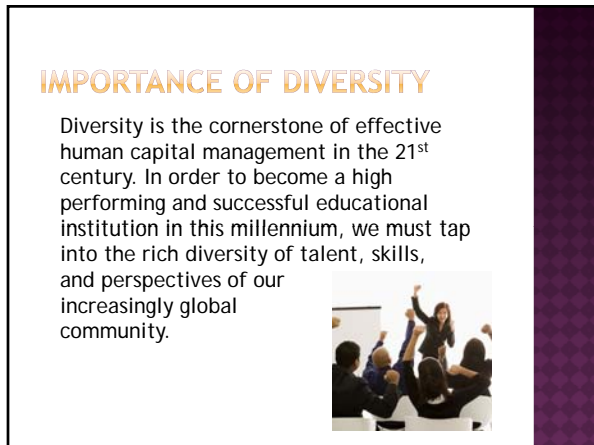





**FACULTY HIRING:
WHAT DOES DIVERSITY
& EQUAL EMPLOYMENT
OPPORTUNITY
HAVE TO DO WITH IT?**

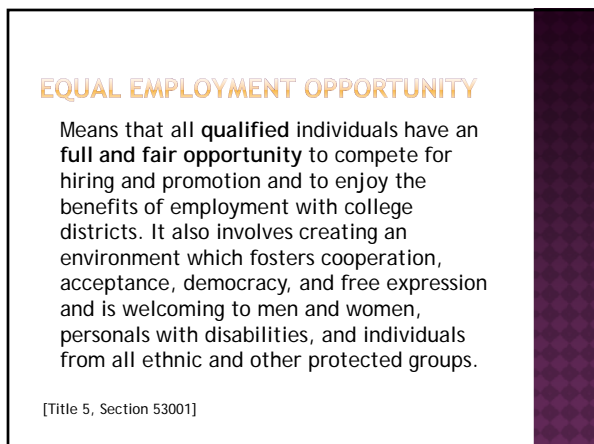
ACHRO/EEO
2013 Fall Training Institute
Sylvia Macias, J.D.
District Compliance Officer
Los Angeles Community College District



IMPORTANCE OF DIVERSITY

Diversity is the cornerstone of effective human capital management in the 21st century. In order to become a high performing and successful educational institution in this millennium, we must tap into the rich diversity of talent, skills, and perspectives of our increasingly global community.





EQUAL EMPLOYMENT OPPORTUNITY

Means that all qualified individuals have an **full and fair opportunity** to compete for hiring and promotion and to enjoy the benefits of employment with college districts. It also involves creating an environment which fosters cooperation, acceptance, democracy, and free expression and is welcoming to men and women, persons with disabilities, and individuals from all ethnic and other protected groups.

[Title 5, Section 53001]

DIVERSITY AND EEO HIRING

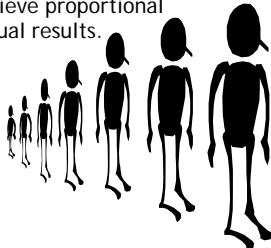
- Concepts are interrelated
- Included in State Chancellor's Office - EEO Plans
- EEO means everyone get equal and fair chance to compete for coveted faculty positions
- Leads to more diversity, better faculty
- Which translates to students better prepared to live and compete in 21st century world

RESPECTING DIVERSITY IN THE HIRING PROCESS

- Make good faith efforts to remove identified barriers such as including broad advertising of job openings, outreach efforts, and careful monitoring of recruitment, search and selection practices to ensure EEO is provided at every stage of these processes;
- Expand employment opportunities;
- Train hiring committee on strategies to avoid bias.

PREFERENCES IN HIRING

Federal regulations and the California Constitution, placement goals do not create job set-asides for specific groups, nor are they intended to achieve proportional representation or equal results.



WHY MULTICULTURALISM

- Expansion of tourism, international student exchanges and new patterns of global financial and commercial relationships call for a systematic and comprehensive response to cultural and ethnic diversity
- Understanding and respect for the diversity of all members of society; value of societal cohesion; and, the promotion of shared values and norms.
- Important that ethnic differences in cultural patterns, customs and expectations do not become a hindrance in development of relationships.

GLOBALIZATION AND THE KNOWLEDGE ECONOMY



'modern society is not mobil because it is egalitarian; it is egalitarian because it is mobile.' Ernest Gellner



EDUCATION, GLOBALIZATION AND THE KNOWLEDGE ECONOMY

- Offshoring of high-skilled jobs increasing as companies able to locate high-value activities in low-cost economies.
- *World-Class skills* are route to economic prosperity and social cohesion. (Content, Math)
- Constant innovation and technical expertise hold the key to the new global competitive challenge.
- Broader competencies: Critical thinking and problem-solving, creativity, complex communications, and other languages.
- *Soft-Skills* such as initiative, perseverance, time-management and team-working.

CHALLENGES

- Students will need higher-order thinking skills on automation along with global literacy (the knowledge of people and cultures outside the United States) to succeed in the 21st century workplace.



- Prepare students to interact effectively with more diverse groups of people in their communities and at work; think: global work teams.

COMMUNITY COLLEGES PLAY MAJOR ROLE

- Vitality and stability of California depends on ability to foster productive citizenship in our diverse, multicultural environment
- Community colleges play a major role in ensuring educational opportunity and success for all California's people

[Achieving the Diversity Commitment, A Policy and Resource Paper of the California Community College Trustees (Jan. 2003) p.1 (citing Sacramento Bee, 8/30/00.)]

MINIMUM QUALIFICATIONS REQUIRE DEMONSTRATED SENSITIVITY TO DIVERSITY

- Since 1999, a minimum qualification for all community college administrators and academic positions has been "a sensitivity to and understanding of the diverse, academic, socioeconomic, cultural, disability, and ethnic backgrounds of community college students."
- Any individual can possess the above regardless of race, ethnicity, or gender

UPDATED REGULATIONS COMPORT WITH PROP. 209 AND PROMOTION OF WORKPLACE DIVERSIFICATION

- Prop. 209 passed in 1990 amended the California Constitution - no discrimination against, or granting of preferential treatment to, any individual on basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting. (*Connerly v. State Personnel Board.*)
- Regulations adopted in 2002 California community college district are required to develop EEO Plans.

EEO PLANS

- Written document in which specific plans and procedures are set forth ensuring equal employment opportunity.
- No more affirmative action, however, promoting diversity in the workplace remains a legal obligation for community colleges.
- State Chancellor issued a Model EEO Plan and Guidelines ("Model Plan") to assist community colleges in meeting requirement

EEO PLANS - APPLICATION

- Revised regulations effective October 19, 2013 provide that the Chancellor's Office is no longer required to approve district EEO plans, districts are still required to submit their plans to the Chancellor's office.
- Revised regulations can be found at Chancellor's website:
http://extranet.cccco.edu/Portals/1/Legal/Reqs/FINAL_AS_FILED_EEO_regs.pdf

OVERVIEW OF EEO PLAN REVISIONS

- Districts have both the independence and the responsibility to design and implement strategies that make sense for their particular communities;
- Districts must conduct systematic self-evaluation of practices that are focused at the district level;
- Data will still be collected and analyzed, but instead of relying on a single specific test or set of numbers, districts can measure and assess diversity from various angles and through various means relative to known populations

OVERVIEW OF EEO PLANS - CONT.

- Chancellor's Office oversight is triggered by a district's failure to take responsibility for developing and implementing EEO strategies on its own;
- Rules for interim appointments changed to allow for a two year interim appointment with NO provision for extension. After two years, the interim appointment MUST BE TERMINATED;
- Disabled applicants treated consistently with all other applicants - no goals and timetables

PROHIBITED HIRING PRACTICES

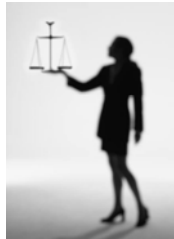
- Discriminate on the basis of race, color, religion, sex, national origin, age, disability, marital status, sexual orientation, political affiliation, genetic information, marital or veteran status
- Give preference or advantage to any person to improve or injure the employment prospects of any particular employee or applicant
- Engage in nepotism (i.e., hire, promote, or advocate the hiring or promotion of relatives)

TRAINING REQUIRED BY TITLE 5

Any organization or individual involved in the recruitment and screening/selection of personnel SHALL receive appropriate training on the requirements of the Title 5 regulations on equal employment opportunity; the requirements of federal and state nondiscrimination laws; the requirements of the district's EEO Plan; the district's policies of nondiscrimination, recruitment, and hiring; principles of diversity and cultural proficiency; the value of a diverse workforce; and recognizing bias.

[California Code of Regulations, Title 5,
Section 53003, et. seq.]

FEDERAL AND STATE DISCRIMINATION LAWS



FEDERAL LAWS

- THE Civil Rights Act of 1964 (Title VII)
- The Age Discrimination in Employment Act of 1967 (ADEA)
- Americans with Disabilities Act of 1990 (ADA)

THE CIVIL RIGHTS ACT OF 1964 (TITLE VII)

- Prohibits intentional discrimination and PRACTICES that have the effect of discriminating against individuals because of their race, color, national origin, religion, or sex.
- All aspects of employment covered
- Watch decisions based on stereotypes or assumptions about abilities, traits, or performance of protected classifications.

NATIONAL ORIGIN

- National Origin refers to the place a person comes from, his ancestry, or ethnic background.
- Ethnicity is the cultural characteristics that connect a particular group or groups of people to each other.

ETHNIC MINORITIES

Include American Indians or Alaska natives, Asians or Pacific Islanders, African Americans and Hispanics.

[Title 5, Sect. 53001]

NATIONAL ORIGIN - LANGUAGE

- Accent Discrimination
An employer may not base a decision on an employee's foreign accent unless the accent materially interferes with job performance
- English Fluency
A fluency requirement is only permissible if required for the effective performance of the position for which it is imposed.

FOREIGN NATIONALS

Title VII and other antidiscrimination laws prohibit discrimination against individuals employed in the United States, regardless of citizenship. However, relief may be limited if an individual does not have work authorization.



THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967 (ADEA)



ADEA

- An age limit may **only** be specified when age has been proven to be a *bona fide* occupational qualification (BFOQ);
- Benefits may be reduced based on age **only** if the cost of providing the reduced benefits to older workers is the same as the cost of providing benefits to younger workers.

AMERICANS WITH DISABILITIES ACT OF 1990 (ADA)



ADA

- Prohibits discrimination on the basis of disability in all employment practices.
- Who is protected?
 - An individual with a disability
 - A qualified employee or applicant with a disability

ADA - WHAT IS A PERSON WITH A DISABILITY?

- A person with a disability under the ADA is someone who has a physical or mental impairment that *substantially limits one or more major life activities*, has a record of such an impairment, or is regarded as having such an impairment
- *Major life activities are activities that an average person can perform with little or no difficulty such as walking, breathing, seeing, hearing, speaking, learning, and working.*

ADA: WHO IS A QUALIFIED EMPLOYEE OR APPLICANT?

A qualified employee or applicant with a disability is someone **who has the skills, experience, education, and other job-related requirements of the position held or desired, and who, with or without reasonable accommodation, can perform the essential functions of that position.**

ADA: WHAT ARE REASONABLE ACCOMMODATIONS

May include, making existing facilities more readily accessible to and usable; job restructuring; modification of work schedules; providing additional unpaid leave; reassignment to a vacant position; acquiring or modifying equipment or devices; adjusting or modifying examinations, training materials or policies; and providing qualified readers or interpreters.

ADA: WHAT IS NOT REQUIRED

- An employer is not required to lower production standards to make an accommodation; and,
- Generally, not obligated to provide personal use items such as eyeglasses or hearing aids.

ADA: UNDUE HARDSHIP

- An employer is required to make a reasonable accommodation unless doing so would impose an undue hardship on the operation of the employer's business.
- Undue hardship means an action that requires significant difficulty or expense when considered in relation to factors such as a business' size, financial resources, and the nature and structure of its operations

ADA: WHAT CAN AND CANNOT BE ASKED OF APPLICANTS

- Before making an offer of employment, an employer may not ask job applicants about the existence, nature, or severity of a disability.
- Applicants may be asked about their ability to perform job functions.
- A job offer may be conditioned on the results of a medical examination, but only if the examination is required of all entering employees in the same job category.

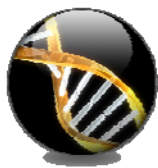
CANDIDATES WITH DISABILITIES

Questions should inquire about applicant's ability to perform the essential functions of the job, therefore questions about applicant's disability and how it impacts this ability not relevant at this stage. These questions can only be asked after a job offer is made.

OBVIOUSLY DISABLED APPLICANT

The EEOC has indicated that where an applicant discloses a disability or the disability is otherwise obvious, the employer should not make further inquiry concerning the disability (e.g., How did you lose your leg?")

THE GENETIC INFORMATION NONDISCRIMINATION ACT OF 2008 (GINA)



GINA

Prohibits the improper use of genetic information in health insurance and employment; bars employers from using individual's genetic information when making a hiring, firing, job placement, or promotion decision.

STATE OF CALIFORNIA LAWS

- The Fair Employment and Housing ACT (FEHA) (Gov. Code 12900-12996)
- The Ralph Act (Civ. Code 51.7)
- Title 5 (59300 California Code of Regulations)
- Unruh Civil Rights Act (Civ. Code 51)
- Education Code 220

FEHA

- Bans employment discrimination on bases of age (40+), ancestry, color, religious creed, disability (mental and physical) including HIV and AIDS, marital status, medical condition (cancer and genetic characteristics), national origin, race, sex, and sexual orientation.
- Like ADA requires reasonable accommodation unless undue hardship for qualified persons with disabilities which include....

**DISCRIMINATION
MARITAL STATUS**



- Must treat single person same as married person
- Candidate/employee may bring claim where he or she is the object of adverse action because of his/her status

UNRUH CIVIL RIGHTS ACT

Guarantees access, services and accommodations free of arbitrary discrimination in all business establishments.

THE RALPH ACT

Protects all persons from violence and intimidation by threats of violence based on their age, ancestry, color, disability, national origin, political affiliation, race, religion, sex, sexual orientation, or position in a labor dispute.

TITLE 5

- Makes it unlawful to deny full and equal access to the benefits of, or be unlawfully subjected to discrimination under any program or activity that is administered by, funded directly by, or that received any financial assistance from, the Chancellor or Board of Governors of the California Community Colleges
- All protected classes included, also perceived to be or based on association of person or group with one or more of the actual or perceived protected characteristics.

EDUCATION CODE SECTION 220

No person shall be subjected to discrimination on the basis of any actual or perceived characteristic that is contained in the definition of hate crimes set forth in Section 422.5 of the Penal Code in any program or activity conducted by an educational institution that receives, or enrolls pupils who receive state student financial aid.

FACULTY HIRING

"One of the most important decisions made at our colleges is the faculty that we hire."

DEFINITIONS

Recruitment: The act of seeking prospective new employees.

Selection: The process of choosing a candidate in preference of others to fill a particular position (Any measure, combination of measures or procedures used as a basis for any employment decision. Including, teaching demonstrations, work experience requirements, review and rating of applications, interviews]

BEST PRACTICES

- Inclusive searches are essential to achieving faculty diversity
- CONSISTENT HIRING PROCESS
- Equal Employment Opportunity Representatives (EEO's) trained and certified by District Compliance/HR Officers responsible for monitoring faculty hiring process
- EEO REP CERTIFIES THAT SELECTION PROCESSES ARE IN COMPLIANCE WITH APPROVED DISTRICT REGULATIONS, STATE AND FEDERAL LAW AND EEO HIRING PROCEDURES

REQUIREMENTS

- ◉ Selection and assignment of faculty shall be based on job-related factors which include qualifications and capabilities
- ◉ The use of any degree of personal, political, or social influence to secure selection to a faculty position, or the urging of any consideration other than fitness for the work is unprofessional conduct and strictly forbidden.

HIRING PROCESS OVERVIEW

- Authorization to Fill
- Recruitment (Job Announcement/District/Posting)
- Selection Committees
- Chairperson's Role
- EEO Rep's Role
- Screening and Selection Process
- Paper Screening Guidelines
- Interview Guidelines
- Selection
- Concluding the Process

JOB ANNOUNCEMENT

- Selection Committee shall prepare job announcement for approval by the President; EEO should review all final job announcements before posting and distribution (Must include EEO and ADA statements);
- Announcement to describe desirable academic preparation, experience, and other characteristics sought and the duties and responsibilities expected to assume;
- Min. Quals same as the State Quals. may add ability to communicate and work effectively with diverse cultures and language groups; and sensitivity to individuals who come from diverse academic, socioeconomic, cultural and ethnic backgrounds, including those who have disabilities.

INCLUSIVE RECRUITMENT

POSTING AND DISTRIBUTION OF ANNOUNCEMENTS:

- CCC Registry, and College websites;
- Interest Mailing List
- State Colleges and Universities
- Emails
- Administration Bulletin Boards
- EEO and CHRO Officers
- Periodicals and other (As Approved.)

DURATION OF RECRUITMENT

- Several months long (preferably in early spring for fall - or least a full semester in advance)
- But no fewer than six (6) weeks
- Can extend if size or diversity of the pool who responds not satisfactory - additional recruitment efforts then required.

COMPOSITION OF HIRING COMMITTEES

At least 3 members, a majority in discipline to be filled (or, closely related); at least 1 academic supervisor, and a voting or non-voting EEO Rep.

Whenever possible, hiring committees shall include a diverse membership that will bring a variety of perspectives to the assessment of applicant qualifications.



[Title 5 Sec. 53024(f)]

RESPONSIBILITIES OF HIRING COMMITTEE CHAIR

- > The voting members of the hiring committee shall select the chair of the committee whose responsibilities will include:
 - ✓ Guiding, directing, facilitating and overseeing committee meetings
 - ✓ Requesting assignment of EEO Representative
 - ✓ Maintaining compliance with all district policies, HR Guides, and procedures governing the hiring process
 - ✓ Ensuring all applications and documentation are returned to Human Resources
 - ✓ Assisting in scheduling interviews and conducting reference checks

RESPONSIBILITIES OF EEO REPRESENTATIVE

- Monitor the hiring process to ensure no applicant, candidate is unlawfully discriminated against
- Ensures selection process is fair and all candidates have equal opportunity to compete for position - rating sheets, evaluation criteria
- Reviews and approves interview questions before interviews are conducted - must be based on position announcement and not discriminatory
- Advises members of District's non-discrimination policy and confidentiality guidelines - no conflicts of interests;
- May supervise applicant file maintenance and security - required documentation.



EVALUATION OF APPLICATIONS

DOCUMENTS TO BE SUBMITTED

Any information and documentation specified in job announcement



REQUIREMENTS OF SCREENING PROCESS

- All members of committee must review
- Diversity Survey form must be kept separate
- Committee Chair responsible for ensuring only those applicants judged to meet minimum qualifications are invited to interview
- All must sign process/confidentiality statement/agreement

ASSESSMENT CRITERIA

- ✓ Candidate's expertise in the discipline or subject matter;
- ✓ Candidate's demonstrated ability or potential; and
- ✓ Candidate's contribution, directly or indirectly, to the diversity of the college, division, and discipline of employment.

PAPER SCREENING

- Rating of Candidates
- According to criteria directly from position announcement
- ✓ Minimum Qualifications
- ✓ Multi-Cultural Experience
- ✓ Position Description from announcement

APPLICANT FOLDERS

Application materials will be placed in a folder by discipline. The application materials may be reviewed by committee members but not removed.

Materials shall be compiled and collected by the assigned personnel who will track status of applications, assist in coordination of interviews and completion of documentation process with College/District.

RULES OF SCREENING

- Do not write on any application materials
- Do not make copies of any application materials
- Apply criteria fairly and consistently
- Read all applications thoroughly
- Maintain confidentiality
- Do not remove applications from the designated site.

THE INTERVIEWS

- A minimum of 5
- Chairperson or designated administrator responsible for contacting and making all necessary arrangements.
- The invited candidates will be those who best meet the qualifications for the position; possess the highest degree of knowledge, skill, and ability relevant to the position; and most closely match the desirable characteristics specified in the announcement of the position.
- Meeting the state minimum qualifications will not guarantee an interview.

CONFIDENTIALITY

- All information obtained on candidates who are considered for employment **MUST BE KEPT CONFIDENTIAL**. Any written notations made about the candidates or their qualifications are exclusively for use by the Selection Committee members.
- Any supplemental notes made by members are to be destroyed when the interview process has been completed.

SELECTING THE INTERVIEW CANDIDATES - PROCEDURES

- Members individually review and rate applicant's files;
- Members meet and, after a full discussion of their ratings, ideally shall select candidates to interview by consensus;
- Committee establishes interview schedule;
- Chair - letter describing interview process, location and date/time of interview;
- Successful and unsuccessful candidates are notified in a timely fashion.

ADJUNCTS ON SENIORITY LIST

AFT Agreement (2011-2014), Article 16, Sect. H. provides that at least two (2) temporary adjunct rate faculty members who apply and are on a seniority list in that discipline and who also meet any local additional requirements adopted for the position and other criteria established by the committee, must be invited to the selection interview.

[Check union agreements for applicability]

INTERVIEW GUIDELINES

- It is important for both the candidate and the committee members to be at ease. The interview process should be humane and create a relaxed atmosphere conducive to candidate doing their best;
- Inform interviewees of the format and timing of the hiring process;
- The candidate should do most of the talking; follow-up questions should be limited to requesting the candidate clarify or expand - NO LEADING QUESTIONS;
- ADA Accommodations upon applicant's request; can provide notice requirements; Interactive Process.

INTERVIEW GUIDELINES [CONTINUED]

- Questions should ensure thorough assessment; activities could include writing samples; teaching demonstrations, etc;
- Provide copy of interview questions to EEO Rep to review before interviews commence - ALL QUESTIONS MUST BE JOB-RELATED - questions about religious beliefs, sexual preferences, financial condition, family relationships can violate anti-discrimination laws and constitutionally protected privacy rights.
- Agree on schedule and format- escorting candidates, campus tours- ensuring respectful and professional treatment.

SELECTING THE FINALISTS

- Upon completion of interviews, provide time for a full, open, and professional discussion toward reaching consensus on top candidates;
- The selection committee shall recommend to the college president, in alphabetical (not rank) order, up to three (3) candidates for further consideration.



CONDUCTING REFERENCE CHECKS

- May be performed for all candidates recommended to the college president.
- Any reference checks will be performed by the committee chair or administrator-in-charge.
- Checks shall include academic background, professional experience, and personal qualities relevant to performance.

REFERENCE CHECKS - SOURCES

- Only proper scope is one that is job related - applicant's qualifications for the job;
- "Googling" - does not generally put at risk because information is publically available;
- Caution should be used because info on Internet may not be true, accurate, or reliable - and, must still be pertinent

INTERVIEWING THE FINALISTS

- Faculty and/or Administrator participation according to college policy
- Decision as to which finalist to recommend to Chancellor and Board rests with President.

COMPLETING THE HIRING SELECTION

- Final selection within two weeks of final interview;
- Upon final clearance by District, President or designee notifies candidate of offer;
- Unsuccessful candidates informed in writing;
- Job offer confirmed in writing

**COMPLETING THE HIRING SELECTION
REQUIRED DOCUMENTATION**

1. College/District specific documentation
2. Complete Application Packet for finalists
3. Official transcripts
4. Evaluation Forms signed by all committee members
5. Correspondence
6. Copies of Interview Questions, writing samples
7. Position Announcement
8. EEO Rep attestation/record kept

EFFECTIVE RETENTION STRATEGIES

STRATEGIES

- Orientation Sessions
- Mentorship Program
- Committee Work
- Faculty Development

WHAT DO YOU THINK?

Why is the concept of diversity and the practice of equal employment opportunity important when hiring faculty to teach at our colleges?

