

s 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 s 66250 et seq.), title VI of the Civil Rights Act of 1964 (42 U.S.C. s 2000d), title IX of the Education Amendments of 1972 (20 U.S.C. s 1681), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. s 794), the Americans with Disabilities Act of 1990 (42 U.S.C. s 12100 et seq.) and the Age Discrimination Act (42 U.S.C. s 6101), to the end that no person in the State of California shall, in whole or in part, on the basis of ethnic group identification, national origin, religion, age, sex, race, color, ancestry, sexual orientation, or physical or mental disability, or on the basis of these perceived characteristics or based on association with a person or group with one or more of these actual or perceived characteristics, 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: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Sections 66250 et seq. and 72011, Education Code; Sections 11135-11139.5, Government Code; Sections 422.6 and 422.55, Penal Code; Title 20, United States Code, 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).
5. Amendment of section and Note filed 3-15-2006; operative 4-14-2006. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 2006, No. 17).

s 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 their actual or perceived ethnic group identification, national origin, religion, age, race, sex, color, sexual orientation, ancestry, or physical or mental disability or to their association with a person or group with one or more of these actual or perceived characteristics. 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: Sections 66271.7, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Sections 66250 et seq. and 72011, Education Code; Sections 11135 and 12926, Government Code; and Sections 422.6 and 422.55, Penal 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).
3. Amendment of section and Note filed 3-15-2006; operative 4-14-2006. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 2006, No. 17).

s 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 for 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: Sections 66271.7, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Sections 66250 et seq. and 72011, Education Code; and Section 11135, 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).
3. Change without regulatory effect amending section and Note filed 3-15-2006 pursuant to section 100, title 1, California Code of Regulations. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 2006, No. 17).

s 59326. Notice to Students and Employees.

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

Note: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Sections 66250 et seq. and 72011, Education Code; and Section 11135, 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).
3. Change without regulatory effect amending Note filed 3-15-2006 pursuant to section 100, title 1, California Code of Regulations. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 2006, No. 17).

s 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;
- (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; and
- (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 subdivision (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 DFEH 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: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Sections 66250 et seq. and 72011, Education Code; and Sections 11135 and 11136, 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).
4. Change without regulatory effect amending section and Note filed 3-15-2006 pursuant to section 100, title 1, California Code of Regulations. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 2006, No. 17).

s 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 the 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 the 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: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Sections 66250 et seq. and 72011, Education Code; and Sections 11135 and 11136, 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).
6. Change without regulatory effect amending subsections (d), (e) and (f) (1) - (2) and Note filed 3-15-2006 pursuant to section 100, title 1, California Code of Regulations. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 2006, No. 17).

s 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: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Sections 66250 et seq. and 72011, Education Code; and Sections 11135 and 11136, 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).
2. Change without regulatory effect amending section and Note filed 3-15-2006 pursuant to section 100, title 1, California Code of Regulations. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 2006, No. 17).

s 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: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Sections 66250 et seq. and 72011, Education Code; and Sections 11135 and 11136, 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).

3. Change without regulatory effect amending section and Note filed 3-15-2006 pursuant to section 100, title 1, California Code of Regulations. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 2006, No. 17).

s 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: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Sections 66250 et seq. and 72011, Education Code; and Sections 11135 and 11136, Government Code.

HISTORY

1. Change without regulatory effect amending section and Note filed 3-15-2006 pursuant to section 100, title 1, California Code of Regulations. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 2006, No. 17).

s 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: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Sections 66250 et seq. and 72011, Education Code; and Sections 11135 and 11136, 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).
3. Change without regulatory effect amending Note filed 3-15-2006 pursuant to section 100, title 1, California Code of Regulations. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 2006, No. 17).

s 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: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Sections 66250 et seq. and 72011, Education Code; and Sections 11135 and 11136, 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).
4. Change without regulatory effect amending Note filed 3-15-2006 pursuant to section 100, title 1, California Code of Regulations. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 2006, No. 17).

s 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: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Sections 66250 et seq. and 72011, Education Code; and Sections 11135 and 11136, Government Code.

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).
4. Change without regulatory effect amending Note filed 3-15-2006 pursuant to section 100, title 1, California Code of Regulations. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 2006, No. 17).

s 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.

Note: Authority cited: Sections 66271.7, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Sections 66250 et seq. and 72011, Education Code; and Sections 11135 and 11136, 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).

3. Amendment of subsection (b), repealer of subsections (b)(1)-(3) and amendment of Note filed 3-15-2006; operative 4-14-2006. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 2006, No. 17).

s 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: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Sections 66250 et seq. and 72011, Education Code; and Sections 11135 and 11136, 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).

4. Change without regulatory effect amending Note filed 3-15-2006 pursuant to section 100, title 1, California Code of Regulations. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 2006, No. 17).

s 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, 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 forth 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 shall be notified that he or she 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 this subchapter based on the original complaint and any other relevant information then available.

Note: Authority cited: Sections 66271.7, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Sections 66250 et seq. and 72011, Education Code; and Sections 11135 and 11136, 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).
5. Amendment of section and Note filed 3-15-2006; operative 4-14-2006. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 2006, No. 17).