

To Manage Investigations Post-Regs, Hit the G.A.S.

By: Brett A. Sokolow, Esq., ATIXA President

Some courts and OCR want live hearings, and ATIXA's position is well-documented: we don't think overall that live hearings will improve resolution processes or create more accurate outcomes. We also believe that the way OCR is structuring hearing requirements will chill the willingness of students and employees to come forward to report sex offenses. Still, it is ATIXA's job to teach compliant practices and teach them we will.

OCR has provided detailed information in the Title IX regulations about investigation processes and procedures, but they've not really touched on techniques. Fortunately, high-quality professional investigations are our wheelhouse. In this "Tip of the Week" we want to offer a discussion of how we think substantive investigations could look once the regulations have fundamentally altered the resolution process.

If the entire resolution process exists on a sliding scale between the investigation and hearing functions, in terms of the emphasis recipients place on each aspect, it may be helpful to review how the scale has developed to this point. Before OCR's 2011 Dear Colleague Letter (DCL), most recipients' resolution processes were about 20% emphasis on the investigation function and 80% emphasis on the hearing/final determination¹. After the DCL, that balance reversed, with 80% of the resolution relying on the investigation and 20% relying on the hearing. Some recipients went to a single-investigator model (100%/0%) and others used a blended or hybrid approach (80-100%/0-20%). Regardless, the resolution process was primarily based on a robust investigation. Now that the 2020 regulations are upon us, the balance will change again. Where will it end up?

The tendency for public universities subject to the due process scrutiny of the courts will likely be to limit investigators to a "fact-gatherer-only" role. This, however, is even more restrictive than courts of law, where police officers (who investigate crimes) are often called upon to give opinion testimony in court². Merely doing so does not offend due process, because their opinion is not binding on judge or jury.

¹ This is not an assessment of workload, but apportionment of responsibilities within the overall resolution process.

² Setting aside the nuances of Rule 701 of the Federal Rules of Evidence and what's admissible for now, the larger point is about due process not being offended by the investigator serving a wider role than just fact-gathering.

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We hope that recipients will task their investigators to do more than fact-gather, as investigators are extremely valuable to the resolution process and recipients should not diminish that value at the expense of an effective final resolution. Yet, we still need to respect the fact that OCR is vesting decision-making within a hearing officer or panel role.

The challenge, then, is to optimize the role of the investigator without usurping the role of the hearing decision-maker. In our view, recipients should maximize the robustness of the investigation to the extent possible while preserving the role of the hearing officer as decision-maker, as OCR has envisioned. The quality of the ultimate decision depends, in large part, on the quality of the investigation. A high-quality, robust investigation sets the hearing up for a well-reasoned, complete decision. A low-quality, tepid investigation sets the hearing up for potential failure.

Ultimately, we expect the sliding scale of decision-making to land around 40% investigation/60% hearing, and maybe as high as 49%/51% once the role of the investigator is factored into the hearing. The hearing will always bear the lion's share of the decision-making burden in OCR's construct, but a robust investigation can comprise 40-49% of the heavy lift. So, if the investigation is more than fact-gathering (20%), what else is it? It already includes some critical procedural elements, such as:

- Communication protocols, including delivery of the Notice of Investigation/Allegations;
- Managing advisor involvement;
- Strategizing acquisition of information, testimony, and evidence;
- Report writing;
- Investigation report sharing and incorporation of feedback;

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Those aren't major procedural shifts for investigations from the status quo. The key to this discussion is how much more substantive work investigators can do as they gather evidence and compile the report. That's where the G.A.S. model comes in:

G = Gather evidence

A = Assess credibility

S = Synthesize areas of dispute/agreement

Gather Evidence

Collecting the evidence from all sources, organizing it, and summarizing it in the written report is the fact-gathering function. It's a function all investigators have performed since at least 2011, and it's not new or different as a result of OCR's 2020 regulations.

Assess Credibility

Assessing credibility is also already part of a robust investigation. We think it will continue to be an essential role investigators can perform well without treading too far into the decision-maker's territory. A solid assessment of credibility sets the decision-maker up for success when making the ultimate judgment call on who is more credible and why, but it's a difficult call for the decision-maker to make in a vacuum. Credibility assessments begin in the investigation and inform the hearing – decision-makers will want to compare and contrast live testimony against what the parties and witnesses have told the investigators during the interviews. Investigators assessing credibility have to stop short of reaching conclusions about credibility, but they can highlight the key issues so the decision-makers may do so proficiently.

So, as an example, it would cross the line for an investigator to include in their report, "Mark, the responding party, was less credible than Mariana, the reporting party," or "The decision-maker should find Mark to be unbelievable in his testimony about having received consent for the following reasons..." That's not assessment, it's analysis. It goes too far.

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Assess Credibility - cont.

But the investigator can and should include in the report, “Mark’s testimony about X contrasts with Mariana’s testimony about X, and the accounts of Witness 1 and Witness 7 aligned with Mariana’s testimony, not Mark’s, during the investigation.” That’s not a conclusion, but it is an assessment of the evidence. Similarly, an investigation report could include, “The decision-maker may benefit from looking carefully at Mark’s assertions about having received consent and explore this more deeply with the witnesses during the hearing.” This allows the investigator to point to potential discrepancies between testimonial accounts or between testimony and other available evidence, but not come to a conclusion. The investigator highlights disputed accounts or conflicting evidence, but the decision-maker is at liberty to make their own final conclusions. Let’s look at a metaphor.

Cooking shows are a popular pastime during COVID-19 quarantine, so we offer this metaphor from the cooking world. If the ultimate credibility question is which party is more believable, the investigator is like a sous-chef, preparing the raw material and amassing the right ingredients according to the recipe. The decision-maker is like the chef who takes those ingredients, assembles the dish from them, cooks it, and plates it artfully. Without the chef, there is no dish, but without the sous-chef, the dish would not adhere to the recipe and would not be as satisfying. The ratio of division of duties on a kitchen preparation line (40/60? 49/51?) is comparable to the ratio of emphasis between the investigator and decision-maker in the overall resolution process.

Synthesize Areas of Dispute/Agreement

In an investigation, synthesizing is the step in report writing where the investigators prepare two lists. The first list is a summary of all undisputed evidence upon which the parties/witnesses are in agreement. The second list summarizes all the evidence that remains contested between the parties/witnesses. The hearing will focus primarily on the second list because the purpose of a hearing is to resolve disputed facts.

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Synthesize Areas of Dispute/Agreement - cont.

During the report review phase of investigation outlined in the 2020 regulations, the parties have the opportunity to review and comment on the investigation report before the hearing is scheduled. It's safe to assume that evidence that was undisputed during the investigation or report review period will remain so during the hearing. Of course, that's not always the case, and if undisputed evidence is contested during the hearing, the hearing officers will draw out and explore the nature of the new disagreement. Similarly, something apparently in dispute may turn out to be uncontested at the hearing. Regardless, anything investigators can do to narrow the scope of the hearing's inquiry to that which is in dispute will ensure the efficient flow of the hearing process to a fair determination.

Many of our members have asked whether any level of policy analysis by investigators or within the investigation report will be appropriate under the 2020 regulations. Many recipients' procedures include a step that allows a matter to be resolved informally (without a hearing) if the parties accept the result post-investigation. They can't accept a result if there isn't a finding. For a number of reasons, we don't think that investigators should engage in policy analysis, primarily because it could unduly influence an eventual hearing.

Often times, the parties can see where things are likely heading after they read the investigation report, without anything more than the G.A.S. content that is provided to the parties for their review before the report is finalized. When the report is finalized, an appropriate administrator can notify the parties if the report provides reasonable cause to move forward to a hearing and notify them that the hearing will be scheduled unless the responding party wishes to accept responsibility for some/all of the alleged violations. If so, and if sanctions are agreed upon by all parties, the matter can be resolved at that point. If not, it will be resolved through a hearing. We honor the procedural device that allows for informal, post-investigation resolution without a hearing. But ATIXA believes that option must take place outside the investigation context. Inserting a procedural step allowing for potential administrative resolution after the investigation but before the hearing is the best approach to empowering this device. ATIXA will write on and develop more of the details of how this informal step should work in a future "Tip of the Week."

Helping ATIXA Members through the New Regulations

Synthesize Areas of Dispute/Agreement - cont.

As you and your colleagues reimagine your resolution processes in the coming weeks and months, we hope you won't conserve investigation fuel, but will hit the G.A.S. to empowering the investigation as much as the courts and OCR will permit. That also includes a continued robust role for the investigator as a witness at the hearing. Investigator testimony should be mostly factual, and they should shy away from offering opinions, just as decision-makers should avoid soliciting their opinions. If opinions are offered, or become apparent, they should not be binding on the decision-makers, who must render an independent determination. By the end of an investigation, whether it takes days, or weeks, or months, we continue to believe that investigators are in a unique position to inform the overall determination, without unduly influencing it. We hope you'll find the right balance for your school or campus, and ATIXA will be here to offer certification training specific to the functions of investigators, coordinators, and hearing officers in the process.

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CONTACT INFORMATION

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Ryan Ng

From: Paul Williams
Sent: Tuesday, May 11, 2021 12:06 PM
To: Ryan Ng
Subject: FW: NCORE 2021 - Proposal Selection Notification

Follow Up Flag: Follow up
Flag Status: Flagged

FYI-Please see below.

Best,
PW

From: Debra Griffith <Debra.Griffith@westvalley.edu>
Sent: Tuesday, May 11, 2021 12:02 PM
To: Paul Williams <Paul.Williams@wvm.edu>
Subject: Fw: NCORE 2021 - Proposal Selection Notification

Hi Paul, here you go.

Debra Y. Griffith, Ed.D.

Vice President, Student Services, Diversity and Inclusion

Student Services: YOUR GOAL, OUR FOCUS

Pronouns: She/Her/Hers

[Structural Racism Definitions](#)

West Valley College
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✉ debra.griffith@westvalley.edu
☎ 408.741.4616

Planning to come to campus? Please remember the following:

- **NEW!** Download the *WVC Go* app to your phone and complete the Daily Health Self-Assessment prior to coming to campus.
- It is okay to [stay home](#) if you are not feeling well.
- Please always wear a face covering while on campus. Your face covering should cover both your nose and, your mouth.
- Please maintain 6 feet from others while on campus.
- This [video](#) provides the do's and don'ts of wearing face coverings and gloves.

From: Lincks, Justin C. <lincks@ou.edu>
Sent: Wednesday, February 24, 2021 1:02 PM
To: Debra Griffith <Debra.Griffith@westvalley.edu>
Subject: NCORE 2021 - Proposal Selection Notification

***** EXTERNAL EMAIL *****

Dear Dr. Griffith:

Congratulations! On the behalf of the NCORE Proposal Review Committee, we are delighted to inform you that your proposed session (**The Road to an Antiracist Campus) From Rhetoric to Action: West Valley College Cultivates Antiracism Guiding Principles Founded in Self Reflection** (Proposal #: **09.10**) has been accepted for presentation at the Annual National Conference on Race & Ethnicity in American Higher Education (NCORE 2021), to be held June 7th through 11th, 2021! We are convinced your presentation will provide a great service to our shared community.

Session Scheduling Notification and Confirming Your Presentation: An email notification with scheduling information for your session will be sent by Friday, March 5th. Information on how to confirm your session will be provided at that time.

Presenter Registration: All presenters/co-presenters who attend and present are required to register at one of the conference rates. This year, there are several registration options available, including a day-rate. Registration information is available on our conference website: [HERE](#).

If you have any questions, please do not hesitate to respond to this email.

We are grateful for the work you do and very much look forward to your presentation at our upcoming conference!

Sincere Regards,
Justin

Justin C. Lincks — (He/Him/His)

Program Manager
National Conference on Race & Ethnicity in American Higher Education (**NCORE**)
Southwest Center for Human Relations Studies
The University of Oklahoma OUTREACH
Norman, Oklahoma

Office: [405-325-3694](tel:405-325-3694) | Cell: [405-761-8798](tel:405-761-8798) | Email: lincks@ou.edu
Mail: SWCHRS, 3200 Marshall Avenue, Suite 290, Norman, OK, 73072
Website: <https://ncore.ou.edu>

Call to Action



Anti-Racism Resources

We must unite to stop Asian American and Pacific Islander (AAPI) hate. There has been a wave of anti-Asian violence since the start of COVID-19. **Here are some resources to help support the Asian community.**

Definitions of Anti-Racism

- Diversity, Equity, and Inclusion Glossary of Terms – CCCCO DEI Task Force.
- Becoming Anti-Racist graphic.
- Anti-Racist vs. Not Racist – As defined by Dr. Ibram X. Kendi.

Videos and Short Films

Abolitionist Teaching and the Future of Our Schools



Abolitionist Teaching and the Future of Our Schools.



Red Folder from **Ben Kallam** on **Vimeo**.

Sometimes You're A Caterpillar



Sometimes You're a Caterpillar.

TEDxHampshireCollege - Jay Smooth - How I Learned to Stop Worryi...



**TEDxHampshireCollege - Jay Smooth - How I Learned to Stop Worrying and Love
Discussing Race.**

How microaggressions are like mosquito bites • Same Difference



How microaggressions are like mosquito bites • Same Difference

+ Podcasts

+ Anti-Racism Articles

+ Books

+ Movies

Authors

Civil Rights Leaders

Anti-Racism Classroom Resources

Octavia Estelle Butler (June 22, 1947 – February 24, 2006)

Octavia was a science fiction writer, who was born in Pasadena, CA. She attended community college and while participating in a writer's workshop, she was encouraged to focus on science fiction—a realm of writing that was dominated by white males.

By the late 1970, she became a well established writer with the publication of her first novel *Patternmaster* in 1976, and her career breakthrough came in 1979 with her novel *Kindred* a novel in which she tells the story of an African American woman who travels back in time to save her salved ancestors. Her use of science fiction writing served Octavia in addressing social and political issues that faced the African American community.

- [Listen to a recent podcast about Octavia Butler from NPR.](#)
-

Gayle Jones (November 23, 1949)

Gayle Jones was born in Lexington Kentucky. Her love for writing was apparent when by the age of 7 she was writing her own stories. Jones graduated from Connecticut College with honors, and was accepted into the writing program at Brown University in 1971. Her first novel *Corregidora* was published in 1975 which received the praise of Toni Morrison. The novel centered around a Blues singer Ursa Corregidora who was hospitalized after a fall, and it explored issues such as family traumas, domestic and sexual abuse, and womanhood and motherhood.

- [The Best American Novelist Whose Name You May Not Know--The Atlantic](#)
-

Dr. Bettina L. Love

Dr. Love is the author of the books *We Want to Do More Than Survive: Abolitionist Teaching and the Pursuit of Educational Freedom* and *Hip Hop's Li'l Sistas Speak: Negotiating Hip Hop Identities and Politics in the New South*. In 2020, Dr. Love co-founded the **Abolitionist Teaching Network (ATN)**, whose mission is to develop and support educators and families to fight injustice in schools and communities.

SEC - 344

Ken Songco

Director of Student Equity & Success

Dr. David Piper

Student Equity Faculty Leader

Kelvin Tran

Program Specialist

Tricia Darrell

Program Specialist

Undocumented Dreamer Student Resources



Dreamer Liaison

Lucia Moreno: lucia.moreno@missioncollege.edu

Undocumented Student Task Force

Elvita Bustamante - A&R

Nohemy Chavez - Counseling

Mary Ann Medrano - Transfer Center

Lucia Moreno - Financial Aid, scholarships & Outreach

Omar Murillo - Interim Vice President - Student Services

Julie Vu - Welcome Center

Ken Songco - Equity/Success

Mission College Undocu-Allies

Mission College provides training for campus staff, faculty, and administrators on how to be an ally for undocumented students. After participants have completed this training, they will opt-in to be listed here as campus ally contacts.

- **Eleen Badal Abdishou**- Financial Aid
- **Amelia Akers-Martin** - ESL/ Non-Credit Faculty
- **Nan Blitz** - DSPS/Alternative Media
- **Tina Boghozian** – Library
- **Inge Bond**- Office of Research
- **Carla Beltran Breidenbach** - Foreign Languages Faculty
- **Anthony Bridges**- Admissions & Records
- **Elvita Bustamante** - A&R
- **See Chan**- Biological Sciences Faculty
- **Melissa De Los Reyes**- Admissions & Records
- **Thanh Do**- Student Equity & Success
- **Rene Dwyer**- Financial Aid

- **Cherry Lou M. Escano**- Admissions & Records
- **Maria Escobar**- A&R
- **Ashley Farris**- Faculty/Chemistry
- **Valerie Feichter**- ESL Faculty
- **Katy Fitzgerald** - Outreach/Financial Aid
- **Mario Flores** - H.S.I
- **Raymond Gerardo**- Assessment Center
- **Brian Goo**- Interim Director AANAPISI
- **Donna Hale**- CalWorks
- **Tara Hardinge** - Sociology
- **Michele Hittleman**- Counseling
- **Connor Keese** - Outreach
- **Jennifer Keh** - West Valley Counseling
- **Veronica Mendoza Hand** - Counseling Faculty
- **Alicia Martinez**- Counseling
- **Virginia Marquez** - West Valley EOPS
- **Barbara McMahon** - Instructional Technician
- **Alison McGann**- Office of Research
- **Bob Miller**- Counseling Faculty Emeritus
- **Mary Ann Medrano** - Transfer
- **Zita Melton**- Administration for Student Services
- **Lusyna Kim Narvaez** - AANAPISI/H.S.I
- **Ngoclien Nguyen**- Financial Aid
- **Daniel Peck** - President
- **David Piper** - Counseling/Psychology/Humanities Faculty
- **Marie Rancap**- Financial Aid
- **Edrina Rashidi**- MESA Director
- **Kena Rogers** - Liberal Arts
- **Julaine Rosner** - ESL Faculty
- **Monica Sain**- Adult Education
- **Manuel Salazar**- TRiO Director
- **Marcelo Sanchez-Heredia**- Counseling
- **Sarah Sullivan**- Faculty/English
- **Aram Shepherd**- English Faculty
- **Andrew Solis** - Career Center
- **Ken Songco** - Equity/Success
- **Michele Speck** - Library
- **Asmare Tadese**- Admissions & Records

- **Raiida Thompson** - H.S.I
- **Vianey Topete**- TRiO Coordinator
- **Theresa Tran** - EOPS
- **Thuy Trang** - Counseling
- **Marianna Troy**- DSPS
- **Nitha Vasquez**- Admissions & Records
- **Neil Viernes**- Chemistry
- **Jhonaliza Villanueva**- Admissions & Records
- **Julie Vu**-Welcome Center
- **Ha Young**- Financial Aid
- **Camilla Weiberg** - Child Development Faculty (Retired)
- **Lisa Willett**- Admissions & Records
- **Thais Winsome**- Biological Sciences
- **Elaine Wong** - Library Faculty
- **Nanette Wylde** - Child Development Faculty (Retired)
- **Miguel Zaragoza**- Counseling Faculty/ TRiO
- **Alejandro Zavala**- EOPS
- **Saul Zendejas** - Athletics
- **Aaron Tolbert**- Dean, Language Arts
- **Melissa Destefano** Librarian
- **Raiida Thompson** HSI STEM Grant
- **Mario Flores**- HSI STEM Grant
- **Lusyna Narvaez** - HSI STEM Grant
- **Catrina Jamello**- Counselor, CalWORKS and VALOR Center
- **Danielle Ramirez-King**- Office of Admin Services
- **Karin Navarro**- Child Development Center
- **Kelly Neary**- Biological Sciences
- **Julia Dea-Wong**- Counseling & TRiO Support Services STEM
- **Yolanda Barnes**- Counseling & Articulation
- **Bob Schaffer**- Engineering
- **Kendall Harrison**- Career Education
- **Nicholas Barron**- Anthropology
- **Javier Huerta**- English & Puente Project
- **Jorge Murillo**-HSI STEM Grant
- **Liz Bogatin-Starr**- Academic Senate
- **Richard Alfaro**- Dean, Student Services & Instruction
- **Jacqueline Escajeda**- Dean, Career & Technical Education
- **Gladys Simpson**- DSPS

- Sabrina Morales- Welcome Center Student Ambassador

Creating Spaces Series

Goal: *To create space to encourage Classifieds to have open dialogue and conversation on a range of topics.*

- *Alignment with College: Equity Framework; Call to Action Priority to build open spaces for open dialogue*
- *Alignment with Classified Senate Goal: To increase and improve engagement college-wide and district wide by creating opportunities for Safe/Brave Spaces,*
- *Related College Values: Social Justice, Equity, Community, Integrity, Curiosity, Inclusivity, Innovation*

"For Classifieds, Led by Classifieds."

Creating Spaces Team



- Kendall Harrison
- Kristal Dela Cruz
- Lusyna Narvaez
- Mario Flores
- Vianey Topete

Supported by Ken Songco, Director, Student Equity & Success and Tony Santa Ana, Interim Executive Director, Sr. Consultant & Training Associate at Allied Path Consulting, LLC.

Series Kickoff: Comm[YOU]nity Engagement

- November 19, 2020
- January 26, 2021 (All College Week Repeat Session)

Over the two sessions, we were able to have about 60 of our Classified colleagues connect, learn and have conversation. Collectively, we heard the importance of community and connection among our colleagues especially in our virtual work environments.

Below, we highlight the Creating Spaces Team's Pecha Kucha on Core Elements presented at our kickoff session.

Creating Spaces Spring Series 2021

The team has been developing what Creating Spaces will look like. This will be our first series and we will focus on the elements of the Mission College Equity Framework. We will learn and connect on how we can incorporate the elements into practice in and out of work. This series is for Classified Professionals.

February 24, 2021 - Social Justice

Pecha Kucha presented on February 24th - Social Justice from the Classified Lens



March 24, 2021 - Transparency



- April 28, 2021 - Cultural Humilty

- May 19, 2021 - Back to CommYOUityv Engagement



Student Services
West Valley College

zoom

Summer 2020

Breath Series

Facilitated by The Washington Consulting Group

Student Session

Thu, July 9th | 10:00 – 11:00 am

Faculty/Staff – People of Color

Tue, August 4th | 2:00 – 3:00 pm

Faculty/Staff – White/Caucasian

Wed, August 5th | 2:00 – 3:00 pm

Faculty/Staff – Black/African American Standing Meeting

Thu, August 6th | 2:00 – 3:00 pm



Student Services
West Valley College

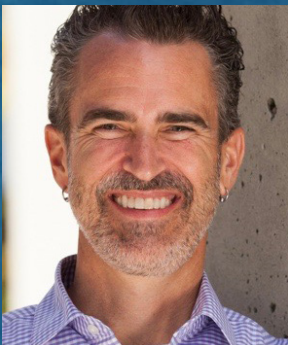
Summer 2020

Breath Series

Facilitated by Dr. Beth Douhirt Cohen and
Dr. Craig Elliott, The Washington Consulting Group



Faculty/Staff
White/Caucasian



Wednesday, August 5th
2:00 – 3:00 pm

zoom



Student Services
West Valley College

Summer 2020

Breath Series

Facilitated by Rev. Sam Offer and dr. becky martinez, The Washington Consulting Group



Faculty/Staff People of Color

Tuesday, August 4th

2:00 – 3:00 pm



zoom



Student Services
West Valley College

Summer 2020

Breath Series

Facilitated by Dr. Tanya Williams and Rev. Sam Offer, The Washington Consulting Group



Faculty/Staff

Black/African American



Thursday, August 6th

2:00 – 3:00 pm

zoom

Diversity Hiring in Practice The Role of the EEO West Valley Mission Community College District

West Valley-Mission Community College District | June 4, 2019

Presented by: Laura Schulkind

LCW LIEBERT CASSIDY WHITMORE

Diversity Hiring in Practice
The Role of the EEO
West Valley Mission
Community College
District

Presented By: Laura Schulkind
June 4, 2019

Agenda

1. Your questions
2. Overview of EEO Rep's role
3. Protecting integrity & credibility of the process
4. Assisting in implementing District policies & procedures
5. Assisting in implementing best practices
6. Providing technical assistance crafting questions & rating criteria
7. Facilitating open-mindedness & curiosity
8. Recognizing & addressing bias and procedural violations

2 LCW LIEBERT CASSIDY WHITMORE

Your Questions?

This is your time, your workshop:

- Anything from the general screening committee training that you want to discuss?
- Any other questions about your role?

3 LCW LIEBERT CASSIDY WHITMORE

Diversity Hiring in Practice The Role of the EEO West Valley Mission Community College District

West Valley-Mission Community College District | June 4, 2019

Presented by: Laura Schulkind

Overview of EEO Representative's Role

- Protect the integrity & credibility of the process
- Assist in implementing District policy & procedures
- Provide technical assistance
 - Establishing ground rules
 - Crafting questions & rating criteria
- Facilitate open-mindedness & curiosity
- Recognize & address bias and procedural violations

4 | LCW LIEBERT CASSIDY WHITMORE

Protecting the Integrity and Credibility of the Process

Core Principles:

- Diversity commitment = legal expectation
- Diversity commitment ≠ lowering standards
- Diversity commitment = eliminating irrational barriers
- Job relatedness
- All members have "EEO" responsibilities
- Confidentiality of process is essential
- Committee is in service to the College

5 | LCW LIEBERT CASSIDY WHITMORE

Protecting the Integrity and Credibility of the Hiring Process

Key Components:

- Assess all candidates using same criteria & measures
- Don't bring "outside knowledge" into interview process
- Leave reference checks to H.R., or those authorized/trained by H.R.
- Facilitate proper environment
 - ❖ Comfortable
 - ❖ Quiet
 - ❖ Private
 - ❖ Welcoming
 - ❖ Informative

6 | LCW LIEBERT CASSIDY WHITMORE

Diversity Hiring in Practice The Role of the EEO West Valley Mission Community College District

West Valley-Mission Community College District | June 4, 2019

Presented by: Laura Schulkind

Assist in Implementing College Policies & Procedures

- Application review & selection of candidates to interview
- Recommendations
- Reference checks

7 | LCW LIEBERT CASSIDY WHITMORE

Assist in Implementing College Policy & Procedures

Key Steps:

- Committee formation
 - Confirm all members are trained
 - Diverse to extent possible
 - When *not* to participate
 - Can't fairly and objectively evaluate candidates
 - Relative by blood, marriage, adoption
 - Provided recommendation for an applicant
 - Can't give full attention/attend all meetings

8 | LCW LIEBERT CASSIDY WHITMORE

Committee Formation

- **Committee should be diverse to the extent possible**
 - CCCC: Colleges may require race and gender diverse committees
 - Risks: May expose districts to discrimination claims
- **Strategies:**
 - Add rather than subtract members to achieve diversity
 - Screening committees may be reorganized to increase diversity

9 | LCW LIEBERT CASSIDY WHITMORE

Diversity Hiring in Practice The Role of the EEO West Valley Mission Community College District

West Valley-Mission Community College District | June 4, 2019

Presented by: Laura Schulkind

Assist in Implementing College Policy & Procedures

Key Steps:

- Review announcement/job description
- Develop process for deciding who to interview
- Develop interview questions
- Develop demonstration component (if applicable)
- Develop rating forms/process
 - To select candidates to interview
 - To rate interview performance
- Develop model answers

10 | LCW | LIEBERT CASSIDY WHITMORE

Assist in Implementing Best Practices

- Assess all candidates using same criteria
- Don't bring "outside knowledge" into interview process
- Reference checks not a committee function
 - Occurs after finalist selected...and only for finalist
 - Requires particular expertise
 - Committee may provide expertise/concerns in fashioning reference check
- Maintain confidentiality
- Attend all meetings

11 | LCW | LIEBERT CASSIDY WHITMORE

**Provide Technical Assistance
Crafting Questions & Rating Criteria**

Keep committee focused on role:

- Identify the most qualified candidates to recommend forward to next level.

12 | LCW | LIEBERT CASSIDY WHITMORE

Diversity Hiring in Practice The Role of the EEO West Valley Mission Community College District

West Valley-Mission Community College District | June 4, 2019

Presented by: Laura Schulkind

**Provide Technical Assistance
Crafting Questions & Rating Criteria**

Rating criteria through a diversity lens:

- Broadening/rethinking job-related experience
- Valuing currency of knowledge v. years of experience
- Whether/how much weight for the PhD.

13 | LCW | LIEBERT CASSIDY WHITMORE

**Provide Technical Assistance
Crafting Questions & Rating Criteria**

Rating criteria through a diversity lens:

- **Ask:** Does the rating criterion evaluate what you intend the question to measure?
- **Ask:** Is everything that will influence the recommendation memorialized in the rating form?
- **Ask:** Is everything we are rating job related?

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**Provide Technical Assistance
Crafting Questions & Rating Criteria**

Crafting questions through a diversity lens:

- **Remember:**
 - The job description/announcement is your source document.
- **Ask:**
 - What are we seeking to measure & is it job related?
 - What is the best way to evaluate this factor:
 - Document review? Demonstration?
 - Interview question? Background check?

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Diversity Hiring in Practice The Role of the EEO West Valley Mission Community College District

West Valley-Mission Community College District | June 4, 2019

Presented by: Laura Schulkind

**Provide Technical Assistance
Crafting Questions & Rating Criteria**

Crafting questions through a diversity lens:

- **Help committees understand what an interview can (and cannot) measure**
 - **Myth #1:**
Whether a candidate resonates with me on a personal level reliable predicts whether the candidate will do a good job.
 - **Myth #2:**
How someone performs in an interview setting reliably predicts how that person will interact with me in the work setting.

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**Provide Technical Assistance
Crafting Questions & Rating Criteria**

Crafting questions through a diversity lens:

- **Ask:**
 - Do our questions evaluate currency of knowledge?
 - Do our questions evaluate global knowledge?
 - Do our questions evaluate skills and abilities?
 - What form of question is best for this factor?
 - **Open?**
 - **Hypothetical?**

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**Provide Technical Assistance
Crafting Questions & Rating Criteria**

--Exercise--

Develop 1 question for a position of your choice that:

- Is designed to elicit job-related information about the candidate's knowledge, skills and/or abilities;
- Assesses a job-related attribute that gives consideration to current, updated, global or other KSAs; and
- Gives you insight into what makes this candidate unique.

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**Provide Technical Assistance
Crafting Questions & Rating Criteria**

--Exercise--

Develop 1 question for a position of your choice that:

- Is designed to elicit information about the candidate's knowledge, skills and/or abilities;
- Assesses the candidate's sensitivity to the diversity of community college students; and
- Gives you insight into the candidates (job related) creativity and/or problem-solving skills

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Facilitate Open-Mindedness & Curiosity

- Cultural competence/humility is proactive
 - Find common ground
 - Model active listening
- Maintain focus on job-relatedness
- Maintain focus on content of responses
- Keep external knowledge out of committee the rating process

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Prevent Impacts of Unconscious Bias on Decision Making

Reduce defensiveness—we were born this way...

- We Evolved to Be Biased
 - Humans make decisions based on what is safe or not safe.
 - In past, determining what was coming at you was a life/death decision.
 - Our “danger detector” is unconscious hard-wired, and necessary for survival

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Prevent Impacts of Unconscious Bias on Decision Making

Increase understanding—what is unconscious bias?

- Past experiences and current perceptions drive our perspectives and our actions
- Under stress or pressure, we gravitate even more strongly toward our unconscious bias

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Prevent Impacts of Unconscious Bias on Decision Making

Heighten Awareness—Unconscious Bias in the Hiring Context:

- I'm Okay; You're Biased
 - People *under*estimate the influence that self-interest has on their own judgments.
 - People *over*estimate the influence that self-interest has on other people's judgments.

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Prevent Impacts of Unconscious Bias on Decision Making

Heighten Awareness—Unconscious Bias in the Hiring Context:

- **Confirmation bias**
 - The tendency to hear information in a manner that confirms what we already believe
- **Affinity bias**
 - The tendency to prefer those that remind us of ourselves
- **Availability Heuristic**
 - You tend to trust your own experience and knowledge even if these go against new information that is presented.

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Prevent Impacts of Unconscious Bias on Decision Making

Heighten Awareness—Unconscious Bias in the Hiring Context:

- **Beauty Bias**
 - If we perceive someone to be attractive, we tend to give them the benefit of the doubt, trust them, etc.
- **Anchoring**
 - The tendency to rely to heavily on one piece of information when making decisions.

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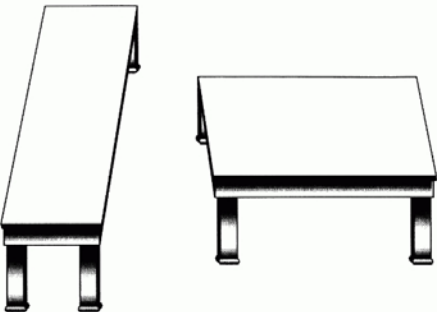
Prevent Impacts of Unconscious Bias on Decision Making

Heighten Awareness—Unconscious Bias in the Hiring Context:

- **Bandwagon effect**
 - The tendency to do (or believe) things because many other people do (or believe) the same thing
- **Negativity Effect**
 - The tendency to allow things that are negative to have a more significant effect than things that are positive or neutral

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Two Tables Exercise



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West Valley-Mission Community College District | June 4, 2019

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Addressing Unconscious Bias

Increase Willingness to Examine Own Behavior

- **Members monitor reactions to the candidates**
 - What is the basis for my positive/negative reaction?
 - Is my reaction grounded in the content of the candidate's performance?
 - Am I reacting to what this [question/exercise] was intended to measure?
 - Is my reaction disproportionate to the response?
 - Is my reaction consistent with my reaction to similar responses from other candidates?

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Recognize & Address Bias and Procedural Violations

For discussion, how do you handle:

- Committee member proposes question: "when did you graduate from college"

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Recognize & Address Bias and Procedural Violations

For discussion, how do you handle:

- Candidate looks down at his hands and doesn't make eye contact during interview. Committee member rates all responses low because she "didn't trust him"

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West Valley-Mission Community College District | June 4, 2019

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Recognize & Address Bias and Procedural Violations

For discussion, how do you handle:

- Candidate has heavy accent, committee member says “can’t understand what she’s saying—how can this person possibly teach?” and gives lower ranking on answers

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Recognize & Address Bias and Procedural Violations

For discussion, how do you handle:

- Candidate arrives late, committee member wants to “penalize” in some fashion
- Candidate who arrives late says, while patting abdomen: “sorry, my medical appointment ran long. Since I’m over 40 we’re being extra careful with this one.”

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Recognize & Address Bias and Procedural Violations

For discussion, how do you handle:

- Committee selects strong candidate for interview, over objections of one member. The member tells you she knows candidate resigned from last position to avoid being fired.

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West Valley-Mission Community College District | June 4, 2019

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Recognize & Address Bias and Procedural Violations

For discussion, how do you handle:

- Reviewing the rating forms, you see one member who rated the only female candidate lower than all other candidates on all questions, and far lower than other members rated her.

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Recognize & Address Bias and Procedural Violations

For discussion, how do you handle:

- A current adjunct has received an interview for a tenure track position.
 - One committee member wrote him a recommendation for another college, and the candidate included it in the application.
 - One committee member thinks he his a terrible writer and is "sure" someone helped him with the written answers. "This just doesn't sound like Bob".

Practice tip: focus on elimination of bias in the process, not the people

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Advancing Workforce Diversity...Even When You Aren't Hiring

Bay Area Community College District | February 5, 2021

Presented by: Laura Schulkind



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Advancing Workforce Diversity...Even When You Aren't Hiring

Presented By:
Laura Schulkind



Agenda

1. Overview of legally compliant strategies
2. Deep dive: activities that lay the groundwork for successful recruitments & hiring
 - Update policies through DEI lens: CCLC Update for local planning
 - Develop robust EEO plans
 - Create/sustain a workplace designed to attract & retain candidates from historically excluded groups—When you accelerate hiring...will they come?
 - Update hiring procedures through a DEI lens
 - Revisit equivalency criteria & processes
 - Update job descriptions through a DEI lens
 - Update faculty evaluation tools
 - Data development to support EEO efforts

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EEO HIRING & THE LAW LEGALLY COMPLIANT STRATEGIES



Legal Snapshot: CCDs & Employment Discrimination

- Overview:
 - Prohibition against employment discrimination isn't new
- **What constitutes unlawful discrimination has changed:**
 - Equal opportunity → Equal treatment
 - ... *but*
- **Expected results have not changed:**
 - Build a diverse workforce
 - Eliminate underrepresentation of protected groups



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Lawful Strategies For Promoting Workforce Diversity

Four basic areas:

1. On-going: Workplace/educational environment

- Create workplace environments attractive to nontraditional candidates, so they come...and stay

2. Pre-recruitment: Update who you are looking for

- Exclude irrational barriers. Ask: is this desirable qual. a reliable predictor of performance?
- Include *job-related* criteria that value current/global "KSAs"

Lawful Strategies For Promoting Workforce Diversity (cont'd)

Four basic areas (cont'd):

3. Recruitment

- Implement recruitment strategies designed to build diverse, qualified applicant pools

4. Selection Processes

- Use diverse, well-trained, curious hiring committees
- Implement hiring procedures designed to "interrupt" unconscious bias in the decision-making process

Legal Snapshot: Regulatory Enforcement

- **Title 5 Regulations Require:**

- EEO Plans.*
- Hiring procedures
- Steps to eliminate underrepresentation**

- **State Chancellor Enforcement:**

- Established EEO Model Plan
- Annual report of multiple methods to promote equity & diversity & failure can result in loss of EEO funds

*Section 51010, *et seq.*

**Section 53006



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Legal Snapshot: Regulatory Enforcement

- **Multiple method ALLOCATION model***

- EEO Fund disbursement contingent on meeting “multiple methods of measuring success”
- 9 “multiple methods” set by CCCCCO
- Districts must have:
 - EEO Advisory Committee & EEO Plan (MM # 1)
 - A minimum of 5 of remaining 8 MM
- Annual certification to CCCCCO required

*§ 53030(b)



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State Chancellor: Multiple Methods

Pre-Hiring

1. District's EEO Advisory Committee and EEO Plan
2. Board policies & adopted resolutions
3. Incentives for hard-to-hire areas/disciplines
4. Focused outreach and publications

State Chancellor: Multiple Methods (cont'd)

Hiring

5. Procedures for addressing diversity throughout hiring steps and levels
6. Consistent and ongoing training for hiring committees

Post-Hiring

7. Professional development focused on diversity
8. Diversity incorporated into criteria for employee evaluation and tenure review
9. Grow-Your-Own programs

State Chancellor: Vision for Success

- **Report of the DEI Task Force***
 - Includes a “List of Institutional Diversity Strategies”

[*https://www.cccco.edu/About-Us/Vision-for-Success/diversity-equity-inclusion](https://www.cccco.edu/About-Us/Vision-for-Success/diversity-equity-inclusion) (February, 2020)



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**UPDATE POLICIES THROUGH A
DEI LENS: CCLC UPDATE FOR
LOCAL PLANNING**



CCLC Template Service Overview

- Areas Covered by the Templates:
 - Chapter 1 – The District
 - Chapter 2 – Board of Trustees
 - Chapter 3 – General Institution
 - Chapter 4 – Academic Affairs
 - Chapter 5 – Student Services
 - Chapter 6 – Business and Fiscal Affairs
 - Chapter 7 – Human Resources



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Policies and Procedures Through a “DEI Lens” – Overview & Approach

- The premise:
 - Every area of institutional operations covered by the BPs/APs affects student, community, and employee access to districts' programs and services
 - This means all these areas have the ability to (and do) impact equity and inclusion – either positively or negatively
 - Policies/procedures are tools for orienting each institutional area in the right direction by
 - Drawing the connection between that area's institutional function and DEI issues;
 - Creating expectations and accountability
 - Offering procedures to execute broad policies grounded in DEI concepts.



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Policies and Procedures Through a "DEI Lens" – Overview & Approach (cont'd)

- **The approach:**

- Identify the particular linkage between the institutional area and DEI
- Express this in policy
- Develop procedures that implement the policies
- This presentation focuses on the BP templates under revision. Revisions will also be provided for corresponding APs, likely in the Fall update.



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Examples of Board Policies Under Revision

- **Chapter 1 – The District**

- BP 1200 – District Mission – Optional language linking DEI commitment to mission

- **Chapter 2 – Board of Trustees**

- BP 2200 – Board Duties and Responsibilities – Optional language including duty to be antiracist
- BP 2220 – Committees of the Board – Optional language creating standing DEI Board Committee
- BP 2435 – Evaluation of the CEO – Optional language that CEO evaluation will include DEI goals and indicators
- BP 2745 – Board Self Evaluation – Optional language that self evaluation will include DEI goals and indicators



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Examples of Board Policies Under Revision (cont'd)

- Chapter 3 – General Institution
 - BP 3225 – Institutional Effectiveness – Optional language linking effectiveness to equity and inclusion
 - BP 3420 – Equal Employment Opportunity – Optional language re: the importance of an equitable and inclusive hiring process to EEO; directing APs that create DEI driven hiring procedures



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Examples of Board Policies Under Revision (cont'd)

- Chapter 3 – General Institution (cont'd)
 - AP 3435 – Discrimination and Harassment Investigations and AP 3434 – Responding to Title IX complaints – Optional language for Board to receive report of complaints and results
 - Broken down by complaint type – student vs. student; student vs. employee, etc.
 - Broken down by race, age, gender, gender expression, gender identity, religion, etc.
 - BP 3725 – Information and Communications Technology Accessibility & Acceptable Use
 - Optional language to lawfully manage access to district platforms



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Examples of Board Policies Under Revision (cont'd)

•Chapter 4 – Academic Affairs

- BP 4020 – Program, Curriculum, and Course Development – Optional language for Board to encourage:
 - Ethnic studies
 - Infusing global perspectives across disciplines
 - Faculty to include low socioeconomic perspectives in instruction
- BP 4106 – Nursing Programs – Optional language for Board to encourage recruiting students for the program from low socioeconomic populations
- BP 4250 – Probation, Dismissal, and Readmission – Optional language for Board to receive annual/biannual report of student probation, dismissal, readmission by race, age, and gender – disaggregated



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Examples of Board Policies Under Revision (cont'd)

•Chapter 5 – Student Services

- BP 5050 – Student Success and Support Program – Optional language strengthening Board expectation for programs to be designed to identify and close achievement gaps and DEI
- AP 5520 – Student Discipline Procedures – Optional language for Board to receive annual/biannual report of student discipline by race, age, gender, gender expression, and gender identity – disaggregated

•Chapter 6 – Business & Fiscal Affairs

- BP 6340 – Bids and Contracts – Optional language expressing commitment to DEI for district vendors and direction for creation of Vendor Diversity Plan
- BP 6910 – Housing – Optional language for Board to give preference to formerly homeless individuals in any district-provided housing



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Examples of Board Policies Under Revision (cont'd)

•Chapter 7 – Human Resources

- BP 7100 – Commitment to Diversity – Optional stronger language
- BP 7120 – Recruitment and Hiring – Optional language
 - Expressing the Board's commitment to diversity, equity, and inclusion by linking it to student success and district mission
 - Providing definitions of underrepresentation and diversity hiring to promote shared, community-wide understanding of these terms
 - Adding Board expectations for breadth in the EEO plan, and use of multiple measures
 - Board will receive a report of the EEO Plan annually
- BP 7130 – Compensation – Optional language for Board to require study re: compensation by race, age, gender, religion, etc.



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Examples of Board Policies Under Revision (cont'd)

•Chapter 7 – Human Resources (cont'd)

- BP 7160 – Professional Development – Optional language for requirement for training in critical race theory, critical gender theory, and sensitivity training
- BP 7345 – Catastrophic Leaves – Optional language for Board to receive report of catastrophic leave requests and responses by race, age, gender, etc.
- BP 7350 – Resignations
 - Optional language for Board to receive annual report of resignations by race, age, gender, gender expression, and gender-identity – disaggregated
 - Requirement for exit interview in normal circumstances
- BP 7600 – College Police – Optional language to see disaggregated information regarding complaints against police by race, gender, gender identity, religion, etc.
 - Optional language for BP statement re: District's use of force guidelines



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Policy & Procedure Updates Through a DEI Lens: Local Steps

- Identify any additional policies/procedures you want to address locally
- Plan for local review of all templates and tailoring as-needed
- Lay the groundwork for smooth application of local shared governance processes
 - Review your 10+1 participatory governance criteria
 - Meet with senate leadership
- Lay the groundwork for board-level policy review and adoption



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**PREPARE ROBUST EEO PLANS:
NOW IS THE TIME**



Developing and Maintaining Institutional Commitment to Diversity*

*§ 53024.1.

Model Plan component #14: The heart of the EEO Plan

A process for developing and implementing strategies, as described in section 53024.1, *that demonstrate on-going, institutional commitment to diversity and equal employment opportunity.*



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Developing and Maintaining Institutional Commitment to Diversity* (cont'd)

*§ 53024.1.

May include, but not limited to:

- Conducting campus climate surveys & using this information
- Conducting exit interviews & using this information
- Providing training to employees, students & trustees
 - elimination of bias in hiring and employment,
 - cultural awareness
 - discrimination/harassment prevention



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Developing and Maintaining Institutional Commitment to Diversity* (cont'd) *§ 53024.1.

May include, but not limited (cont'd):

- Maintain programs to support newly-hired employees
- Maintain updated job descriptions and job announcements.
- Timely and thoroughly investigate all harassment & discrimination complaints & take appropriate corrective action in all instances where a violation is found.
- Convey in publications and website the district's commitment to diversity & EEO



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Developing and Maintaining Institutional Commitment to Diversity* (cont'd) *§ 53024.1.

May include, but not limited (cont'd):

- Conveying commitment to diversity & inclusion in district mission statement,
 - Including recognition that a diverse workforce promotes educational goals and values.
- Assess "sensitivity to diversity" of all applicants
- Providing EEO/diversity enhancement resources and assistance to other districts



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Developing and Maintaining Institutional Commitment to Diversity* (cont'd) *§ 53024.1.

May include, but not limited (cont'd):

- Maintaining updated curricula, texts, and/or course descriptions
- Addressing diversity issues in a transparent and collaborative fashion
- Surveying applicants who decline offers & using the information
- Conducting longitudinal analysis of various employment events by monitored group status such as: hiring, promotion, retention, voluntary resignation, termination, and discipline



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EEO Plan Development: Practice Tips

- Foster EEO Advisory Committee Continuity
 - At district level
 - Between colleges and district in multi-college systems
- Audit what you are already doing through a "multiple methods" lens
 - Are EEO Plan activities effective?
 - Are you engaged in activities that support EEO that aren't memorialized in the EEO Plan?
- Indicate the year(s) in which certain activities will occur
 - Including when longitudinal data analysis will begin
 - Be realistic



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Advancing Workforce Diversity...Even When You Aren't Hiring

Bay Area Community College District | February 5, 2021

Presented by: Laura Schulkind

BUILD YOUR REPUTATION FOR INCLUSIVITY



Promoting an Inclusive Work Environment

- Institutional curiosity and reflection
 - Climate surveys
 - Exit interviews
 - Disaggregated data
 - Training, training, training



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Promoting an Inclusive Work Environment (cont'd)

- Institutional action
 - Intern programs
 - Mentoring programs
 - Opportunities for growth and leadership

What Else?

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UPDATE HIRING PROCEDURES



Updating Hiring Procedures: Procedural Considerations

Management hiring procedures:

- Are not subject to the shared governance consultation process— unless you have locally included it as a “+ 1”

Faculty hiring procedures:

- Are subject to shared governance consultation process.

Updating Hiring Procedures: The DEI Lens

• Some examples:

- Process to facilitate forming diverse screening/hiring committees
 - H.R. authority to request alternate appointments
 - Identifying non-discipline specific KSAs that can be assessed by a broader group of employees
- H.R. authority to disallow screening/hiring committee members due to conflicts of interest
- Process to ensure all screening committee members are trained
- MQs determined by H.R.—not hiring/screening committees

Updating Hiring Procedures: The DEI Lens

- **Some examples:**
 - First-tier screening bias “interrupters”
 - No names
 - No recommendations
 - No transcripts
 - Questions will include a job-related inquiry regarding serving underserved populations
 - Rating form must be used
 - Process that errs on side of granting interviews
 - Interview process
 - Model answers
 - Rating form required
 - Minimum number recommended to hiring authority [generally at least 3]



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Updating Hiring Procedures: The DEI Lens

- **DEI Task Force Report recommendation:**
 - Host open houses for prospective candidates with panels of current faculty and deans.
 - “Tier 1” Activity: HR, Administration, Department Chairs and Student Services to collaborate on updating faculty hiring procedures and methods to include open houses.

LCW Note: include Academic Senates regarding faculty hiring procedures.



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COLLABORATE WITH SENATES ON EQUIVALENCY PROCESS



Equivalency Process Overview

- An alternative process to determine an applicant's qualifications for a faculty position, other than meeting the State-established MQs.
- All districts must have an equivalency process.
- Process must be jointly developed by local governing board and academic senate.
- Districts must rely primarily on their academic senates in individual determinations of equivalency.



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Equivalency Principles

- Equivalency does *not* lower the minimum qualifications for hiring.
- Equivalency refers to any qualifications that are at least equal to the state-adopted minimum qualifications for a particular discipline.
- Equivalency applies where applicants provide evidence that their education and experience is equivalent to the minimum qualifications for the position.



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Equivalency Principles

- Equivalency to a required Master's may be demonstrated through experience, not just a comparable Master's degree, but:
 - Applicants must show their breadth of coursework or experience is equal to the *general education* component of an earned degree; and
 - Applicants must show they have attained the skills and knowledge equivalent to the depth of knowledge provided by the required Master's degree.
 - Eminence should not be used as the sole criterion.



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State Chancellor Equivalency Process Guidance

- **State Chancellor equivalency process memorandum (12/16/20):**
 - Equivalency processes provide a mechanism to improve faculty diversity.
 - Suggested framework for “equity-centered” process includes:
 - Reflective and proactive training
 - A data-informed process that helps campuses examine institutional structures that perpetuate bias.
 - On-going assessment of institutional practices

Creating Equity-Centered Equivalency Processes

- **Training**
 - DEI Task Force recommends requiring equivalency committees to receive same training as hiring committees.
- **Equivalency Committee Configuration**
 - ASCCC recommends including an HR representative who can inform the equivalency committee of past decisions of the committee for consistency and fairness and provide EEO training to center the committee’s dialogue.
- **Equivalency Process Review**
 - Review/revise equivalency processes to reflect that nontraditional modes of demonstrating equivalent qualifications will be considered.

Creating Equity-Centered Equivalency Processes

- **Accessibility of Job Application Process**
 - Provide equivalency process information that is clear, easily accessible and up-to-date on the district's website, and all relevant HR documents.
 - Avoid terms and jargon that may be unfamiliar to candidates from outside the California CCD system.
 - Make clear that candidates will be considered who demonstrate they acquired the requisite general and discipline specific knowledge/skills through nontraditional avenues.



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**UPDATE JOB DESCRIPTIONS
AND POSITION
ANNOUNCEMENTS**



Update Job Descriptions / Announcements

- **Ask:**
 - Do the “KSAs” need to be updated?
 - How do issues of diversity impact this work?
 - What job-related criteria value/attract diverse candidates?
 - What job-related criteria assess “sensitivity to diversity. . .”
 - Who are the students served and what are their needs?
 - Do the preferred criteria include irrational barriers (i.e. unreliable predictors of performance) that will tend to reduce pool diversity?

Update Job Descriptions / Announcements

- **For example:**
 - Valuing currency of knowledge may facilitate building a more diverse, qualified pool
 - Valuing current knowledge gives those more recent to the field the opportunity to shine.
 - Diversity increases among those more recent to the field.

*Note: this does **not** mean valuing *younger* candidates.

Advancing Workforce Diversity...Even When You Aren't Hiring


Bay Area Community College District | February 5, 2021

Presented by: Laura Schulkind

Update Job Descriptions / Announcements

- For example, in faculty context:
 - Global perspective is consistent with CCD mission
 - Ask: Is global perspective evident in how jobs are defined and knowledge/skills required?
 - If not: reexamine curriculum, programs, majors, etc.

* **Note:** this will both improve work culture and may diversify pool of qualified candidates.

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Updating the Job Announcement: Putting it into Practice


BIOLOGICAL SCIENCES—ANATOMY AND PHYSIOLOGY
ASSISTANT PROFESSOR
Division: Natural, Social and Applied Sciences

Last Day to Apply: — by 5:00 p.m.

JOB OPPORTUNITY ANNOUNCEMENT

XYZ College is accepting applications for a full time, tenure track Biological Sciences Assistant Professor.

DESCRIPTION OF POSITION	XYZ College is seeking a full-time tenure track academic position in Biological Sciences. The successful candidate will be well qualified to teach a variety of biological science courses. Teaching assignments will include Human Anatomy and Human Physiology, and other Biological Sciences course.
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Advancing Workforce Diversity...Even When You Aren't Hiring

Bay Area Community College District | February 5, 2021

Presented by: Laura Schulkind


Rethinking Job Descriptions: Putting it into Practice

DUTIES AND RESPONSIBILITIES	<p>Duties and responsibilities include but are not limited to:</p> <ol style="list-style-type: none">1. Advancing student learning through dedicated, exemplary instruction in accordance with established course outlines;2. Developing and implementing student learning outcomes assessment processes for courses and programs.3. Collaborating in the development and revision of the curriculum and program review;4. Engaging in department program improvement initiatives.5. Participating in department, division, and college committees;6. Participating in professional development activities, both departmental and college-wide;7. Maintaining current knowledge in the subject matter area and effective teaching/learning strategies;8. Maintaining appropriate standards of professional conduct and ethics;9. Informing students of course requirements, evaluation procedures and attendance requirements;10. Preparing and grading class assignments and examinations and informing students of their academic progress;11. Maintaining attendance, scholastic, and personnel records and submitting them according to published deadlines;12. Posting and maintaining adequate and regular office hours in accordance with prevailing policy;13. Participating in College's shared governance processes.
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Rethinking Job Descriptions: Putting it into Practice


- **MINIMUM QUALIFICATIONS**
 - The applicant must possess one the following qualifications (earned degrees must be from an accredited college/university):
 1. Master's degree in any biological science; OR
 2. Bachelor's degree in any biologic science AND a Master's degree in biochemistry, biophysics, or marine science; OR
 3. The equivalent. Please note: If you do not meet the minimum qualifications EXACTLY or if you're unsure whether or not your degree meets the minimum qualifications, you MUST complete the equivalency form contained in the application packet.

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Rethinking Job Descriptions: Putting it into Practice


Desirable Qualifications

1. Demonstrated commitment to student learning and to the success of all students in the open-access learning environment of a community college;
2. Demonstrated sensitivity to issues of diversity, and ability to motivate and teach community college students of diverse ethnic and racial backgrounds, sexual orientations, genders, cultures, and learning styles, as well as students with disabilities or varied levels of academic preparation;
3. Demonstrated commitment to professional growth and development, to innovation and improvement of teaching, and to assuming faculty responsibilities beyond the classroom in a shared governance environment;
4. Demonstrated excellence in preparation and knowledge of and/or teaching experience in Human Anatomy, Human Physiology, and other biological science courses such as General Biology.

 LIEBERT CASSIDY WHITMORE

Rethinking Job Descriptions: Putting it into Practice

- **SELECTION PROCEDURE**
 - Applications will be screened to ensure the applicant meets the minimum qualifications as stated in the job announcement.
 - Those candidates who are deemed to possess the highest degree of desirable qualifications will be invited to the college at their own expense.
 - During the campus visit, each applicant will be interviewed and may be asked to conduct a demonstration appropriate to the discipline.

 LIEBERT CASSIDY WHITMORE

Rethinking Job Descriptions: Putting it into Practice

- GENERAL INFORMATION

- XYZ College
XYZ College is a large suburban community college, approximately 25 miles from Big City. One of 3 colleges in the XYZ Community College District, XYZ College enrolls approximately 20,000 students, about 40% of whom come from groups historically underrepresented in higher education. XYZ College ranks consistently as one of the most successful transfer institutions in California and also offers a wide range of highly respected occupational programs leading to certificates or degrees. The faculty is known for its intellectual vitality and deep commitment to the success of its students.



LIEBERT CASSIDY WHITMORE

UPDATE FACULTY EVALUATION TOOLS



FACULTY EVALUATION TOOLS

- **Note:** The DEI Task Force Report "*List of Institutional Diversity Strategies*" includes a recommendation to update faculty evaluation tools to include a "diversity component"
- Must be negotiated
- May also require consultation with senates



LIEBERT CASSIDY WHITMORE

FACULTY EVALUATION TOOLS


- **Updates should:**
 - Only evaluate faculty on job-related criteria
 - Incorporate assessment of any expanded knowledge/skills reflected in updated job descriptions
 - Include robust professional standards required in a diverse educational environment.



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FACULTY EVALUATION TOOLS

- **The Nexus to DEI Hiring:**
 - The equity-mindedness, skill and engagement of current faculty around DEI is your greatest recruiting tool.

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DATA DEVELOPMENT TO SUPPORT EEO EFFORTS



Using Data to Support Lawful EEO Hiring Practices

- **Role of data generally:**

- You may rely on data that is suggestive (rather than definitive) for “low stakes” decisions such as:
 - Those that don't negatively impact a specific candidate or employee
 - Designing prospective recruitment & hiring procedures
 - Designing training

Using Data to Support Lawful EEO Hiring Practices

- **Data uses to impact hiring decisions:**

- Hard conversations with administrators who want to hand-pick their employees
- Hard conversations with faculty
- Updating job descriptions
- Tailoring focused recruitments
- Identifying training needs
- Tailoring unconscious bias “interrupters”
- In job descriptions:
 - Identifying false predictors of performance
 - Updating job descriptions

Promoting an Inclusive Work/Educational Environment

• Types of Data?

- Who declines offers—by race/gender/job classification/department/campus/etc.
- Who voluntary resigns—by race/gender/job classification/department/campus/etc.
- And *why*
 - Do any patterns emerge from longitudinal analysis?



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Promoting an Inclusive Work/Educational Environment

• Types of Data?

- How do employees describe the work/education climate?
 - Any patterns by race/gender/campus, department, job classification etc.
 - Any patterns emerge from longitudinal review?
- Audit of types/frequency of disputes (harassment complaints, PERB, contract grievances, discipline, disability accommodations, etc.)
- Audit of how leadership is shared and visibility of “nontraditional” leaders (e.g. men of color in nursing; women in hard sciences etc.)



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Recruitment

- **Types of Data:**

- Comparison of composition of applicant pools with qualified pools—by race, gender, geography and other factors
 - Are there patterns by department/campus/classification?
 - Are there patterns over time?
- Comparison of those “available” for the position, with those in your qualified pool



LIEBERT CASSIDY WHITMORE

Hiring Practices— Unbiased Decision Making

- **Types of Data?**

- Comparison of qualified pools with who gets interviewed & who gets hired
 - By race, gender and other protected categories
 - By district, college, campus, department, etc.
 - Longitudinally
- Rating criteria used by committees to select interviewees and recommend candidates
- Hiring committee composition
- Complaints filed by candidates
- Demographic data regarding hiring department
- Possible correlations between staff diversity & student success



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Using Data to Support Lawful EEO Hiring Practices

- **Data uses to reduce liability:**

- Data can support job-relatedness of job standards and preferred qualifications
- Reflective longitudinal data analysis protects districts from top-down involvement of SCCC
- Avoid claims of adverse impact.
 - Successful claims unlikely due to small statistical samples, but could emerge over time, through longitudinal data

Thank You!

Laura Schulkind

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Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

Presented By: Eileen O'Hare-Anderson

LCW LIEBERT CASSIDY WHITMORE

Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Presented By:
Eileen O'Hare-Anderson

AGENDA

- Academic Employees and Tenure
- Temporary Academic Employees
- Administrator Contracts
- Classified Employees and the Proper Use of Exempt Employees
- Personal Service Contracts
- Leaves for Academic and Classified Employees
- Employee Recruitment
- Record Use and Retention

LCW LIEBERT CASSIDY WHITMORE

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Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

Presented By: Eileen O'Hare-Anderson

Permanent Academic Employees and Tenure



Academic Employees: Some Basics

- Contract employee
 - Probationary academic employee
- Employment of contract faculty
 - Contract 1 – for the first year
 - Contract 2 – for the second year
 - Contract 3 – for the third and fourth years

Ed. Code, §§ 87605, 87608,
87608.5



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Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

Presented By: Eileen O'Hare-Anderson

Granting Tenure – When is a Year a Year?

- A probationary faculty member
- Who provides service for 75% of days
- Deemed to complete the second, third, or fourth year
- Leave of absence may be included in the computation

Ed. Code, § 87606

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Granting Tenure – Releasing Probationary Faculty Members

- Written notice re: not continuing employment
- By March 15
- Failure to give notice to First or Second Contract employees
 - Extension of existing contract without change
 - For following academic year after Contract 1
 - For following two academic years after Contract 2
- Failure to give notice to Third Contract employees
 - Employee returns with tenure

Ed. Code, § 87610

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Bay Area CCD ERC | April 16, 2021

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Granting Tenure

- Can grant early tenure
- Performance evaluations of faculty
 - Comply with own policies and procedures
 - Must include peer review
 - Should include student evaluations

Ed. Code, §§ 87660 et seq.

 LIEBERT CASSIDY WHITMORE

Granting Tenure: Appeal

- Grievances regarding March 15 notices
- After first and second contracts
 - Limited to claims district violated evaluation process
- After third contract
 - Process
 - Decision was unreasonable
- Must proceed to arbitration hearing

Ed. Code, §§ 87610.1, 87740

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Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

Presented By: Eileen O'Hare-Anderson

Tenure v. Seniority: What is the difference?

- Tenure describes an employee's right to employment in the district
- Seniority describes the right of an employee to employment compared to his or her colleagues

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Employment of Temporary Faculty Members



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Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

Presented By: Eileen O'Hare-Anderson

Case Study

Leticia was first hired as an adjunct professor 2016-17 to teach a engineering course. A full time load at the college is 15 units. For each semester beginning in Fall 2016 through the present, Leticia taught 8 units. She also was required to attend committee meetings, events regarding an engineering team contest, develop a recruiting plan, recruit students for the engineering team, and attend meetings with the STEM department. She also held extra hours for engineering team practice for which she was paid a stipend.



LIEBERT CASSIDY WHITMORE

Case Study

From Summer 2017 through Summer 2020, Leticia taught 4 units of engineering courses each summer session in addition to the above units.

In 2019-20, the college reassigned Leticia to a categorical program teaching 15 units per semester. The college again assigned her to teach 15 units per semester in the 2020-2021 academic year.



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Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

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Polling: Case Study

Do her extra duties effect Leticia's employment status?

Will Leticia be a probationary faculty at the end of the 2020-2021 academic year?



LIEBERT CASSIDY WHITMORE

Polling: Case Study

If Leticia wishes to make more money to help pay her sick grandmother's medical bills and agrees that she will not become a probationary faculty, can she work full time in 2020-21 and keep her adjunct status?



LIEBERT CASSIDY WHITMORE

Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

Presented By: Eileen O'Hare-Anderson

Temporary Faculty

- General rule:
 - Employment is tenured or probationary
 - Temporary employment is the exception
 - Courts will find an employee is a probationary employee
 - Unless very clear he/she/they is a temp
- Hiring temps gives flexibility but situations are limited

 LIEBERT CASSIDY WHITMORE

Temporary Faculty

- Categories:
 - To fill a vacancy of an absent employee
 - To fill a position for which there is no regular employee
 - Emergency appointments
 - Need for additional faculty during a particular semester, quarter, or year
 - Due to specific need, higher enrollment or leave
 - Faculty employed for less than 67% of full-time hours

Ed. Code, §§ 87478, 87480, 87481, 87482, 87482.5

 LIEBERT CASSIDY WHITMORE

Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

Presented By: Eileen O'Hare-Anderson

Temporary Faculty: The 67% Rule

- If under 67% threshold – employee may be rehired indefinitely as a temp
- CAUTION - if a temp exceeds the 67% threshold, may become a probationary or tenured employee
 - Cannot exceed 67% for more than two semesters or three quarters in three academic years

Ed. Code, § 87482.5

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Temporary Faculty: The 67% Rule

- Does not include:
 - “Ancillary activities” unless CBA requires
 - Time spent as day-to-day substitute, summer session, intersession, or not-for-credit
- Faculty load may be averaged over a year, only if the employee has a year-long contract

 LIEBERT CASSIDY WHITMORE

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Bay Area CCD ERC | April 16, 2021

Presented By: Eileen O'Hare-Anderson

Case Study

The district hired Tim as a professor in a categorical program on May 31, 2017. The district provided Tim with a notice of his employment in a categorical program before he started working in the position for the 2017-18 academic year. The program is funded through May 31, 2021. The district decides to release Tim for the 2020-21 academic year.

 LIEBERT CASSIDY WHITMORE

Polling: Case Study

The district notified Tim by virtually meeting with him on March 14, 2020 and sending him notice by certified mail on March 15, 2020 that it was releasing him in his categorical position. Tim claims he is entitled to a hearing because he is a permanent teacher.

Is Tim entitled to a hearing?

 LIEBERT CASSIDY WHITMORE

Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

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Temporary Faculty: Categorically Funded Projects

- Paid from limited, finite funding source
- Written contract
- Does not count toward tenure unless:
 - At least 75% of the number of days; and
 - Subsequently employed as contract faculty
- Probationary or tenured faculty
 - Reassigned to categorical project
 - Contract employee does not lose status

Ed. Code, § 87470

 LIEBERT CASSIDY WHITMORE

Temporary Faculty: Conversion to Probationary

- The *Kavanaugh* problem
 - Failure to notify of temporary status on or before first date of paid service
 - Makes them probationary employees
 - This is only for temps teaching more than 67% of full-time assignment

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Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

Presented By: Eileen O'Hare-Anderson

Temporary Faculty: Advancing to Tenure

- Temporary who serves for a complete school year (75%) and is rehired into faculty position is deemed 2nd year probationary

Ed. Code, §§ 87478, 87475



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Non-Academic Employees



Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

Presented By: Eileen O'Hare-Anderson

Case Study

The district wanted to find a substitute employee for a part-time records clerk, Julie, who has been out on maternity leave since the beginning of the year. Maggie was only supposed to substitute for 60 days. Julie, however, did not come back for the remainder of the 2019-20 academic year, and Maggie worked 220 days.



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Polling: Case Study

The next year, Maggie and Julie both claimed that they were entitled to the records clerk position. Maggie also claimed that she was entitled to benefits and vacation from the year before.

Is Maggie entitled to the job and benefits?



LIEBERT CASSIDY WHITMORE

Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

Presented By: Eileen O'Hare-Anderson

Classified Employees: Exemptions

- Exemptions from classified service – non-classified
 - Substitutes (non-merit)
 - Short-term employees (non-merit)
 - Apprentices (merit & non-merit)
 - Professional experts (merit & non-merit)
 - Students employed part-time (merit & non-merit)
 - Architectural and engineering firms (merit)

Ed. Code §§ 88003; 88076 subd. (b); 88077

 LIEBERT CASSIDY WHITMORE

Substitutes

- Substitutes (non-merit systems only)
 - Replace classified employee temporarily absent from duty
 - Can temporarily fill permanent positions up to 60 calendar days (unless CBA allows otherwise)
 - Employed and paid < 75% (195 days) of college year
 - After working 195 days in a school year, presumed probationary

Ed. Code, § 88003

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Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

Presented By: Eileen O'Hare-Anderson

Short Term

- Short-term employees (non-merit systems only)
 - Specify services; AND
 - Certify end date of service (Failure = Classification)
 - End date may be shortened or extended by the governing board but cannot exceed 75% of the college year
- Failure to comply with requirements
 - Employees will be designated classified employees

Ed. Code, § 88003

 LIEBERT CASSIDY WHITMORE

Limited Term

- Limited-term employees (merit system)
 - Appointed for no more than 6 months OR
 - In lieu of an absent employee

Ed. Code, § 88105

 LIEBERT CASSIDY WHITMORE

Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

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Part-Time Classified Employees

- Entitled to same holiday, sick leave, and other benefits as full-time employees
- Benefits may be prorated

Ed. Code, §§ 88035, 88036

 LIEBERT CASSIDY WHITMORE

Student Workers

- Student workers (merit and non-merit systems)
 - Full-time students working part-time
 - Part-time students in work-study or work experience (state or federal funds)
 - Cannot displace classified workers
 - Cannot impair existing contracts

Ed. Code, § 88003

 LIEBERT CASSIDY WHITMORE

Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

Presented By: Eileen O'Hare-Anderson

Leaves



Classified and Academic Leaves: Sick Leave

- 12/10 days illness/injury, or pro rata share for part-time employees
- May take leave at any time
- Leave accrues year to year
- Follow governing board rules on proof of illness or injury

Ed. Code, §§ 88191, 87780, 87781



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Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

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Classified and Academic Leaves: Paid Sick Leave

- Employees who worked more than 30 days
- One hour of sick leave for every 30 hours worked
- Up to a minimum of three days or 24 hours of paid sick leave in a 12-month period

Lab. Code, §§ 245 et seq.



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Family Sick Leave (“Kin Care”)

- Any employer who provides sick leave for employees shall permit an employee to use, in any calendar year, not less than **half of one year's annual accrual for diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member**
- “Family member” includes grandparent, grandchild, sibling, and parent-in-law

Lab. Code, § 233



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Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

Presented By: Eileen O'Hare-Anderson

Classified and Academic Leaves: Industrial Accident Leave

- At least 60 working days in any fiscal year for same accident
- Not cumulative from year to year
- Payment for lost wages plus workers' compensation award, may not exceed wage
- Leave is not break in service
- May restrict leave to employees who have served for three years

Ed. Code, §§ 88192, 87787



LIEBERT CASSIDY WHITMORE

Classified and Academic Leaves: Personal Necessity Leave

- Death of immediate family member
- Accident involving employee, property, or a immediate family member
- Court appearance as litigant, party, or witness under subpoena
- Other reason per CBA
- Governing board must adopt rules and regulations requiring and prescribing manner of proof

Ed. Code, §§ 88207, 87784



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Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

Presented By: Eileen O'Hare-Anderson

Classified and Academic Leaves: Differential Pay

- Up to five months after exhausting sick leave
- College must either:
 - Develop salary schedule for temporary employees
 - Pay temporary employee less than the absent employee
- Must use substitute employee
- Does not apply if college gives 100 days/5 months at half pay

Ed. Code, §§ 88196, 87780



LIEBERT CASSIDY WHITMORE

Classified and Academic Leaves: Catastrophic Leave

- Not mandatory
- Employees donate eligible leave credits
- Employee must:
 - Exhaust all accrued paid leave;
 - Request donation;
 - Verify catastrophic illness/injury; and
 - Board must determine employee unable to work due to employee's or family's catastrophic illness/injury

Ed. Code, § 87045



LIEBERT CASSIDY WHITMORE

Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

Presented By: Eileen O'Hare-Anderson

Classified Leaves: 39-Month Reemployment List

- If medically unable to return to duty
 - After exhausting all leaves
 - Placed on reemployment list
- If employee becomes able to work and vacant position in class
- Employee must be “given preference” over other candidates

Ed. Code, § 88192

 LIEBERT CASSIDY WHITMORE

Academic Leave: Sabbatical Leave

- Discretionary
- Not to exceed one year
- District boards may allow faculty leaves for study of travel, “which will benefit the schools and students of the district”
- Faculty member must have rendered service for at least six consecutive years before the granting of leave

Ed. Code, §§ 87767 and 87769

 LIEBERT CASSIDY WHITMORE

Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

Presented By: Eileen O'Hare-Anderson

Contract Employee Leaves

- Leave of absence granted to contract employee does not constitute break in service
- BUT time spent on unpaid leave does not count toward required service for tenure
 - Except when it does – see EC 87606

Ed. Code, § 87776

 LIEBERT CASSIDY WHITMORE

Recruitment and Title 5



Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

Presented By: Eileen O'Hare-Anderson

CCD Hiring in the 21st Century

- Lawful hiring strategies for maximizing diversity
 - Institutional commitment at all levels
 - Well trained selection committees
 - Reputation for fostering an inclusive environment
 - Updated, modern and inclusive job descriptions and qualifications
 - Retention strategies
 - Monitoring and reporting

 LIEBERT CASSIDY WHITMORE

CCD Hiring in the 21st Century

- Recruiting strategies that:
 - Create highly qualified, diverse applicant pools
 - From which you hire “blind”
 - Remove identifying information from applications (name, address, racial/cultural identifiers)
 - Utilize a structured hiring process
 - Utilize skill based testing

 LIEBERT CASSIDY WHITMORE

Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

Presented By: Eileen O'Hare-Anderson

Recruiting Strategies

- Recruiting strategies that work:
 - Add to (don't replace) traditional avenues
 - Personal connections with career centers
 - Outreach to professional organizations
 - Groom your own students
 - Make district attractive to applicants
 - You are always recruiting and hiring
 - Assume a buyer's market



LIEBERT CASSIDY WHITMORE

Inclusive Work Cultures and Retention

- Mentoring programs
- Opportunities for growth
- Leadership opportunities
- Environment within college
- Cultural events
- Access
- Climate surveys
- Exit interviews



LIEBERT CASSIDY WHITMORE

Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

Presented By: Eileen O'Hare-Anderson

Case Study

Jack McFarland is in charge of employment recruitment for the Relativity Community College. LatinX are an underrepresented group at the college with respect to employment. Jack intends to use the following outlets as part of his recruitment efforts: (1) The Los Angeles Times; (2) The Daily Relativity, which is the local newspaper for the City of Relativity; and (3) Viva Relativity, which is a Spanish language newspaper that is distributed primarily in low income area of the City of Relativity that is predominantly LatinX.



LIEBERT CASSIDY WHITMORE

Polling: Case Study

Is it permissible under current law for the college to use Viva Relativity as part of their employment recruitment efforts?



LIEBERT CASSIDY WHITMORE

Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

Presented By: Eileen O'Hare-Anderson

Title 5: Hiring Regulations

- Job-related screening and selection
- External recruitment
- Outreach to maximize diversity
- Job descriptions

 LIEBERT CASSIDY WHITMORE

Title 5: Recruiting

- Must conduct open recruitment for all new openings
- In house promotional only recruitment
 - Only for interim assignments
 - Less than two years
 - Open to all qualified district employees
- No “new opening” if:
 - Reorganization or lateral transfer
 - No increase in number of employees
 - Position is upgraded without significant change in duties

 LIEBERT CASSIDY WHITMORE

Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

Presented By: Eileen O'Hare-Anderson

Records Retention and Use



Personnel Files

- Right to inspect
 - Employees have right to inspect own files
 - Employee or representative may request inspection
 - Inspection required within 30 days from request (LC 1198.5)
 - Employers may impose reasonable time and place restrictions

Ed Code, § 87031; Labor Code, § 1198.5



LIEBERT CASSIDY WHITMORE

Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

Presented By: Eileen O'Hare-Anderson

Personnel Files

- Right to review derogatory information if:
 - Information may be used to affect employment status
- Then:
 - Notice of intent to place in personnel file
 - Right to review and attach comments

Ed Code, § 87031



LIEBERT CASSIDY WHITMORE

Case Study

Li received a Letter of Reprimand on May 1, 2020 and wrote a response to it. He gave the response to Marco, the district's HR Director on May 5, 2020. Marco did not like Li's response and refused to put it in his personnel file. On May 10, 2020, Li requested a copy of his personnel file to make sure his response was in the file. Before Marco gave Li a copy of the file, he removed the pre-hire letters of recommendation.



LIEBERT CASSIDY WHITMORE

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Case Study

Marco then provided Li a copy of the personnel file on June 15, 2020. When Li received the file, he noticed that his letters of recommendation and the response to his reprimand was not in the file, but a detailed letter requesting leave from his psychiatrist and documents regarding a grievance were in the file.



LIEBERT CASSIDY WHITMORE

Polling: Case Study

- ***Did Marco properly exclude Li's response to the reprimand?***
- ***Did Marco properly exclude Li's references?***
- ***Were medical records and grievance documents correctly included in Li's personnel file?***
 - ***Did Marco timely provide the record?***



LIEBERT CASSIDY WHITMORE

Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

Presented By: Eileen O'Hare-Anderson

Proper Use of Criminal Records

- Determining whether to hire an employee with a criminal record
 - Nexus between offense and job duties; or
 - Mandatory sex and drug offenses
- Restrictions on the use of criminal records
 - Labor Code, § 432.7
 - Labor Code, § 432.8

 LIEBERT CASSIDY WHITMORE

Classified and Academic Employees: Sex and Drug Offenses

- Shall not hire or retain individual convicted of specified sex or drug offenses
 - Very limited exceptions
- Shall not hire or retain “sexual psychopath”

Ed. Code, §§ 87405, 87010, 87011,
87406, 88022, 88023

 LIEBERT CASSIDY WHITMORE

Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

Presented By: Eileen O'Hare-Anderson

Academic Employees: Sex and Drug Offenses

- May place individual charged with sex or drug offenses on compulsory leave
 - Up to 10 days past entry of judgment
- Employee acquitted of sex charge may still be terminated if statutory grounds exist
 - 4-year rule

Ed. Code, §§ 87736, 87737

 LIEBERT CASSIDY WHITMORE

Classified Employees: Sex and Drug Offenses

- Placing non-academic employee charged with sex/drug offense on compulsory leave:
 - Merit district: statutorily authorized up to 10 days past entry of judgment
 - Non-merit district: as authorized by board policy and CBA (no statute)
- Employee acquitted of sex/drug charge may still be terminated if statutory grounds exist
 - 2 year rule (non-merit)

Ed. Code, § 88123

 LIEBERT CASSIDY WHITMORE

Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

Presented By: Eileen O'Hare-Anderson

Student Employees: Criminal Records

- District may employ enrolled student (including ex-convict or parolee) to perform non-instructional duties
- But not “sexual psychopaths”

Ed. Code, § 87406.5

 LIEBERT CASSIDY WHITMORE

Student Records: What Must Be Retained?

- Student records are individually identifiable student information
- It does not include directory information, medical-treatment information, letters of recommendation, law enforcement records, and parent financial information
- May only retain information relevant to, admission, registration, academic history, benefits, extracurricular activities, counseling and guidance, discipline

Ed. Code, §§ 76210; 5 C.C.R. § 54604

 LIEBERT CASSIDY WHITMORE

Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

Presented By: Eileen O'Hare-Anderson

Student Records: How Long Must They Be Retained?

- Enrollment and scholarship records must be kept indefinitely
- All others must be kept for at least four years

5 C.C.R. §§ 59022-59026

 LIEBERT CASSIDY WHITMORE

Student Records: Access

- Student records may be accessed:
 - By the student
 - Student's written consent
 - Court order or subpoena
 - Government agents
 - Other school officials if the student has applied for entrance
 - Accrediting or research
 - Emergency
 - Victims of assault

Ed. Code, §§ 76242, 76243, 76244;
5 C.C.R. §§ 54610, 54612

 LIEBERT CASSIDY WHITMORE

Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

Presented By: Eileen O'Hare-Anderson

Student Use of Social Media

- District may not demand password or access to social media sites from current or prospective students
- Does not affect right to investigate
- May request access from “friends”

Ed. Code, §§ 99120, 99121

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Student Records: Challenging The Contents

- Procedure
 - Student files written request
 - Within 30 days of request, Chief Administrative Officer meets with student
 - Student can appeal the officer’s decision within 30 days of refusal
 - Within 30 days, governing board must meet with student

Ed Code, § 76232

 LIEBERT CASSIDY WHITMORE

Name that Section: Frequently Used Education Code and Title 5 Sections for Community College Districts

Bay Area CCD ERC | April 16, 2021

Presented By: Eileen O'Hare-Anderson

Thank You!

Eileen O'Hare-Anderson

Partner | Fresno

559.256.7806 | eanderson@lcwlegal.com

www.lcwlegal.com/people/eileen-ohare-anderson/



LIEBERT CASSIDY WHITMORE

Classified Reductions in Force

Bay Area CCD ERC | January 8, 2021

Presented by: Kristin D. Lindgren

LCW LIEBERT CASSIDY WHITMORE

Classified Reductions in Force

Presented By:
Kristin D. Lindgren

Agenda

- Classified Reductions in Force
 - Basis for layoff
 - Notice requirements
 - Calculating seniority and the seniority list
 - Bumping
 - Reinstatement
 - Negotiations obligations
 - Planning

LCW LIEBERT CASSIDY WHITMORE

LCW LIEBERT CASSIDY WHITMORE

Classified Reductions in Force

Bay Area CCD ERC | January 8, 2021

Presented by: Kristin D. Lindgren

Basis for Classified Employee Reductions



Definitions

- What a Layoff is:
 - Workforce reduction by eliminating/reducing services
 - Elimination of a position, not an employee



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Classified Reductions in Force

Bay Area CCD ERC | January 8, 2021

Presented by: Kristin D. Lindgren

Definitions

- What a Layoff is NOT:
 - An employee termination

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Basis for Layoff

- District may initiate a lay off for lack of work or lack of funds
- “Lack of funds” does not require the district to be bankrupt or unable to pay employees

California Sch. Employees Assn. v. Pasadena Unified Sch. Dist.
(1977) 71 Cal.App.3d 318.

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Classified Reductions in Force

Bay Area CCD ERC | January 8, 2021

Presented by: Kristin D. Lindgren

Application of Layoff Rights

- Layoff rights apply to:
 - Permanent classified employees
 - Probationary classified employees
 - Confidential classified employees
 - Classified employees in categorically funded positions
 - Classified managers (with exceptions)



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Application of Layoff Rights

- Layoff rights do not apply to:
 - Short term employees
 - Classified substitutes
 - Student workers
 - Professional experts



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Merit and Non-Merit Districts

- All statutory layoff requirements apply to both merit and non-merit districts.



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Case Study

Due to COVID, the District has decided to reduce certain classified positions because the District is concerned about maintaining its funding, particularly because of lower enrollment programs that require in-person attendance. The District still maintains a substantial financial reserve.

May the District layoff employees due to “lack of funds” in these circumstances?



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Classified Reductions in Force

Bay Area CCD ERC | January 8, 2021

Presented by: Kristin D. Lindgren

Case Study

The District has also decided to reduce the work year for certain classified 11-month positions by one month.

Do the Education Code provisions on layoff allow reduction in work year?



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Notice of Layoff



Classified Reductions in Force

Bay Area CCD ERC | January 8, 2021

Presented by: Kristin D. Lindgren

60-Day Notice Requirement

- **60-day** written notice of layoff required, with an exception
- When the layoff is because of expiration of a specially funded program (categorical):
 - District must give employees laid off effective June 30 (end of the academic year) written on or before April 29
 - 60-day notice required if layoff effective other than June 30



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Written Notice Requirements

- Notice Requirements, (continued)
 - Written notice must provide:
 - The employee's seniority date
 - Notice of the employees' displacement rights, if any; and
 - Notice of the employee's reemployment rights



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Classified Reductions in Force

Bay Area CCD ERC | January 8, 2021

Presented by: Kristin D. Lindgren

Written Notice Requirements

- Best practice is to provide employees with a form to provide preferences:
 - Bump
 - Resign/retire
 - Accept layoff

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Case Study

The District's Board of Trustees has adopted a Resolution to reduce or eliminate classified positions. The District sends notices to employees of their layoff 60 days in advance of the effective date of the layoff. Due to a clerical error, the notices omit notice of the employee's reemployment rights.

May the District still layoff the employees effective 60 days from the date of the notice?

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Calculating Classified Employee Seniority



Seniority Rules

- Seniority
 - A classified employee may not be laid off if a short-term employee is retained to render a service that the classified employee is qualified to render



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How to Apply Seniority

- Seniority
 - The order of layoff within a class shall be determined by length of service
 - The employee who has been employed the shortest time *in the class, plus higher classes*, shall be laid off first



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Calculating Seniority

- Seniority
 - By statute: hours in paid status
 - May negotiate: date of hire
- Does not include time served as a substitute or short term employee



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Classified Reductions in Force

Bay Area CCD ERC | January 8, 2021

Presented by: Kristin D. Lindgren

Calculating Hours in Paid Service

- All hours in paid status, including:
 - Holidays
 - Recesses/closures
 - Military leave
 - May agree with union to include unpaid illness/industrial leave
- Does not include overtime hours



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Categorical Positions

- Employment in categorically funded program does not mean the employee does not have bumping rights



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Classified Reductions in Force

Bay Area CCD ERC | January 8, 2021

Presented by: Kristin D. Lindgren

Importance of Seniority List

- In advance of a layoff, it is important to update the district's seniority list
- An inaccurate seniority list may remove the District's ability to implement a timely layoff if the District notices the wrong employee(s)
 - Recall 60-day notice period



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Mechanics of the Seniority List

- There is a list for each classification
- Must update entire list
 - If update only the classifications being reduced, will not be able to accurately determine bumping into other positions
 - Include an employee on the seniority list for each classification in which he or she served as a probationary or permanent employee



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Classified Reductions in Force

Bay Area CCD ERC | January 8, 2021

Presented by: Kristin D. Lindgren

Case Study

- Employee A has served continuously in the position of Secretary I since September 1, 2017 except for the following:
 - 60 days paid industrial injury leave
 - 15 days paid vacation
 - 20 days paid sick leave
 - 10 days unpaid leave for a family reunion
 - 10 paid days of a holiday closure
 - 75 hours of overtime

Which count toward hours in paid status?



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Case Study

Employee A was hired from September 1, 2016 through December 31, 2016 as a short-term Clerk Typist II. On January 1, 2017 she was hired as a probationary Clerk Typist II, and on September 1, 2017, she was promoted to Probationary Secretary I

What is employee A's date of hire for Clerk Typist II? Secretary I?



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Case Study (Cont.)

- Employee A's date of hire for the Clerk Typist II seniority list is January 1, 2017
- Employee A's date of hire for the Secretary I seniority list is September 1, 2017, because only the hire date of the current class—and higher classes—are considered



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Application of Bumping



Classified Reductions in Force

Bay Area CCD ERC | January 8, 2021

Presented by: Kristin D. Lindgren

“Bumping”

- Bumping
 - The term “bumping” is not in the Education Code
 - However, it is the common vernacular for how districts determine order of layoff and provide employees with their “displacement rights” as noted in the Education Code
 - “Bumping” is based on seniority
 - Review the classified collective bargaining agreement for any bargained bumping processes



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Case Study

The District has decided to reduce 3.0 FTE of positions in the Secretary I classification. The District uses date of hire for seniority. Employee A – with a date of hire in the position of Secretary I of September 1, 2017 – is the lowest seniority Secretary I employee.

***Will Employee A receive a layoff notice? Why or why not?
What additional facts might we need?***



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Case Study (Cont.)

There are three Clerk Typist II employees with hire dates in the Clerk-Typist II position as follows:

Employee B: May 1, 2012

Employee C: June 1, 2015

Employee D: July 1, 2017

May Employee A displace any of these employees? If so, who?



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Case Study (Cont.)

- Employee A can “bump” Employee D, because Employee A has a hire date in the Clerk Typist II position of January 1, 2017 and Employee D’s hire date is after that
- Is that fair, since Employee A only served as a Clerk Typist II from January 1, 2017 to September 1, 2017, but Employee D has served as a Clerk Typist II for more than three years?



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Classified Reductions in Force

Bay Area CCD ERC | January 8, 2021

Presented by: Kristin D. Lindgren

Case Study (Cont.)

“Class plus higher classes” means that Employee A gets seniority in the lower class for her work in that higher class



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Case Study (Cont.)

Additional facts: Employee A is assigned to the Disabled Students Programs and Services Department and Employee D is assigned to Financial Aid. Both serve under the same job description and same title. The District needs to eliminate a position in the DSPS Department.

May the District layoff Employee A and keep employee D, since employee A is in the Department for which the District needs to make reductions?



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Case Study (Cont.)

Employee A does not want to bump into the Clerk-Typist II position.

Must they take the Clerk-Typist II position? May they opt for the 39-Month rehire list?



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Case Study (Cont.)

Employee D is still in their probationary period in the Clerk-Typist II position.

Does Employee D have the right to receive 60 days' notice of layoff, given that they are probationary?



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Classified Reductions in Force

Bay Area CCD ERC | January 8, 2021

Presented by: Kristin D. Lindgren

Reinstatement Rights



Reemployment List

- Reinstatement
 - Employees are eligible for reemployment for a period of 39 months
 - Shall be reemployed in preference to new applicants
 - Employees laid off have a right to participate in promotional exams during the same 39 months
 - Persons who take voluntary demotions in lieu of layoff have the same reemployment rights, and are eligible for reemployment for an additional period of up to 24 months



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Case Study

Employee A accepted the Clerk-Typist II position.

For how many months will she be on the reemployment list?



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Preference Over New Applicants

- Preference over new applicants
 - An employee on the 39-month list who applies for any position for which they are qualified has preference over a new applicant
 - Need not be the classification from which they were laid off or have seniority

Tucker v. Grossmont Union High School District (2008) 168 Cal.App.4th 640



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Classified Reductions in Force

Bay Area CCD ERC | January 8, 2021

Presented by: Kristin D. Lindgren

Case Study

The District employs Jan, an Assistant Director of Maintenance, a classified management employee with permanent status. Jan is the only employee in this classification. The District determines that it does not need Jan's position and can reassign the duties to other positions. The District eliminates the position and provides Jan a 60-day layoff notice. Jan does not have service in any other position so may not displace another employee.



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Case Study (Cont.)

Shortly after Jan's layoff, the District opens a recruitment for a vacancy in the position of maintenance supervisor, a lower classification than Jan's previous classification. The District does not offer the position to Jan because Jan was not laid off from the maintenance supervisor classification.



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Case Study (Cont.)

Jan applies for the Maintenance Supervisor position and meets minimum qualifications for the position. The District hires a different candidate who never worked for the District because they like the candidate's personality better than Jan's and think the candidate will be better at team work.



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Case Study (Cont.)

Did the District have an obligation to hire Jan into the maintenance supervisor position?



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Negotiations Obligations



Negotiations Obligations

- Negotiations Obligations
 - No obligation to negotiate the decision
 - Must provide notice of decision to layoff and opportunity to request to negotiate “effects”



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Classified Reductions in Force

Bay Area CCD ERC | January 8, 2021

Presented by: Kristin D. Lindgren

Effects Negotiations

- “Effects” Negotiations
 - Union must identify what effects it believes are negotiable
 - May include among other things:
 - Longer notice period
 - Retraining
 - Bumping rights
 - Reinstatement rights, including seniority
 - Benefits
 - Severance pay

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Timing of Negotiations and Implementation

- May be able to complete negotiations after implement layoff if:
 - Implementation date is based on an immutable deadline (including set by Education Code) or important managerial interest that would be undermined by bargaining
 - Notice sufficient to allow meaningful negotiations prior to implementation
 - Employer negotiates in good faith before and after implementation
- Apply with caution

Compton Community College District (1989) PERB Decision No. 720

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An Exception: Furloughs

- The decision to reduce work hours, workweeks, or work year is negotiable
- This is true even when the reduction is for a vacant position if the reduction was for labor cost savings

Pittsburg Unified School District (1983) PERB Decision No. 318E
Eastside Union High School District (1999) PERB Decision No. 1352

Planning

Classified Reductions in Force

Bay Area CCD ERC | January 8, 2021

Presented by: Kristin D. Lindgren

Classified Reductions – Planning

1. Identify the basis for the layoff to be recommended to the Board of Trustees, i.e. lack of work or lack of funds
2. Identify the number of full-time equivalent positions to be eliminated
3. Identify the persons in each class who will be laid off; they must be the least senior
4. Prepare a resolution for adoption by the Board of Trustees
This is not a matter appropriate for action in closed session
5. Provide notice of planned layoffs to appropriate exclusive representative



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Classified Employees – Planning (Continued)

5. Action by the Board of Trustees. Requires a simple majority vote
6. Offer employees opportunity to consent to reassignment, demotion to a vacant position, transfer to an equal class if qualified for the position and/or reduction in hours in lieu of lay off
7. Negotiate effects
8. Notice to employee at least 60 days prior to the layoff becoming effective. Notice must include information of bumping rights, if any, and reemployment rights
9. Compilation of reemployment list for at least 39 months



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Layoff Resolution Requirements

- State the basis or bases for the layoff (i.e. “lack of work” and/or “lack of funds”);
- List the specific positions subject to elimination or reduction;
- Instruction to the superintendent/chancellor or designee to send affected employee written notice of layoff, taking into account seniority and displacement rights; and
- Specify the date of the lay off



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Layoff Resolution Requirements

- Place adoption of the layoff resolution on the agenda for action by the Board at a public meeting. Reduction of staffing must be considered in open session. The agenda item can read:
 - “Consideration and adoption of resolution to reduce or eliminate classified services.”



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Classified Reductions in Force

Bay Area CCD ERC | January 8, 2021

Presented by: Kristin D. Lindgren

Questions?



Thank You!

Kristin D. Lindgren

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Advocate Symplcity GME



Grievance Management Edition Training for WVMCCD Employees

Implementation and Training Team: Ryan Ng, Prachi Samant & Paul Williams



Zoom Environment & Housekeeping

- Participants will be muted upon entry.
- To ask questions use the raise your hand tab by clicking on reactions or unmute to ask or type your question in the chat box.

Preparing for next 12 months



- Student wellbeing and social isolation
- Student retention and student satisfaction
- Coordinate large scale response and action plans
- Managing your student support services

Key objectives



REMOVING BARRIERS
AND NORMALIZING
HELP-SEEKING



STUDENT-CENTERED
SUPPORT AND CARE



PROCESS REVIEW AND
EFFICIENCIES



WORKFLOWS AND
ACTION PLANS



RECORD-KEEPING AND
CONFIDENTIALITY

Advocate System Fundamentals

The Basics:

- Developed and released in 2005
- Service over 350 institutions globally for Case Management
- Infrastructure is hosted in AWS
- Backed by large team of System Admins, Developer & Design, Roadmap & Quality Assurance, Product Support, and Client Success teams that service a whole suite of Higher Education Software
- Executive Headquarters in Arlington, VA

What Advocate Does Well:

- Modern and intuitive User Interface
- One Stop Shop for a Variety of Case Management Needs in one system
- Stable and Secure Infrastructure
- Multi Level Support Apparatus
- Client facing Configuration and Reporting
- User Directed/Focus Roadmap
- Separate Solutions for Employee/Staff and Student Case Work (**GME=Grievance Management Edition**)

WVMCCD Advocate GME Project Overview



Commenced October 2019

Implementation and Testing Spring 2020



Go Live July 2020



All three report type forms

Public Incident Report

Care Report

Title IX Report

Advocate GME Current Status



30 Advocate System Administrators

Student/Employee Wellbeing

Online Reporting

Complaints, Appeals & Discipline



Over 35 reports to day-district-wide reporting for students, employees, community members



Strong engagement from Student Services, Campus Safety, Student Health, Risk & Compliance, operational support from IS services



Weekly data integration with Banner

Advocate
GME is a
trusted
solution for:



Student conduct



Title IX



Behavioral intervention management



Key Benefits



On-demand, online reporting



Improved communication and timely information



Campus Safety and Security

GME administration

- Streamline case management and reporting
- Be proactive
- Harness important data
- Create workflows



Streamline case management and reporting

Simplify the entire case management process and Clery reporting with the Federal Reporting Engine.



Be proactive

Detect and address students of concern before an incident occurs.



Harness important data

Effectively collect and share key data in real-time to guide important decision-making.

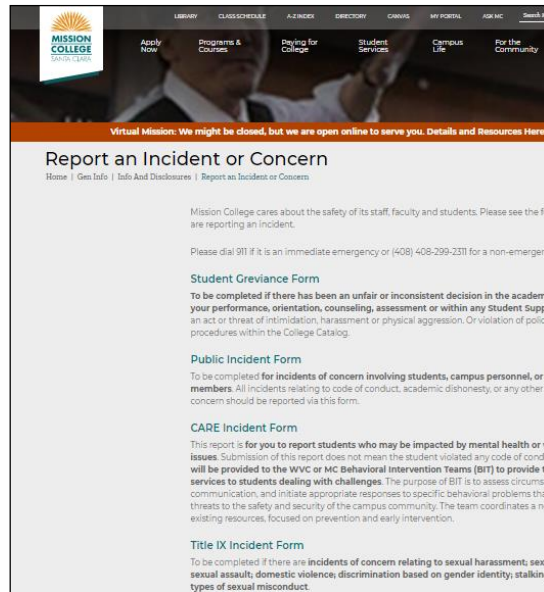


Create workflows

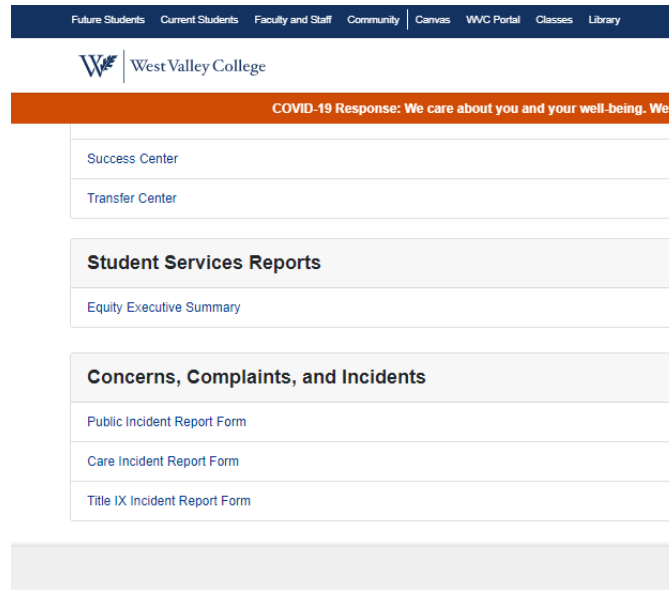
Automatically route cases based on the type of case, the student involved, or any other information.

Three Report Types

- Public incident report
- Care report
- Title IX report



https://missioncollege.edu/geninfo/info_and_disclosures/report_an_incident.html



<https://www.westvalley.edu/services/index.html>



<https://www.wvm.edu/services/hr/Pages/default.aspx#Tab6>

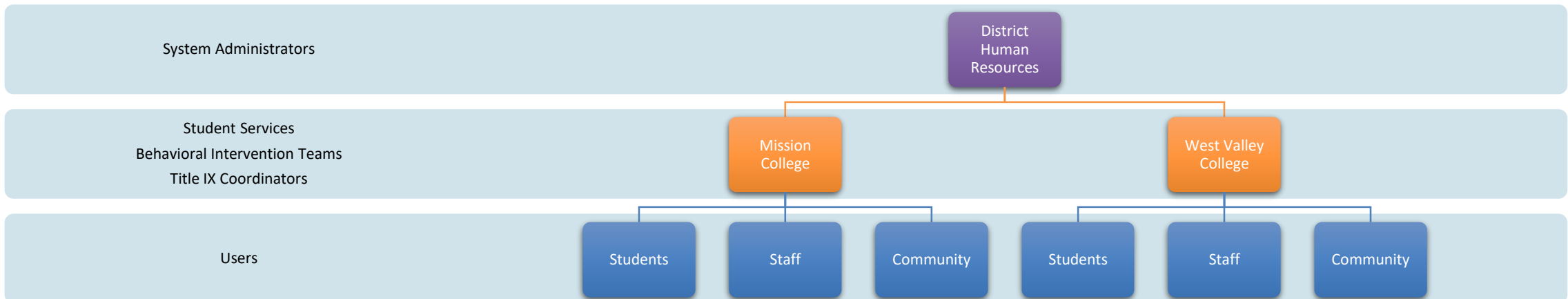
- **Public Incident Form**: To be completed for incidents of concern involving students, campus personnel, or community members. All incidents relating to code of conduct, academic dishonesty, or any other incidents of concern should be reported via this form.
- **CARE Incident Form**: This report is for Staff and Faculty to report students who may be impacted by mental health or well-being issues. Submission of this report does not mean the student violated any code of conduct. This report will be provided to the WVC or MC Behavioral Intervention Teams (BIT) to provide the full array of services to students dealing with challenges. The purpose of BIT is to assess circumstances, enhance communication, and initiate appropriate responses to specific behavioral problems that may involve threats to the safety and security of the campus community. The team coordinates a network of existing resources, focused on prevention and early intervention.
- **Title IX Incident Form**: To be completed if there are incidents of concern relating to sexual harassment; sex discrimination; sexual assault; domestic violence; discrimination based on gender identity; stalking; or other types of sexual misconduct.

Advocate
Simplicity GME
System
Organization

Public Incident Report: https://wvm-gme-advocate.simplicity.com/public_report/

Care Report: https://wvm-gme-advocate.simplicity.com/care_report/

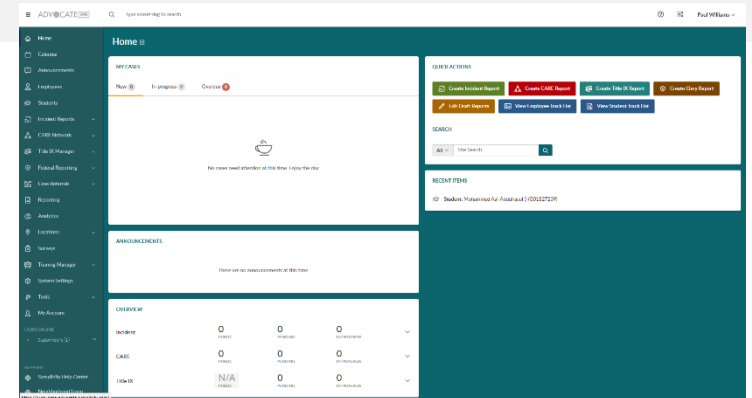
Title IX Report : https://wvm-gme-advocate.simplicity.com/titleix_report/



- District Human Resources
- Mission College Student Services & BIT, Title IX Coordinators
- West Valley College Student Services & BIT, Title IX Coordinators



- District Advocate Contacts: Paul Williams, Ryan Ng, Prachi Samant
- Mission College: Vice President of Student Services, Omar Murillo and Dean of Student Services, Richard Alfaro
- West Valley College: Interim Vice President of Student Services, Debra Griffith, Acting Dean of Students, Mae Conroy




Email Confirmation Types

Advocate Administration

Reply Reply All Forward

Tue 9/22/2020 3:23 PM

 noreply@symplicity.com

An incident report has been filed

To Paul Williams

***** EXTERNAL EMAIL *****


A new incident report has been submitted. Please click on this link to review the report:

<https://wvm-gme-advocate.symplicity.com/incident/00020-2020>

Person submitting online report

Reply Reply All Forward

Tue 9/22/2020 3:23 PM

 Paul.Williams@wvm.edu

A copy of the public report you submitted

To Paul Williams

***** EXTERNAL EMAIL *****

Thank you for reporting this incident, here is a copy for your records.

Incident Date: September 21, 2020

Incident Description: Jessica works in the finance office. She has asked me out on a date several times and each time I've decline her request in interest. This morning after parking my car, Jessica followed me to the campus center and asked me out on a date again. This is not acceptable

Incident Location:

Students Involved:

Upcoming Advocate GME Training

- Training Formats

- Webinar
- Video Tutorials:

1. [General Orientation to Advocate:](#)

Advocate GME Webinar Training Dates

- **Advocate GME Webinar Training Dates:**

- **Session # 1** September 21, 2020 from 10am-11am

- Register in advance for this meeting:

- https://cccconfer.zoom.us/meeting/register/tJlvc-ygrz8iE9K_5germS6g2ZCUelrY3dB7

-

- **Session # 2** September 21, 2020 from 1-2pm

- Register in advance for this meeting:

- <https://cccconfer.zoom.us/meeting/register/tJ0tcuuvqjlpGdRcLbLGI61ScWLbozDg2iUR>

- **Session # 3** September 22, 2020 from 10-11am

- Register in advance for this meeting:

- <https://cccconfer.zoom.us/meeting/register/tJ0vc-ypqTwoE93CaIEIUPyOhRSGNMpSIXP4>

- **Session # 4** September 22, 2020 from 3-4pm

- Register in advance for this meeting:

- <https://cccconfer.zoom.us/meeting/register/tJAvcu6urDkvHtYQ4pWJ06k2d8JnK16nUKaR>

- **Session # 5** September 23, 2020 from 10-11am

- Register in advance for this meeting:

- <https://cccconfer.zoom.us/meeting/register/tJlrcOyhrzsrE90hZKWguky-uG3zaW9QLB0D>

- **Session # 6** September 23, 2020 from 3-4pm

- Register in advance for this meeting:

- <https://cccconfer.zoom.us/meeting/register/tJMuceivqTMqEtwPwhMNQJMJoZJT9fKCmKat>

Other News & Notes

System Update Jan 10, 2021!

- Release notes for details
- Brings on board incident actions, reporting enhancements, and more
- Input questions, or issues to the Support Help Desk.

Future Webinar Schedule

- Nov 13, 2020: Case Referral Network Tool
- Jan 25, 2021: Interim Actions, Alternative Resolutions
- Feb 5, 2021: Appeals
- March 18, 2021 Spring Cleaning
- May 20, 2021 Student Interface Setup