



TO: All Community College Districts

FROM: Fermin Villegas *fv*
Deputy Counsel

RE: Amended Regulations for Processing Complaints of Unlawful Discrimination

At its January 2020 meeting, the Board of Governors of the California Community Colleges adopted amendments to the regulations governing the handling of complaints of unlawful discrimination. Pursuant to subdivision (e) of Section 206 of the Procedures and Standing Orders of the Board of Governors (Standing Orders), prior to taking effect, a regulatory action adopted by the Board of Governors must receive certification from the Department of Finance. Once the Department of Finance certification is secured, the Chancellor's Office may file the regulation with the Secretary of State and the regulation becomes effective 30 days after the filing, as provided by Section 208 of the Standing Orders. Having received certification from the Department of Finance last month, the Chancellor's Office promptly filed the amended regulations with the Secretary of State on August 19, 2020. **Accordingly, these regulations will become effective and will come into force on September 18, 2020.**

Major Changes to the Unlawful Discrimination Complaint and Appeals Process¹

The amendments to the regulations will result in significant changes to the established practice for handling complaints of unlawful discrimination alleged to have occurred at a community college district. Below, we list the major changes to the procedures for processing such complaints of unlawful discrimination and subsequent appeals and list in parentheses the section(s) of the title 5 regulations implicated. These changes shall be effective beginning on September 18, 2020, and shall apply to complaints alleging unlawful discrimination filed under the title 5 regulations as of that date.

¹ This memorandum should not be construed as providing an exhaustive list of all changes to the unlawful discrimination complaint process occasioned by the amended regulations. Rather, we highlight only those amendments that will result in significant changes to the way complaints and/or appeals have been processed in the past.

Amended Regulations for Processing Complaints of Unlawful Discrimination

September 14, 2020

- Complaints of unlawful discrimination may be **verbal** or written. (Sections 59311(b); 59238(a), (e).)
- Complaints may no longer be filed with the Chancellor's Office and must be filed **exclusively** with the college/district directly. (Section 59328(c).)
- Complaints may, but are no longer required to be filed on a form prescribed by the Chancellor's Office. (Section 59328(d).)
- Districts are no longer required to forward copies of initial complaints or provide notice of the initiation of the investigation to the Chancellor's Office. (Section 59330 repealed; Section 59334(a).)
- Districts must make specific findings as to whether each factual allegation in the complaint occurred based on the preponderance of the evidence standard. (Section 59334(b)(1).)
- Respondents in complaints involving student sexual misconduct must be notified of their right to appeal any disciplinary sanction imposed on them to the governing board. (Section 59336(a)(5).)
- New procedures for the handling of complaints falling within the purview of Title IX, consistent with the new Federal regulations which became effective on August 14, 2020. (Section 59337.)
- The time for appealing the district's administrative determination to the governing board is extended from 15 days to 30 days. (Section 59338(a).)
- Upon notification of the filing of an appeal with the Chancellor's Office, districts must provide all relevant, non-privileged documents upon request of the Chancellor's Office. (Sections 59339(c); 59340.)
- Districts must provide to the Chancellor an annual report providing information on complaints of unlawful discrimination filed with the district in the previous academic year, as specified in the regulation. (Section 59340(b).)
- Districts must retain records of all discrimination complaints for a period of at least five (5) years after the closing of the case. (Section 59340(c).)
- Districts **may grant themselves one extension** of up to 45 days of the 90-day deadline for completing an investigation **without providing notice to the Chancellor's Office** if such extension is necessary for one or more of the specific reasons listed, with notice provided to the complainant. Districts may request additional extensions from the Chancellor's Office as specified. (Section 59342.)
- The Chancellor's review on appeal is limited to the specific issues listed and the Chancellor's determination on the appeal must be issued within 90 days of receiving the appellate file from the district. (Section 59350.)

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In addition, effective September 18, 2020, the webpage on the Chancellor's Office website dedicated to providing information on the unlawful discrimination complaint process will be updated to reflect the new practices and procedures communicated above.²

Please feel free to contact our office with any questions regarding the amendments to the unlawful discrimination complaint regulations discussed above.

² The webpage is available at <https://www.cccco.edu/About-Us/Chancellors-Office/Divisions/General-Counsel/Programs/College-District-Discrimination-Appeals>, but reflects the procedures currently in effect.