



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

45-Day Notice published September 3, 2021

NOTICE IS HEREBY GIVEN, pursuant to Chapter 2 of the Board of Governors Procedures and Standing Orders, that the Board proposes to adopt the regulatory action described below after a public hearing and considering all comments, objections, or recommendations received regarding the proposed action.

PUBLIC HEARING

A public hearing will be held via Zoom videoconferencing during the next regularly scheduled Board of Governors meeting on September 20, 2021. The hearing will commence at or about 12:30 p.m.

To prevent the spread of novel coronavirus (COVID-19), the Board of Governors is temporarily offering an additional method for public comment. The public is encouraged to watch the board meeting online and either submit a written public comment or provide public comment to the Board of Governors, details are below.

Public Comment: Members of the public wishing to comment on specific board items or during the Public Forum may do so in advance or during the live board of governors meeting. All comments will be limited to three minutes and the following policies:

a) You may submit your comment in advance via email to boardcomments@cccco.edu. In the email subject line, specify the item number you wish to comment on or indicate "Public Forum". You may identify yourself or specify that you wish to remain anonymous at the top of your email. All written public comments for the Board of Governors meeting must be received by the end of business on September 15, 2021. Comments meeting the deadline will be provided to the Board of Governors and posted for public viewing.

b) During the live board of governors meeting, you may use the Raise Hand feature on the Zoom platform to make a verbal comment to the Board. A Chancellor's Office employee will announce your name and grant you the ability to speak to the Board. You are requested to identify yourself and present your comment at that time.

ZOOM VIDEOCONFERENCING

Please use the link below to join the webinar:

<https://cccconfer.zoom.us/j/381430034>

Dial US: +1 669 900 6833 | Webinar ID: 381 430 034

Password: **234632**

International numbers available: <https://cccconfer.zoom.us/u/acIPAzrcGq>

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 regulatory action 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@cccoco.edu

Comments must be received by the Regulations Coordinator prior to 4:00 p.m. on October 18, 2021. 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.

INFORMATIVE DIGEST

The Board of Governors of the California Community Colleges proposes regulatory amendments to certain provisions of title 5 of the California Code of Regulations related to community college districts' process for addressing complaints of unlawful discrimination. The proposed amendments address passage of Assembly Bill 1383 (Carrillo), which adjusts the time period required for the investigation of an academic employee subject to involuntary paid administrative leave. In addition, the proposed revisions address comments received from community college districts following implementation of revisions to the Board's regulations last year, and concerns identified by the Office of General Counsel in their review of investigations and administrative determinations appealed to their office.

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 set forth a process for handling complaints of unlawful discrimination by student or employee complainants. After consultation with stakeholders, the proposed amendments will improve the complaint review process at the local level and strengthen procedural protections for complainants.

The proposed regulatory action includes the following substantive changes:

- Provides a clear definition of "neutral investigator" to minimize the possibility of an investigator having true or perceived conflicts of interest.
- Specifies that all complaints must be investigated by a "neutral investigator" as defined.
- Specifies that timelines for completing an investigation are tolled while the parties seek in good faith to resolve the complaint through informal resolution.
- Specifies that a complaint must allege facts that, if true, would constitute a violation of state or federal laws prohibiting unlawful discrimination.
- Streamlines the process for dismissing a complaint as defective for failure to state a claim; requires this be done within 14 days; and

requires a district to offer a complainant an opportunity to cure the complaint by proffering additional facts through an intake interview. A district's dismissal of a complaint at this stage would be appealable to the Chancellor's Office.

- Requires investigations to summarize the testimony provided by witnesses with information relevant to the allegations and provide an explanation as to why identified potential witnesses were not interviewed.
- Specifies the timeline for completing an investigation of an academic employee subject to involuntary paid administrative leave and excludes such matters from existing provisions for requesting extensions of time.

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.

TEXT OF PROPOSED REGULATIONS AND CORRESPONDING DOCUMENTS

Copies of the 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 Actions](#)

Those who receive the Board of Governors Agenda package for the September 20, 2021, 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.