



# Equal Employment Opportunity: Legal Requirements and Best Practices

Presented By:

Amy Brandt / October 5, 2024

# AGENDA

1. Laws & Regulations
  - a) Regarding Nondiscrimination
  - b) Regarding Equal Employment Opportunity
2. The Role of the EEOAC in Drafting and Implementing the District EEO Plan
3. The Educational Benefits of Workforce Diversity
4. The Elimination of Bias in Hiring Decisions



# EEO Training Requirements

## What training is required?

- **Mandatory training requirements for individuals directly participating in the screening & selection process:**
  1. Law & regulations regarding nondiscrimination (Title 5, §§ 53003, 53005)
  2. The educational benefits of workforce diversity (Title 5, §§ 53003, 53005)
  3. The elimination of bias in hiring decisions (Title 5, §§ 53003, 53005)
  4. Best practices for serving on selection or screening committees (Title 5, § 53003)
- **Additional mandatory training requirement for the Board (Title 5, § 53005):**
  - #1-3 above plus
  - 4. The role of the EEO Advisory Committee in drafting and implementing a District EEO Plan
- No time or frequency requirements (recommendation: after every election cycle, i.e. 2 years)
- Harassment prevention training under AB 1661 is a separate training



# Laws & Regulations Regarding Nondiscrimination and Equal Employment Opportunity



# Federal/State Anti-Discrimination Laws

- Title VII of the Civil Rights Act of 1964
- Title IX of the Education Amendments of 1974
- Americans with Disabilities Act (ADA)
- Age Discrimination in Employment Act (ADEA)
- Fair Employment and Housing Act (FEHA)



# Federal/State Anti-Discrimination Laws

- **Employment Discrimination Includes:**

- Refusal to hire\*
- Rejection from training program
- Discharge from employment/training program
- Any decision affecting compensation, terms, conditions, privileges

...if based on a protected status



# Protected Classifications

- **No Discrimination on Basis of:**

- Sex/Gender (including gender identity and gender expression)
- Reproductive health decision making
- Sexual Orientation
- Race
- National Origin
- Color
- Hair texture/hairstyles associated w/particular race/national origin (CROWN Act)
- Religious Creed

- Ancestry
- Physical/Mental Disability
- Medical Condition
- Genetic Information
- Marital Status
- Age
- Military and Veteran Status
- Association with/perception of membership in protected class



# Equal Employment Opportunity In California

## **Proposition 209 (Cal. Const. Art. 1, Sec. 31)\***

- Prohibits “preferential treatment” on basis of:
  - Race
  - Sex
  - Color
  - Ethnicity
  - National Origin
- In Public:
  - Employment
  - Education
  - Contracting



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# Prop 209 & The Courts\*

- Targeted recruitment = unlawful preference

*\*Hi-Voltage v. City of San Jose  
Connerly v. State Personnel Board*



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# Equal Employment Opportunity In California

- However, CCDs still must:
  - Implement strategies to diversify the workforce
  - Identify and address underrepresentation & adverse impact
  - Develop & implement EEO Plans



# Equal Employment Opportunity In California

## 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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# EEO In California & Regulatory Enforcement

- **Title 5 Regulations require:**
  - EEO Plans (Section 53003(a))
  - Hiring procedures
  - That districts to take steps to eliminate underrepresentation based on protected status. (Section 53006)
- **State Chancellor Enforcement:**
  - Provides EEO Model Plan for district use
  - Reviews EEO Plans prior to adoption
  - Annually reviews district employee demographic data



# EEO Plan Defined\*

- **“EEO Plan”**: A written document that describes a district’s EEO program, and includes:
  - Analysis of the district’s work force
  - Descriptions of the district’s program and strategies informed by the district's work force analysis
- **“EEO program”**: The combination of district strategies implemented to promote EEO. Such programs should be informed by a district’s longitudinal workforce and applicant analyses.

\*53001(d) & (e)



# Developing and Maintaining Institutional Commitment to Diversity

- Key premises:
  - Establishing/maintaining a diverse workforce is an on-going process
  - Appropriate steps depend on the unique circumstances of each institution
- Key requirements:
  - Districts shall locally develop & implement indicators of institutional commitment to diversity
  - Sustained effort
  - No specific steps are mandated
    - unless required by State Chancellor

\*§ 53024.1.





# The Role of the EEO Advisory Committee in Drafting and Implementing the District's EEO Plan



# EEO Advisory Committee

- Title 5 requires all districts establish an EEO Advisory Committee (EEOAC) to develop, revise and implement District EEO programs and plans
- An EEOAC *must* be composed of a diverse membership, and include “members from district stakeholder groups, including but not limited to students, faculty, and classified staff.”



# Role of the EEOAC

- Serves as advisory body to EEO Officer
- Component 5 of District's EEO Plan
  - One of the District's shared governance committees
  - Responsibilities include:
    - Advise on EEO policies and procedures
    - Assists in development, implementation, and revisions of EEO Plan
    - Assist in promoting an understanding and support of EEO and nondiscrimination policies and procedures
    - May sponsor events, training, other activities to promote EEO, nondiscrimination, retention and diversity



# Strategies for Implementing Successful EEO Programs and Promoting Inclusive Work and Learning Environments

- Requires:
  - Leadership & “buy-in” at the top
    - Boards
    - Superintendent/Presidents
    - Executive Cabinets
    - Visible support for diversity and inclusion
  - Equity-mindedness
    - Institutional commitment – at all levels
      - Unions
      - Senates



# Strategies for Implementing Successful EEO Programs and Promoting Inclusive Work and Learning Environments

- Institutional commitment:
  - Community wide “buy-in” essential for success
  - Ensure input from all stake holders
  - Utilize “principles” of participatory governance
  - Inter-departmental collaboration—HR and academic departments
  - See classified service as an essential partner



# Board Adoption of EEO Plan

- Developed in collaboration with district's EEOAC
- Reviewed & adopted at a regular meeting of the governing board
  - ***Agendized as a separate action item, not on consent agenda!***
- Covers a 3-year period
- Submitted to the Chancellor at least 90 days prior to adoption
- Any comments received from Chancellor's Office must be presented to the governing board prior to adoption

\*53003(a)





# Los Rios CCD EEO Plan

- District submitted updates to EEO Plan to State Chancellor's Office
- District received feedback on draft EEO Plan from the State Chancellor's Office
- District integrated State Chancellor's Office feedback into updated draft of EEO Plan
- Board adopted final plan for November 8, 2023
- Currently in implementation phase!



# The Educational Benefits of Workforce Diversity



# It's Not Just The Law...

## **Core Mission:**

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

## **Longstanding Expectation:**

- Identify and address underrepresentation in the workforce



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# Equal Employment Opportunity in California

- Academic & administrative applicants must demonstrate:

“sensitivity to and understanding of the diverse academic, socioeconomic, cultural, and ethnic backgrounds of community college students.”\*

**\*EC 87360**



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

- Established 2018
- Ultimate Goals: Improve student outcomes and meet California's future workforce needs;
- Critical Component: Increase faculty and staff diversity across the System;
- Report confirming that lack of diversity among campus leadership, faculty and staff can negatively impact student success.



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

## 2020 Report & Key Findings

1. Diversity increases student achievement
2. Diversity impacts student and employee retention
3. Faculty and staff diversity reduces the likelihood of implicit bias
4. Faculty and staff diversity increases the ability to integrate multicultural and culturally responsible pedagogy into teaching practices



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# Elimination Of Bias In Decision Making and Hiring: Why We Need “Interrupters”



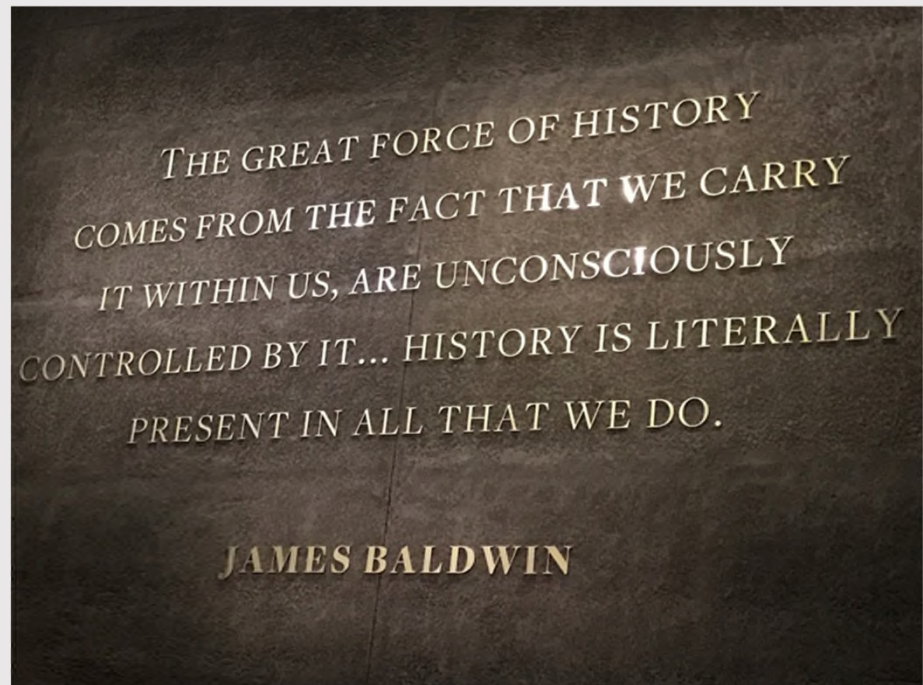
# Bias Defined

A particular tendency, trend, inclination, feeling, or opinion, especially one that is preconceived or unreasoned.



# Where Do Our Biases Come From?

1. Our identities
2. Our experiences
3. History



# Our Biases Impact:

- **Our Perception** – how we see people and perceive reality
- **Our Attitude** – how we react towards certain people
- **Our Behaviors** – how receptive/friendly we are toward certain people
- **Our Attention** – which aspects of a person we pay most attention to
- **Our Listening Skills** – how much we listen to what certain people say
- **Our Micro-affirmations** – how much we comfort certain people in certain situations



# The Bias Blind Spot

People underestimate the influence that self-interest has on their own judgments.

People overestimate the influence that self-interest has on other people's judgments.



# Examples of Common Biases in Hiring & Other Decision-Making Processes

- **Bandwagon effect:** The tendency to do (or believe) things because many other people do (or believe) the same thing
- **Confirmation:** The tendency to confirm what we already believe is true
- **Negativity Effect:** The tendency to allow things that are negative to have a more significant effect than things that are positive or neutral
- **Affinity Bias:** The tendency to have an affinity for people or behaviors that are similar to you





# Addressing Unconscious Bias: Beware the “Good Fit” Myths

## **Myth #1:**

Whether a candidate resonates with me on a personal level provides a reliable predictor of whether the candidate will do a good job.

## **Myth #2:**

How someone performs in an interview setting provides a reliable predictor of how that person will interact with me in the work setting.



# Addressing Unconscious Bias: Unique Challenge When Selecting Leaders

- **What “fit” is:**
  - Demonstrated support for institutional values
- **What “fit” isn’t:**
  - Someone who I can “relate” to personally
  - Someone who looks like me



# Strategy for Interrupting Unconscious Bias

1. Awareness of self
2. Awareness of others
3. Institutional commitments



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# Awareness of Self

1. Know your biases
2. Interrogate your biases
3. Avoid assumptions
4. Be curious



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# Awareness of Others

1. Historical context
2. What you say vs. how they hear it
3. Be attentive to reactions



# Institutional Commitments

- Consider whether there are decision points where bias can be “interrupted”
- *Examples from the hiring process:*
  - Remove identifying information (name, address, etc.) from applications
  - Identify desirable interview answers ahead of the interview
  - Utilize a structured hiring process
  - Utilize skill based testing where applicable
  - Conduct anonymous/blind interviews

**Thank You!**

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