

Proposed Revisions to Title 5, California Code of Regulations, Related to Campus Climate and Public Safety

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SECTION 51028 IS ADDED TO NEW SUBCHAPTER 1, OF CHAPTER 2, OF DIVISION 6, OF TITLE 5 OF THE CALIFORNIA CODE OF REGULATIONS TO READ:

Subchapter 1. Minimum Conditions

Section 51028. Campus Public Safety Services and Personnel.

The campus climate and public safety provisions of subchapter 11 (commencing with section 59700), of chapter 10, are included among the minimum conditions for community college districts, satisfaction of which entitles a district maintaining community colleges to receive state aid, including state general apportionment, for the support of community college operations.

In considering an enforcement action to address a district's failure to meet a campus climate and public safety minimum condition, the Chancellor shall give due consideration to the time required for faithful implementation of subchapter 11, of chapter 10, and the resources available to the district.

Note: Authority cited: Education Code, section 70901, subdivision (c). Reference: California Constitution, article XIII, section 36; Education Code, sections 66010.2, subdivision (c); 66093, subdivision (a); 66700; 67381; 67381.1; 70901, subdivision (b).

SECTION 51100 OF SUBCHAPTER 2 OF CHAPTER 2 OF DIVISION 6 OF TITLE 5 OF THE CALIFORNIA CODE OF REGULATIONS IS AMENDED TO READ:

Section 51100. Review of Colleges.

(a) The Chancellor shall annually review a minimum of three community college districts to determine whether they have met the minimum conditions contained in subchapter 1 (commencing with section 51000) of chapter 2. The reviews shall be at random from among districts that have not recently been reviewed or based on complaints, audit findings, or other information concerning compliance. ~~The Chancellor may conduct such~~

~~additional.~~ Additional compliance reviews may be conducted as the Chancellor as he or she deems appropriate.

(b) The Chancellor shall investigate complaints alleging that a district is failing to comply substantially with the minimum conditions contained in subchapter 1 and shall establish guidelines for accepting and handling such complaints.

(c) The district shall receive notice regarding any investigation of noncompliance with the minimum conditions. If circumstances permit, the Chancellor shall provide 30 days' notice prior to any district visit to conduct the investigation. ~~In the event that the Chancellor determines that a visit to the district is necessary to investigate compliance, he or she shall make all reasonable efforts to inform the chief executive officer of the district at least one month in advance of such visit, and shall specify the particular minimum conditions that will be investigated.~~

(d) The enforcement procedures and remedies set forth in this subchapter are in addition to any and all other enforcement mechanisms and remedies provided by law for violation of the provisions of this chapter.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

SECTION 51102 OF SUBCHAPTER 2 OF CHAPTER 2 OF DIVISION 6 OF TITLE 5 OF THE CALIFORNIA CODE OF REGULATIONS IS AMENDED TO READ:

Section 51102. Enforcement.

(a) If any review or investigation conducted pursuant to section 51100 ~~discloses~~ indicates that a district may ~~not be in~~ out of compliance with one or more minimum conditions, ~~the provisions of subchapter 1 (commencing with section 511000) of chapter 2,~~ the Chancellor shall notify the chief executive officer of the district in writing, and ~~shall request an official written response from the district by a date specified, which the Chancellor shall specify.~~

(b) After ~~considering~~ receiving the district's written response ~~or after the time for response has lapsed,~~ the Chancellor may take any one or more of the following actions: ~~shall pursue one or more of the following courses of action:~~

~~(1) accept in whole or part the district's response regarding the alleged noncompliance;~~

(1) provide recommendations to the district to achieve compliance;

(2) require the district to submit and adhere to a plan and timetable for achieving compliance as a condition for continued receipt of state aid;

(3) bar the district from eligibility for grants and/or contracts administered by the Chancellor's Office;

(4) withhold all or part of the allocation of funds which the district would otherwise receive from any categorical program administered by the Chancellor's Office;

(5) require the district to re-allocate funds in a manner designed to address the noncompliance;

(6) withhold or reduce all or part of the district's state aid, including state general apportionment, and/or growth funding; or

(7) take no further action.

(c) The remedy required by the Chancellor shall be related to the extent and gravity of noncompliance. ~~As a general rule, c~~Categorical funds shall only be withheld or reduced where the noncompliance was directly related to the operation of that program, or where other funds are not sufficient to cover the extent of the withholding or reduction. The Chancellor may not utilize funds of the Education Protection Account in the State Treasury to support enforcement activities conducted under this chapter. Any withholding, reduction, or reallocation of funding must be approved by shall require approval of the Board. of Governors

(d) The Chancellor shall report to the Board ~~of Governors~~ on any actions taken pursuant to subdivision (b) of this section, and their outcomes., ~~provided that, in the event he or she determines to reduce or withhold all or a portion of a district's state aid, the Chancellor shall inform and obtain the approval of the Board prior to the reduction or withholding. The costs of any action taken under subdivision (b) shall be borne by the district.~~

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

SECTIONS 59700, 59701, 59702, 59703 AND 59704 ARE ADDED TO NEW SUBCHAPTER 11 OF CHAPTER 10 OF DIVISION 6 OF TITLE 5 OF THE CALIFORNIA CODE OF REGULATIONS TO READ:

Subchapter 11. Campus Climate and Public Safety

Section 59700. Statement of Purpose.

This subchapter is promulgated to establish standards for community college district governing boards to ensure the application of community and evidence-based policing models, and effective faculty, staff, and student participation in the governance of public safety services, including campus policing and security. Public safety services must adhere to principles of diversity, equity, and inclusion, and accessibility, and in particular advance access to education, educational equity, and opportunities for student success by creating safe, secure, peaceful, and inclusive campus environments in which all persons may fully develop their individual potential without fear or undue risk of physical or emotional harm.

The standards established by this subchapter shall apply to all public safety services and public safety personnel, whether provided by district employees, or by contract with private third parties or other public agencies.

Note: Authority cited: Education Code, section 70901, subdivision (c). Reference: California Constitution, article I, section 28; Education Code, sections 66010.2, subdivision

(c); 66093, subdivision (a); 66700; 67381; 67381.1; 72330; 72330.2; 72330.5; and 70901, subdivision (b)(1)(E).

Section 59701. Definitions.

The following definitions shall apply to this subchapter.

(a) “Campus” means locations on or near the campus of the community college and on or near other grounds or properties owned, operated, controlled, or administered by a community college district or by the state acting on behalf of a community college.

(b) “Campus police officer” means a sworn peace officer employed by a campus police department, or by a local law enforcement agency, to provide public safety services on a community college campus.

(c) “Campus security officer” means a person employed to provide security services as defined by Education Code section 72330.5, subdivision (c), on a community college campus.

(d) “Campus police department” means a police department operated by a community college district pursuant to Education Code section 72330.

(e) “Campus stakeholders” means students, faculty, classified staff, and administrators, including public safety personnel.

(f) “Commission” means the Peace Officer Standards and Training Commission.

(g) “Community policing” refers to a policing philosophy that involves three principal elements: (1) collaborative partnerships between police and those they serve to develop solutions to problems and increase trust in police; (2) organizational transformation to align management, structure, personnel, and data systems to support partnerships and proactive problem solving; and (3) proactive engagement and systematic examination of problems to develop and evaluate effective responses.

(h) “Equity” means the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment.

(i) “Evidence-based policing” means an approach to the development of effective policing practices that involves ongoing evaluation of police agencies, units, and officers to connect the best available research to the implementation of public safety guidelines and practices to improve outcomes and to allow public safety agencies to move beyond reactive, response-driven approaches.

(j) “Sustained finding” means a final determination by an investigating agency, commission, board, hearing officer, or arbitrator following an investigation and opportunity for an administrative appeal pursuant to Government Code sections 3304 and 3304.5, or equivalent processes, that the actions of a peace officer were found to violate law or department policy.

(k) “Local law enforcement agency” means the city or county law enforcement agency with operational responsibility for police services in the community in which a campus is located.

(l) “Public safety personnel” means campus police and security officers, and other first responders, including mental health and social services workers, crisis counsellors,

dispatchers, and others employed to provide related services on a community college district campus, including related support staff.

(m) “Public safety services” means law enforcement, security, emergency response, mental health, social services, crisis counselling, and other related services.

(n) “Underserved communities” refer to populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, educational, social, and civic life, such as Black, Latino, and indigenous and Native American persons, Asian Americans and Pacific Islanders, and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.

Note: Authority cited: Education Code, section 70901, subdivision (c). Reference: Education Code, sections 66010.2, subdivision (c); 66093, subdivision (a); 66700; 67381; 67381.1; 70901, subdivision (b)(1)(E); and 72330; and Penal Code section 832.8.

Section 59702. Campus Policing and Student Success.

District governing board policies related to campus public safety services must be aligned to the purposes of this subchapter. These policies shall include the elements described below.

(a) A requirement that campus police and security officers adhere to community policing principles and evidence-based policing practices.

(b) A “Public Safety Compact” developed with community college stakeholders, including campus police and security officers, that establishes the district’s requirements for the delivery of public-safety related services on campus, including the respective roles and responsibilities of administrators, faculty, campus police and security officers, mental health and social services workers, crisis counselors, community non-profits, and other related service providers in responding to the public safety needs of the campus.

(c) A public safety advisory committee to make recommendations to the district governing board related to district policies governing campus public safety services.

(1) Advisory committee recommendations may relate to the following subject matter areas: budgets and fund allocations, governance, and public safety policies and practices related to body and dash cameras, classroom response practices, complaints, investigations, crisis response, detention, discipline, firearms, handcuffing, promotion, recruitment and hiring, restorative justice programs, retention, training, uniforms and attire, use of force, welfare checks, and other related subjects deemed appropriate by the governing board or the advisory committee.

(2) District policies must ensure the disclosure of information and documents relevant to the development of recommendations by district advisory committees. Advisory committee recommendations shall be provided to the district chief executive officer, and be reported to district governing boards at regularly-noticed meetings.

(3) Advisory committees shall be composed of campus stakeholder representatives, and districts shall engage in active efforts to recruit advisory committee

members from historically underserved groups communities. The advisory committee function described in this section may be fulfilled by existing district consultation processes.

(d) A requirement that public safety personnel offer contact information to individuals who are stopped or otherwise subject to a police or security officer-initiated interaction, except where doing so would pose a safety risk; and

(e) To further the development of evidence-based practices, a process to encourage individuals who have interacted with campus public safety personnel to submit to the district a response related to the interaction. The process shall:

(1) solicit responses regarding the individual's perception of the interaction and district's public safety practices;

(2) provide to the advisory board described in subdivision (c), an aggregated summary or otherwise anonymized version of the responses received;

(3) allow for the anonymous submission of responses;

(4) prohibit any retaliation against a responder, including a prohibition against the use of a response in any disciplinary proceeding against the responder; and

(5) provide an accessible method for all individuals to provide responses.

The process described in this subdivision (e) shall be separate from any disciplinary or personnel proceeding. It shall not be used in connection with any disciplinary proceeding against campus public safety personnel, including a peace officer disciplinary proceeding under Penal Code 832.5. Information, data, and records developed under this process shall not be maintained in any personnel file.

Note: Authority cited: Education Code, section 70901, subdivision (c). Reference: California Constitution, article I, section 28; Education Code, sections 66010.2, subdivision (c); 66093, subdivision (a); 66700; 67381; 67381.1; 72330; 72330.2; 72330.5; and 70901, subdivision (b)(1)(E); Penal Code, sections 832.5 and 832.7.

Section 59703. Campus Police, Community Policing, and Evidence-Based Practices.

(a) Campus police departments, and any local law enforcement agency that contracts with a community college district, must participate in commission programs. Campus police officers must be certified by the commission.

(b) To support the development of community policing practices, district governing boards shall:

(1) require campus police and security officers to participate in regular training related to the conduct and methods of community policing, anti-bias, cultural responsibility, conflict avoidance, and de-escalation;

(2) provide campus police and security officers routine mental health services, and prompt referral to crisis counseling following any critical incident;

(3) require in the hiring, retention, and promotion of campus police and security officers a demonstrated commitment to policing with a "guardian" rather than a "warrior" mindset;

(4) prohibit district auxiliary organizations from purchasing military equipment, unless authorized by the district governing board following standards required by law for the purchase of equipment for police agencies made with public funds; and

(5) require campus police and security officers to attend and participate in campus activities not involving a “police response” or other formal public safety-related activities, such as participating in student events when invited, in town halls, convocations, and other similar events where informal or social interactions with other campus stakeholders is possible.

(c) To support the development of evidence-based practices, campus public safety services shall:

(1) record policing data metrics, including key performance indicators;

(2) track data related to traffic stops and other officer-initiated contacts; and

(3) conduct stakeholder climate surveys focused on campus public safety services;

and

~~(4) equip campus police with body cameras, which shall be recording throughout any policing response or interaction.~~

(d) The Chancellor shall:

(1) Publish the scope of the data and metrics required by subdivision (c), and the timing and manner of their reporting;

(2) Share development in policing practices, including innovations in technology;

(3) Use the Chancellor’s procurement authority to support the acquisition of equipment by districts to advance the purposes of this subchapter. ~~The scope of the data and metrics required by subdivision (c), and the timing and manner of their reporting, shall be determined in guidance published by the Chancellor.~~

Note: Authority cited: Education Code, section 70901, subdivision (c). Reference: Education Code, sections 66010.2, subdivision (c); 66093, subdivision (a); 66700; 67381; 67381.1; 72330; 72330.2; 72330.5; and 70901, subdivision (b)(1)(E); Penal Code, section 1031.

Section 59704. Employment of Campus Public Safety Personnel.

(a) The employment of campus public safety personnel will be subject to the equal employment opportunity regulations of subchapter 1 (commencing with section 53000), of chapter 4, and the employee tenure and evaluation provisions of subchapter ~~6~~ 7 (commencing with section 53601), of chapter 4.

(b) District recruiting materials must prominently indicate that applicants for a campus public safety personnel position will be required to demonstrate a commitment to diversity, equity, and inclusion principles. The evaluation of public safety personnel during their term of employment shall include consideration of the employee’s commitment to these principles and to their contributions to student success.

(c) Applicants who obtain a degree in modern policing from a California community college shall receive a hiring preference over other similarly-qualified applicants for a position as a campus police officer.

(d) Campus police and security officers shall receive community college-specific training as required by the ~~Chancellor~~ law, and as made available by the Commission. Districts shall make any campus climate and public safety trainings or materials developed by the Chancellor's Office available to its public safety personnel.

(e) Districts shall not hire as a campus police officer an individual with any ~~final determination~~ sustained finding related to moral turpitude, harassment, discrimination, retaliation, abuse of authority or power, excessive use of force, or other misconduct incompatible with the role of a campus police officer under the requirements of, and district policies described in, this subchapter. Districts shall review records related to the current or prior employment of campus police and security officers to the full extent authorized by law.

Note: Authority cited: Education Code, section 70901, subdivision (c). Reference: Education Code, sections 66010.2, subdivision (c); 66093, subdivision (a); 66700; 67381; 67381.1; 72330; 72330.2; 72330.5; and 70901, subdivision (b)(1)(E); Penal Code, section 13511.1.