



**NOTICE OF PROPOSED RULEMAKING  
AMENDMENT TO CALIFORNIA CODE OF REGULATIONS, TITLE 5  
REGARDING  
UNLAWFUL DISCRIMINATION**

**Notice published November 1, 2019**

NOTICE IS HEREBY GIVEN that, pursuant to Standing Order 200, the Board of Governors of the California Community Colleges proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

**PUBLIC HEARING**

A public hearing will be held during the next regularly scheduled Board of Governors meeting on November 18, 2019, at 1102 Q Street, Sacramento, California. The Board meeting will commence at the hour of 9:00 a.m., or as soon thereafter as the business of the Agency will permit. The room is wheelchair accessible. Other disability-related accommodations such as materials in alternate media, sign language interpreters, or real time transcription will be provided to persons with disabilities upon request. Parking accessible for persons with disabilities is available near the facility. Persons requesting such accommodations should notify Christina Castro, 1102 Q Street, Suite 4500 Sacramento, CA 95811-6549, ccastro@cccco.edu, 916-323-5889, no less than five working days prior to the meeting. The Chancellor's Office will make efforts to meet requests made after such date, if possible.

At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed regulatory action described in the Informative Digest. The Board of Governors requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their comments. No oral comments will be accepted subsequent to this public hearing.

## **WRITTEN COMMENT PERIOD**

Any interested person may submit written comments relevant to the proposed regulatory action. To help ensure comments are understood as they are intended, we suggest that they clearly identify the proposed regulation that each comment addresses, with reference to specific section and subparagraph numbers where appropriate. Please arrange comments in the same order as in the proposed regulatory action. Comments should be addressed to:

Regulations Coordinator  
California Community Colleges  
Chancellor's Office  
1102 Q Street, Suite 4550  
Sacramento, CA 95811-6549  
[regcomments@cccco.edu](mailto:regcomments@cccco.edu)

Comments must be received by the Regulations Coordinator prior to 4:00 p.m. on December 16, 2019. All written comments received by CCCCO staff during the public comment period are subject to disclosure under the Public Records Act.

## **CHANGES OR MODIFICATIONS TO PROPOSED TITLE 5 AMENDMENTS**

Following the public hearing and considering all timely and relevant comments received, the Board of Governors may adopt the proposed regulatory action substantially as described in this Notice or may modify the proposed regulatory action if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposed regulatory action will be available for 15 days prior to its adoption, and will be provided to those persons who have requested or are required to receive notification of regulatory actions, or who have provided written or oral comments relevant to the proposed regulatory action.

## **AUTHORITY AND REFERENCE**

Authority: Education Code sections 66271.1, 66700 and 70901. Government Code section 11138.

Reference: Education Code sections 66250 et seq., 72011; Government Code sections 11135 – 11139.5, 11136, 11138, 12926; Penal Code sections 422.6, 422.55; Title 20, U.S. Code section 1681; Title 29, U.S. Code section 794; and Title 42, U.S. Code, Sections 2000d, 6101, 12100 et seq.

## **INFORMATIVE DIGEST**

This regulation proposes to amend title 5 relating to the community college system's process for addressing unlawful discrimination. The proposed regulatory action responds to concerns raised by the United States Department of Education Office of Civil Rights, updates provisions to comport with developments in the law, reduces unnecessary processes, and improves clarity in the regulations.

California Code of Regulations, title 5, sections 59300, et seq. implement various provisions of federal and state law which prohibit unlawful discrimination against persons or groups in any program or activity administered by the Board of Governors. The regulations apply to students at California community colleges and employees at local colleges and districts. The unlawful discrimination regulations have not been updated since 2008.

The timing of these amendments is prompted by a complaint filed against the Chancellor's Office by the United States Department of Education's Office of the Civil Rights ("OCR") in 2016. OCR filed the complaint after reviewing student allegations against Santa Rosa Junior College. After the student's complaint with Santa Rosa was denied, the student filed an appeal with the Chancellor's Office which was also ultimately denied. The student then filed the same complaint with OCR, attaching her complaint and appeal. After review of the documents, OCR did not dispute the Chancellor's Office decision, but opened a case to review our discrimination regulations due to lack of clarity in our standard of review. The case was dormant for more than two years until OCR renewed its efforts to resolve this matter in early 2019. After negotiations with OCR and demonstrating a good faith commitment to amend the discrimination regulations, OCR dismissed the complaint against the Chancellor's Office on September 26, 2019.

In our review of the Board's anti-discrimination regulations, the Office of the General Counsel identified a number of provisions that needed revision to update definitions, ensure our regulations cover the full range of protected classifications now recognized by California law, remove unduly bureaucratic and unproductive noticing requirements, and provide clarity on standards of review and the appellate process.

## **ESTIMATED COST OR SAVINGS OF PROPOSED AMENDMENTS**

The estimated cost or savings of the proposed amendments are anticipated to be as follows:

Mandate on local agencies or community college districts: *None*

Cost or savings to state agencies: *None*

Costs to local agencies or community college districts for which reimbursement would be required pursuant to part 7 (commencing with section 17500) of division 4 title 2 of the Government Code: *None*

Other non-discretionary cost or savings imposed on community college districts: *None*

Cost or savings in federal funding to state agencies: *None*

The proposed amendments to title 5 would result in no fiscal impact to local or state governments. Nor will it have any fiscal impact on any federal funding.

## **CONTACT PERSON**

Inquiries concerning the content of these regulations may be directed to the Regulations Coordinator, at [regcomments@cccco.edu](mailto:regcomments@cccco.edu).

## **TEXT OF PROPOSED REGULATIONS AND CORRESPONDING DOCUMENTS**

Copies of the exact language of the proposed regulatory action, and all of the information upon which the proposal is based, may be obtained online at:

[Office of General Counsel - Pending Regulatory Action](#)

Those who receive the Board of Governors Agenda package for the November 18, 2019, meeting can find a further description of the proposal and the full text of the regulatory action. You may also request a copy of the proposal from the Regulations Coordinator using the contact information provided above.