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What's Next? Title 5 Changes, DEIA Principles, and Performance Evaluations

Presented By:

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Agenda

1. EEO & The Law: Foundation
2. Title 5 Revisions in 2023
3. DEI Competencies and Criteria
4. What's Next for the Title 5 Revisions?
5. Bargaining Obligations
6. Performance Evaluation Basics
7. Tips for Writing Performance Evaluations

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EEO & The Law: Background

It's Not Just the Law…

Why does diversity matter to CCDs?

Core Mission:

- Serve California's diverse community of learners
- Prepare all students for success in a global society

Legal Background

- **Prop. 209 amended the California Constitution:**
  - No discrimination or "preferential treatment" on the basis of race, sex, color, ethnicity, or national origin public employment
- **Courts interpreted this to prohibit "targeted" recruitment**
- **However, CCDs still must:**
  - Implement strategies to diversify the workforce
  - Identify and address underrepresentation & adverse impact
  - Develop & implement EEO Plans

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Prop 209: Legislative Response

Prop 209: Legislative Response

- Funding contingent on:

  > **"Each district employer *shall* commit to sustained action to devise recruiting, training and advancement opportunities that will result in equal employment opportunities . . ."***

  * EC 87101(c)

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Sensitivity to Diversity

- Districts give must "meaningful consideration"
  - whether applicants for faculty and administrative positions
  - Show "sensitivity to and understanding of the diverse academic, socioeconomic, cultural, disability and ethnic backgrounds of community college students."
- Post-Proposition 209, we cannot consider ethnicity, race, or gender

Ed Code, § 87360

CCCCO's *Vision for Success* Diversity Equity and Inclusion Task Force

Two main points

1. Faculty and staff diversity is a driver for social mobility and educational achievement for students

2. Community colleges must shift to an intentional practice of compliance to partnerships across systems/departments/divisions in order to design, implement and reinforce policies, procedures and behaviors that serve and cultivate an inclusive ecosystem

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DEI Integration Plan

Systemic approach to addressing faculty and staff diversity at three levels
- Institutional (policy changes)
- Interactional (changes to existing procedures)
- Individual (activities that promote supportive and inclusive behavior)

Title 5 Revisions in 2023

DEIA Legal Overview

- New regulations for DEIA and evaluation and tenure review processes
  - Effective April 16, 2023
- Change the minimum qualifications for employment in a CCD
  - Administrators, faculty members, classified staff

New Requirements

- Districts must include DEI competencies and criteria
- As a minimum standard for evaluating employee performance
- Districts must give *significant emphasis* on DEIA competencies in evaluation and tenure process

Title 5, § 53602

New Requirements

All district employees must also demonstrate the ability to work with and serve individuals within a diverse community college campus environment.

True/False/Maybe

The new DEIA regulations apply only to faculty members. We don't have to worry about classified staff or administrators.

False

Faculty Members – New Requirements

Faculty members
- Employ teaching and learning practices, curriculum
- Reflect DEIA and anti-racist principles
- Respect for, and acknowledgement, of the diverse backgrounds of students and colleagues
- To improve equitable student outcomes and course completion

Title 5, § 53605, subd. (d)

Administrators – New Requirements

Administrators

- Significant consideration of DEIA and anti-racist principles
- In existing policies and practices, funding allocations, decision-making, planning, and program review processes
- Account for the experience and performance of students and colleagues
- Work to close equity gaps in student outcomes and hiring

Title 5, § 53605, subd. (b)

Classified Staff – New Requirements

Classified Staff

- Promote and incorporate culturally affirming DEIA and anti-racist principles
- To nurture and create a respectful, inclusive, and equitable learning and work environment
- Show respect and acknowledge the diversity of students and colleagues

Title 5, § 53605, subd. (c)

DEI Competencies and Criteria

Competencies Themes

1. Cultural Competency
2. Self-Reflection
3. Self-Improvement
4. DEI Pedagogy and Curriculum
5. Data
6. DEI & Mission

Competency: Cultural Competency

- Awareness that cultural and social identities are diverse, fluid, and intersectional
- Fluency regarding racial, social, and cultural identities
  - And relevance in creating structures of oppression and marginalization
- Understand the lived experiences of culturally diverse students
  - Uses that understanding to contribute to student success, equity, and inclusion
- Apply DEI and anti-racist perspectives

Competency: Self-Reflection

- Engage in self-assessment
  - commitment to DEI
  - Internal biases
- Seeks opportunities for growth
- Acknowledge and address the harm caused by internal biases and behavior

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Competency: Self-Improvement

Demonstrate a commitment to continuous improvement

- Of DEI and anti-racism knowledge, skills, and behaviors
- To mitigate any harm caused (intentional or not) to minoritized communities

Competency: DEI Pedagogy and Curriculum

- Promote and incorporate DEI and anti-racist pedagogy
- Accommodate for diverse learning styles and utilizes holistic assessment methods
- Participate in training to incorporate culturally affirming pedagogy
- Applies to faculty members

Competency: Data

- Use data to uncover inequitable outcomes

- Measured through equity-mindedness
  - Calls out racialized patterns in the data, policies, and practices
  - To inform strategies to improve equitable student outcomes and success

Competency: DEI & Mission

Acknowledges importance and impact
- Of DEI and anti-racism as part of the institution's greater mission

Criteria Themes

1. Service
2. Self-Assessment
3. DEI Environment
4. Pedagogy/Curriculum
5. Professional Development
6. Connected to Mission
7. Employee Interactions

Service

- Advocates for and advances DEI and anti-racist goals and initiatives.

- Leads DEI and anti-racist.

- Contributes to student life on campus and supports diverse students beyond the classroom.

- Includes a DEI and race-conscious pedagogy and/or curriculum in campus activities for students, faculty, and/or staff.

Service Cont'd

- Understands and applies asset-based student-centered practices and activities.
- Commits to the success of minoritized students by providing opportunities/access educational pathways, academic, and career success.

Service Cont'd

- Develops and implements student programs/activities that incorporate a race-conscious and intersectional lens.

- Creates an inclusive learning and working environment.

- Contributes to DEI and anti-racism research and scholarship.

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Self-Assessment

- Participates in a continuous cycle of self-assessment of one's growth and commitment to DEI.

- Demonstrates the implementation of DEI and anti-racism practices in teaching and/or service.

- Assesses student outcomes and progress to close equity gaps as outlined in the *Vision for Success*.

DEI Environment

Promotes and contributes to a diverse, inclusive, and anti-racist environment for students, colleagues, and community members.

Pedagogy/Curriculum

- Develops/implements pedagogy/curriculum that promotes a race-conscious and intersectional lens.
- Develops/implements pedagogy that promotes equitable access.
- Develops/implements pedagogy that fosters an anti-racist and inclusive environment for minoritized students.
- Demonstrates ability to teach culturally affirming pedagogy.

Professional Development

- Participates in DEI professional development and learning opportunities.
- Provides professional development and learning opportunities for students, faculty, and staff to participate in and advance DEI and anti-racist strategies.

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Connected to Mission

Articulates the connection of DEI and anti-racist efforts to the institution's mission and the *Vision for Success*.

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Employee Interactions

- Recruits, hires, and retains diverse faculty and staff from minoritized communities and diverse backgrounds.

- Introduces new employees to the institution focus on DEI and anti-racism, the expectations for their contribution.

- Promotes/contributes to a respectful, diverse, and equitable campus and work environment.

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Employee Interactions Cont'd

- Respects and acknowledges the diverse cultural and ethnic backgrounds of colleagues.
- Engages in supportive behaviors and attitudes.
- Demonstrates the ability and willingness to communicate effectively with people of diverse backgrounds and experiences.
- Considers and includes diverse perspectives and opinions.
- Shows respect, compassion, and empathy for others.

Let's Practice Interrupting Bias

During the faculty's evaluation, a Dean says, "I had to rate him low because he's getting older, doesn't have any new ideas, and doesn't understand our students or frankly, our employees."

Are there any biases at play?

How would you handle the situation?

Bargaining Obligations

Evaluation of Academic Employees

- Evaluations are a mandatory subject of negotiations
- The Academic Senate must have an opportunity to provide input on the evaluation process

Ed. Code § 87663

Evaluation of Classified Employees

The evaluation process is a mandatory subject of bargaining

- Negotiate over the evaluation process
- District establishes the evaluation procedures for unrepresented employees

What's Next for the Title 5 Revisions?

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True/False/Maybe

The new DEIA regulations are dead in the water. Why are we talking about this?

False

Challenges to the Regulations

- First Amendment and Academic Freedom Challenges
- Two cases filed in Federal Court:
  - Palsgaard v. Christian (State Center Community College District)
    - Six professors demand preliminary injunction
    - Currently awaiting assignment of District Court Judge
  - Johnson v Watkin (Kern Community College District)
    - History professor demands preliminary injunction
    - Conservative Magistrate Judge recommended granting the injunction
    - Currently awaiting assignment of District Court judge
- Claim that the new regulations force professors to take a particular view of DEIA

District Obligations

- The Title 5 revisions are already in effect.

- Districts need to comply
  - Even with ongoing lawsuits

Performance Evaluation Basics

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Evaluation of Academic Employees

- Community college districts must evaluate academic employees at the following intervals:
  - Contract employees
    - at least once each academic year
  - Regular employees
    - at least once every three academic years
  - Temporary employees
    - within the first year of employment
    - Then at least once every six regular semesters
- Faculty Evaluations must include a peer review process

Evaluation of Classified Employees

The Education Code does not specify what must be included in classified employee evaluations

Importance of Performance Evaluations

- Impact all employee issues
- Important tool for:
  - Recognizing good performance
  - Identifying performance deficiencies
- Support disciplinary action
- Help defend grievances
- Help defend other legal claims
- Important evidence in legal proceedings
  - The District's record of the employee's work performance

Importance of Performance Evaluations

Method for periodic review of:
- Essential job functions
- Necessary skills
- Training needs
- Quality and productivity trends
- Objectives and goals
  - District goals
  - Department goals

Impact of Inaccurate Performance Evaluation

- Loses important communication tool
- Fails to notify employee of performance deficiencies
    - Employee then misses chance to improve
- Creates inaccurate record
- Creates presumption that there is no problem
- Prevents or delays needed disciplinary actions

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Evaluations:
The Basic Steps and Rules

1. Establish goals and expectations
2. Communicate goals and expectations
3. Observe employee's performance
4. Communicate with employee about his/her performance
5. Provide needed training and assistance
6. Prepare annual evaluation
7. Evaluation meeting
8. Set new goals and expectations
9. Start process over

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Tips for Writing Performance Evaluations

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Tip #1:
The Facts and Only the Facts

Language Should Be:

- Objective

- Direct & Concrete

- Descriptive & Specific

- Focused on Behavior & Actions

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Tip #1:
The Facts and Only the Facts

Objective Language:

- Helps employee understand supervisor's expectation

- Tells employees what skills/behaviors need improvement

- Cannot be described as "an opinion"

- Not personalized

Tip #1:
The Facts and Only the Facts

Descriptive/Specific Language:

- Does not use generalities or conclusions

- Write like a journalist would. Answer the Who? What? When? Where? Why?

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Tip #1:
The Facts and Only the Facts

Action/Behavior Language:

- Does not focus on attitude or personality

- Tells reader what employee *did/didn't do*

- Focuses on the behavior itself, not supervisor's reaction to the behavior

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Tip #1:
The Facts and Only the Facts

EXAMPLES

Tip #1:
The Facts and Only the Facts

Example regarding descriptive/specific language:

Bad: Pat's work is sloppy.

What is a better way of describing this?

Tip #1:
The Facts and Only the Facts

Example regarding descriptive/specific language:

Good: Pat's most recent memo about the Planning report contained three typos and did not include a cc: to the appropriate supervisor.

Tip #1:
The Facts and Only the Facts

Example regarding action-based language:

Bad: Skylar does not appear motivated.

What is a better way of describing this?

Tip #1:
The Facts and Only the Facts

Example regarding action-based language:

Good: When Skylar finishes an assignment, she waits for her supervisor to ask her if she is available instead of letting her supervisor know that she is able to take on more work.

Tip #2

Remember What to Forget

Tip #2: Remember What to Forget

Do not mention things that could create liability:

- Example: protected leaves, such as FMLA leave or baby bonding time

- "Staying late"/unreported overtime

- Disabilities

Tip #2: Remember What to Forget

Other topics not to mention:

- Any protected categories, such as age, gender, sexual orientation, religion, etc.

- Discipline being appealed?

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Tip #2: Remember What to Forget

In remembering what to forget, <u>do not</u> forget any critical information:

- If an employee is currently on a PIP
- If the supervisor started mid-year
- Progress over time
- Prior discipline
- Positive attributes

Workshop Evaluation

We love feedback! Please scan the QR code to complete our Survey Monkey Workshop Evaluation:

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Thank You!

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