees collected pursuant to Education Code Section 72247 shall be used to offset any costs resulting from compliance with the requirements of this section.

NOTE: Authority cited: Sections 66260, 67311.5 and 70901, Education Code; and Section 11135, Government Code. Reference: Sections 66260, 67311.5, and 72247, Education Code; and Section 22511.5, Vehicle Code.

HISTORY

1. New section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 59307. Sexual Harassment and Sex Discrimination.

The governing board of each community college district shall ensure that all persons, regardless of their sex, are afforded equal rights and opportunities in programs and activities conducted by colleges in the district. The district shall comply with all requirements of Chapter 2 (commencing with Section 200) of Division 1 of Title 1 of the Education Code, which is commonly referred to as the Sex Equity in Education Act. Complaints alleging sexual harassment or discrimination on the basis of gender prohibited by that Act shall be filed and investigated pursuant to the procedures set forth in this subchapter.

NOTE: Authority cited: Sections 232 and 70901, Education Code; and Section 11135, Government Code. Reference: Sections 200 et seq., Education Code.

HISTORY

1. New section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

Article 2. Definitions

§ 59310. Incorporation by Reference.

Those definitions of activities prohibited by and persons protected by Chapter 972 of the Statutes of 1977 set forth in Chapters 2 and 3 of Division 8 of Title 22 of the California Administrative Code (commencing with Section 98100) are incorporated into and made applicable to this Chapter as if fully set forth here.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135 and 11138, Government Code.

§ 59311. Handicapped Visitor Parking.

NOTE: Authority cited: Sections 66260, 66700 and 71020, Education Code; and Section 11135, Government Code. Reference: Section 71020, Education Code; and Section 11135, Government Code.

HISTORY

1. New section filed 6-12-85; effective thirtieth day thereafter (Register 85, No. 24).
2. Repealer filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

Article 3. District Compliance and Enforcement

§ 59320. District Responsibility.

Each community college district has primary responsibility to insure that its programs and activities are available to all persons without regard to ethnic group identification, religion, age, sex, color or physical or mental disability. Therefore, each community college district shall investigate complaints of unlawful discrimination in its programs or activities, and seek to resolve those complaints.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135 and 11138, Government Code.

§ 59322. District Regulations.

Each community college district, no later than 90 days from the operative date of this chapter shall adopt and submit to the Chancellor for approval rules and regulations consistent with this article for the investigation and resolution of complaints of unlawful discrimination.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135 and 11138, Government Code.

§ 59324. Responsible District Officer.

Each community college district shall identify to the Chancellor and to the public a single person as the district officer responsible for receiving complaints filed pursuant to Section 59328 and coordinating their investigation. The actual investigation of complaints may be assigned to other staff or to outside persons or organizations under contract with the district. Such procedures shall be used whenever the officer designated to receive complaints is named in the complaint or is implicated by the allegations in the complaint.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135 and 11138, Government Code.

HISTORY

1. Amendment filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 59326. Notice to Students and Employees.

Each community college district shall notify students and employees of the provisions of this chapter.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135 and 11138, Government Code.

§ 59328. Complaint.

(a) An investigation of alleged unlawful discrimination prohibited by this Subchapter will be initiated by filing a complaint which meets the following requirements:

(1) The complaint shall be filed by one who alleges that he or she has personally suffered unlawful discrimination or by one who has learned of such unlawful discrimination in his or her official capacity.

(2) The complaint shall be filed with the Chancellor of the California Community Colleges or with the officer designated pursuant to Section 59324 by the appropriate community college district.

(3) The complaint shall be in a form prescribed by the Chancellor.

(4) The complaint shall be filed within one year of the date of the alleged unlawful discrimination or within one year of the date on which the complainant knew or should have known of the facts underlying the allegation of unlawful discrimination.

(b) Districts shall establish procedures for attempting to resolve charges of unlawful discrimination which shall be a prerequisite to filing a complaint pursuant to this chapter. Such procedures shall be limited to thirty (30) days.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 59329. Complaints Filed with Chancellor.

Upon receiving a complaint filed pursuant to Section 59328, the Chancellor will immediately forward a copy of the complaint to the appropriate community college district responsible officer who shall respond pursuant to Section 59332 or initiate the investigation required by Section 59334.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

§ 59330. Notice to Chancellor.

Immediately upon receiving a complaint filed in accordance with Section 59328 the district shall notify the Chancellor of the complaint in a form and manner determined by the Chancellor.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

§ 59332. Defective Complaint.

When a district receives a complaint which it finds does not meet the requirements of Section 59328 the district shall immediately notify the complainant that the complaint does not meet the requirements of Section 59328 and shall specify in what requirement the complaint is defective.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

§ 59334. District Investigation.

Upon receiving a complaint which is properly filed in accordance with Section 59328, the district will commence an impartial fact-finding investigation of that complaint and notify the complainant and Chancellor that it is doing so. The results of the investigation shall be set forth in a written report which shall include at least all of the following:

(a) a description of the circumstances giving rise to the complaint;

(b) a summary of the testimony provided by each witness, including the complainant and any witnesses identified by the complainant in the complaint;

(c) an analysis of any relevant data or other evidence collected during the course of the investigation;

(d) a specific finding as to whether discrimination did or did not occur with respect to each allegation in the complaint; and

(e) any other information deemed appropriate by the district.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment of existing paragraph and NOTE and adoption of subsections (a)-(e) filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 59336. Administrative Determination.

Within ninety (90) days of receiving a complaint, the district shall complete its investigation and forward all of the following to the complainant:

(a) a copy or summary of the investigative report required pursuant to Section 59334;

(b) a written notice setting forth:

(1) the determination of the chief executive officer or his/her designee as to whether discrimination did or did not occur with respect to each allegation in the complaint;

(2) a description of actions taken, if any, to prevent similar problems from occurring in the future;

(3) the proposed resolution of the complaint; and

(4) the complainant's right to appeal to the district governing board and the Chancellor pursuant to Section 59338.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 59338. Final District Decision; Appeals.

(a) If the complainant is not satisfied with the results of the administrative determination pursuant to Section 59336, the complainant may, within fifteen (15) days, submit a written appeal to the district governing board. The governing board shall review the original complaint, the investigative report, the administrative determination, and the appeal and issue a final district decision in the matter within forty-five (45) days after receiving the appeal. A copy of the final district decision rendered by the governing board shall be forwarded to the complainant and to the Chancellor. The complainant shall also be notified of his or her right to appeal this decision pursuant to this section. If the governing board does not act within forty-five (45) days the administrative determination shall be deemed approved and shall become the final district decision in the matter.

(b) In any case not involving employment discrimination, the complainant shall have the right to file a written appeal with the Chancellor within thirty (30) days after the governing board issues the final district decision or permits the administrative determination to become final pursuant to subsection (a). Such appeals shall be processed pursuant to the provisions of Article 4 (commencing with Section 59350) of this subchapter.

(c) In any case involving employment discrimination, the complainant may, at any time before or after the final district decision is rendered, file a complaint with the Department of Fair Employment and Housing. In addition, in such cases, the complainant may file a petition for review with the Chancellor within thirty (30) days after the governing board issues the final district decision or permits the administrative determination to become final pursuant to subsection (a). The Chancellor shall have discretion to accept or reject any such petition for review in employment discrimination cases. If the Chancellor agrees to accept the case, he/she may:

(1) attempt to informally resolve the matter pursuant to Section 59354;

(2) where applicable, treat the complaint as an allegation that the district has violated the provisions of Subchapter 1 (commencing with Section 53000) of Chapter 4 of this Division; or

(3) take any other action deemed appropriate by the Chancellor.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 59340. Forward to Chancellor.

Within 150 days of receiving a complaint, the district will forward the following to the Chancellor:

(a) the original complaint;

(b) the report required pursuant to Section 59334 describing the nature and extent of the investigation conducted by the district;

(c) a copy of the notice sent to the complainant pursuant to Section 59336(b);

(d) a copy of the final district decision rendered by the governing board or a statement indicating the date on which the administrative determination became final pursuant to Section 59338(a);

(e) a copy of the notice to the complainant required pursuant to Section 59338 (a); and

(f) such other information as the Chancellor may require.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 59342. Extensions; Failure to Comply.

(a) If a district, for reasons beyond its control, is unable to comply with the 150-day deadline specified in Section 59340 for submission of materials to the Chancellor, the district may file a written request that the Chancellor grant an extension of the deadline. The request shall be submitted no later than ten (10) days prior to the expiration of the deadline established pursuant to Section 59340 and shall set the reasons for the request and the date by which the district expects to be able to submit the required materials.

(b) A copy of the request for an extension shall be sent to the complainant who may file written objections with the Chancellor within five (5) days of receipt.

(c) The Chancellor may grant the request unless delay would be prejudicial to the complainant.

(d) If a district fails to comply with the requirements of Section 59340 by the required deadline, including any extension granted pursuant to this section, the Chancellor may proceed to review the case as provided in Article 4 (commencing with Section 59350) of the Subchapter based on the original complaint and any other relevant information then available.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. New section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

Article 4. Chancellor's Procedure to Effect Compliance

§ 59350. Review for Reasonable Cause.

(a) The Chancellor shall review the materials submitted by the district pursuant to Section 59340, together with any objection submitted by the complainant, and determine whether there is reasonable cause to believe the district has violated the requirements of this chapter.

(b) Failure by the complainant to file an objection pursuant to Section 59338 shall not preclude the Chancellor from finding reasonable cause to believe the district has violated the requirements of this chapter.

(c) If the Chancellor finds there is no reasonable cause to believe a violation has occurred, the Chancellor shall immediately notify both the complainant and the district.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

§ 59352. Investigation.

If the Chancellor finds there is reasonable cause to believe a violation has occurred, the Chancellor shall investigate to determine whether there is probable cause to believe a violation has occurred.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

§ 59354. Informal Resolution.

During the course of the investigation, the Chancellor shall seek to informally resolve the alleged violation. Such resolution shall be set forth in a written conciliation agreement. A copy of the written agreement shall be sent to the complainant.

NOTE: Authority cited: Section 11138, Government Cod; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

§ 59356. Formal Resolution.

Within 120 days of initiating the investigation, the Chancellor shall:

(a) Notify the district and the complainant that there is probable cause to believe the district has violated the provisions of this chapter. The Chancellor shall allow the district to acquiesce in this finding prior to filing an accusation against the district.

(b) Notify the district and the complainant that there is no reasonable cause to believe the district has violated the provisions of this chapter.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

§ 59358. Hearing.

If the Chancellor finds the district has violated the provisions of this chapter, and if the district does not acquiesce in that finding, the Chancellor shall initiate the hearing process pursuant to Chapter 5 (commencing with Section 11500) of Part I, Division 3, Title 2 of the Government Code, to determine whether the violation did occur.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

§ 59360. Enforcement.

(a) Upon a determination that a district has violated the provisions of this chapter, the Chancellor shall notify the district of the action he or she will take to effect compliance. The Chancellor may use any means authorized by law to effect compliance, including:

(1) Withhold all or part of the district's state support;

(2) Probationary eligibility for future state support, conditional on compliance with specified conditions;

(3) Proceeding in a court of competent jurisdiction for an appropriate order compelling compliance.

(b) No decision to curtail state funding to a district under this chapter shall be made until the Chancellor has determined that compliance cannot be secured by voluntary means.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

§ 59362. Judicial Review.

A decision by the Chancellor pursuant to Section 59360 is subject to judicial review by the district, as provided by Section 1094.5 of the Code of Civil Procedure.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, and 11138, Government Code.

Subchapter 6. Waiver of Part-Time Instructor Limit

NOTE: Authority cited: Sections 71020 and 87613, Education Code. Reference: Section 87613, Education Code.

HISTORY

1. New Chapter 6 (Sections 59380-59388, not consecutive) filed 6-1-82; effective thirtieth day thereafter (Register 82, No. 23).

2. Repealer of Chapter 6 (Sections 59380–59388, not consecutive) filed 3–7–85; effective thirtieth day thereafter (Register 85, No. 10).

Subchapter 7. Instructional and Other Materials

§ 59400. Required Instructional and Other Materials.

(a) The governing board of a district may, consistent with the provisions of this chapter, require students to provide instructional and other materials required for a credit or noncredit course, provided that such materials are of continuing value to a student outside of the classroom setting, and provided that such materials are not solely or exclusively available from the district.

(b) Except as specifically authorized or required in the Education Code, the governing board of a community college district shall not require a student to pay a fee for any instructional and other materials required for a credit or noncredit course.

NOTE: Authority cited: Sections 66700, 70901 and 72249, Education Code. Reference: Sections 70901, 70902 and 72249, Education Code.

HISTORY

1. New chapter 7 (sections 59400–59408, not consecutive) filed 5–16–85; effective thirtieth day thereafter (Register 85, No. 20).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 59402. Definitions.

For the purposes of this chapter the following definitions apply:

(a) "Instructional and other materials" means any tangible personal property which is owned or primarily controlled by an individual student.

(b) "Required instructional and other materials" means any instructional and other materials which a student must procure or possess as a condition of registration, enrollment or entry into a class; or any such material which is necessary to achieve those required objectives of a course which are to be accomplished under the supervision of an instructor during class hours.

(c) "Solely or exclusively available from the district" means that the material is not available except through the district, or that the district requires that the material be purchased or procured from it. A material shall not be considered to be solely or exclusively available from the district if it is provided to the student at the district's actual cost; and:

(1) The material is otherwise generally available, but is provided solely or exclusively by the district for health and safety reasons; or

(2) The material is provided in lieu of other generally available but more expensive material which would otherwise be required.

(d) "Required instructional and other materials which are of continuing value outside of the classroom setting" are materials which can be taken from the classroom setting, and which are not wholly consumed, used up, or rendered valueless as they are applied in achieving the required objectives of a course which are to be accomplished under the supervision of an instructor during class hours.

NOTE: Authority cited: Sections 66700, 70901 and 72249, Education Code. Reference: Sections 70901, 70902 and 72249, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 59404. District Policies and Regulations for Instructional and Other Materials.

(a) The governing board of a community college district which requires that students provide instructional or other materials for a course shall adopt policies or regulations, consistent with the provisions of this chapter, which specify the conditions under which such materials will be required.

(b) The policies or regulations specified in subsection (a) shall be adopted no later than January 1, 1986, forwarded to the Chancellor's Office upon adoption, and thereafter published in each college catalog developed after the date of adoption.

NOTE: Authority cited: Sections 66700, 70901 and 72249, Education Code. Reference: Sections 70901, 70902 and 72249, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 59406. Report to Chancellor.

The governing board of a community college district which prescribes required instructional and other materials for its courses shall respond to periodic surveys or inquiries of the Chancellor on the subject.

NOTE: Authority cited: Sections 66700, 70901 and 72249, Education Code. Reference: Sections 70901, 70902 and 72249, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 59406.5. Reports Re Instructional Materials Used.

Each district board shall make reports, whenever required, directly to the Board of Governors or Chancellor's Office, concerning the instructional materials used in its colleges.

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

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 59408. Operative Date and Violations of Chapter.

(a) The regulations in this chapter shall become operative on August 15, 1985, provided that a district governing board which wishes to implement these regulations earlier may do so.

(b) The governing board of a district which prescribes required instructional and other materials in violation of this chapter shall be deemed to have established a student fee not expressly established by law.

NOTE: Authority cited: Sections 66700, 70901 and 72249, Education Code. Reference: Sections 70901, 70902 and 72249, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 59410. Withholding Grades, Transcripts, etc., for Nonrepayment of Financial Obligations.

The governing board of a community college district may provide by appropriate rules and regulations that grades, transcripts, diplomas and registration privileges, or any combination thereof, shall be withheld from any student or former student who has been provided with written notice that he or she has failed to pay a proper financial obligation due to the district or a college. Any item or items withheld shall be released when the student satisfactorily meets the financial obligation.

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

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Chapter 11. Regulations of the Chancellor

Subchapter 1. Standards for the Determination of Proportional Level of Service for Adult Noncredit Programs for Substantially Handicapped Persons

§ 59500. Purpose.

NOTE: Authority cited: Section 84730, Education Code. Reference: Section 84730, Education Code.

HISTORY

1. New Chapter 1 (Sections 59500–59503) filed 10–3–80; effective thirtieth day thereafter (Register 80, No. 40).
2. Repealer filed 3–29–88; operative 4–28–88 (Register 88, No. 16).

§ 59501. Substantially Handicapped Persons.

NOTE: Authority cited: Section 84730, Education Code. Reference: Section 84730, Education Code.

HISTORY

1. Repealer filed 3-29-88; operative 4-28-88 (Register 88, No. 16).

§ 59502. Proportional Level of Service.

NOTE: Authority cited: Section 84730, Education Code. Reference: Section 84730, Education Code.

HISTORY

1. Repealer filed 3-29-88; operative 4-28-88 (Register 88, No. 16).

§ 59503. Withholding.

NOTE: Authority cited: Section 84730, Education Code. Reference: Section 84730, Education Code.

HISTORY

1. Repealer filed 3-29-88; operative 4-28-88 (Register 88, No. 16).

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in this chapter and district implementing regulations, any written agreement, and the auxiliary organization's articles of incorporation, bylaws or other governing instrument. Such review shall be conducted in accordance with the procedure specified in the district implementing regulations;

(e) Prepare and keep current a list of auxiliary organizations in good standing in the manner provided for in section 59263. A copy of the initial list of auxiliary organizations in good standing, as well as any updated version of such list shall be forwarded to the Chancellor; and

(f) Report to the Chancellor, as may be required from time to time, on the operations of its auxiliary organizations.

NOTE: Authority cited: Sections 66700, 70901 and 72672, Education Code. Reference: Article 6 (commencing with Section 72670), Chapter 6, Part 45, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 29).

Article 3. Board of Governors and Chancellor's Office Responsibilities

§ 59270. Procedures for Annual Audits and Financial Reporting.

The Chancellor shall have the authority to prescribe the reporting and auditing procedures for auxiliary organizations. Such procedures are contained in the document, *California Community Colleges Auxiliary-Organization Accounting and Reporting System*, which shall be maintained by the Chancellor. Districts and auxiliary organizations shall apply and comply with the provisions of this document.

NOTE: Authority cited: Sections 66700, 70901, 72672, 72675, Education Code. Reference: Sections 72672 and 72675, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 29).

§ 59272. Review of District Implementing Regulations.

The Chancellor shall review and approve or disapprove district implementing regulations no later than 60 days after receipt. Implementing regulations which satisfactorily address the minimum contents specified in section 59257 shall be approved. Implementing regulations which are disapproved shall be returned with a statement of reasons as to why they were rejected.

NOTE: Authority cited: Sections 66700, 70901 and 72672, Education Code. Reference: Section 72672, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 29).

§ 59274. Retention of Documentation.

NOTE: Authority cited: Sections 71020 and 72672, Education Code. Reference: Article 6 (commencing with Section 72670), Chapter 6, Part 45, Education Code.

HISTORY

1. Repealer filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 29).

§ 59276. Annual Report to Legislature.

NOTE: Authority cited: Sections 71020 and 72672, Education Code. Reference: Section 72681, Education Code.

HISTORY

1. Repealer filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 29).

Subchapter 5. Nondiscrimination in Programs Receiving State Financial Assistance Through the Chancellor or Board of Governors of the California Community Colleges

Article 1. General

§ 59300. Purpose.

The purpose of this Chapter is to implement the provisions of California Government Code Sections 11135 through 11139.5, the Sex Equity in Education Act (Ed. Code § 200 et seq.), Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Americans with Disabilities Act of 1990 (42 U.S.C. § 12100 et seq.) and the Age Discrimination Act (42 U.S.C. § 6101), to the end that no person in the State of California shall, on the basis of ethnic group identification, national origin, religion, age, sex, race, color or physical or mental disability, be unlawfully subject to discrimination under any program or activity that is funded directly by, or that receives any financial assistance from, the Chancellor or Board of Governors of the California Community Colleges.

NOTE: Authority cited: Section 70901 Education Code; and Section 11138, Government Code. Reference: Sections 11135-11139.5, Government Code, Section 200 et seq., Education Code, Title 29, United States Code, Section 794, and Title 42, United States Code, Section 2000d, 6101 and 12100, et seq.

HISTORY

1. New Chapter 5 (Articles 1-4, Sections 59300-59362, not consecutive) filed 4-17-81; effective thirtieth day thereafter (Register 81, No. 16). For prior history, see Registers 79, No. 46; and 78, No. 39).
2. Amendment of section and NOTE filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).

§ 59301. Prohibited Discrimination.

All programs and activities in the California Community Colleges shall be available to all qualified persons without regard to ethnic group identification, religion, age, sex, color or physical or mental disability. No person shall be denied the benefits of any community college program or activity on the basis of ethnic group identification, religion, age, sex, color or physical or mental disability.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135 and 11138, Government Code.

§ 59302. Academic Requirements.

Nothing in this chapter shall be interpreted to prohibit bona fide academic requirements for a specific community college program, course or activity.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135 and 11138, Government Code.

§ 59303. Delegation of Authority.

The Board of Governors hereby delegates responsibility for implementing and enforcing the requirements of Government Code Sections 11135 through 11137 to the Chancellor, except as specifically stated in this chapter.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020, 71025, and 71091, Education Code. Reference: Sections 11135 and 11138, Government Code.

§ 59304. Intent.

It is the intent of the Board of Governors that the Chancellor assist community college districts in recognizing and eliminating unlawful dis-

crimination that may exist from their programs and activities and in meeting the requirements of this chapter. Punitive action authorized by this chapter will be taken only when remedial action has failed to eliminate unlawful discrimination from the programs and activities of a community college district.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11137, 11138, and 11139, Government Code.

§ 59305. Operative Date.

This chapter shall be operative July 1, 1981.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135 and 11138, Government Code.

§ 59306. Visitor Parking for Persons with Disabilities.

(a) Each community college district shall, consistent with the requirements of Education Code Sections 66260 and 67311.5, provide visitor parking at each of its colleges or centers at no charge to persons with disabilities or those providing transportation for such persons.

(b) For purposes of this section, "persons with disabilities" are those who:

(1) qualify as disabled persons pursuant to Section 22511.5 of the Vehicle Code; or

(2) if they were students, would be entitled to special parking provided to students with disabilities pursuant to Subchapter 1 (commencing with Section 56000) of Chapter 7 of this Division.

(c) Parking at no charge shall be available to persons with disabilities who are visitors, and those providing transportation to such persons, in those parking facilities which are most accessible to administrative offices, libraries, and other facilities which the district finds are most used by visitors.

(d) Each community college district shall post in conspicuous places notice that parking is available without charge to persons with disabilities who are visitors and those providing transportation for such persons.

(e) When parking provided pursuant to this section is located in an area where access is controlled by a mechanical gate, the district shall ensure that accommodations are made for persons with disabilities who are unable to operate the gate controls. Accommodations may be provided by an attendant assigned to assist in operation of the gate or by any other effective means deemed appropriate by the district.

(f) Parking fees collected pursuant to Education Code Section 72247 shall be used to offset any costs resulting from compliance with the requirements of this section.

NOTE: Authority cited: Sections 66260, 67311.5 and 70901, Education Code; and Section 11135, Government Code. Reference: Sections 66260, 67311.5, and 72247, Education Code; and Section 22511.5, Vehicle Code.

HISTORY

1. New section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 59307. Sexual Harassment and Sex Discrimination.

The governing board of each community college district shall ensure that all persons, regardless of their sex, are afforded equal rights and opportunities in programs and activities conducted by colleges in the district. The district shall comply with all requirements of Chapter 2 (commencing with Section 200) of Division 1 of Title 1 of the Education Code, which is commonly referred to as the Sex Equity in Education Act. Complaints alleging sexual harassment or discrimination on the basis of gender prohibited by that Act shall be filed and investigated pursuant to the procedures set forth in this subchapter.

NOTE: Authority cited: Sections 232 and 70901, Education Code; and Section 11135, Government Code. Reference: Sections 200 et seq., Education Code.

HISTORY

1. New section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

Article 2. Definitions

§ 59310. Incorporation by Reference.

Those definitions of activities prohibited by and persons protected by Chapter 972 of the Statutes of 1977 set forth in Chapters 2 and 3 of Division 8 of Title 22 of the California Administrative Code (commencing with Section 98100) are incorporated into and made applicable to this Chapter as if fully set forth here.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135 and 11138, Government Code.

§ 59311. Handicapped Visitor Parking.

NOTE: Authority cited: Sections 66260, 66700 and 71020, Education Code; and Section 11135, Government Code. Reference: Section 71020, Education Code; and Section 11135, Government Code.

HISTORY

1. New section filed 6-12-85; effective thirtieth day thereafter (Register 85, No. 24).
2. Repealer filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

Article 3. District Compliance and Enforcement

§ 59320. District Responsibility.

Each community college district has primary responsibility to insure that its programs and activities are available to all persons without regard to ethnic group identification, religion, age, sex, color or physical or mental disability. Therefore, each community college district shall investigate complaints of unlawful discrimination in its programs or activities, and seek to resolve those complaints.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135 and 11138, Government Code.

§ 59322. District Regulations.

Each community college district, no later than 90 days from the operative date of this chapter shall adopt and submit to the Chancellor for approval rules and regulations consistent with this article for the investigation and resolution of complaints of unlawful discrimination.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135 and 11138, Government Code.

§ 59324. Responsible District Officer.

Each community college district shall identify to the Chancellor and to the public a single person as the district officer responsible for receiving complaints filed pursuant to Section 59328 and coordinating their investigation. The actual investigation of complaints may be assigned to other staff or to outside persons or organizations under contract with the district. Such procedures shall be used whenever the officer designated to receive complaints is named in the complaint or is implicated by the allegations in the complaint.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135 and 11138, Government Code.

HISTORY

1. Amendment filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 59326. Notice to Students and Employees.

Each community college district shall notify students and employees of the provisions of this chapter.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135 and 11138, Government Code.

§ 59327. Informal Resolution.

(a) Whenever any person brings charges of unlawful discrimination to the attention of the responsible district officer designated pursuant to Section 59324, that officer shall:

(1) undertake efforts to informally resolve the charges;

(2) advise the complainant that he or she need not participate in informal resolution;

(3) notify the person bringing the charges of the procedure for filing a complaint pursuant to Section 59328; and

(4) advise the complainant that he or she may file a complaint with the Office of Civil Rights of the U.S. Department of Education (OCR).

(b) Efforts at informal resolution pursuant to subsection (a)(1) need not include any investigation unless the responsible district officer determines that an investigation is warranted by the seriousness of the charges.

(c) Efforts at informal resolution may continue after the filing of a written complaint, but after a complaint is filed the investigation conducted pursuant to Section 59334 must be completed unless the matter is resolved and the complaint is dismissed. Any efforts at informal resolution after the filing of a written complaint shall not exceed the ninety (90) day period for rendering the administrative determination pursuant to Section 59336.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. New section filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).

§ 59328. Complaint.

An investigation of alleged unlawful discrimination prohibited by this Subchapter will be initiated by filing a complaint which meets the following requirements:

(a) The complaint shall be filed by one who alleges that he or she has personally suffered unlawful discrimination or by one who has learned of such unlawful discrimination in his or her official capacity.

(b) The complaint shall be filed with the Chancellor of the California Community Colleges or with the officer designated pursuant to Section 59324 by the appropriate community college district.

(c) The complaint shall be in a form prescribed by the Chancellor.

(d) The complaint shall be filed within one year of the date of the alleged unlawful discrimination or within one year of the date on which the complainant knew or should have known of the facts underlying the allegation of unlawful discrimination.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Repealer of subsection (b) and subsection relettering filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).

§ 59329. Complaints Filed with Chancellor.

Upon receiving a complaint filed pursuant to Section 59328, the Chancellor will immediately forward a copy of the complaint to the appropriate community college district responsible officer who shall respond pursuant to Section 59332 or initiate the investigation required by Section 59334.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

§ 59330. Notice to Chancellor.

Immediately upon receiving a complaint filed in accordance with Section 59328 the district shall notify the Chancellor of the complaint in a form and manner determined by the Chancellor.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

§ 59332. Defective Complaint.

When a district receives a complaint which it finds does not meet the requirements of Section 59328 the district shall immediately notify the complainant that the complaint does not meet the requirements of Section 59328 and shall specify in what requirement the complaint is defective.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

§ 59333. Office for Civil Rights.

(a) Whenever a complaint is filed with the Chancellor pursuant to Section 59329 and whenever the Chancellor renders a decision pursuant to Article 4 (commencing with Section 59350) of this Subchapter, the Chancellor shall notify the complainant that he or she may file a complaint regarding the same matter with the Office For Civil Rights of the U.S. Department of Education (OCR).

(b) In such cases, OCR will normally accept compliance with these regulations as satisfying the due process requirements of federal law.

(c) OCR shall have no jurisdiction to rule on any finding regarding violation of state law.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. New section filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).

§ 59334. District Investigation.

Upon receiving a complaint which is properly filed in accordance with Section 59328, the district will commence an impartial fact-finding investigation of that complaint and notify the complainant and Chancellor that it is doing so. The results of the investigation shall be set forth in a written report which shall include at least all of the following:

(a) a description of the circumstances giving rise to the complaint;

(b) a summary of the testimony provided by each witness, including the complainant and any witnesses identified by the complainant in the complaint;

(c) an analysis of any relevant data or other evidence collected during the course of the investigation;

(d) a specific finding as to whether discrimination did or did not occur with respect to each allegation in the complaint; and

(e) any other information deemed appropriate by the district.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment of existing paragraph and NOTE and adoption of subsections (a)-(e) filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 59336. Administrative Determination.

Within ninety (90) days of receiving a complaint, the district shall complete its investigation and forward all of the following to the complainant:

(a) a copy or summary of the investigative report required pursuant to Section 59334;

(b) a written notice setting forth:

(1) the determination of the chief executive officer or his/her designee as to whether discrimination did or did not occur with respect to each allegation in the complaint;

(2) a description of actions taken, if any, to prevent similar problems from occurring in the future;

(3) the proposed resolution of the complaint; and

(4) the complainant's right to appeal to the district governing board and the Chancellor pursuant to Section 59338.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 59338. Final District Decision; Appeals.

(a) If the complainant is not satisfied with the results of the administrative determination pursuant to Section 59336, the complainant may, within fifteen (15) days, submit a written appeal to the district governing board. The governing board shall review the original complaint, the in-

vestigative report, the administrative determination, and the appeal and issue a final district decision in the matter within forty-five (45) days after receiving the appeal. A copy of the final district decision rendered by the governing board shall be forwarded to the complainant and to the Chancellor. The complainant shall also be notified of his or her right to appeal this decision pursuant to this section. If the governing board does not act within forty-five (45) days the administrative determination shall be deemed approved and shall become the final district decision in the matter.

(b) In any case not involving employment discrimination, the complainant shall have the right to file a written appeal with the Chancellor within thirty (30) days after the governing board issues the final district decision or permits the administrative determination to become final pursuant to subsection (a). Such appeals shall be processed pursuant to the provisions of Article 4 (commencing with Section 59350) of this subchapter.

(c) In any case involving employment discrimination, the complainant may, at any time before or after the final district decision is rendered, file a complaint with the Department of Fair Employment and Housing. In addition, in such cases, the complainant may file a petition for review with the Chancellor within thirty (30) days after the governing board issues the final district decision or permits the administrative determination to become final pursuant to subsection (a). The Chancellor shall have discretion to accept or reject any such petition for review in employment discrimination cases. If the Chancellor agrees to accept the case, he/she may:

(1) attempt to informally resolve the matter pursuant to Section 59354;

(2) where applicable, treat the complaint as an allegation that the district has violated the provisions of Subchapter 1 (commencing with Section 53000) of Chapter 4 of this Division; or

(3) take any other action deemed appropriate by the Chancellor.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 59340. Forward to Chancellor.

Within 150 days of receiving a complaint, the district will forward the following to the Chancellor:

(a) the original complaint;

(b) the report required pursuant to Section 59334 describing the nature and extent of the investigation conducted by the district;

(c) a copy of the notice sent to the complainant pursuant to Section 59336(b);

(d) a copy of the final district decision rendered by the governing board or a statement indicating the date on which the administrative determination became final pursuant to Section 59338(a);

(e) a copy of the notice to the complainant required pursuant to Section 59338 (a); and

(f) such other information as the Chancellor may require.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

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in this chapter and district implementing regulations, any written agreement, and the auxiliary organization's articles of incorporation, bylaws or other governing instrument. Such review shall be conducted in accordance with the procedure specified in the district implementing regulations;

(e) Prepare and keep current a list of auxiliary organizations in good standing in the manner provided for in section 59263. A copy of the initial list of auxiliary organizations in good standing, as well as any updated version of such list shall be forwarded to the Chancellor; and

(f) Report to the Chancellor, as may be required from time to time, on the operations of its auxiliary organizations.

NOTE: Authority cited: Sections 66700, 70901 and 72672, Education Code. Reference: Article 6 (commencing with Section 72670), Chapter 6, Part 45, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 29).

Article 3. Board of Governors and Chancellor's Office Responsibilities

§ 59270. Procedures for Annual Audits and Financial Reporting.

The Chancellor shall have the authority to prescribe the reporting and auditing procedures for auxiliary organizations. Such procedures are contained in the document, *California Community Colleges Auxiliary-Organization Accounting and Reporting System,* which shall be maintained by the Chancellor. Districts and auxiliary organizations shall apply and comply with the provisions of this document.

NOTE: Authority cited: Sections 66700, 70901, 72672, 72675, Education Code. Reference: Sections 72672 and 72675, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 29).

§ 59272. Review of District Implementing Regulations.

The Chancellor shall review and approve or disapprove district implementing regulations no later than 60 days after receipt. Implementing regulations which satisfactorily address the minimum contents specified in section 59257 shall be approved. Implementing regulations which are disapproved shall be returned with a statement of reasons as to why they were rejected.

NOTE: Authority cited: Sections 66700, 70901 and 72672, Education Code Reference: Section 72672, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 29).

§ 59274. Retention of Documentation.

NOTE: Authority cited: Sections 71020 and 72672, Education Code. Reference: Article 6 (commencing with Section 72670), Chapter 6, Part 45, Education Code.

HISTORY

1. Repealer filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 29).

§ 59276. Annual Report to Legislature.

NOTE: Authority cited: Sections 71020 and 72672, Education Code. Reference: Section 72681, Education Code.

HISTORY

1. Repealer filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 29).

Subchapter 5. Nondiscrimination in Programs Receiving State Financial Assistance Through the Chancellor or Board of Governors of the California Community Colleges

Article 1. General

§ 59300. Purpose.

The purpose of this Chapter is to implement the provisions of California Government Code Sections 11135 through 11139.5, the Sex Equity in Education Act (Ed. Code § 66250 et seq.), Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Americans with Disabilities Act of 1990 (42 U.S.C. § 12100 et seq.) and the Age Discrimination Act (42 U.S.C. § 6101), to the end that no person in the State of California shall, on the basis of ethnic group identification, national origin, religion, age, sex, race, color, ancestry, sexual orientation, or physical or mental disability, be unlawfully denied access to, the benefits of, or be unlawfully subjected to discrimination under any program or activity that is funded directly by, or that receives any financial assistance from, the Chancellor or Board of Governors of the California Community Colleges.

NOTE: Authority cited: Section 70901 Education Code; and Section 11138, Government Code. Reference: Sections 11135-11139.5, Government Code; Section 66250 et seq., Education Code; Title 20, United States Codes, Section 1681; Title 29, United States Code, Section 794; and Title 42, United States Code, Sections 2000d, 6101 and 12100, et seq.

HISTORY

1. New Chapter 5 (Articles 1-4, Sections 59300-59362, not consecutive) filed 4-17-81; effective thirtieth day thereafter (Register 81, No. 16). For prior history, see Registers 79, No. 46; and 78, No. 39).
2. Amendment of section and NOTE filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).
3. Amendment of section and NOTE filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).

§ 59301. Prohibited Discrimination.

NOTE: Authority cited: Section 11138, Government Code; and Sections 71020 and 71025, Education Code. Reference: Sections 11135 and 11138, Government Code.

HISTORY

1. Repealer filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).

§ 59302. Academic Requirements.

Nothing in this chapter shall be interpreted to prohibit bona fide academic requirements for a specific community college program, course or activity.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135 and 11138, Government Code.

§ 59303. Delegation of Authority.

The Board of Governors hereby delegates responsibility for implementing and enforcing the requirements of Government Code Sections 11135 through 11137 to the Chancellor of the California Community Colleges, except as specifically stated in this Chapter.

NOTE: Authority cited: Section 11138, Government Code; and Sections 70901 and 71090, Education Code. Reference: Sections 11135 and 11138, Government Code.

HISTORY

1. Amendment of section and NOTE filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).

§ 59304. Intent.

It is the intent of the Board of Governors that the Chancellor assist community college districts in recognizing and eliminating unlawful discrimination that may exist from their programs and activities and in meeting the requirements of this chapter. Punitive action authorized by this chapter will be taken only when remedial action has failed to eliminate unlawful discrimination from the programs and activities of a community college district.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11137, 11138, and 11139, Government Code.

§ 59305. Operative Date.

This chapter shall be operative July 1, 1981.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135 and 11138, Government Code.

§ 59306. Visitor Parking for Persons with Disabilities.

(a) Each community college district shall, consistent with the requirements of Education Code Sections 66260 and 67311.5, provide visitor parking at each of its colleges or centers at no charge to persons with disabilities or those providing transportation for such persons.

(b) For purposes of this section, "persons with disabilities" are those who:

(1) qualify as disabled persons pursuant to Section 22511.5 of the Vehicle Code; or

(2) if they were students, would be entitled to special parking provided to students with disabilities pursuant to Subchapter 1 (commencing with Section 56000) of Chapter 7 of this Division.

(c) Parking at no charge shall be available to persons with disabilities who are visitors, and those providing transportation to such persons, in those parking facilities which are most accessible to administrative offices, libraries, and other facilities which the district finds are most used by visitors.

(d) Each community college district shall post in conspicuous places notice that parking is available without charge to persons with disabilities who are visitors and those providing transportation for such persons.

(e) When parking provided pursuant to this section is located in an area where access is controlled by a mechanical gate, the district shall ensure that accommodations are made for persons with disabilities who are unable to operate the gate controls. Accommodations may be provided by an attendant assigned to assist in operation of the gate or by any other effective means deemed appropriate by the district.

(f) Parking fees collected pursuant to Education Code Section 72247 shall be used to offset any costs resulting from compliance with the requirements of this section.

NOTE: Authority cited: Sections 66260, 67311.5 and 70901, Education Code; and Section 11135, Government Code. Reference: Sections 66260, 67311.5, and 72247, Education Code; and Section 22511.5, Vehicle Code.

HISTORY

1. New section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 59307. Sexual Harassment and Sex Discrimination.

NOTE: Authority cited: Sections 232 and 70901, Education Code; and Section 11135, Government Code. Reference: Sections 200 et seq., Education Code

HISTORY

1. New section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Repealer filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).

Article 2. Definitions

§ 59310. Incorporation by Reference.

Those definitions of activities prohibited by and persons protected by Chapter 972 of the Statutes of 1977 set forth in Chapters 2 and 3 of Division 8 of Title 22 of the California Administrative Code (commencing with Section 98100) are incorporated into and made applicable to this Chapter as if fully set forth here.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135 and 11138, Government Code.

§ 59311. Definitions.

For purposes of this Chapter, the following definitions shall apply:

(a) "Complaint" means a written and signed statement meeting the requirements of Section 59328 which alleges unlawful discrimination in violation of this Subchapter.

(b) "Appeal" means a request by a complainant made in writing to a community college district governing board pursuant to Section 59338 and/or to the Chancellor's Office pursuant to Section 59339 to review the administrative determination of a community college district regarding a complaint of discrimination.

(c) "Discrimination on the basis of sex" means sexual harassment or discrimination on the basis of gender.

NOTE: Authority cited: Sections 11135 and 11138, Government Code; and Sections 66250 et seq. and 70901, Education Code. Reference: Sections 11135 and 11138, Government Code; and Sections 66250 et seq., Education Code.

HISTORY

1. New section filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6). For prior history, see Register 92, No. 17.

Article 3. District Compliance and Enforcement

§ 59320. District Responsibility.

Each community college district has primary responsibility to insure that its programs and activities are available to all persons without regard to ethnic group identification, national origin, religion, age, race, sex, color, sexual orientation, ancestry, or physical or mental disability. Therefore, each community college district shall investigate complaints of unlawful discrimination in its programs or activities, and seek to resolve those complaints.

NOTE: Authority cited: Section 11138, Government Code; and Section 66250, Education Code. Reference: Sections 11135 and 11138, Government Code.

HISTORY

1. Amendment of section and NOTE filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).

§ 59322. District Regulations.

Each community college district shall establish and adopt written policies consistent with this Article. When the policies are adopted or amended, they shall be submitted to the Chancellor for review and approval within 90 days of the effective date of the adoption or amendment(s).

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135 and 11138, Government Code.

HISTORY

1. Amendment of section and NOTE filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).

§ 59324. Responsible District Officer.

Each community college district shall identify to the Chancellor and to the public a single person as the district officer responsible for receiving complaints filed pursuant to Section 59328 and coordinating their investigation. The actual investigation of complaints may be assigned to other staff or to outside persons or organizations under contract with the district. Such procedures shall be used whenever the officer designated to receive complaints is named in the complaint or is implicated by the allegations in the complaint.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135 and 11138, Government Code.

HISTORY

1. Amendment filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 59326. Notice to Students and Employees.

Each community college district shall notify students and employees of the provisions of this Subchapter.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135 and 11138, Government Code.

HISTORY

1. Amendment of section and NOTE filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).

§ 59327. Informal Resolution.

(a) Whenever any person brings charges of unlawful discrimination to the attention of the responsible district officer designated pursuant to Section 59324, that officer shall:

(1) undertake efforts to informally resolve the charges;

(2) advise the complainant that he or she need not participate in informal resolution;

(3) notify the person bringing the charges of his or her right to file a complaint, as defined in Section 59311, and of the procedure for filing such a complaint pursuant to Section 59328; and

(4) advise the complainant that he or she may file a complaint with the Office of Civil Rights of the U.S. Department of Education (OCR).

(b) Efforts at informal resolution pursuant to subsection (a)(1) need not include any investigation unless the responsible district officer determines that an investigation is warranted by the seriousness of the charges.

(c) Efforts at informal resolution may continue after the filing of a formal written complaint, but after a complaint is filed an investigation is required to be conducted pursuant to Section 59334 and must be completed unless the matter is informally resolved and the complainant dismisses the formal complaint. Any efforts at informal resolution after the filing of a written complaint shall not exceed the ninety (90) day period for rendering the administrative determination pursuant to Section 59336.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. New section filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).
2. Amendment of subsections (a)(3) and (c) filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).

§ 59328. Formal Investigation Upon Filing of Written Complaint.

An investigation of alleged unlawful discrimination prohibited by this Subchapter will be initiated by filing a complaint which meets the following requirements:

(a) The complaint shall be filed by one who alleges that he or she has personally suffered unlawful discrimination or by one who has learned of such unlawful discrimination in his or her official capacity as a faculty member or administrator.

(b) The complaint shall be filed with the Chancellor of the California Community Colleges or with the officer designated pursuant to Section 59324 by the appropriate community college district.

(c) The complaint shall be in a form prescribed by the Chancellor.

(d) The complaint shall be filed within one year of the date of the alleged unlawful discrimination or within one year of the date on which the complainant knew or should have known of the facts underlying the allegation of unlawful discrimination.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Repealer of subsection (b) and subsection relettering filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).
3. Amendment of section heading and subsection (a) filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).

§ 59329. Complaints Filed with Chancellor.

Upon receiving a complaint filed pursuant to Section 59328, the Chancellor will immediately forward a copy of the complaint to the appropriate community college district responsible officer who shall respond pursuant to Section 59332 or initiate the investigation required by Section 59334.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

§ 59330. Notice to Chancellor.

Immediately upon receiving a complaint filed in accordance with Section 59328 the district shall forward a copy of the complaint to the Chancellor.

NOTE: Authority cited: Section 11138, Government Code; and Section 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

HISTORY

1. Amendment of section and NOTE filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).

§ 59332. Defective Complaint.

When a district receives a complaint which it finds does not meet the requirements of Section 59328 the district shall immediately notify the complainant that the complaint does not meet the requirements of Section 59328 and shall specify in what requirement the complaint is defective.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

§ 59333. Office for Civil Rights.

(a) Whenever a complaint is filed with the Chancellor pursuant to Section 59329 and whenever the Chancellor renders a decision pursuant to Article 4 (commencing with Section 59350) of this Subchapter, the Chancellor shall notify the complainant that he or she may file a complaint regarding the same matter with the Office For Civil Rights of the U.S. Department of Education (OCR).

(b) In such cases, OCR will normally accept compliance with these regulations as satisfying the due process requirements of federal law.

(c) OCR shall have no jurisdiction to rule on any finding regarding violation of state law.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. New section filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).

§ 59334. District Investigation.

Upon receiving a complaint which is properly filed in accordance with Section 59328, the district will commence an impartial fact-finding investigation of that complaint and notify the complainant and Chancellor that it is doing so. The results of the investigation shall be set forth in a written report which shall include at least all of the following:

(a) a description of the circumstances giving rise to the complaint;

(b) a summary of the testimony provided by each witness, including the complainant and any witnesses identified by the complainant in the complaint;

(c) an analysis of any relevant data or other evidence collected during the course of the investigation;

(d) a specific finding as to whether discrimination did or did not occur with respect to each allegation in the complaint; and

(e) any other information deemed appropriate by the district.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment of existing paragraph and NOTE and adoption of subsections (a)-(e) filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 59336. Administrative Determination.

Within ninety (90) days of receiving a complaint, the district shall complete its investigation and forward a copy of the investigative report required pursuant to Section 59334 to the Chancellor, a copy or summary of the report to the complainant, and written notice setting forth all of the following to both the complainant and the Chancellor:

(a) the determination of the chief executive officer or his/her designee as to whether discrimination did or did not occur with respect to each allegation in the complaint;

(b) a description of actions taken, if any, to prevent similar problems from occurring in the future;

(c) the proposed resolution of the complaint; and

(d) the complainant's right to appeal to the district governing board and the Chancellor pursuant to Section 59338 and 59339.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).

§ 59338. Final District Decision; Appeals to Local Governing Board.

(a) If the complainant is not satisfied with the results of the administrative determination rendered pursuant to Section 59336, the complainant may, within fifteen (15) days from the date of the administrative determination, submit a written appeal to the district governing board. The governing board shall review the original complaint, the investigative report, the administrative determination, and the appeal and issue a final district decision in the matter within forty-five (45) days after receiving the appeal.

(b) A copy of the final district decision rendered by the governing board that includes complainant's right to appeal the district's decision to the Chancellor pursuant to Section 59339 shall be forwarded to the complainant and to the Chancellor.

(c) If the governing board does not act within forty-five (45) days the administrative determination shall be deemed approved and shall become the final district decision in the matter. The district shall notify the complainant and the Chancellor that the board took no action and the administrative determination is deemed approved pursuant to this Section. The complainant shall also be notified of his or her right to appeal the district's decision to the Chancellor pursuant to Section 59339.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment of section heading and section filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).

§ 59339. Appeal and Petition for Review to Chancellor.

(a) In any case not involving employment discrimination, the complainant shall have the right to file a written appeal with the Chancellor within thirty (30) days from the date that the governing board issues the final district decision or permits the administrative determination to become final pursuant to Section 59338. Such appeals shall be processed pursuant to the provisions of Article 4 (commencing with Section 59350) of this Subchapter.

(b) In any case involving employment discrimination, the complainant may, at any time before or after the final district decision is rendered, file a complaint with the Department of Fair Employment and Housing. In addition, in such cases, the complainant may file a petition for review with the Chancellor within thirty (30) days from the date that the governing board issues the final district decision or permits the administrative determination to become final pursuant to Section 59338. The Chancellor shall have discretion to accept or reject any such petition for review in employment discrimination cases. If the Chancellor agrees to accept the petition, he/she may:

(1) attempt to informally resolve the matter pursuant to Section 59354;

(2) where applicable, treat the complaint as an allegation that the district has violated the provisions of Subchapter 1 (commencing with Section 53000) of Chapter 4 of this Division; or

(3) take any other action deemed appropriate by the Chancellor.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. New section filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).

§ 59340. Forward to Chancellor.

Within 150 days of receiving a complaint, the district will forward the following to the Chancellor:

(a) a copy of the final district decision rendered by the governing board or a statement indicating the date on which the administrative determination became final pursuant to Section 59338(a);

(b) a copy of the notice to the complainant required pursuant to Section 59338 (a); and

(c) such other information as the Chancellor may require.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Repealer of subsections (a)-(c) and subsection relettering filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).

§ 59342. Extensions; Failure to Comply.

(a) If a district, for reasons beyond its control, is unable to comply with the 90-day or 150-day deadline specified in Sections 59336 or 59340 for submission of materials to the Chancellor, the district may file a written request that the Chancellor grant an extension of the deadline. The request shall be submitted no later than ten (10) days prior to the expiration of the deadline established pursuant to Sections 59336 or 59340 and shall set the reasons for the request and the date by which the district expects to be able to submit the required materials.

(b) A copy of the request for an extension shall be sent to the complainant who may file written objections with the Chancellor within five (5) days of receipt.

(c) The Chancellor may grant the request unless delay would be prejudicial to the complainant. If an extension of the 90-day deadline is granted by the Chancellor the 150-day deadline is automatically extended by an equal amount.

(d) If a district fails to comply with the requirements of Sections 59336 or 59340 by the required deadline, including any extension granted pursuant to this section, the Chancellor may proceed to review the case as provided in Article 4 (commencing with Section 59350) of the Subchapter based on the original complaint and any other relevant information then available.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. New section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment of subsections (a), (c) and (d) filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).

Article 4. Chancellor's Procedure to Effect Compliance

§ 59350. Review for Reasonable Cause.

(a) The Chancellor shall review the materials submitted by the district pursuant to Section 59336 and 59340, together with the complainant's appeal or petition for review, and determine whether there is reasonable cause to believe the district has violated the requirements of this Subchapter.

(b) Failure by the complainant to file an appeal or petition for review pursuant to Section 59339 shall not preclude the Chancellor from finding reasonable cause to believe the district has violated the requirements of this Subchapter.

(c) If the Chancellor finds there is no reasonable cause to believe a violation has occurred, the Chancellor shall immediately notify both the complainant and the district.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

HISTORY

1. Amendment of subsections (a) and (b) and amendment of NOTE filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).

§ 59351. New Issues Raised on Appeal or Petition for Review.

If, upon review of the materials submitted by the complainant pursuant to Section 59339, the Chancellor's Office finds that issues or facts not included in the complaint have been raised for the first time on appeal or in the petition for review, the Chancellor's Office will provide the district a reasonable opportunity to respond to the new issues or facts raised by complainant.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. New section filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).

§ 59352. Investigation.

If the Chancellor finds there is reasonable cause to believe a violation has occurred, the Chancellor shall investigate to determine whether there is probable cause to believe a violation has occurred.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

§ 59354. Informal Resolution.

During the course of the investigation, the Chancellor shall seek to informally resolve the alleged violation. Such resolution shall be set forth in a written conciliation agreement. A copy of the written agreement shall be sent to the complainant.

NOTE: Authority cited: Section 11138, Government Cod; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

§ 59356. Formal Resolution.

Within 120 days of initiating the investigation, the Chancellor shall:

(a) Notify the district and the complainant that there is probable cause to believe the district has violated the provisions of this Subchapter. The Chancellor shall allow the district to acquiesce in this finding prior to filing an accusation against the district.

(b) Notify the district and the complainant that there is no probable cause to believe the district has violated the provisions of this Subchapter.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

HISTORY

1. Amendment of section and NOTE filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).

§ 59358. Hearing.

If the Chancellor finds the district has violated the provisions of this Subchapter, and if the district does not acquiesce in that finding, the Chancellor shall initiate the hearing process pursuant to Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code, to determine whether the violation did occur.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

HISTORY

1. Amendment of section and NOTE filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).

§ 59360. Enforcement.

(a) Upon a determination that a district has violated the provisions of this Subchapter, the Chancellor shall notify the district of the action he or she will take to effect compliance. The Chancellor may use any means authorized by law to effect compliance, including:

(1) Withhold all or part of the district's state support;

(2) Make probationary eligibility for future state support, conditional on compliance with specified conditions;

(3) Proceeding in a court of competent jurisdiction for an appropriate order compelling compliance.

(b) No decision to curtail state funding to a district pursuant to this Section shall be made until the Chancellor has determined that compliance cannot be secured by voluntary means.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

HISTORY

1. Amendment of subsections (a), (a)(2) and (b) and amendment of NOTE filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).

§ 59362. Judicial Review.

A decision by the Chancellor pursuant to Section 59360 is subject to judicial review by the district, as provided by Section 1094.5 of the Code of Civil Procedure.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, and 11138, Government Code.

Subchapter 6. Waiver of Part-Time Instructor Limit

NOTE: Authority cited: Sections 71020 and 87613, Education Code. Reference: Section 87613, Education Code.

HISTORY

1. New Chapter 6 (Sections 59380-59388, not consecutive) filed 6-1-82; effective thirtieth day thereafter (Register 82, No. 23).
2. Repealer of Chapter 6 (Sections 59380-59388, not consecutive) filed 3-7-85; effective thirtieth day thereafter (Register 85, No. 10).

Subchapter 7. Instructional and Other Materials

§ 59400. Required Instructional and Other Materials.

(a) The governing board of a district may, consistent with the provisions of this Subchapter, require students to provide instructional and other materials required for a credit or noncredit course, provided that such materials are of continuing value to a student outside of the classroom setting, and provided that such materials are not solely or exclusively available from the district.

(b) Except as specifically authorized or required in the Education Code, the governing board of a community college district shall not require a student to pay a fee for any instructional and other materials required for a credit or noncredit course.

NOTE: Authority cited: Sections 66700, 70901 and 76365, Education Code. Reference. Sections 70901, 70902 and 76365, Education Code.

HISTORY

1. New chapter 7 (sections 59400-59408, not consecutive) filed 5-16-85; effective thirtieth day thereafter (Register 85, No. 20).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment of subsection (a) and NOTE filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 2 (Register 95, No. 29).

§ 59402. Definitions.

For the purposes of this Subchapter the following definitions apply:

(a) "Instructional and other materials" means any tangible personal property which is owned or primarily controlled by an individual student.

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§ 59300	§ 59330	§ 59358
§ 59303	§ 59334	§ 59360
§ 59304	§ 59336	§ 59362
§ 59310	§ 59338	
§ 59311	§ 59339	
§ 59320	§ 59340	
§ 59322	§ 59342	
§ 59324	§ 59350	
§ 59326	§ 59351	
§ 59327	§ 59352	
§ 59328	§ 59354	
§ 59329	§ 59356	

in this chapter and district implementing regulations, any written agreement, and the auxiliary organization's articles of incorporation, bylaws or other governing instrument. Such review shall be conducted in accordance with the procedure specified in the district implementing regulations;

(e) Prepare and keep current a list of auxiliary organizations in good standing in the manner provided for in section 59263. A copy of the initial list of auxiliary organizations in good standing, as well as any updated version of such list shall be forwarded to the Chancellor; and

(f) Report to the Chancellor, as may be required from time to time, on the operations of its auxiliary organizations.

NOTE: Authority cited: Sections 66700, 70901 and 72672, Education Code. Reference: Article 6 (commencing with Section 72670), Chapter 6, Part 45, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 29).

Article 3. Board of Governors and Chancellor's Office Responsibilities

§ 59270. Procedures for Annual Audits and Financial Reporting.

The Chancellor shall have the authority to prescribe the reporting and auditing procedures for auxiliary organizations. Such procedures are contained in the document, *California Community Colleges Auxiliary-Organization Accounting and Reporting System,* which shall be maintained by the Chancellor. Districts and auxiliary organizations shall apply and comply with the provisions of this document.

NOTE: Authority cited: Sections 66700, 70901, 72672, 72675, Education Code. Reference: Sections 72672 and 72675, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 29).

§ 59272. Review of District Implementing Regulations.

The Chancellor shall review and approve or disapprove district implementing regulations no later than 60 days after receipt. Implementing regulations which satisfactorily address the minimum contents specified in section 59257 shall be approved. Implementing regulations which are disapproved shall be returned with a statement of reasons as to why they were rejected.

NOTE: Authority cited: Sections 66700, 70901 and 72672, Education Code. Reference: Section 72672, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 29).

§ 59274. Retention of Documentation.

NOTE: Authority cited: Sections 71020 and 72672, Education Code. Reference: Article 6 (commencing with Section 72670), Chapter 6, Part 45, Education Code.

HISTORY

1. Repealer filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 29).

§ 59276. Annual Report to Legislature.

NOTE: Authority cited: Sections 71020 and 72672, Education Code. Reference: Section 72681, Education Code.

HISTORY

1. Repealer filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 29).

Subchapter 5. Nondiscrimination in Programs Receiving State Financial Assistance Through the Chancellor or Board of Governors of the California Community Colleges

Article 1. General

§ 59300. Purpose.

The purpose of this subchapter is to implement the provisions of California Government Code sections 11135 through 11139.5, the Sex Equity in Education Act (Ed. Code § 66250 et seq.), Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d), title IX of the Education Amendments of 1972 (20 U.S.C. § 1681), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Americans with Disabilities Act of 1990 (42 U.S.C. § 12100 et seq.) and the Age Discrimination Act (42 U.S.C. § 6101), to the end that no person in the State of California shall, on the basis of ethnic group identification, national origin, religion, age, sex, race, color, ancestry, sexual orientation, or physical or mental disability, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under any program or activity that is administered by, funded directly by, or that receives any financial assistance from, the Chancellor or Board of Governors of the California Community Colleges.

NOTE: Authority cited: Section 70901 Education Code; and Section 11138, Government Code. Reference: Sections 11135-11139.5, Government Code; Section 66250 et seq., Education Code; title 20, United States Codes, Section 1681; title 29, United States Code, Section 794; and title 42, United States Code, Sections 2000d, 6101 and 12100, et seq.

HISTORY

1. New Chapter 5 (Articles 1-4, Sections 59300-59362, not consecutive) filed 4-17-81; effective thirtieth day thereafter (Register 81, No. 16). For prior history, see Registers 79, No. 46; and 78, No. 39).
2. Amendment of section and NOTE filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).
3. Amendment of section and NOTE filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
4. Amendment of section and NOTE filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59301. Prohibited Discrimination.

NOTE: Authority cited: Section 11138, Government Code; and Sections 71020 and 71025, Education Code. Reference: Sections 11135 and 11138, Government Code.

HISTORY

1. Repealer filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).

§ 59302. Academic Requirements.

Nothing in this subchapter shall be interpreted to prohibit bona fide academic requirements for a specific community college program, course or activity.

NOTE: Authority cited: Section 11138, Government Code; and Section 71020, Education Code. Reference: Sections 11135 and 11138, Government Code.

HISTORY

1. Amendment of section and NOTE filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59303. Delegation of Authority.

The Board of Governors hereby delegates responsibility for implementing and enforcing the requirements of Government Code sections 11135 through 11137 to the Chancellor of the California Community Colleges, except as specifically stated in this subchapter.

NOTE: Authority cited: Section 11138, Government Code; and Sections 70901 and 71090, Education Code. Reference: Sections 11135 and 11138, Government Code.

HISTORY

1. Amendment filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
2. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59304. Intent.

It is the intent of the Board of Governors that the Chancellor assist community college districts in recognizing and eliminating unlawful discrimination that may exist in their programs and activities and in meeting the requirements of this subchapter. Punitive action authorized by this subchapter will be taken only when remedial action has failed to eliminate unlawful discrimination from the programs and activities of a community college district.

NOTE: Authority cited: Section 11138, Government Code; and Section 71020, Education Code. Reference: Sections 11135, 11137, 11138 and 11139, Government Code.

HISTORY

1. Amendment of section and NOTE filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59305. Operative Date.

NOTE: Authority cited: Section 11138, Government Code; and Sections 71020 and 71025, Education Code. Reference: Sections 11135 and 11138, Government Code.

HISTORY

1. Repealer filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59306. Visitor Parking for Persons with Disabilities.

(a) Each community college district shall, consistent with the requirements of Education Code section 67301 provide visitor parking at each of its colleges or centers at no charge to persons with disabilities or those providing transportation for such persons.

(b) For purposes of this section only, "persons with disabilities" are those who:

(1) qualify as disabled persons pursuant to section 22511.5 of the Vehicle Code; or

(2) if they were students, would be entitled to special parking provided to students with disabilities pursuant to subchapter 1 (commencing with section 56000) of chapter 7 of this division.

(c) Parking at no charge shall be available to persons with disabilities who are visitors, and those providing transportation to such persons, in those parking facilities which are most accessible to administrative offices, libraries, and other facilities which the district finds are most used by visitors.

(d) Each community college district shall post in conspicuous places notice that parking is available without charge to persons with disabilities who are visitors and those providing transportation for such persons.

(e) When parking provided pursuant to this section is located in an area where access is controlled by a mechanical gate, the district shall ensure that accommodations are made for persons with disabilities who are unable to operate the gate controls. Accommodations may be provided by an attendant assigned to assist in operation of the gate or by any other effective means deemed appropriate by the district.

(f) Parking fees collected pursuant to Education Code section 76360 shall be used to offset any costs resulting from compliance with the requirements of this section.

NOTE: Authority cited: Sections 67301 and 70901, Education Code; and Section 11135, Government Code. Reference: Section 76360, Education Code; and Section 22511.5, Vehicle Code.

HISTORY

1. New section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment of subsections (a)-(b)(2) and (f) and amendment of NOTE filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59307. Sexual Harassment and Sex Discrimination.

NOTE: Authority cited: Sections 232 and 70901, Education Code; and Section 11135, Government Code. Reference: Sections 200 et seq., Education Code.

HISTORY

1. New section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Repealer filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).

Article 2. Definitions

§ 59310. Incorporation by Reference.

Except as otherwise provided by this subchapter those definitions of activities prohibited by and persons protected by title 22 of the California Code of Regulations (commencing with section 98100) are incorporated into and made applicable to this subchapter as if fully set forth here.

NOTE: Authority cited: Section 11138, Government Code; and Section 71020, Education Code. Reference: Sections 11135 and 11138, Government Code.

HISTORY

1. Amendment of section and NOTE filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59311. Definitions.

For purposes of this subchapter, the following definitions shall apply:

(a) "Appeal" means a request by a complainant made in writing to a community college district governing board pursuant to section 59338 and/or to the Chancellor's Office pursuant to section 59339 to review the administrative determination of a community college district regarding a complaint of discrimination.

(b) "Complaint" means a written and signed statement meeting the requirements of section 59328 that alleges unlawful discrimination in violation of this subchapter.

(c) Except for purposes of section 59306, "disability" means any mental or physical disability as defined in Government Code section 12926.

(d) "Discrimination on the basis of sex" means sexual harassment or discrimination on the basis of gender.

NOTE: Authority cited: Sections 11135 and 11138, Government Code; and Sections 66250 et seq., 70901 and 12926, Education Code. Reference: Sections 11135 and 11138, Government Code; and Section 66250 et seq., Education Code.

HISTORY

1. New section filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6). For prior history, see Register 92, No. 17.
2. Amendment of section and NOTE filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

Article 3. District Compliance and Enforcement

§ 59320. District Responsibility.

Each community college district has primary responsibility to insure that its programs and activities are available to all persons without regard to ethnic group identification, national origin, religion, age, race, sex, color, sexual orientation, ancestry, or physical or mental disability. Therefore, each community college district shall investigate complaints of unlawful discrimination in its programs or activities, and seek to resolve those complaints in accordance with the provisions of this subchapter.

NOTE: Authority cited: Section 11138, Government Code; and Section 66250, Education Code. Reference: Sections 11135 and 11138, Government Code.

HISTORY

1. Amendment of section and NOTE filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
2. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59322. District Regulations.

Each community college district shall establish and adopt written policies consistent with this article. When the policies are adopted or amended, they shall be submitted to the Chancellor for review and approval within 90 days of the effective date of the adoption or amendment(s).

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135 and 11138, Government Code.

HISTORY

1. Amendment of section and NOTE filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
2. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59324. Responsible District Officer.

Each community college district shall identify to the Chancellor and to the public a single person as the district officer responsible for receiving complaints filed pursuant to section 59328 and coordinating their investigation. The actual investigation of complaints may be assigned to other staff or to outside persons or organizations under contract with the district. Such procedures shall be used whenever the officer designated to receive complaints is named in the complaint or is implicated by the allegations in the complaint.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135 and 11138, Government Code.

HISTORY

1. Amendment filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59326. Notice to Students and Employees.

Each community college district shall notify students and employees of the provisions of this subchapter.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135 and 11138, Government Code.

HISTORY

1. Amendment of section and NOTE filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
2. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59327. Informal Resolution.

(a) Whenever any person brings charges of unlawful discrimination to the attention of the responsible district officer designated pursuant to section 59324, that officer shall:

(1) undertake efforts to informally resolve the charges;

(2) advise the complainant that he or she need not participate in informal resolution;

(3) notify the person bringing the charges of his or her right to file a complaint, as defined in section 59311, and of the procedure for filing such a complaint pursuant to section 59328; and

(4) advise the complainant that he or she may file his or her nonemployment-based complaint with the Office for Civil Rights of the U.S. Department of Education (OCR) where such a complaint is within that agency's jurisdiction.

(5) advise the complainant that he or she may file his or her employment-based complaint with the U.S. Equal Employment Opportunity Commission (EEOC) and/or the California Department of Fair Employment and Housing (DFEH) where the complaint is within the jurisdiction of those agencies.

(b) Efforts at informal resolution pursuant to subsection (a)(1) need not include any investigation unless the responsible district officer determines that an investigation is warranted by the seriousness of the charges.

(c) Efforts at informal resolution may continue after the filing of a formal written complaint, but after a complaint is filed an investigation is required to be conducted pursuant to section 59334 and must be completed unless the matter is informally resolved and the complainant dismisses the formal complaint or the complainant files with the Department of Fair Employment and Housing and the Chancellor elects not to require further investigation pursuant to section 59328(f)(2). Any efforts at informal resolution after the filing of a written complaint shall not exceed the ninety (90) day period for rendering the administrative determination pursuant to section 59336.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. New section filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).
2. Amendment of subsections (a)(3) and (c) filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
3. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59328. Formal Investigation Upon Filing of Written Complaint.

An investigation of alleged unlawful discrimination prohibited by this subchapter will be initiated by filing a complaint that meets the following requirements:

(a) The complaint shall be filed by one who alleges that he or she has personally suffered unlawful discrimination or by one who has learned of such unlawful discrimination in his or her official capacity as a faculty member or administrator.

(b) The complaint shall be filed with the Chancellor of the California Community Colleges or with the officer designated pursuant to section 59324 by the appropriate community college district.

(c) The complaint shall be in a form prescribed by the Chancellor.

(d) In any complaint not involving employment the complaint shall be filed within one year of the date of the alleged unlawful discrimination or within one year of the date on which the complainant knew or should have known of the facts underlying the allegation of unlawful discrimination.

(e) In any complaint alleging discrimination in employment the complaint shall be filed within six months of the date the alleged unlawful discrimination occurred, except that this period should be extended by no more than 90 days following the expiration of that six months if the complainant first obtained knowledge of the facts of the alleged violation after the expiration of six months.

(f) In any complaint alleging discrimination in employment, the district shall:

(1) advise the complainant that he or she may file the complaint with the U.S. Equal Employment Opportunity Commission (EEOC) and/or Department of Fair Employment and Housing (DFEH) where the complaint is within the jurisdiction of those agencies, and;

(2) forward a copy of any filing by the complainant with DFEH to the Chancellor's Office for a determination of whether the issues presented require an independent investigation of the matter under the provisions of this subchapter.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Repealer of subsection (b) and subsection relettering filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).
3. Amendment of section heading and subsection (a) filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
4. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59329. Complaints Filed with Chancellor.

Upon receiving a complaint filed pursuant to section 59328, the Chancellor will immediately forward a copy of the complaint to the appropriate community college district responsible officer who shall respond pursuant to section 59332 or initiate the investigation required by section 59334. In any complaint alleging employment discrimination the Chancellor shall notify the complainant that he or she has the right to file with the Department of Fair Employment and Housing (DFEH) where the complaint is within the jurisdiction of that agency.

NOTE: Authority cited: Section 11138, Government Code; and Section 71020, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment of section and NOTE filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59330. Notice to Chancellor.

Immediately upon receiving a complaint filed in accordance with section 59328 the district shall forward a copy of the complaint to the Chancellor.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment of section and NOTE filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
2. Amendment of section and NOTE filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59332. Defective Complaint.

When a district receives a complaint which it finds does not meet the requirements of Section 59328 the district shall immediately notify the complainant that the complaint does not meet the requirements of Section 59328 and shall specify in what requirement the complaint is defective.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

§ 59333. Office for Civil Rights.

(a) Whenever a complaint is filed with the Chancellor pursuant to section 59329 and whenever the Chancellor renders a decision pursuant to article 4 (commencing with section 59350) of this subchapter, the Chancellor shall notify the complainant that he or she may file a complaint regarding the same matter with the Office For Civil Rights of the U.S. Department of Education (OCR) where the complaint is within the jurisdiction of that agency.

(b) In such cases, OCR will normally accept compliance with these regulations as satisfying the due process requirements of federal law.

(c) OCR shall have no jurisdiction to rule on any finding regarding violation of state law.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. New section filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).
2. Amendment of subsection (a) filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59334. District Investigation.

Upon receiving a complaint that is properly filed in accordance with section 59328, the district will commence an impartial fact-finding investigation of that complaint and notify the complainant and Chancellor that it is doing so. The results of the investigation shall be set forth in a written report that shall include at least all of the following:

(a) a description of the circumstances giving rise to the complaint;

(b) a summary of the testimony provided by each witness, including the complainant and any viable witnesses identified by the complainant in the complaint;

(c) an analysis of any relevant data or other evidence collected during the course of the investigation;

(d) a specific finding as to whether there is probable cause to believe that discrimination occurred with respect to each allegation in the complaint; and

(e) any other information deemed appropriate by the district.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment of existing paragraph and NOTE and adoption of subsections (a)-(e) filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59336. Administrative Determination.

Within ninety (90) days of receiving a complaint, the district shall complete its investigation and forward a copy of the investigative report required pursuant to section 59334 to the Chancellor, a copy or summary of the report to the complainant, and written notice setting forth all of the following to both the complainant and the Chancellor:

(a) the determination of the chief executive officer or his/her designee as to whether there is probable cause to believe discrimination occurred with respect to each allegation in the complaint;

(b) a description of actions taken, if any, to prevent similar problems from occurring in the future;

(c) the proposed resolution of the complaint; and

(d) the complainant's right to appeal to the district governing board and the Chancellor pursuant to sections 59338 and 59339.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
3. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59338. Final District Decision; Appeals to Local Governing Board.

(a) If the complainant is not satisfied with the results of the administrative determination rendered pursuant to section 59336, the complainant may submit a written appeal to the district governing board within fifteen (15) days from the date of the administrative determination. The governing board shall review the original complaint, the investigative report, the administrative determination, and the appeal and issue a final district decision in the matter within forty-five (45) days after receiving the appeal.

(b) A copy of the final district decision rendered by the governing board that includes complainant's right to appeal the district's decision to the Chancellor pursuant to section 59339 shall be forwarded to the complainant and to the Chancellor.

(c) If the governing board does not act within forty-five (45) days the administrative determination shall be deemed approved and shall become the final district decision in the matter. The district shall notify the complainant and the Chancellor that the board took no action and the administrative determination is deemed approved pursuant to this section. The complainant shall also be notified of his or her right to appeal the district's decision to the Chancellor pursuant to section 59339.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment of section heading and section filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
3. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59339. Appeal to Chancellor.

(a) In any case not involving employment discrimination, the complainant shall have the right to file a written appeal with the Chancellor within thirty (30) days from the date that the governing board issues the final district decision or permits the administrative determination to become final pursuant to section 59338. Such appeals shall be processed pursuant to the provisions of article 4 (commencing with section 59350) of this subchapter. The appeal must be accompanied by a copy of the decision of the governing board or evidence showing the date on which the complainant filed an appeal with the governing board and a statement under penalty of perjury that no response was received from the governing board within forty-five (45) days from that date.

(b) In any case involving employment discrimination, the complainant may, at any time before or after the final district decision is rendered, file a complaint with the Department of Fair Employment and Housing (DFEH) where the complaint is within the jurisdiction of that agency. In addition, in such cases, the complainant may file an appeal with the Chancellor within thirty (30) days from the date that the governing board

issues the final district decision or permits the administrative determination to become final pursuant to section 59338. The appeal must be accompanied by a copy of the decision of the governing board or evidence showing the date on which the complainant filed an appeal with the governing board and a statement under penalty of perjury that no response was received from the governing board within forty-five (45) days from that date. The Chancellor shall have discretion to accept or reject any such appeal in employment discrimination cases. If the Chancellor agrees to accept the appeal, he/she may:

(1) attempt to informally resolve the matter pursuant to section 59354;

(2) where applicable, treat the complaint as an allegation that the district has violated the provisions of subchapter 1 (commencing with section 53000) of chapter 4 of this division; or

(3) take any other action deemed appropriate by the Chancellor.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. New section filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
2. Amendment of section heading and section filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59340. Forward to Chancellor.

Within 150 days of receiving a complaint, the district will forward the following to the Chancellor:

(a) a copy of the final district decision rendered by the governing board or a statement indicating the date on which the administrative determination became final pursuant to section 59338(a);

(b) a copy of the notice to the complainant required pursuant to section 59338(a); and

(c) such other information as the Chancellor may require.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Repealer of subsections (a)-(c) and subsection relettering filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
3. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59342. Extensions; Failure to Comply.

(a) If a district, for reasons beyond its control, is unable to comply with the 90-day or 150-day deadline specified in sections 59336 or 59340 for submission of materials to the Chancellor, the district may file a written request that the Chancellor grant an extension of the deadline. The request shall be submitted no later than ten (10) days prior to the expiration of the deadline established pursuant to sections 59336 or 59340 and shall set the reasons for the request and the date by which the district expects to be able to submit the required materials.

(b) A copy of the request for an extension shall be sent to the complainant who may file written objections with the Chancellor within five (5) days of receipt.

(c) The Chancellor may grant the request unless delay would be prejudicial to the investigation. If the Chancellor grants the 90-day extension of the deadline, the 150-day deadline is automatically extended by an equal amount.

(d) If a district fails to comply with the requirements of sections 59336 or 59340 by the required deadline, including any extension granted pursuant to this section, the Chancellor may proceed to review the case as provided in article 4 (commencing with section 59350) of the subchapter based on the original complaint and any other relevant information then available.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. New section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment of subsections (a), (c) and (d) filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
3. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

Article 4. Chancellor's Procedure to Effect Compliance

§ 59350. Review for Reasonable Cause.

(a) The Chancellor shall review the materials submitted by the district pursuant to sections 59336 and 59340, together with the complainant's appeal, and determine whether there is reasonable cause to believe the district has violated the requirements of this subchapter.

(b) Failure by the complainant to file an appeal pursuant to section 59339 shall not preclude the Chancellor from finding reasonable cause to believe the district has violated the requirements of this subchapter.

(c) If the Chancellor finds there is no reasonable cause to believe a violation has occurred, the Chancellor shall immediately notify both the complainant and the district.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment of subsections (a) and (b) and amendment of NOTE filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
2. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59351. New Issues Raised on Appeal.

If, upon review of the materials submitted by the complainant pursuant to section 59339, the Chancellor's Office finds that issues or facts not included in the complaint have been raised for the first time on appeal, the Chancellor's Office will provide the district a reasonable opportunity to respond to the new issues or facts raised by complainant.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. New section filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
2. Amendment of section heading and section filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59352. Investigation.

If the Chancellor finds there is reasonable cause to believe a violation has occurred, the Chancellor shall investigate to determine whether there is probable cause to believe a violation has occurred.

NOTE: Authority cited: Section 11138, Government Code; and Section 71020, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment of NOTE filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59354. Informal Resolution.

During the course of the investigation, the Chancellor shall seek to informally resolve the alleged violation. Such resolution shall be set forth in a written conciliation agreement. A copy of the written agreement shall be sent to the complainant.

NOTE: Authority cited: Section 11138, Government Code; and Section 71020, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment of NOTE filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59356. Formal Resolution.

Within 120 days of initiating the investigation, the Chancellor shall:

(a) Notify the district and the complainant that there is probable cause to believe the district has violated the provisions of this subchapter. The Chancellor shall allow the district to acquiesce in this finding prior to filing an accusation against the district.

(b) Notify the district and the complainant that there is no probable cause to believe the district has violated the provisions of this subchapter.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment of section and NOTE filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
2. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59358. Hearing.

If the Chancellor finds the district has violated the provisions of this subchapter, and if the district does not acquiesce in that finding, the Chancellor shall initiate the hearing process pursuant to chapter 5 (commencing with section 11500) of part I, division 3, title 2 of the Government Code, to determine whether the violation did occur.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment of section and NOTE filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
2. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59360. Enforcement.

(a) Upon a determination that a district has violated the provisions of this subchapter, the Chancellor shall notify the district of the action he or she will take to effect compliance. The Chancellor may use any means authorized by law to effect compliance, including:

(1) Withhold all or part of the district's state support;

(2) Make probationary eligibility for future state support, conditional on compliance with specified conditions;

(3) Proceeding in a court of competent jurisdiction for an appropriate order compelling compliance.

(b) No decision to curtail state funding to a district pursuant to this section shall be made until the Chancellor has determined that compliance cannot be secured by voluntary means.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment of subsections (a), (a)(2) and (b) and amendment of NOTE filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
2. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59362. Judicial Review.

A decision by the Chancellor pursuant to section 59360 is subject to judicial review by the district, as provided by section 1094.5 of the Code of Civil Procedure.

NOTE: Authority cited: Section 11138, Government Code; and Section 71020, Education Code. Reference: Sections 11135 and 11138, Government Code.

HISTORY

1. Amendment of section and NOTE filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

Subchapter 6. Waiver of Part-Time Instructor Limit

NOTE: Authority cited: Sections 71020 and 87613, Education Code. Reference: Section 87613, Education Code.

HISTORY

1. New Chapter 6 (Sections 59380-59388, not consecutive) filed 6-1-82; effective thirtieth day thereafter (Register 82, No. 23).
2. Repealer of Chapter 6 (Sections 59380-59388, not consecutive) filed 3-7-85; effective thirtieth day thereafter (Register 85, No. 10).

Subchapter 7. Instructional and Other Materials

§ 59400. Required Instructional and Other Materials.

(a) The governing board of a district may, consistent with the provisions of this Subchapter, require students to provide instructional and other materials required for a credit or noncredit course, provided that such materials are of continuing value to a student outside of the classroom setting, and provided that such materials are not solely or exclusively available from the district.

(b) Except as specifically authorized or required in the Education Code, the governing board of a community college district shall not require a student to pay a fee for any instructional and other materials required for a credit or noncredit course.

NOTE: Authority cited: Sections 66700, 70901 and 76365, Education Code. Reference: Sections 70901, 70902 and 76365, Education Code.

HISTORY

1. New chapter 7 (sections 59400-59408, not consecutive) filed 5-16-85; effective thirtieth day thereafter (Register 85, No. 20).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment of subsection (a) and NOTE filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 2 (Register 95, No. 29).

§ 59402. Definitions.

For the purposes of this Subchapter the following definitions apply:

(a) "Instructional and other materials" means any tangible personal property which is owned or primarily controlled by an individual student.

(b) "Required instructional and other materials" means any instructional and other materials which a student must procure or possess as a condition of registration, enrollment or entry into a class; or any such material which is necessary to achieve those required objectives of a course which are to be accomplished under the supervision of an instructor during class hours.

(c) "Solely or exclusively available from the district" means that the material is not available except through the district, or that the district requires that the material be purchased or procured from it. A material shall not be considered to be solely or exclusively available from the district if it is provided to the student at the district's actual cost and:

(1) the material is otherwise generally available, but is provided solely or exclusively by the district for health and safety reasons; or

(2) the material is provided in lieu of other generally available but more expensive material which would otherwise be required.

(d) "Required instructional and other materials which are of continuing value outside of the classroom setting" are materials which can be taken from the classroom setting, and which are not wholly consumed, used up, or rendered valueless as they are applied in achieving the required objectives of a course which are to be accomplished under the supervision of an instructor during class hours.

NOTE: Authority cited: Sections 66700, 70901 and 76365, Education Code. Reference: Sections 70901, 70902 and 76365, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment of opening statement, subsections (a) and (c)-(c)(2) and NOTE filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 29).

§ 59404. District Policies and Regulations for Instructional and Other Materials.

(a) The governing board of a community college district which requires that students provide instructional or other materials for a course

Register 02-23

§ 59311
§ 59328
§ 59342

HISTORY

1. Amendment filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
2. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59304. Intent.

It is the intent of the Board of Governors that the Chancellor assist community college districts in recognizing and eliminating unlawful discrimination that may exist in their programs and activities and in meeting the requirements of this subchapter. Punitive action authorized by this subchapter will be taken only when remedial action has failed to eliminate unlawful discrimination from the programs and activities of a community college district.

NOTE: Authority cited: Section 11138, Government Code; and Section 71020, Education Code. Reference: Sections 11135, 11137, 11138 and 11139, Government Code.

HISTORY

1. Amendment of section and NOTE filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59305. Operative Date.

NOTE: Authority cited: Section 11138, Government Code; and Sections 71020 and 71025, Education Code. Reference: Sections 11135 and 11138, Government Code.

HISTORY

1. Repealer filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59306. Visitor Parking for Persons with Disabilities.

(a) Each community college district shall, consistent with the requirements of Education Code section 67301 provide visitor parking at each of its colleges or centers at no charge to persons with disabilities or those providing transportation for such persons.

(b) For purposes of this section only, "persons with disabilities" are those who:

(1) qualify as disabled persons pursuant to section 22511.5 of the Vehicle Code; or

(2) if they were students, would be entitled to special parking provided to students with disabilities pursuant to subchapter 1 (commencing with section 56000) of chapter 7 of this division.

(c) Parking at no charge shall be available to persons with disabilities who are visitors, and those providing transportation to such persons, in those parking facilities which are most accessible to administrative offices, libraries, and other facilities which the district finds are most used by visitors.

(d) Each community college district shall post in conspicuous places notice that parking is available without charge to persons with disabilities who are visitors and those providing transportation for such persons.

(e) When parking provided pursuant to this section is located in an area where access is controlled by a mechanical gate, the district shall ensure that accommodations are made for persons with disabilities who are unable to operate the gate controls. Accommodations may be provided by an attendant assigned to assist in operation of the gate or by any other effective means deemed appropriate by the district.

(f) Parking fees collected pursuant to Education Code section 76360 shall be used to offset any costs resulting from compliance with the requirements of this section.

NOTE: Authority cited: Sections 67301 and 70901, Education Code; and Section 11135, Government Code. Reference: Section 76360, Education Code; and Section 22511.5, Vehicle Code.

HISTORY

1. New section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment of subsections (a)-(b)(2) and (f) and amendment of NOTE filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59307. Sexual Harassment and Sex Discrimination.

NOTE: Authority cited: Sections 232 and 70901, Education Code; and Section 11135, Government Code. Reference: Sections 200 et seq., Education Code.

HISTORY

1. New section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Repealer filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).

Article 2. Definitions

§ 59310. Incorporation by Reference.

Except as otherwise provided by this subchapter those definitions of activities prohibited by and persons protected by title 22 of the California Code of Regulations (commencing with section 98100) are incorporated into and made applicable to this subchapter as if fully set forth here.

NOTE: Authority cited: Section 11138, Government Code; and Section 71020, Education Code. Reference: Sections 11135 and 11138, Government Code.

HISTORY

1. Amendment of section and NOTE filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59311. Definitions.

For purposes of this subchapter, the following definitions shall apply:

(a) "Appeal" means a request by a complainant made in writing to a community college district governing board pursuant to section 59338 and/or to the Chancellor's Office pursuant to section 59339 to review the administrative determination of a community college district regarding a complaint of discrimination.

(b) "Complaint" means a written and signed statement meeting the requirements of section 59328 that alleges unlawful discrimination in violation of this subchapter.

(c) "Days" means calendar days.

(d) Except for purposes of section 59306, "disability" means any mental or physical disability as defined in Government Code section 12926.

(e) "Discrimination on the basis of sex" means sexual harassment or discrimination on the basis of gender.

NOTE: Authority cited: Sections 11135 and 11138, Government Code; and Sections 66250 et seq., 70901 and 12926, Education Code. Reference: Sections 11135 and 11138, Government Code; and Section 66250 et seq., Education Code.

HISTORY

1. New section filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6). For prior history, see Register 92, No. 17.
2. Amendment of section and NOTE filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).
3. New subsection (e) and subsection relettering filed 4-15-2002; operative 5-15-2002. Submitted to OAL for printing only (Register 2002, No. 23).

Article 3. District Compliance and Enforcement

§ 59320. District Responsibility.

Each community college district has primary responsibility to insure that its programs and activities are available to all persons without regard to ethnic group identification, national origin, religion, age, race, sex, color, sexual orientation, ancestry, or physical or mental disability. Therefore, each community college district shall investigate complaints of unlawful discrimination in its programs or activities, and seek to resolve those complaints in accordance with the provisions of this subchapter.

NOTE: Authority cited: Section 11138, Government Code; and Section 66250, Education Code. Reference: Sections 11135 and 11138, Government Code.

HISTORY

1. Amendment of section and NOTE filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
2. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59322. District Regulations.

Each community college district shall establish and adopt written policies consistent with this article. When the policies are adopted or amended, they shall be submitted to the Chancellor for review and approval within 90 days of the effective date of the adoption or amendment(s).

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135 and 11138, Government Code.

HISTORY

1. Amendment of section and NOTE filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
2. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59324. Responsible District Officer.

Each community college district shall identify to the Chancellor and to the public a single person as the district officer responsible for receiving complaints filed pursuant to section 59328 and coordinating their investigation. The actual investigation of complaints may be assigned to other staff or to outside persons or organizations under contract with the district. Such procedures shall be used whenever the officer designated to receive complaints is named in the complaint or is implicated by the allegations in the complaint.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135 and 11138, Government Code.

HISTORY

1. Amendment filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59326. Notice to Students and Employees.

Each community college district shall notify students and employees of the provisions of this subchapter.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135 and 11138, Government Code.

HISTORY

1. Amendment of section and NOTE filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
2. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59327. Informal Resolution.

(a) Whenever any person brings charges of unlawful discrimination to the attention of the responsible district officer designated pursuant to section 59324, that officer shall:

(1) undertake efforts to informally resolve the charges;

(2) advise the complainant that he or she need not participate in informal resolution;

(3) notify the person bringing the charges of his or her right to file a complaint, as defined in section 59311, and of the procedure for filing such a complaint pursuant to section 59328; and

(4) advise the complainant that he or she may file his or her nonemployment-based complaint with the Office for Civil Rights of the U.S. Department of Education (OCR) where such a complaint is within that agency's jurisdiction.

(5) advise the complainant that he or she may file his or her employment-based complaint with the U.S. Equal Employment Opportunity Commission (EEOC) and/or the California Department of Fair Employment and Housing (DFEH) where the complaint is within the jurisdiction of those agencies.

(b) Efforts at informal resolution pursuant to subsection (a)(1) need not include any investigation unless the responsible district officer determines that an investigation is warranted by the seriousness of the charges.

(c) Efforts at informal resolution may continue after the filing of a formal written complaint, but after a complaint is filed an investigation is required to be conducted pursuant to section 59334 and must be completed unless the matter is informally resolved and the complainant dismisses the formal complaint or the complainant files with the Department of Fair Employment and Housing and the Chancellor elects not to require further investigation pursuant to section 59328(f)(2). Any efforts at informal resolution after the filing of a written complaint shall not exceed the ninety (90) day period for rendering the administrative determination pursuant to section 59336.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. New section filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).
2. Amendment of subsections (a)(3) and (c) filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
3. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59328. Formal Investigation Upon Filing of Written Complaint.

An investigation of alleged unlawful discrimination prohibited by this subchapter will be initiated by filing a complaint that meets the following requirements:

(a) The complaint shall be filed by one who alleges that he or she has personally suffered unlawful discrimination or by one who has learned of such unlawful discrimination in his or her official capacity as a faculty member or administrator.

(b) The complaint shall be filed with the Chancellor of the California Community Colleges or with the officer designated pursuant to section 59324 by the appropriate community college district.

(c) The complaint shall be in a form prescribed by the Chancellor.

(d) In any complaint not involving employment the complaint shall be filed within one year of the date of the alleged unlawful discrimination or within one year of the date on which the complainant knew or should have known of the facts underlying the allegation of unlawful discrimination.

(e) In any complaint alleging discrimination in employment the complaint shall be filed within 180 days of the date the alleged unlawful discrimination occurred, except that this period should be extended by no more than 90 days following the expiration of the 180 days if the complainant first obtained knowledge of the facts of the alleged violation after the expiration of the 180 days.

(f) In any complaint alleging discrimination in employment, the district shall:

(1) advise the complainant that he or she may file the complaint with the U.S. Equal Employment Opportunity Commission (EEOC) and/or Department of Fair Employment and Housing (DFEH) where the complaint is within the jurisdiction of those agencies, and;

(2) forward a copy of any filing by the complainant with DFEH to the Chancellor's Office for a determination of whether the issues presented require an independent investigation of the matter under the provisions of this subchapter.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Repealer of subsection (b) and subsection relettering filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).
3. Amendment of section heading and subsection (a) filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
4. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).
5. Amendment of subsection (e) filed 4-15-2002; operative 5-15-2002. Submitted to OAL for printing only (Register 2002, No. 23).

§ 59329. Complaints Filed with Chancellor.

Upon receiving a complaint filed pursuant to section 59328, the Chancellor will immediately forward a copy of the complaint to the appropriate community college district responsible officer who shall respond pursuant to section 59332 or initiate the investigation required by section 59334. In any complaint alleging employment discrimination the Chancellor shall notify the complainant that he or she has the right to file with the Department of Fair Employment and Housing (DFEH) where the complaint is within the jurisdiction of that agency.

NOTE: Authority cited: Section 11138, Government Code; and Section 71020, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment of section and NOTE filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59330. Notice to Chancellor.

Immediately upon receiving a complaint filed in accordance with section 59328 the district shall forward a copy of the complaint to the Chancellor.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment of section and NOTE filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
2. Amendment of section and NOTE filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59332. Defective Complaint.

When a district receives a complaint which it finds does not meet the requirements of Section 59328 the district shall immediately notify the complainant that the complaint does not meet the requirements of Section 59328 and shall specify in what requirement the complaint is defective.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

§ 59333. Office for Civil Rights.

(a) Whenever a complaint is filed with the Chancellor pursuant to section 59329 and whenever the Chancellor renders a decision pursuant to article 4 (commencing with section 59350) of this subchapter, the Chancellor shall notify the complainant that he or she may file a complaint regarding the same matter with the Office For Civil Rights of the U.S. Department of Education (OCR) where the complaint is within the jurisdiction of that agency.

(b) In such cases, OCR will normally accept compliance with these regulations as satisfying the due process requirements of federal law.

(c) OCR shall have no jurisdiction to rule on any finding regarding violation of state law.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. New section filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).
2. Amendment of subsection (a) filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59334. District Investigation.

Upon receiving a complaint that is properly filed in accordance with section 59328, the district will commence an impartial fact-finding investigation of that complaint and notify the complainant and Chancellor that it is doing so. The results of the investigation shall be set forth in a written report that shall include at least all of the following:

(a) a description of the circumstances giving rise to the complaint;

(b) a summary of the testimony provided by each witness, including the complainant and any viable witnesses identified by the complainant in the complaint;

(c) an analysis of any relevant data or other evidence collected during the course of the investigation;

(d) a specific finding as to whether there is probable cause to believe that discrimination occurred with respect to each allegation in the complaint; and

(e) any other information deemed appropriate by the district.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment of existing paragraph and NOTE and adoption of subsections (a)-(e) filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59336. Administrative Determination.

Within ninety (90) days of receiving a complaint, the district shall complete its investigation and forward a copy of the investigative report required pursuant to section 59334 to the Chancellor, a copy or summary of the report to the complainant, and written notice setting forth all of the following to both the complainant and the Chancellor:

(a) the determination of the chief executive officer or his/her designee as to whether there is probable cause to believe discrimination occurred with respect to each allegation in the complaint;

(b) a description of actions taken, if any, to prevent similar problems from occurring in the future;

(c) the proposed resolution of the complaint; and

(d) the complainant's right to appeal to the district governing board and the Chancellor pursuant to sections 59338 and 59339.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
3. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59338. Final District Decision; Appeals to Local Governing Board.

(a) If the complainant is not satisfied with the results of the administrative determination rendered pursuant to section 59336, the complainant may submit a written appeal to the district governing board within fifteen (15) days from the date of the administrative determination. The governing board shall review the original complaint, the investigative report, the administrative determination, and the appeal and issue a final district decision in the matter within forty-five (45) days after receiving the appeal.

(b) A copy of the final district decision rendered by the governing board that includes complainant's right to appeal the district's decision to the Chancellor pursuant to section 59339 shall be forwarded to the complainant and to the Chancellor.

(c) If the governing board does not act within forty-five (45) days the administrative determination shall be deemed approved and shall become the final district decision in the matter. The district shall notify the complainant and the Chancellor that the board took no action and the administrative determination is deemed approved pursuant to this section. The complainant shall also be notified of his or her right to appeal the district's decision to the Chancellor pursuant to section 59339.

NOTE: Authority cited. Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment of section heading and section filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
3. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59339. Appeal to Chancellor.

(a) In any case not involving employment discrimination, the complainant shall have the right to file a written appeal with the Chancellor within thirty (30) days from the date that the governing board issues the final district decision or permits the administrative determination to become final pursuant to section 59338. Such appeals shall be processed pursuant to the provisions of article 4 (commencing with section 59350) of this subchapter. The appeal must be accompanied by a copy of the decision of the governing board or evidence showing the date on which the complainant filed an appeal with the governing board and a statement under penalty of perjury that no response was received from the governing board within forty-five (45) days from that date.

(b) In any case involving employment discrimination, the complainant may, at any time before or after the final district decision is rendered, file a complaint with the Department of Fair Employment and Housing (DFEH) where the complaint is within the jurisdiction of that agency. In addition, in such cases, the complainant may file an appeal with the Chancellor within thirty (30) days from the date that the governing board

issues the final district decision or permits the administrative determination to become final pursuant to section 59338. The appeal must be accompanied by a copy of the decision of the governing board or evidence showing the date on which the complainant filed an appeal with the governing board and a statement under penalty of perjury that no response was received from the governing board within forty-five (45) days from that date. The Chancellor shall have discretion to accept or reject any such appeal in employment discrimination cases. If the Chancellor agrees to accept the appeal, he/she may:

(1) attempt to informally resolve the matter pursuant to section 59354;

(2) where applicable, treat the complaint as an allegation that the district has violated the provisions of subchapter 1 (commencing with section 53000) of chapter 4 of this division; or

(3) take any other action deemed appropriate by the Chancellor

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. New section filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
2. Amendment of section heading and section filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59340. Forward to Chancellor.

Within 150 days of receiving a complaint, the district will forward the following to the Chancellor:

(a) a copy of the final district decision rendered by the governing board or a statement indicating the date on which the administrative determination became final pursuant to section 59338(a);

(b) a copy of the notice to the complainant required pursuant to section 59338(a); and

(c) such other information as the Chancellor may require.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Repealer of subsections (a)-(c) and subsection relettering filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
3. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59342. Extensions; Failure to Comply.

(a) If a district, for reasons beyond its control, is unable to comply with the 90-day or 150-day deadline specified in sections 59336 or 59340 for submission of materials to the Chancellor, the district may file a written request that the Chancellor grant an extension of the deadline. The request shall be submitted no later than ten (10) days prior to the expiration of the deadline established pursuant to sections 59336 or 59340 and shall set the reasons for the request and the date by which the district expects to be able to submit the required materials.

(b) A copy of the request for an extension shall be sent to the complainant who may file written objections with the Chancellor within five (5) days of receipt.

(c) The Chancellor may grant the request unless delay would be prejudicial to the investigation. If the Chancellor grants an extension of the 90-day deadline, the 150-day deadline is automatically extended by an equal amount.

(d) If a district fails to comply with the requirements of sections 59336 or 59340 by the required deadline, including any extension granted pursuant to this section, the Chancellor may proceed to review the case as provided in article 4 (commencing with section 59350) of the subchapter based on the original complaint and any other relevant information then available.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. New section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment of subsections (a), (c) and (d) filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
3. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).
4. Amendment of subsection (c) filed 4-15-2002; operative 5-15-2002. Submitted to OAL for printing only (Register 2002, No. 23).

Article 4. Chancellor's Procedure to Effect Compliance

§ 59350. Review for Reasonable Cause.

(a) The Chancellor shall review the materials submitted by the district pursuant to sections 59336 and 59340, together with the complainant's appeal, and determine whether there is reasonable cause to believe the district has violated the requirements of this subchapter.

(b) Failure by the complainant to file an appeal pursuant to section 59339 shall not preclude the Chancellor from finding reasonable cause to believe the district has violated the requirements of this subchapter.

(c) If the Chancellor finds there is no reasonable cause to believe a violation has occurred, the Chancellor shall immediately notify both the complainant and the district.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment of subsections (a) and (b) and amendment of NOTE filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
2. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59351. New Issues Raised on Appeal.

If, upon review of the materials submitted by the complainant pursuant to section 59339, the Chancellor's Office finds that issues or facts not included in the complaint have been raised for the first time on appeal, the Chancellor's Office will provide the district a reasonable opportunity to respond to the new issues or facts raised by complainant.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. New section filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
2. Amendment of section heading and section filed 3-20-2002; operative 4-19-2002 Submitted to OAL for printing only (Register 2002, No. 13).

§ 59352. Investigation.

If the Chancellor finds there is reasonable cause to believe a violation has occurred, the Chancellor shall investigate to determine whether there is probable cause to believe a violation has occurred.

NOTE: Authority cited: Section 11138, Government Code; and Section 71020, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment of NOTE filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59354. Informal Resolution.

During the course of the investigation, the Chancellor shall seek to informally resolve the alleged violation. Such resolution shall be set forth in a written conciliation agreement. A copy of the written agreement shall be sent to the complainant.

NOTE: Authority cited: Section 11138, Government Code; and Section 71020, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment of NOTE filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59356. Formal Resolution.

Within 120 days of initiating the investigation, the Chancellor shall:

(a) Notify the district and the complainant that there is probable cause to believe the district has violated the provisions of this subchapter. The

Chancellor shall allow the district to acquiesce in this finding prior to filing an accusation against the district.

(b) Notify the district and the complainant that there is no probable cause to believe the district has violated the provisions of this subchapter.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment of section and NOTE filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
2. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59358. Hearing.

If the Chancellor finds the district has violated the provisions of this subchapter, and if the district does not acquiesce in that finding, the Chancellor shall initiate the hearing process pursuant to chapter 5 (commencing with section 11500) of part 1, division 3, title 2 of the Government Code, to determine whether the violation did occur.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment of section and NOTE filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
2. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59360. Enforcement.

(a) Upon a determination that a district has violated the provisions of this subchapter, the Chancellor shall notify the district of the action he or she will take to effect compliance. The Chancellor may use any means authorized by law to effect compliance, including:

(1) Withhold all or part of the district's state support;

(2) Make probationary eligibility for future state support, conditional on compliance with specified conditions;

(3) Proceeding in a court of competent jurisdiction for an appropriate order compelling compliance.

(b) No decision to curtail state funding to a district pursuant to this section shall be made until the Chancellor has determined that compliance cannot be secured by voluntary means.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment of subsections (a), (a)(2) and (b) and amendment of NOTE filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
2. Amendment filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59362. Judicial Review.

A decision by the Chancellor pursuant to section 59360 is subject to judicial review by the district, as provided by section 1094.5 of the Code of Civil Procedure.

NOTE: Authority cited: Section 11138, Government Code; and Section 71020, Education Code. Reference: Sections 11135 and 11138, Government Code.

HISTORY

1. Amendment of section and NOTE filed 3-20-2002; operative 4-19-2002. Submitted to OAL for printing only (Register 2002, No. 13).

Subchapter 6. Waiver of Part-Time Instructor Limit

NOTE: Authority cited: Sections 71020 and 87613, Education Code. Reference: Section 87613, Education Code.

HISTORY

1. New Chapter 6 (Sections 59380-59388, not consecutive) filed 6-1-82; effective thirtieth day thereafter (Register 82, No. 23).
2. Repealer of Chapter 6 (Sections 59380-59388, not consecutive) filed 3-7-85; effective thirtieth day thereafter (Register 85, No. 10).

Subchapter 7. Instructional and Other Materials

§ 59400. Required Instructional and Other Materials.

(a) The governing board of a district may, consistent with the provisions of this Subchapter, require students to provide instructional and other materials required for a credit or noncredit course, provided that such materials are of continuing value to a student outside of the classroom setting, and provided that such materials are not solely or exclusively available from the district.

(b) Except as specifically authorized or required in the Education Code, the governing board of a community college district shall not require a student to pay a fee for any instructional and other materials required for a credit or noncredit course.

NOTE: Authority cited: Sections 66700, 70901 and 76365, Education Code. Reference: Sections 70901, 70902 and 76365, Education Code.

HISTORY

1. New chapter 7 (sections 59400-59408, not consecutive) filed 5-16-85; effective thirtieth day thereafter (Register 85, No. 20).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment of subsection (a) and NOTE filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 2 (Register 95, No. 29).

§ 59402. Definitions.

For the purposes of this Subchapter the following definitions apply:

(a) "Instructional and other materials" means any tangible personal property which is owned or primarily controlled by an individual student.

(b) "Required instructional and other materials" means any instructional and other materials which a student must procure or possess as a condition of registration, enrollment or entry into a class; or any such material which is necessary to achieve those required objectives of a course which are to be accomplished under the supervision of an instructor during class hours.

(c) "Solely or exclusively available from the district" means that the material is not available except through the district, or that the district requires that the material be purchased or procured from it. A material shall not be considered to be solely or exclusively available from the district if it is provided to the student at the district's actual cost and:

(1) the material is otherwise generally available, but is provided solely or exclusively by the district for health and safety reasons; or

(2) the material is provided in lieu of other generally available but more expensive material which would otherwise be required.

(d) "Required instructional and other materials which are of continuing value outside of the classroom setting" are materials which can be taken from the classroom setting, and which are not wholly consumed, used up, or rendered valueless as they are applied in achieving the required objectives of a course which are to be accomplished under the supervision of an instructor during class hours.

NOTE: Authority cited: Sections 66700, 70901 and 76365, Education Code. Reference: Sections 70901, 70902 and 76365, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment of opening statement, subsections (a) and (c)-(c)(2) and NOTE filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 29).

§ 59404. District Policies and Regulations for Instructional and Other Materials.

(a) The governing board of a community college district which requires that students provide instructional or other materials for a course