

PROPOSED PARAMETERS AND GUIDELINES

Education Code Section 87102

Statutes 1988, Chapters 973

California Code of Regulations, Title 5, Sections 53003, 53004, 53006, 53020, 53021, 53022, 53023, 53024, 53025, 53026, and 53034

Register 92, Number 17; Register 96, Number 23; and Register 2002, Number 35

Discrimination Complaint Procedures (Equal Employment Opportunity Program – Set One)

02-TC-46

(And a Portion of 02-TC-25 and 02-TC-31)

(Fiscal Year 2001-2002 only)

I. SUMMARY OF THE MANDATE

On March 24, 2011, the Commission on State Mandates (Commission) adopted a statement of decision for the *Discrimination Complaint Procedures* test claim finding that the test claim statute and regulations impose a partially reimbursable state-mandated program upon community college districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The Commission has adopted separate sets of parameters and guidelines for the *Discrimination Complaint Procedures* (02-TC-46) statement of decision as follows: (1) equal employment opportunity program; (2) federal rights for individuals with disabilities; and (3) discrimination complaint procedures. This set of parameters and guidelines addresses the Commission's findings regarding the equal employment opportunity program.

Because some of the activities approved in the statement of decision have a period of reimbursement that begins during the 2002-2003 fiscal year, and some of the activities are not reimbursable beyond the 2001-2002 fiscal year or the 2002-2003 fiscal year, the Commission has adopted three sets of parameters and guidelines for the equal employment opportunity program: (1) for costs incurred during the 2001-2002 fiscal year only; (2) for costs incurred during the 2002-2003 fiscal year only; and (3) for costs incurred in fiscal year 2003-2004 and subsequent fiscal years.

For the 2001-2002 fiscal year only, the activities approved in the equal employment opportunity program section of the statement of decision are contained in Education Code section 87102, as amended by Statutes 1988, chapter 973; and California Code of Regulations, title 5, sections 53003, 53004, 53006, 53020, 53021, 53022, 53023, 53024, 53025, 53026, and 53034, as amended by Register 92, number 17; Register 96, number 23; and Register 2002, number 35. These activities address steps to achieve diversity or equal employment opportunity in a community college district's workforce, including, establishing hiring goals, monitoring the district workforce, reporting workforce data to the Chancellor's Office, and establishing a

process to address complaints of violations of the equal employment opportunity program regulations.

II. ELIGIBLE CLAIMANTS

Any community college district, which incurs increased costs as a result of this mandate, is eligible to claim reimbursement.

III. PERIOD OF REIMBURSEMENT

Government Code section 17557(e), states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The claimants filed the test claim in the 2002-2003 fiscal year, establishing eligibility for reimbursement on or after July 1, 2001. Three sets of parameters and guidelines have been adopted, one for costs incurred *only* during the 2001-2002 fiscal year, one for costs incurred *only* during the 2002-2003 fiscal year, and one for costs incurred in or after the 2003-2004 fiscal year. These parameters and guidelines are for the 2001-2002 fiscal year only. Therefore, costs incurred pursuant to Education Code section 87102 and California Code of Regulations, title 5, sections 53003, 53004, 53006, 53020, 53021, 53022, 53023, 53024, 53025, 53026, and 53034 as set forth in these parameters and guidelines are reimbursable only for the period of July 1, 2001 through June 30, 2002.

Reimbursement for state-mandated costs may be claimed as follows:

1. Actual costs for one fiscal year shall be included in each claim.
2. Pursuant to Government Code section 17561(d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the claiming instructions.
3. Pursuant to Government Code section 17560(a), a school district may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
4. If revised claiming instructions are issued by the Controller pursuant to Government Code section 17558(c), between November 15 and February 15, a school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim. (Government Code section 17560(b).)
5. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564(a).
6. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable to and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

Claimants may use time studies to support salary and benefit costs when an activity is task-repetitive. Activities that require varying levels of efforts are not appropriate for time studies. Claimants wishing to use time studies to support salary and benefit costs are required to comply with the State Controller's Time-Study Guidelines before a time study is conducted. Time study usage is subject to the review and audit conducted by the State Controller's Office.

For each eligible claimant, the following activities are reimbursable:

A. District Plan Contents and Review

Education Code section 87102(a) and Title 5, Sections 53003 and 53020

1. Include steps in the faculty and staff diversity plan that the district will take in meeting and improving hiring goals for both full-time faculty and part-time faculty pursuant to Education Code section 87482.6 (Statutes 1988, Chapter 973). (Ed. Code, § 87102(a) (Statutes 1988, Chapter 973).) *This activity is reimbursable from July 1, 2001 through September 3, 2001.*
2. Review the faculty and staff diversity plan, excluding goals and timetables, at least every three years and if necessary revise the plan and submit it to the Chancellor's Office for approval. (Cal. Code Regs., title 5, §§ 53003(b) and 53020(a) (Register 96, No. 23).)
3. Include in the faculty and staff diversity plan the following information:
 - a. Goals and timetables, as appropriate, for hiring and promotion of persons with disabilities developed pursuant to California Code of Regulations, title 5, section 53006 for each college in the district and for the district as a whole. (Cal. Code Regs., tit. 5, §§ 53003(b) and 53020(a) (Register 96, No. 23).)
 - b. A process for ensuring that district employees who are to participate on screening or selection committees shall receive appropriate training on the requirements of California Code of Regulations, title 5, section 53000 et seq., which addresses affirmative action/equal employment opportunity programs (Register 96, No. 23; Register 2002, No. 35) and of state and federal nondiscrimination laws. (Cal. Code Regs., tit. 5, §§ 53003(c)(4) and 53020(a) (Register 96, No. 23).)
 - c. An analysis of the number of persons with disabilities who are employed in the district's work force and the number of historically underrepresented groups (including persons with disabilities) who have applied for employment in the following job categories: (1) executive/ administrative/ managerial; (2) faculty

and other instructional staff; (3) professional nonfaculty; (4) secretarial/clerical; (5) technical and paraprofessional; (6) skilled crafts; and (7) service and maintenance (listed in Cal. Code Regs., tit. 5, § 53004(a) (Register 96, No. 23)). (Cal. Code Regs., tit. 5, §§ 53003(c)(6) and 53020(a) (Register 96, No. 23).)

- d. An analysis of the degree to which persons with disabilities are underrepresented in comparison to the numbers of disabled persons whom the Chancellor determines to be available and qualified to perform the work required for each job category. (Cal. Code Regs., tit. 5, §§ 53003(c)(7) and 53020(a) (Register 96, No. 23).)
- e. The determination of whether or not the underrepresentation for women, ethnic minorities, or persons with disabilities is significant. *This activity does not include reimbursement for the inclusion of an analysis of the degree to which any group is underrepresented. This activity only requires the inclusion of the determination of whether any underrepresentation is significant.* (Cal. Code Regs., tit. 5, §§ 53003(c)(7) and 53020(a) (Register 96, No. 23).)
- f. The steps the district will take to achieve diversity in its workforce. (Cal. Code Regs., tit. 5, §§ 53003(c)(8) and 53020(a) (Register 96, No. 23).)
- g. Goals for addressing any underrepresentation identified under the analysis required by California Code of Regulations, title 5, section 53003(c)(7) (Register 96, No. 23). (Cal. Code Regs., tit. 5, §§ 53003(c)(9) and 53020(a) (Register 96, No. 23).)
- h. A plan for corrective action consistent with California Code of Regulations, title 5, section 53006 (Register 96, No. 23), including goals and timetables for hiring and promotion, if necessary, to remedy any significant underrepresentation identified in the faculty and staff diversity plan by achieving expected representation for all historically underrepresented groups in all job categories listed in California Code of Regulations, title 5, section 53004(a) (Register 96, No. 23). (Cal. Code Regs., tit. 5, §§ 53003(c)(10) and 53020(a) (Register 96, No. 23).)

B. Delegation of Authority

Title 5, Section 53020

1. Design the administrative structure created by any delegation of authority to the affirmative action officer or others in such a manner so as to ensure prompt and effective implementation of the requirements of the affirmative action regulations (Cal. Code Regs., tit. 5, § 53000 et seq.). (Cal. Code Regs., tit. 5, § 53020(a) and (b) (Register 96, No. 23).)
2. Designate in the faculty and staff diversity plan a single officer, who may be the affirmative action officer, for ensuring complaints of violations of the affirmative action regulations (excluding those based on disability or gender), filed pursuant to California Code of Regulations, *title 5, section 53026, are promptly and impartially* investigated, and ensuring that selection procedures and the applicant pool are properly monitored (excluding ensuring that the selection procedure is based solely on job-related criteria and monitoring for adverse impact) as required by California Code of Regulations, title 5,

sections 53023 and 53024. (Cal. Code Regs., tit. 5, § 53020(a) and (b) (Register 96, No. 23).)

C. Employee Survey

Title 5, Section 53004

1. In the report to the Chancellor's Office of the results of the employee survey, report each employee so that they may be identified as belonging to one of the following seven job categories: (1) executive/administrative/managerial; (2) faculty and other instructional staff; (3) professional nonfaculty; (4) secretarial/clerical; (5) technical and paraprofessional; (6) skilled crafts; and (7) service and maintenance. (Cal. Code Regs., tit. 5, §§ 53004(a) and 53020(a) (Register 96, No. 23).)
2. Afford each applicant or employee the opportunity to identify his or her gender, ethnicity and, if applicable, his or her disability for purposes of the survey and report required by California Code of Regulations, title 5, section 53004(a) (Register 96, No. 23. (Cal. Code Regs., tit. 5, §§ 53004(b) and 53020(a) (Register 96, No. 23).)
 - a. Count and report Chinese, Japanese, Filipinos, Koreans, Vietnamese, Asian Indians, Hawaiians, Guamanians, Samoans, Laotians, and Cambodians as part of the Asian/Pacific Islander group as well as in separate subcategories. (Cal. Code Regs., tit. 5, §§ 53004(b) and 53020(a) (Register 96, No. 23).)

D. Monitoring Recruitment

Title 5, Sections 53004 and 53006

1. Monitor applicants for employment on an ongoing basis in order to evaluate the progress in implementing the faculty and staff diversity plan and to provide data needed for the analyses required by California Code of Regulations, title 5, sections 53003, 53006, 53023, and 53024 (Register 96, No. 23). (Cal. Code Regs., tit. 5, §§ 53004(a) and 53020(a) (Register 96, No. 23).)
2. If a community college district has existing goals:
 - a. Update goals established prior to June 30, 1996 and set a new target date for achieving expected representation for a group in a job category if significant underrepresentation still exists. (Cal. Code Regs., tit. 5, §§ 53006(a) and 53020(a) (Register 96, No. 23).)
 - b. Review recruitment procedures and identify and implement any additional measures which might reasonably be expected to attract candidates from the significantly underrepresented group while updating goals and setting new target dates pursuant to California Code of Regulations, title 5, section 53006(a) (Register 96, No. 23). (Cal. Code Regs., tit. 5, §§ 53006(a)(1) and 53020(a) (Register 96, No. 23).)
 - c. Consider various other means of reducing the underrepresentation which do not involve taking underrepresented group status into account, and implement any such techniques which are determined to be feasible and potentially effective while updating goals and setting new target dates pursuant to California Code of

Regulations, title 5, section 53006(a) (Register 96, No. 23). (Cal. Code Regs., tit. 5, §§ 53006(a)(2) and 53020(a) (Register 96, No. 23).)

- d. Comply with California Code of Regulations, title 5, section 53006(c) (Register 96, No. 23) while updating goals and setting new target dates pursuant to California Code of Regulations, title 5, section 53006(a) (Register 96, No. 23). (Cal. Code Regs., tit. 5, §§ 53006(a)(3) and 53020(a) (Register 96, No. 23).)
3. If a community college district has no existing goals:
- a. Take corrective action if, pursuant to California Code of Regulations, title 5, section 53003(c)(7), the district determines that a particular group is significantly underrepresented with respect to one or more job categories and no goal has previously been set. (Cal. Code Regs., tit. 5, §§ 53006(b) and 53020(a) (Register 96, No. 23).)
 - b. The district shall take, at a minimum, the following corrective action:
 - i. Review district recruitment procedures and identify and implement any additional measures which might reasonably be expected to attract candidates from the significantly underrepresented group. (Cal. Code Regs., tit. 5, §§ 53006(b)(1) and 53020(a) (Register 96, No. 23).)
 - ii. Consider various other means of reducing the underrepresentation which do not involve taking underrepresented group status into account, and implement any such techniques which are determined to be feasible and potentially effective. (Cal. Code Regs., tit. 5, §§ 53006(b)(2) and 53020(a) (Register 96, No. 23).)
 - iii. Determine whether the group is still significantly underrepresented in the job categories in question after the measures described in California Code of Regulations, title 5, section 53006(b)(1) and (2) (Register 96, No. 23) have been in place a reasonable period of time. (Cal. Code Regs., tit. 5, §§ 53006(b)(3) and 53020(a) (Register 96, No. 23).)
 - iv. Set a goal with a target date for achieving expected representation for the significantly underrepresented group in each job category where significant underrepresentation persists, if it persists. (Cal. Code Regs., tit. 5, §§ 53006(b)(4) and 53020(a) (Register 96, No. 23).)
 - v. Monitor on an ongoing basis the staffing rate for the significantly underrepresented groups in the specified job categories. (Cal. Code Regs., tit. 5, §§ 53006(b)(4) and 53020(a) (Register 96, No. 23).)
 - vi. Discontinue the use of goals when expected representation has been achieved for that group in the job categories in question. (Cal. Code Regs., tit. 5, §§ 53006(b)(4) and 53020(a) (Register 96, No. 23).)
4. The following additional measures to be are to be taken if a goal has been set and after a reasonable period of time significant underrepresentation persists:
- a. Establish a specific timetable to project the levels of annual hiring of persons from the significantly underrepresented group which will be necessary to meet the

existing goal by the target date. (Cal. Code Regs., tit. 5, §§ 53006(c) and 53020(a) (Register 96, No. 23).)

- b. Implement the following additional corrective measures until expected representation has been achieved for that group in the job category in question: Consider, as one factor in the final selection process, the fact that a candidate is a member of a significantly underrepresented group, provided that the qualifications of the candidates under consideration are reasonably considered to be equivalent. (Cal. Code Regs., tit. 5, §§ 53006(c)(2) and 53020(a) (Register 96, No. 23).)
5. If a community college district has no existing goals for women or persons with disabilities implement the measures required in California Code of Regulations, title 5, section 53006(b)(1) and (2) (Register 96, No. 23) concurrently with setting a goal with a target date for achieving expected representation for women or persons with disabilities in each job category in which they are found to be significantly underrepresented. (Cal. Code Regs., tit. 5, §§ 53006(d) and 53020(a) (Register 96, No. 23).)
- a. Goals shall remain in effect only until expected representation has been achieved for the group in the job category or categories in which significant underrepresentation is found. (Cal. Code Regs., tit. 5, §§ 53006(d) and 53020(a) (Register 96, No. 23).)
 - b. An aggregate labor force availability rate shall be utilized for setting goals for hiring persons with disabilities with respect to the total district work force until the Chancellor's Office provides data regarding the availability of persons with disabilities by job category. (Cal. Code Regs., tit. 5, §§ 53006(d) and 53020(a) (Register 96, No. 23).)

E. Recruitment Procedures

Title 5, Section 53021

1. Actively recruit from both within and outside the district work force to attract qualified applicants for all new openings except as provided by California Code of Regulations, title 5, section 53021(b). (Cal. Code Regs., tit. 5, §§ 53021(a) and 53020(a) (Register 96, No. 23).)
 - a. Active recruitment shall include focused outreach to historically underrepresented groups. (Cal. Code Regs., tit. 5, §§ 53021(a) and 53020(a) (Register 96, No. 23).)
 - b. Open recruitment applies to all new full-time and part-time openings in all job categories and classifications, including but not limited to, faculty, classified employees, categorically funded positions, the chief executive officer, and all other executive/administrative/managerial positions. (Cal. Code Regs., tit. 5, §§ 53021(a) and 53020(a) (Register 96, No. 23).)
2. Recruit at least statewide for full-time faculty and educational administrator positions, and at a minimum, seek qualified applicants listed in the California Community Colleges Faculty and Staff Diversity Registry. (Cal. Code Regs., tit. 5, §§ 53021(a) and 53020(a) (Register 96, No. 23).)
3. Recruit part-time faculty positions separately for each new opening or by annually establishing a pool of eligible candidates. In either case, full and open recruitment is

required consistent with California Code of Regulations, title 5, section 53021. (Cal. Code Regs., tit. 5, §§ 53021(a) and 53020(a) (Register 96, No. 23).)

4. Notify the Faculty and Staff Diversity Advisory Committee established pursuant to California Code of Regulations, title 5, section 53005 and the Chancellor, at least ten working days prior to offering the position to a candidate, if the district believes justification exists for use of any of the exceptions listed in section 53021(b). (Cal. Code Regs., tit. 5, §§ 53021(c) and 53020(a) (Register 96, No. 23).)
5. Comply with the district's established hiring procedures and afford all qualified district employees the opportunity to apply even where in-house or promotional only recruitment is permitted under California Code of Regulations, title 5, section 53005(b). (Cal. Code Regs., tit. 5, §§ 53021(d) and 53020(a) (Register 96, No. 23).)

F. Job Announcements

Title 5, Section 53022

1. Include in the job requirements in announcements for faculty and administrative positions a sensitivity to and understanding of the diverse academic, socioeconomic, cultural, disability, and ethnic backgrounds of community college students. (Cal. Code Regs., tit. 5, §§ 53022 and 53020(a) (Register 96, No. 23).)
2. Review job specifications, excluding any "required," "desired," or "preferred" qualifications beyond the state minimum qualifications (set forth in Subchapter 4 Cal. Code Regs., tit. 5, commencing with § 53400) which the district wishes to utilize, before the position is announced to ensure conformity with the requirements of California Code of Regulations, title 5, section 53000 et seq., and state and federal nondiscrimination laws, excluding section 504 of the Rehabilitation Act, and Title IX of Education Amendments of 1972. (Cal. Code Regs., tit. 5, §§ 53022 and 53020(a) (Register 96, No. 23).)

G. Applicant Pool

Title 5, Section 53023

1. Afford each applicant an opportunity to voluntarily identify his or her gender, ethnicity and, if applicable, his or her disability, in the district's application for employment. (Cal. Code Regs., tit. 5, §§ 53023(a) and 53020(a) (Register 96, No. 23).)
2. Keep information regarding an applicant's gender, ethnicity, and/or disability provided in an application for employment confidential. (Cal. Code Regs., tit. 5, §§ 53023(a) and 53020(a) (Register 96, No. 23).)
3. Analyze the composition of the initial applicant pool after the application deadline has passed to ensure that expected representation has been achieved for historically underrepresented groups. (Cal. Code Regs., tit. 5, §§ 53023(b) and 53020(a) (Register 96, No. 23).)
4. Extend the application deadline and conduct additional focused recruitment for historically underrepresented groups for which expected representation has not been achieved, if necessary. (Cal. Code Regs., tit. 5, §§ 53023(b) and 53020(a) (Register 96, No. 23).)

5. Screen applications to determine which candidates satisfy job specifications set forth in the job announcement when the expected representation of historically underrepresented groups is achieved, or further recruitment efforts would be futile. (Cal. Code Regs., tit. 5, §§ 53023(b) and 53020(a) (Register 96, No. 23).)
6. Analyze the composition of the qualified applicant pool to ensure that no group defined in terms of ethnicity is adversely impacted as defined by California Code of Regulations, title 5, section 53001(m) (Register 96, No. 23). (Cal. Code Regs., tit. 5, §§ 53023(b) and 53020(a) (Register 96, No. 23).)
7. Take effective steps to address adverse impact on any group defined in terms of ethnicity found in the district's applicant pool before the selection process is continued. (Cal. Code Regs., tit. 5, §§ 53023(b) and 53020(a) (Register 96, No. 23).)

H. Screening and Selection Procedures

Title 5, Section 53024

1. Provide all screening or selection techniques, including the procedure for developing interview questions, and the selection process as a whole to the Chancellor upon request. (Cal. Code Regs., tit. 5, §§ 53024(a)(1) and 53020(a) (Register 96, No. 23).)
2. Design all screening or selection techniques, including the procedure for developing interview questions, and the selection process as a whole, to ensure that for faculty and administrative positions, meaningful consideration is given to the extent to which applicants demonstrate a sensitivity to and understanding of the diverse academic, socioeconomic, cultural, disability, and ethnic backgrounds of community college students. (Cal. Code Regs., tit. 5, §§ 53024(a)(2) and 53020(a) (Register 96, No. 23).)
3. Design and monitor all screening or selection techniques, including the procedure for developing interview questions, and the selection process as a whole to ensure that they do not have an adverse impact, as defined by California Code of Regulations, title 5, section 53001(m), on any group defined in terms of ethnicity. (Cal. Code Regs., tit. 5, §§ 53024(a)(4) and 53020(a) (Register 96, No. 23).)
4. Suspend the selection process and take timely and effective steps to remedy adverse impact on any group defined in terms of ethnicity before the selection process resumes if monitoring under California Code of Regulations, title 5, section 53024(a)(4) reveals that any selection technique or procedure has adversely impacted such ethnic group. (Cal. Code Regs., tit. 5, §§ 53024(b) and 53020(a) (Register 96, No. 23).)

I. Persons with Disabilities

Title 5, Section 53034

1. Report the staffing rate of persons with disabilities by a separate survey as directed by the Chancellor's Office, until a data element to calculate the staffing rate of persons with disabilities has been integrated into the report required by California Code of Regulations, title 5, section 53004. (Cal. Code Regs., tit. 5, §§ 53034 and 53020(a) (Register 96, No. 23).)

J. Complaint Procedures (Nonemployees and Nonapplicants)

Title 5, Sections 53020 and 53026

1. Establish a process permitting any person (excluding employees and applicants for employment) to file a complaint alleging that the requirements of the affirmative action regulations (Cal. Code Regs., tit. 5, § 53000 et seq.) have been violated. This excludes the establishment of a process permitting an employee to file a complaint alleging a violation of the affirmative action regulations on the basis of disability or gender (i.e., failure to designate a person to coordinate efforts to comply Section 504 and Title IX (see Cal. Code Regs., tit. 5, § 53020); failure to provide reasonable accommodations (see Cal. Code Regs., tit. 5, § 53020); and employment discrimination on the basis of disability and gender in district employee selection procedures). (Cal. Code Regs., tit. 5, §§ 53026 and 53020(a) (Register 96, No. 23).)
2. Forward immediately to the Chancellor a copy of the complaint. (Cal. Code Regs., tit. 5, §§ 53026 and 53020(a) (Register 96, No. 23).)
3. Provide a written investigative report within 90 days if required by the Chancellor. (Cal. Code Regs., tit. 5, §§ 53026 and 53020(a) (Register 96, No. 23).)

K. Program Reports to the Public, Chancellor and Board of Governors

Education Code Section 87102 and Title 5, Section 53034

1. Submit to the Board of Governors of the California Community Colleges, an affirmation of compliance with the provisions of Education Code sections 87100-87107, which address affirmative action hiring (as existing prior to September 4, 2001). (Ed. Code, § 87102(a) (Statutes 1988, Chapter 973).) *This activity is reimbursable from July 1, 2001 through September 3, 2001.*
2. Publish and distribute a record of the success rate of the measurable progress, with respect to the district's goals and timetables, in hiring employees through its affirmative action employment program. (Ed. Code, § 87102(b) (Statutes 1988, Chapter 973).) *This activity is reimbursable from July 1, 2001 through September 3, 2001.*

Make this publication a public record within the meaning of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title I of the Government Code), and include data and information specified by the Board of Governors. (Ed. Code, § 87102(b) (Statutes 1988, Chapter 973).) *This activity is reimbursable from July 1, 2001 through September 3, 2001.*

3. Submit a report on the use of Faculty and Staff Diversity funds to the Chancellor's Office no later than September 30 of the fiscal year following the use of the funds. (Code Regs., tit. 5, §§ 53034 and 53020(a) (Register 96, No. 23).)

V. **CLAIM PREPARATION AND SUBMISSION**

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. Attach a copy of the contract to the claim. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the dates when services were performed and itemize all costs for those services.

4. Fixed Assets

Report the purchase price paid for fixed assets (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1., Salaries and Benefits, for each applicable reimbursable activity.

B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs may include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs; and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

Community colleges have the option of using: (1) a federally approved rate, utilizing the cost accounting principles from the Office of Management and Budget Circular A-21, "Cost Principles of Educational Institutions"; (2) the rate calculated on State Controller's Form FAM-29C; or (3) a 7% indirect cost rate.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5(a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter¹ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND REIMBURSEMENTS

Any offsets the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate received from the following source shall be identified and deducted from this claim as follows:

Funds appropriated and received from the Faculty and Staff Diversity Fund and applied to the reimbursable state-mandated activities imposed by Education Code section 87102, as amended by Statutes 1988, chapter 973, and Title 5, sections 53003, 53004, 53006, 53020, 53021, 53022, 53023, 53024, 53026, and 53034, as amended in Register 96, number 23. (State Budget Act of 2001, Item 6870-101-0001, schedule 14)

In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558(b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 90 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the Commission.

¹ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

Pursuant to Government Code section 17561(d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557(d), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The statements of decision adopted for the test claim and parameters and guidelines are legally binding on all parties and provide the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record. The administrative record is on file with the Commission.