



JOHN CHIANG
California State Controller
Division of Accounting and Reporting

July 5, 2012

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Re: Revised Draft Staff Analysis, Proposed Parameters and Guidelines, and
Notice of Hearing
Discrimination Complaint Procedures
02-TC-46 (and a portion of 02-TC-25 and 02-TC-31)
Education Code Sections 66010.2, et. al.
Santa Monica Community College District, Los Rios Community College District, and
West Kern Community College District, Co-claimants

Dear Ms. Halsey:

We have reviewed the revised draft staff analysis and proposed parameters and guidelines submitted by the Commission staff. Below are our comments and recommendations. Proposed additions are underlined and deletions are indicated with strikethrough as follows:

Equal Employment Opportunity Program – Set One:

Page 3:

A. District Plan Contents and Review

3. Include in the faculty and staff diversity plan the following information:

- 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).)

COMMENT: According to the revised draft staff analysis, Commission staff removed all reference to the term “equal employment opportunity program” from the activities in the 2001-2002 fiscal year parameters and guidelines.

Page 6:

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 underrepresentations persists:

COMMENT: Grammar correction made.

Equal Employment Opportunity Program – Set Two:

Page 3:

A. District Plan Contents and Review

3. Include in the faculty and staff diversity plan the following information *only until August 10, 2002*:

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).)

Page 5:

B. Delegation of Authority

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 ~~equal employment opportunity program~~ affirmative action regulations (Cal. Code Regs., tit. 5, § 53000 et seq.). (Cal Code Regs., tit. 5, §§ 53020(b) and 53020(a) (Register 96, No. 23).) *This activity is reimbursable only until August 10, 2002.*

2. Design the administrative structure created by any delegation of authority to the equal employment officer or others in such a manner so as to ensure prompt and effective implementation of the requirements of the equal employment opportunity program regulations (Cal. Code Regs., tit. 5, § 53000 et seq.). (Cal Code Regs., tit. 5, §§ 53020(b) and 53020(a) (Register 2002, No. ~~23~~ 35).) *This activity is reimbursable beginning August 11, 2002.*

Page 6:

3. 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 ~~equal employment opportunity program~~ 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(b) and 53020(a) (Register 2002 96, No. 23.) *This activity is reimbursable only until August 10, 2002.*

4. Designate in the equal employment opportunity plan a single officer, who may be the equal employment opportunity officer, for ensuring complaints of violations of the equal employment opportunity program 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(b) and 53020(a) (Register 2002, No. 23 35).) *This activity is reimbursable beginning August 11, 2002.*

COMMENT: According to the revised staff draft analysis, Commission staff separated all of the “affirmative action” activities that end in the 2002-2003 fiscal year from their “equal employment” counterparts that continue after the 2002-2003 fiscal year.

Page 10:

c. Open recruitment applies to all new full-time and part-time openings in all job categories and classification, 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); Cal. Code Regs., tit. 5, §§ 53021(a) and 53020(a) (Register 2002, No. 35).)

Page 14:

J. Complaint Procedures (Nonemployees and Nonapplicants)

3. Forward immediately to the Chancellor a copy of the complaint. (Cal. Code Regs., tit. 5, §§ 53026 and 53020(a) (Register 96, No. 23); Cal. Code Regs., tit. 5, §§ 53026 and 53020(a) (Register 2002, No. 35).)

COMMENT: According to the revised draft staff analysis, staff recommends combining the mandate imposed by title 5, section 53020(a), with all other activities approved by the Commission.

Equal Employment Opportunity Program – Set Three:

Page 3:

A. District Plan Contents and Review

2. Include in the equal employment opportunity plan the following information:

a. 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 equal employment opportunity programs (Register 2002, No. 35) and of state and federal nondiscrimination laws. (Cal. Code Regs., tit. 5, §§ 53003(c)(4) and 53020(a) (Register 2002, No. 35).)

COMMENT: "Addresses" was inadvertently omitted.

Page 4:

B. Delegation of Authority

1. Design the administrative structure created by any delegation of authority to the equal employment officer or others in such a manner so as to ensure prompt and effective implementation of the requirements of the equal employment opportunity program regulations (Cal. Code Regs., tit. 5, § 53000 et seq.). (Cal Code Regs., tit. 5, §§ 53020(b) and 53020(a) (Register 2002, No. 23 35).)
2. Designate in the equal employment opportunity plan a single officer, who may be the equal employment opportunity officer, for ensuring complaints of violations of the equal employment opportunity program 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(b) and 53020(a) (Register 2002, No. 23 35).)

COMMENT: References are corrected.

Page 5:

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; Register 2002, No. 35). (Cal. Code Regs., tit. 5, §§ 53004(b) and 53020(a) (Register 96, No. 23); Cal. Code Regs., tit. 5, §§ 53004(b) and 53020(a) (Register 2002, No. 35).)
 - a. ~~Beginning August 11, 2002, count~~ Count a person in only one ethnic group for reporting purposes if that person designates multiple ethnic groups with which he or she identifies. (Cal. Code Regs., tit. 5, §§ 53004(b) and 53020(a) (Register 2002, No. 35).)

COMMENT: Remove "Beginning August 11, 2002," since it is unnecessary for the parameters and guidelines for costs incurred on or after the 2003-2004 fiscal year.

Page 6:

E. Recruitment Procedures

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); Cal. Code Regs., tit. 5, §§ 53021(a) and 53020(a) (Register 2002, No. 35).)
 - 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); Cal. Code Regs., tit. 5, §§ 53021 (a) and 53020(a) (Register 2002, No. 35).)

Page 9:

J. Complaint Procedures (Nonemployees and Nonapplicants)

2. Forward immediately to the Chancellor a copy of the complaint. (Cal. Code Regs., tit. 5, §§ 53026 and 53020(a) (Register 96, No. 23); Cal. Code Regs., tit. 5 §§ 53026 and 53020(a) (Register 2002, No. 35).)

COMMENT: According to the revised draft staff analysis, staff recommends combining the mandate imposed by title 5, section 53020(a), with all other activities approved by the Commission.

Federal Rights for Individuals with Disabilities for Employment – Set One and Set Two:

COMMENT: We recommend no changes.

Discrimination Complaint Procedures – Set One:

Page 7:

c. Administrative Determination

- (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. (Cal. Code Regs., tit. 5 § 59336(a) (Register 20 2001, No. 6).) *This activity is reimbursable from July 1, 2001 through April 18, 2002.*

COMMENT: Reference was corrected.

d. Formal Complaint-District Decision

- ~~(1) Upon appeal by the complainant of the administrative determination rendered pursuant to section 59336, 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. (Cal. Code Regs., tit. 5, § 59338(a) (Register 2001, No. 6); and Register 2002, No. 13).~~

COMMENT: The activity was not included on the list of activities that constitute a reimbursable state-mandated new program or higher level of service in the statement of decision.

Discrimination Complaint Procedures – Set Two:

Page 4:

- b. Submit district policies, which addresses community college district discrimination complaint and enforcement procedures (adopted pursuant to Title 5, CCR, § 59322) to the Chancellor for review and approval within 90 days of the effective date of adopting or amending the policies. (Cal. Code Regs., tit. 5, § 59322 (Register 2001, No. 6; and Register 2002, No. 13).)

COMMENT: Reference was corrected.

Page 7:

d. Formal Complaint-District Decision

~~(1) Upon appeal by the complainant of the administrative determination rendered pursuant to section 59336, 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. (Cal. Code Regs., tit. 5, § 59338(a) (Register 2001, No. 6); and Register 2002, No. 13).)~~

COMMENT: The activity was not included on the list of activities that constitute a reimbursable state-mandated new program or higher level of service in the statement of decision.

Should you have any questions regarding the above, please contact Melma Dizon at (916) 327-3559 or e-mail mdizon@sco.ca.gov.

Sincerely,



JAY LAL, Manager
Local Reimbursements Section