

No. 24-6008

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

DAYMON JOHNSON, *et al.*,
PLAINTIFF-APPELLANT,

v.

STEVE WATKIN, *et al.*,
DEFENDANTS-APPELLEES

**On Appeal from the United States District Court
for the Eastern District of California**
No. 1:23-cv-00848-KES-CDB

**DEFENDANT-APPELLEE SONYA CHRISTIAN'S
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November 27, 2024

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INTRODUCTION

Plaintiff-Appellant Daymon Johnson appeals the district court's order dismissing his preliminary injunction motion as moot.

Johnson, an employee of the Kern Community College District, challenged the constitutionality of the California Community Colleges Board's diversity, equity, inclusion, and accessibility regulations, claiming that the regulations subject him to viewpoint discrimination and compel his speech. However, Johnson failed to meet his burden of establishing standing to assert these claims. The district court thus granted California Community Colleges Chancellor Sonya Christian's motion to dismiss and gave Johnson leave to amend his complaint.

Because the district court dismissed the complaint, it held that Johnson's preliminary injunction motion was moot. That holding was correct because, without a live complaint, there are no allegations on which Johnson could satisfy the preliminary injunction standard of establishing a likelihood of success on the merits or a basis to enjoin the challenged provisions.

In his opening brief, Johnson does not dispute that once the complaint was dismissed with leave to amend, the preliminary injunction motion was properly dismissed as moot. The parties have stipulated to stay the district court proceedings, and Johnson retains the ability to amend his complaint and litigate the standing issue. Instead, he seeks to litigate that issue here. Those arguments are

not properly presented in this appeal. In any event, the district court's conclusion that Johnson lacked standing was correct.

STATEMENT OF JURISDICTION

Plaintiff-Appellant Johnson appeals from the district court's order denying his motion for a preliminary injunction. (Dkt. 1.) Chancellor Christian agrees that this Court has jurisdiction over the appeal of the ruling on the preliminary injunction motion under 28 U.S.C. § 1292(a)(1).

STATEMENT OF ISSUES

The district court denied Johnson's preliminary injunction motion as moot after it granted Chancellor Christian's motion to dismiss Johnson's complaint for lack of standing. Was the district court's dismissal of the preliminary injunction motion proper given that there was no live complaint?

The district court granted Chancellor Christian's motion to dismiss and granted Johnson leave to amend his complaint. Should this Court consider arguments concerning the merits of Johnson's complaint absent a final judgment?

STATUTORY ADDENDUM

Except for the following, all applicable statutes and regulations are contained in Plaintiff-Appellant Johnson's addendum: California Education Code sections 66251, 66261.5, 66270, 71090, 71901, and 71902, and California Code of Regulations, title 5, sections 52510 and 53000. These statutes and regulations are contained in Defendant-Appellant's addendum appearing at the end of this brief.

STATEMENT OF THE CASE

The California Community Colleges Board of Governors has adopted regulations requiring community college districts to include in their evaluation policies consideration of faculty proficiency in principles of diversity, equity, inclusion, and accessibility. The regulations are not disciplinary and include no employee-discipline elements. Rather, the regulations advance Board policy favoring the diffusion of knowledge, and the application of diversity, equity, inclusion, and accessibility principles on California community college campuses. The regulations support the professional development of faculty who teach in the largest and most diverse system of higher education in the nation, help create truly inclusive campus environments, and reduce the administrative burden of incidents of campus social conflict. The regulations do not require any form of ideological adherence, nor do they restrict or compel any person's speech.

In his First Amended Complaint, Johnson asserted that these regulations violate his First Amendment Rights. But the district court correctly held that he had not pleaded the factual allegations necessary to show that the regulations in any way impose an immediate threat of harm to him or have directly impaired his ability to express himself freely. Nor did the complaint make the required showing that the regulations authorize Chancellor Christian to undertake any discriminatory action against Johnson based on his viewpoints regarding diversity, equity,

inclusion, and accessibility. For these reasons, the district court granted Chancellor Christian’s motion to dismiss for lack of standing, making Johnson’s motion for a preliminary injunction moot.

A. The California Community Colleges.

The California Community Colleges is the largest postsecondary system of higher education in the United States, with more than 1.8 million students attending one of 116 college campuses annually. Cal. Cmty. Colls., *Students*, <https://www.cccco.edu/Students> (last visited Nov. 27, 2024). As “the backbone of higher education in the state and the leading provider of career and workforce training in the country,” the community colleges are the most common entry point into collegiate degree programs in California; the primary system for delivering career technical education and workforce training; a major provider of adult education, apprenticeship, and English as a Second Language courses; and a source of lifelong learning opportunities for California’s diverse communities. *Id.* The California Equity in Higher Education Act (Cal. Educ. Code §§ 66250 et seq.) establishes California’s policy of affording all persons equal rights and opportunities in postsecondary educational institutions, including the California Community Colleges. *Id.* §§ 66251, 66261.5.

The California Community Colleges Board of Governors (the Board) sets policy and provides guidance to the 73 districts that constitute the postsecondary

education system of community colleges. Cal. Educ. Code § 70900. The California Legislature has granted the Board authority to develop and implement standards for classes, student academic requirements, and employment of academic and administrative staff. *Id.* §§ 70900; 70901(b). In fulfilling those duties, the Board’s goal is to create an “inclusive, equity-centered teaching and learning ecosystem that supports the needs of students from all backgrounds through actions both big and small.” Cal. Cmty. Colls., *Diversity, Equity, Inclusion, and Accessibility*, <https://tinyurl.com/4mbpa94m> (last visited Nov. 27, 2024). To further that goal, the California Community Colleges are unequivocally committed to pursuing “transformational change to ensure institutions truly work for all students across race, ethnicity, religion, class, and gender.” Cal. Cmty. Colls., *Vision 2030*, <https://tinyurl.com/2s4ffy8m> (last visited Nov. 27, 2024).

Under its authority from the Legislature, the Board promulgated regulations to implement “aspects of state and federal anti-discrimination laws intended to prevent unlawful discrimination in employment.” Cal. Code Regs. tit. 5, § 53000. The regulations “provide[] direction to community college districts related to the incorporation of evidence-based and equity-minded practices into existing recruitment, hiring, retention, and promotion activities to promote equal employment opportunities.” *Id.* As part of providing that direction, and furthering its “goal of ensuring the equal educational opportunity of all students, the

California Community Colleges embrace diversity among students, faculty, staff and the communities we serve as an integral part of our history, a recognition of the complexity of our present state, and a call to action for a better future.” *Id.* § 51201(a). This goal is intended to “guide the administration of all programs in the California Community Colleges, consistent with all applicable state and federal laws and regulations.” *Id.* § 51200.

The Board’s chief executive officer—the Chancellor—exercises the duties and responsibilities delegated to her by the Board. Cal. Educ. Code § 71090(b). Defendant Christian has served as Chancellor since June 2023. The Chancellor’s Office is responsible for carrying out the policies of the Board, including the development of fiscal plans, a legislative agenda, a budget for the community college system, and the execution of grants to community college districts to carry out statewide programs in furtherance of the Board’s policies. *See generally id.* §§ 71090-71906. But neither the Chancellor nor the Board has the authority to administer local community college campuses; that authority lies with the community college districts governed by locally elected boards of trustees. Specifically, neither the Chancellor nor the Board has any role in hiring, disciplining, or terminating district staff, or in establishing “employment practices” for community college professors. *Id.* § 70902(a)(1) (“Every community college district shall be under the control of a board of trustees,” and this “governing board

of each community college district” shall “maintain, operate, and govern” community colleges under their jurisdiction); *see also id.* § 70902(b)(4) (local districts shall “[e]stablish employment practices, salaries, and benefits for all employees not inconsistent with the laws of this state.”).

Instead, the Board’s primary purpose is to provide “leadership and direction” while maintaining, “to the maximum degree permissible, local authority and control in the administration” of local community colleges by their districts. Cal. Educ. Code § 70901(a). Consistent with that “local authority and control,” community college districts are responsible for “employ[ing] and assign[ing] all personnel not inconsistent with the minimum standards adopted by the board of governors and establish[ing] employment practices, salaries and benefits for all employees not inconsistent with the laws of this state.” *Id.* § 70902(b)(4).

B. The Regulations.

The California Education Code provides that “[n]o person shall be subjected to discrimination on the basis of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any [other constitutionally protected] characteristic” in California’s community colleges. Cal. Educ. Code § 66270. Consistent with this law, the Board adopted regulations in 2020 expressing “their commitment to diversity and equity in fulfilling the [community college] system’s educational mission,” and that this commitment

“should guide the administration of all programs in the California Community Colleges, consistent with all applicable state and federal laws and regulations.” Cal. Code Regs. tit. 5, § 51200. In doing so, the Board’s goal was “ensuring the equal educational opportunity of all students.” *Id.* § 51201. The California Community Colleges declared that they “embrace diversity among students, faculty, staff and the communities we serve as an integral part of our history, a recognition of the complexity of our present state, and a call to action for a better future.” *Id.*

In April 2023, the Board adopted additional regulations that direct the State’s community college districts to create their own evaluation policies and practices that reflect these ideals and principles regarding diversity, equity, inclusion, and accessibility. Cal. Code Regs. tit. 5, §§ 53425, 53601, 53602, 53605. Notably, the term “evaluation”—as defined in the Code of Regulations and used in the challenged regulations—is not a disciplinary action; rather, an “evaluation” is “a tool to provide and receive constructive feedback to promote professional growth and development.” Cal. Code Regs. tit. 5, § 52510(l).¹

¹ Additionally, for purposes of the challenged regulations, “tenure reviews” are a type of non-disciplinary “evaluation.” *See* Cal. Code Regs. tit. 5, § 53602(a) (“District governing boards shall adopt policies for the evaluation of employee performance, including tenure reviews...”).

By their plain language, none of the challenged regulations apply directly to individual community college employees, including Johnson. *See* Cal. Code Regs. tit. 5, §§ 51200, 51201, 53425, 53601, 53602, 53605. Nothing in the regulations restricts any individual’s speech or compels any person to engage in any particular speech. *Id.* And the regulations do not include any enforcement mechanism by which any individual can be disciplined by Chancellor Christian or the Board for expressing any particular viewpoint—even a viewpoint contrary to the ideals promoted by the regulations. *Id.*

C. The Implementation Guidelines.

Separate from the challenged regulations, the Chancellor’s Office published advisory documents to provide guidance to the districts as they create their own diversity, equity, inclusion, and accessibility policies, including a memorandum entitled “Diversity, Equity and Inclusion Competencies and Criteria Recommendations” (*see* Appellant’s Excerpts of Record, ER-129) and a memorandum entitled “Guidance on Implementation of DEIA Evaluation and Tenure Review Regulations.” (ER-136.)

These implementation guidelines are not regulations adopted through the formal regulatory process and thus are not binding on the districts.² And the

² *See* Cal. Cmty. Colls., *Procedures and Standing Orders of the Board of Governors* (Dec. 2022) ch. 2, § 200, <https://tinyurl.com/ndx44x4k> (“Neither the
(continued...)”)

challenged regulations do not mandate that the districts incorporate any (much less all) of the specific language contained in the implementation guidelines into their own local policies. Instead, the regulations state only that the “DEIA competencies and criteria identified by the Chancellor shall be used as a reference for locally developed minimum standards in community college district performance evaluations of employees and faculty tenure reviews.” Cal. Code Regs. tit. 5, § 53601.

The plain language of the implementation guidelines reinforces that their purpose is to provide recommendations and assistance to the districts as they create their diversity, equity, inclusion, and accessibility policies. (ER-130 (“[T]his sample set of criteria is not exhaustive nor truly ‘final’...[T]his sample is a starting point, and is meant to serve as a reference for districts/colleges as they engage in their own local process to develop and adopt a personalized set of DEIA competencies and criteria . . .”); ER-138 (“The purpose of this memorandum is to provide information regarding the evaluation and tenure review of district employees and the resources that are available to support districts and colleges with local implementation of these regulations”.) The implementation guidelines

Board nor the Chancellor may administer or enforce any regulation, as defined by section 202, paragraph (d), unless that regulation is adopted in accordance with the provisions of this Chapter”).

are merely advisory and do not restrict or mandate the speech of either the community college districts or individual community college employees, including Johnson. (*Id.*)

D. Plaintiff-Appellant’s Allegations and Procedural Background.

In his First Amended Complaint, Johnson alleged that he “fears” discipline or termination as a Bakersfield Community College professor if he refuses to comply with the Kern Community College District’s diversity, equity, inclusion, and accessibility policy (a policy that does not yet exist). (ER-232-33, 241.) He also challenged the District’s application of its “Institutional Code of Ethics” (Board Policy 3050), alleging that its application causes him to “refrain from speaking and has altered his speech for fear of further investigation, discipline, and termination.” (ER-236.) In his fourth and fifth causes of action against all Defendants—including Chancellor Christian—Johnson raised viewpoint discrimination and compelled speech challenges against California Code of Regulations, title 5, sections 51200, 51201, 53425, 53601, 53602, and 53605, alleging that they “impose [an] official political ideology” and are “unconstitutional on their face and as applied to Professor Johnson.” (ER-238-41.)

Johnson moved to preliminarily enjoin the state regulations under which any District policy will be promulgated, namely, California Code of Regulations, title

5, sections 51200, 51201, 53425, 53601, 53602, and 53605. (ER-98.) All Defendants-Appellees opposed that motion and moved to dismiss.

The district court granted the dismissal motions, holding that Johnson did not have standing to bring his pre-enforcement challenge. (ER-004.) The district court also granted Johnson leave to amend. (ER-052.) Because it dismissed Johnson's case for lack of standing, the district court did not consider his preliminary injunction motion on the merits, but rather denied it as moot. (ER-006, 052.) Johnson appealed the denial of the preliminary injunction motion the same day. (Dkt. 1.)

SUMMARY OF THE ARGUMENT

The district court's decision to deny the preliminary injunction was proper, and its decision is neither illogical, implausible, nor without support in the record. It dismissed Johnson's complaint with leave to amend, thus leaving nothing on which a preliminary injunction could be based. With the underlying complaint dismissed, it is presently impossible for Johnson to prevail, thus rendering his preliminary injunction motion moot. The district court did not abuse its discretion in so ruling.

Although Johnson has only appealed the order denying his preliminary injunction, he argues at length that his complaint should not have been dismissed. But because the district court expressly allowed Johnson leave to amend his

complaint, there is no final judgment, and his arguments concerning the merits of his complaint remain available to pursue in the district court and are not properly brought here. Even if this Court were to consider these arguments, the district court properly found that Johnson suffered no injury attributable to Chancellor Christian and that he therefore lacks standing to challenge the California Education Code or the Board's regulations.

STANDARD OF REVIEW

Appellate courts “review a district court’s denial of a preliminary injunction motion for abuse of discretion.” *Baird v. Bonta*, 81 F.4th 1036, 1040 (9th Cir. 2023). “This review is ‘limited and deferential,’ and it does not extend to the underlying merits of the case.” *Johnson v. Couturier*, 572 F.3d 1067, 1078 (9th Cir. 2009); *see also Southwest Voter Registration Ed. Project v. Shelley*, 344 F.3d 914, 918 (9th Cir. 2003) (en banc) (“Our review is limited and deferential”). An appellate court will reverse only when the district court’s order “is illogical, implausible, or without support in inferences that may be drawn from the record.” *Doe v. Kelly*, 878 F.3d 710, 720 (9th Cir. 2017) (internal quotes omitted); *Earth Island Ins. v. Carlton*, 626 F.3d 462, 468 (9th Cir. 2010).

ARGUMENT

I. JOHNSON CANNOT SHOW ENTITLEMENT TO INJUNCTIVE RELIEF ABSENT A VIABLE COMPLAINT.

Because the district court dismissed Johnson’s First Amended Complaint, he cannot meet the most important test in determining whether a preliminary injunction is warranted: the likelihood of succeeding on the merits. Having dismissed Johnson’s complaint, the district court properly found the preliminary injunction motion was moot.

A. A Preliminary Injunction May Only Issue If the Movant Shows a Likelihood of Prevailing.

A preliminary injunction is an “extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” *Winter v. Nat. Resources Def. Council, Inc.*, 555 U.S. 7, 22 (2008). The appropriate legal standard to analyze a preliminary injunction motion requires a district court to determine whether the movant (1) is likely to succeed on the merits of the claim, (2) is likely to suffer irreparable harm absent the preliminary injunction, (3) shown that the balance of equities tips in the movant’s favor, and (4) that a preliminary injunction is in the public interest. *Winter*, 555 U.S. at 20; *Chamber of Com. of the U.S. v. Bonta*, 62 F.4th 473, 481 (9th Cir. 2023). Although courts generally “must consider” all four *Winter* factors (*Vivid Ent., LLC v. Fielding*, 774 F.3d 566, 577 (9th Cir. 2014)) the first factor “is a threshold inquiry and is the most important factor.” *Env’t Prot. Info. Ctr. v. Carlson*, 968 F.3d 985, 989 (9th Cir. 2020).

Accordingly, a “court need not consider the other factors” if a movant fails to show a likelihood of success on the merits. *Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856 (9th Cir. 2017).

B. Johnson Cannot Show a Likelihood of Success Because His Complaint Is Dismissed.

Johnson’s complaint has been dismissed. Accordingly, there is no possibility that Johnson can succeed on its merits. Because the operative complaint has been dismissed, Johnson’s interlocutory appeal of the order denying the preliminary injunction is, as the district court properly found, moot. *Silvas v. G.E. Money Bank* 449 Fed. App’x 641, 645 (9th Cir. 2011) (“Because the operative complaint has been dismissed, we dismiss this interlocutory appeal as moot”); see also *Pacific Radiation Oncology, LLC v. Queen's Medical Center* 810 F.3d 631, 633 (9th Cir. 2015) (“A court’s equitable power lies only over the merits of the case or controversy before it.”); *Mt. Graham Red Squirrel v. Madigan*, 954 F.2d 1441, 1450 (9th Cir. 1992) (reversal of the denial of preliminary injunctive relief “would have no practical consequences” after the underlying complaint was dismissed). When a complaint’s allegations “stand dismissed,” this Court “lack[s] the equitable powers to issue an injunction based on claims no longer in the complaint.” *Cuviello v. City of Belmont*, No. 23-16135, 2024 WL 2269273, at *1 n. 1 (9th Cir., May 20, 2024).

In his opening brief, Johnson argues that he “is entitled to a preliminary injunction.” (Opening Br. 57.) Ignoring the *Winter* prerequisites for injunctive relief, Johnson instead argues—as he does throughout his brief—the merits of his dismissed allegations. (*Id.* 58-69.) In doing so, Johnson ignores that the complaint in which these allegations are made has been dismissed and that—as a matter of law—he cannot prevail on them. And Johnson offers no argument that the district court abused its discretion in finding the preliminary injunction motion moot.

Without a likelihood of prevailing on allegations dismissed by the district court, Johnson’s preliminary injunction motion was properly found to be moot. This Court should do the same and affirm the district court’s order.

II. JOHNSON’S ARGUMENTS CONCERNING THE MERITS OF HIS COMPLAINT ARE IMPROPERLY MADE.

Johnson couches his appeal as a request for this Court to reverse the order denying his preliminary injunction motion. But his only arguments in support of that position pertain to the merits of his dismissed complaint, with Johnson asserting that he “plainly has standing to pursue his claims.” (Opening Br. 37.) Those arguments are not properly presented in this Court because the order of dismissal is not a final judgment, as the district court allowed Johnson leave to amend his complaint. The district court’s order should be affirmed.

A. This Court’s Jurisdiction Is Limited to Final Judgments.

The Supreme Court “long has stated that as a general rule a district court’s decision is appealable under [28 U.S.C. § 1291] only when the decision ‘ends the litigation on the merits and leaves nothing for the court to do but execute the judgment.’” *Gulfstream Aerospace Corp. v. Mayacamas Corp.*, 485 U.S. 271, 275 (1988), quoting *Catlin v. United States*, 324 U.S. 229, 233 (1945). An order that “dismiss[es] the complaint but not the action, is not final and appealable unless special circumstances demonstrate that the trial court found plaintiffs could not save the action by any amendment of the complaint they could reasonably be expected to make.” *Proud v. U.S.*, 704 F.2d 1099, 1100 (9th Cir. 1983).

“[W]hen a district court expressly grants leave to amend, it is plain that the order is not final.” *WMX Technologies, Inc. v. Miller*, 104 F.3d 1133, 1136–37 (9th Cir. 1997); Fed. R. Civ. Pro. 54(b). In such instances, the appellate court “is without jurisdiction” to consider an order of dismissal when the lower court unambiguously grants leave to amend. *WMX Technologies, Inc.*, 104 F.3d at 1137; *see also Indian Oasis-Baboquivari Unified Sch. Dist. No. 40 of Pima County, Ariz. v. Kirk*, 109 F.3d 634, 636 (9th Cir. 1997) (absent final judgment “we lack jurisdiction to hear this appeal.”).

B. Johnson’s Arguments That the Dismissal Order Granting Leave to Amend Should Be Reversed Are Improper.

Johnson sought a preliminary injunction “prohibiting Defendants . . . from enforcing California Education Codes §§ 87732 and 87735 and Kern Community College District Board Policy 3050 against Plaintiff Johnson on the basis of the content and viewpoint of his speech on political and social issues, and further enjoin[ing] Defendants . . . from enforcing California Code of Regulations, title 5, §§ 51200, 51201, 53425, 53601, 53602, and 53605, pending final judgment.” (ER-098.) The district court found that there is no evidence that either the Education Code or the regulations have been “enforced” against Johnson, and that he has not suffered a cognizable injury. On that basis, it found that Johnson lacked standing and dismissed his complaint, granting him leave “to plead—with additional facts not currently before the [district] court—that he has standing to challenge sections 87732 and 87735 of the California Education Code, Policy 3050, or section 53605 of title 5 of the California Code of Regulations.” (ER-052.) Because there were no remaining operative allegations, there was no remaining live controversy, and the district court properly dismissed the preliminary injunction motion as moot. (*Id.*)

As shown above, the district court’s order finding the preliminary injunction motion was moot was proper, and there is nothing to show that the district court abused its discretion in issuing that order. Because the order dismissing Johnson’s

complaint was without prejudice and with leave to amend, there is no final judgment. Absent that final adjudication, this Court should not consider Johnson's arguments that the district court erred in conditionally dismissing the complaint. Indeed, it is arguable that the Court lacks jurisdiction to consider these arguments. *WMX Technologies, Inc.*, 104 F.3d at 1137.

There are no grounds on which to disturb the district court's ruling on the preliminary injunction motion. The district court's order should be affirmed.

III. THE DISTRICT COURT PROPERLY GRANTED THE MOTION TO DISMISS FOR JOHNSON'S LACK OF STANDING.

Johnson's arguments disputing the district court's standing analysis are not germane to this appeal of the preliminary injunction ruling. They are, in any event, unavailing.

The district court properly used the test articulated in *Susan B. Anthony List v. Driehaus*, 573 U.S. 149 (2014), to determine if Johnson had standing to bring his pre-enforcement First Amendment claims challenging the regulations and the guidance. (ER-018.) In *Driehaus*, the Supreme Court found that to have standing for a pre-enforcement challenge, a plaintiff must allege "an intention to engage in a course of conduct arguably affected with a constitutional interest," the intended future conduct must be "arguably . . . proscribed by [the challenged] statute," and—most importantly for the allegations against Chancellor Christian—that there must be a "credible threat of enforcement." *Driehaus*, 573 U.S. at 158; *see also*

Peace Ranch, LLC v. Bonta, 93 F.4th 482, 487 (9th Cir. 2024); *Seattle Pac. Univ. v. Ferguson*, 104 F.4th 50, 59 (9th Cir. 2024). The Supreme Court noted that a plaintiff may bring a facial challenge to laws and regulations “only if he has standing to challenge them himself.” (ER-038-39, citing *Lopez v. Candaele*, 630 F.3d 775, 785-86 (9th Cir. 2010)).

When examining Johnson’s allegations in the most favorable light, the district court found he had “adequately alleged his intention to engage in a course of conduct arguably affected with a constitutional interest,” thus satisfying the first *Driehaus* prong. (ER-041.) But the district court continued by finding that Johnson had not satisfied the other two *Driehaus* prongs.

The district court found that two of the challenged regulations—sections 51200 and 51201 of title 5—merely stated the “desirable goal” of promoting diversity, equity, and inclusiveness, which the California Community Colleges is entitled to do. (ER-042-43.) It further found that Johnson’s challenge to these and the remaining regulations and the Chancellor’s guidance was premature, as he had failed to allege how they “may or may not be applied to him.” (ER-048.) Johnson’s allegations thus fell short of showing that the regulations and guidance unconstitutionally impaired his future conduct, thus failing to satisfy the second *Driehaus* prong.

As to the third *Driehaus* prong—a credible threat that the Chancellor could undertake adverse action against Johnson—the district court found that “the regulations and the DEI Recommendations largely [did] not directly apply to Johnson’s conduct . . . and none of the challenged regulations or recommendations contain an enforcement mechanism.” (ER-048.) Most importantly, the district court noted that Chancellor Christian had “disavowed any intent to take action against Johnson for his intended speech.” (*Id.*) The district court held that this “disavowal” was not “merely a litigation position,” finding that the Chancellor “cannot take action against Johnson, as she is not a prosecuting authority of the [regulations] under state law.” (ER-051 (emphasis in original), citing Cal. Educ. Code, § 70902(b)(4) and Cal. Code Regs. tit. 5, § 53602.) Plaintiff Johnson thus did not—and cannot—fulfill the third *Driehaus* prong. *Stoianoff v. State of Mont.* (9th Cir. 1983) 695 F.2d 1214, 1223 (“The mere existence of a statute, which may or may not ever be applied to plaintiffs, is not sufficient to create a case or controversy within the meaning of Article III.”).

On these grounds, the district court held that Johnson had “failed to sufficiently allege an injury in fact as to the regulations or the DEI Recommendations,” granting Chancellor Christian’s motion to dismiss. (ER-051.) That ruling is legally sound, and there are no grounds for this Court to disturb it.

CONCLUSION

The district court's order dismissing Johnson's preliminary injunction motion as moot should be affirmed.

Dated: November 27, 2024

Respectfully submitted,

s/ Jay C. Russell

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STATEMENT OF RELATED CASES

Defendant-Appellee Sonya Christian is not aware of any related cases, as defined by Ninth Circuit Rule 28-2.6, that are currently pending in this Court and are not already consolidated here.

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Form 8. Certificate of Compliance for Briefs

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9th Cir. Case Number(s) 24-6008

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ADDENDUM

No. 24-6008

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

DAYMON JOHNSON, *et al.*,
PLAINTIFF-APPELLANT,

v.

STEVE WATKIN, *et al.*,
DEFENDANTS-APPELLEES

**On Appeal from the United States District Court
for the Eastern District of California
No. 1:23-cv-00848-KES-CDB**

**STATUTORY ADDENDUM TO DEFENDANT-APPELLEE
SONYA CHRISTIAN'S ANSWERING BRIEF**

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Cal Ed Code § 66251

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***Deering's California Codes Annotated > EDUCATION CODE (Titles 1 — 3) > Title 3
Postsecondary Education (Divs. 5 — 14) > Division 5 General Provisions (Pts. 40 — 42) > Part
40 Donahoe Higher Education Act (Chs. 1 — 16) > Chapter 4.5 Equity in Higher Education Act
(Arts. 1 — 5) > Article 1 Title and Declaration of Purpose (§§ 66250 — 66252)***

§ 66251. Policy of state

It is the policy of the State of California to afford all persons, regardless of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code, including immigration status, equal rights and opportunities in the postsecondary educational institutions of the state. The purpose of this chapter is to prohibit acts that are contrary to that policy and to provide remedies for the commission of those prohibited acts.

History

Added Stats 1998 ch 914 § 49 (AB 499). Amended Stats 1999 ch 587 § 7 (AB 537); Stats 2007 ch 568 § 20 (AB 14), effective January 1, 2008, ch 569 § 35 (SB 777), effective January 1, 2008; Stats 2011 ch 637 § 4 (AB 620), effective January 1, 2012; Stats 2018 ch 779 § 1 (SB 183), effective January 1, 2019.

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Cal Ed Code § 66261.5

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Postsecondary Education (Divs. 5 — 14) > Division 5 General Provisions (Pts. 40 — 42) > Part
40 Donahoe Higher Education Act (Chs. 1 — 16) > Chapter 4.5 Equity in Higher Education Act
(Arts. 1 — 5) > Article 2 Definitions (§§ 66260 — 66269)*

§ 66261.5. “Postsecondary educational institution”

“Postsecondary educational institution” means a public or private institution of vocational, professional, or postsecondary education; the governing board of a community college district; the Regents of the University of California; or the Trustees of the California State University.

History

Added Stats 1998 ch 914 § 49 (AB 499).

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Cal Ed Code § 66270

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Postsecondary Education (Divs. 5 — 14) > Division 5 General Provisions (Pts. 40 — 42) > Part
40 Donahoe Higher Education Act (Chs. 1 — 16) > Chapter 4.5 Equity in Higher Education Act
(Arts. 1 — 5) > Article 3 Prohibition of Discrimination (§§ 66270 — 66271.1)***

§ 66270. Subjection to discrimination

No person shall be subjected to discrimination on the basis of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any characteristic listed or defined in Section 11135 of the Government Code or any other characteristic that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code, including immigration status, in any program or activity conducted by any postsecondary educational institution that receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid.

History

Added Stats 1998 ch 914 § 49 (AB 499). Amended Stats 1999 ch 587 § 8 (AB 537); Stats 2007 ch 568 § 21, (AB 14), effective January 1, 2008, ch 569 § 44.5 (SB 777), effective January 1, 2008; Stats 2011 ch 719 § 11 (AB 887), effective January 1, 2012; Stats 2018 ch 779 § 3 (SB 183), effective January 1, 2019.

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Cal Ed Code § 70901

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Postsecondary Education (Divs. 5 — 14) > Division 7 Community Colleges (Pts. 43 — 54.82) >
Part 43 The California Community Colleges (§§ 70900 — 70902)*

§ 70901. Functions of Board of Governors

(a) The Board of Governors of the California Community Colleges shall provide leadership and direction in the continuing development of the California Community Colleges as an integral and effective element in the structure of public higher education in the state. The work of the board of governors shall at all times be directed to maintaining and continuing, to the maximum degree permissible, local authority and control in the administration of the California Community Colleges.

(b) Subject to, and in furtherance of, subdivision (a), and in consultation with community college districts and other interested parties as specified in subdivision (e), the board of governors shall provide general supervision over community college districts, and shall, in furtherance of those purposes, perform the following functions:

(1) Establish minimum standards as required by law, including, but not limited to, the following:

(A) Minimum standards to govern student academic standards relating to graduation requirements and probation, dismissal, and readmission policies.

(B) Minimum standards for the employment of academic and administrative staff in community colleges.

(C) Minimum standards for the formation of community colleges and districts.

(D) Minimum standards for credit and noncredit classes.

(E) Minimum standards governing procedures established by governing boards of community college districts to ensure faculty, staff, and students the right to participate effectively in district and college governance, and the opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration, and the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.

(2) Evaluate and issue annual reports on the fiscal and educational effectiveness of community college districts according to outcome measures cooperatively developed with those districts, and provide assistance when districts encounter severe management difficulties.

(3) Conduct necessary systemwide research on community colleges, and provide appropriate information services, including, but not limited to, definitions for the purpose of uniform reporting, collection, compilation, and analysis of data for effective planning and coordination, and dissemination of information.

(4)

(A) Provide representation, advocacy, and accountability for the California Community Colleges before state and national legislative and executive agencies.

(B) In order to wholly engage in the recognition review process of an accrediting agency pursuant to subdivision (c) of Section 72208, conduct a survey of the community colleges, including

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consultation with representatives of both faculty and classified personnel, to develop a report to be transmitted to the United States Department of Education and the National Advisory Committee on Institutional Quality and Integrity that reflects a systemwide evaluation of the regional accrediting agency based on the criteria used to determine an accreditor's status.

(5)

(A) Administer state support programs, both operational and capital outlay, and those federally supported programs for which the board of governors has responsibility pursuant to state or federal law. In so doing, the board of governors shall do the following:

(i)

(I) Annually prepare and adopt a proposed budget for the California Community Colleges. The proposed budget shall, at a minimum, identify the total revenue needs for serving educational needs within the mission, the amount to be expended for the state general apportionment, the amounts requested for various categorical programs established by law, the amounts requested for new programs and budget improvements, and the amount requested for systemwide administration.

(II) The proposed budget for the California Community Colleges shall be submitted to the Department of Finance in accordance with established timelines for development of the annual Budget Bill.

(ii) To the extent authorized by law, establish the method for determining and allocating the state general apportionment.

(iii) Establish space and utilization standards for facility planning in order to determine eligibility for state funds for construction purposes.

(B) The board of governors may enter into a direct contract with the Academic Senate for the California Community Colleges for the purpose of supporting statewide initiatives, projects, and programs within the purview of the Academic Senate for the California Community Colleges. If the board of governors elects to enter into a direct contract with the Academic Senate for the California Community Colleges, the contract shall specify the objectives and the expected outcomes of the contract.

(6)

(A) Establish minimum conditions entitling districts to receive state aid for support of community colleges. In so doing, the board of governors shall establish and carry out a periodic review of each community college district to determine whether it has met the minimum conditions prescribed by the board of governors.

(B) In determining whether a community college district satisfies the minimum conditions established pursuant to this section, the board of governors shall review the regional accreditation status of the community colleges within that district.

(7) Coordinate and encourage interdistrict, regional, and statewide development of community college programs, facilities, and services.

(8) Facilitate articulation with other segments of higher education with secondary education.

(9) Review and approve comprehensive plans for each community college district. The plans shall be submitted to the board of governors by the governing board of each community college district.

(10) Review and approve all educational programs offered by community college districts and all courses that are not offered as part of an educational program approved by the board of governors.

(11) Exercise general supervision over the formation of new community college districts and the reorganization of existing community college districts, including the approval or disapproval of plans therefor.

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- (12) Notwithstanding any other provision of law, be solely responsible for establishing, maintaining, revising, and updating, as necessary, the uniform budgeting and accounting structures and procedures for the California Community Colleges.
- (13) Establish policies regarding interdistrict attendance of students.
- (14) Advise and assist governing boards of community college districts on the implementation and interpretation of state and federal laws affecting community colleges.
- (15) Contract for the procurement of goods and services, as necessary.
- (16) Carry out other functions as expressly provided by law.
- (c) Subject to, and in furtherance of, subdivision (a), the board of governors shall have full authority to adopt rules and regulations necessary and proper to execute the functions specified in this section as well as other functions that the board of governors is expressly authorized by statute to regulate.
- (d) Wherever in this section or any other statute a power is vested in the board of governors, the board of governors, by a majority vote, may adopt a rule delegating that power to the chancellor, or any officer, employee, or committee of the California Community Colleges, or community college district, as the board of governors may designate. However, the board of governors shall not delegate any power that is expressly made nondelegable by statute. Any rule delegating power shall prescribe the limits of delegation.
- (e) In performing the functions specified in this section, the board of governors shall establish and carry out a process for consultation with institutional representatives of community college districts so as to ensure their participation in the development and review of policy proposals. The consultation process shall also afford community college organizations, as well as interested individuals and parties, an opportunity to review and comment on proposed policy before it is adopted by the board of governors.
- (f)
- (1) The board of governors shall administer the online community college established pursuant to subdivision (a) of Section 75001. In its capacity as the governing board of the online community college, the board of governors shall carry out the functions specified in Section 75003. Members of the board of governors shall receive their actual and necessary traveling expenses while on official business. Each member shall also receive one hundred dollars (\$100) for each day he or she is attending to official business.
- (2)
- (A) The board of governors shall contract with a community college district board of trustees for purposes of establishing a separate collective bargaining agreement with employees of the online community college pursuant to the Educational Employment Relations Act established in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code. The Chancellor of the California Community Colleges shall designate the contract community college district. Employees represented by the collective bargaining agreement established pursuant to this paragraph shall be recruited, recommended for hire, and assigned and directed by the chief executive officer of the online community college appointed pursuant to subdivision (d) of Section 75005.
- (B) Notwithstanding subdivision (d) of Section 75007, the contract entered into pursuant to subparagraph (A) shall be exempt from any provision of law relating to competitive bidding, and shall be exempt from the review or approval of any division of the Department of General Services. For only the contract, or contracts, applicable to subparagraph (A) the chancellor's office shall also be exempt from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code and Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.
- (C) The chief executive officer of the online college or his or her designee shall participate in the collective bargaining process pursuant to subparagraph (A).

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(3) The chief executive officer of the online college shall clarify the identity of the employer of record for all staff of the online college.

History

Added Stats 2006 ch 817 § 3 (AB 1943), effective January 1, 2007, operative January 1, 2013. Amended Stats 2011 ch 112 § 2 (AB 1029), effective January 1, 2012, operative January 1, 2014; Stats 2014 ch 382 § 1 (AB 1942), effective January 1, 2015; Stats 2015 ch 623 § 1 (AB 404), effective January 1, 2016; Stats 2017 ch 23 § 7 (SB 85), effective June 27, 2017; Stats 2018 ch 33 § 16 (AB 1809), effective June 27, 2018.

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Cal Ed Code § 70902

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Postsecondary Education (Divs. 5 — 14) > Division 7 Community Colleges (Pts. 43 — 54.82) >
Part 43 The California Community Colleges (§§ 70900 — 70902)***

§ 70902. Governing board

(a)

(1) Every community college district shall be under the control of a board of trustees, which is referred to herein as the "governing board." The governing board of each community college district shall establish, maintain, operate, and govern one or more community colleges in accordance with law. In so doing, the governing board may initiate and carry on any program, activity, or may otherwise act in any manner that is not in conflict with or inconsistent with, or preempted by, any law and that is not in conflict with the purposes for which community college districts are established.

(2) The governing board of each community college district shall establish rules and regulations not inconsistent with the regulations of the board of governors and the laws of this state for the government and operation of one or more community colleges in the district.

(b) In furtherance of subdivision (a), the governing board of each community college district shall do all of the following:

(1) Establish policies for, and approve, current and long-range academic and facilities plans and programs and promote orderly growth and development of the community colleges within the district. In so doing, the governing board shall, as required by law, establish policies for, develop, and approve, comprehensive plans. The governing board shall submit the comprehensive plans to the board of governors for review and approval.

(2) Establish policies for and approve courses of instruction and educational programs. The educational programs shall be submitted to the board of governors for approval. Courses of instruction that are not offered in approved educational programs shall be submitted to the board of governors for approval. The governing board shall establish policies for, and approve, individual courses that are offered in approved educational programs, without referral to the board of governors.

(3) Establish academic standards, probation and dismissal and readmission policies, and graduation requirements not inconsistent with the minimum standards adopted by the board of governors.

(4) Employ and assign all personnel not inconsistent with the minimum standards adopted by the board of governors and establish employment practices, salaries, and benefits for all employees not inconsistent with the laws of this state.

(5) To the extent authorized by law, determine and control the district's operational and capital outlay budgets. The district governing board shall determine the need for elections for override tax levies and bond measures and request that those elections be called.

(6) Manage and control district property. The governing board may contract for the procurement of goods and services as authorized by law.

(7) Establish procedures that are consistent with minimum standards established by the board of governors to ensure faculty, staff, and students the opportunity to express their opinions at the campus level, to ensure that these opinions are given every reasonable consideration, to ensure the right to

Cal Ed Code § 70902

participate effectively in district and college governance, and to ensure the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.

(8) Establish rules and regulations governing student conduct.

(9) Establish student fees as it is required to establish by law, and, in its discretion, fees as it is authorized to establish by law.

(10) In its discretion, receive and administer gifts, grants, and scholarships.

(11) Provide auxiliary services as deemed necessary to achieve the purposes of the community college.

(12) Within the framework provided by law, determine the district's academic calendar, including the holidays it will observe.

(13) Hold and convey property for the use and benefit of the district. The governing board may acquire by eminent domain any property necessary to carry out the powers or functions of the district.

(14) Participate in the consultation process established by the board of governors for the development and review of policy proposals.

(c) In carrying out the powers and duties specified in subdivision (b) or other provisions of statute, the governing board of each community college district shall have full authority to adopt rules and regulations, not inconsistent with the regulations of the board of governors and the laws of this state, that are necessary and proper to executing these prescribed functions.

(d) Wherever in this section or any other statute a power is vested in the governing board, the governing board of a community college district, by majority vote, may adopt a rule delegating the power to the district's chief executive officer or any other employee or committee as the governing board may designate. However, the governing board shall not delegate any power that is expressly made nondelegable by statute. Any rule delegating authority shall prescribe the limits of the delegation.

(e) This section shall become operative on January 1, 2014.

History

Added Stats 2006 ch 817 § 5 (AB 1943), effective January 1, 2007, operative January 1, 2013. Amended Stats 2011 ch 112 § 4 (AB 1029), effective January 1, 2012, operative January 1, 2014.

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Postsecondary Education (Divs. 5 — 14) > Division 7 Community Colleges (Pts. 43 — 54.82) >
Part 44 Board of Governors (Ch. 1) > Chapter 1 Board of Governors (Arts. 1 — 5) > Article 3
Office of Chancellor (§§ 71090 — 71097)***

§ 71090. Chancellor of the California Community Colleges; Salary

(a) The board shall appoint a chief executive officer, to be known as the Chancellor of the California Community Colleges, and fix his or her compensation.

(b) The chancellor shall execute the duties and responsibilities as may be delegated to him or her by the board. Whenever in this code a power is vested in the board, the board, by a majority vote, may adopt a rule delegating that power to the chancellor or any officer, employee, or committee as the board may designate. The rule shall prescribe the limits of the delegation.

History

Enacted Stats 1976 ch 1010 § 2, operative April 30, 1977. Amended Stats 1990 ch 1372 § 281 (SB 1854).

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CA - Barclays Official California Code of Regulations > TITLE 5. EDUCATION > DIVISION 6. CALIFORNIA COMMUNITY COLLEGES > CHAPTER 4. EMPLOYEES > SUBCHAPTER 1. DEFINITIONS

§ 52510. Definitions

The following definitions shall apply to this chapter.

(a) "Academic employee" refers to any employee categorized as an educational administrator or faculty member pursuant to section 53402.

(b) "Accessibility" means a person with a disability is afforded the opportunity to acquire the same information, engage in the same interactions, and enjoy the same services as a person without a disability in an equally effective and equally integrated manner, with substantially equivalent ease of use. The person with a disability must be able to obtain the information as fully, equally and independently as a person without a disability. Although this might not result in identical ease of use compared to that of persons without disabilities, it still must ensure equal opportunity to the educational benefits and opportunities afforded by the technology and equal treatment in the use of such technology.

(c) "Administrator" means a person who is employed in a position designated by the governing board of the district as having direct responsibility for supervising the operation of, or formulating policy regarding, the administration of non-academic functions of a college or district.

(d) "Anti-Racism" and "anti-racist" refers to policies and actions that lead to racial equity.

(e) "Classified administrator" means any person employed by the governing board of a district in a supervisory or management position as defined in Article 5 (commencing with Section 3540) of Chapter 10.7 of Division 4 of Title 1 of the Government Code.

(f) "Competencies" refer to skills, knowledge, abilities, and behaviors all employees must demonstrate and utilize in interactions with students and colleagues, and the performance of their job duties.

(g) "Criteria" refer to the elements used in employee evaluation and tenure review processes to measure performance.

(h) "Cultural Competency" refers to the practice of acquiring and utilizing knowledge of the intersectionality of social identities and the multiple axes of oppression that people from different racial, ethnic, and other minoritized groups face. The development of cultural competency is a dynamic, on-going process that requires a long-term commitment to learning. In the context of education, cultural competency includes the ability to teach students from cultures other than one's own successfully. It entails developing interpersonal awareness and sensitivities, developing cultural knowledge, and mastering a set of skills for effective cross-cultural teaching.

(i) "DEIA" is an acronym for the terms "diversity, equity, inclusion, and accessibility."

(j) "Diverse" and "diversity" refers to the myriad of ways in which people differ, including the psychological, physical, cognitive, and social differences that occur among all individuals, based on race, sex, ethnicity, nationality, socioeconomic status, religion, economic class, education, age, gender, sexual orientation, marital status, and mental and physical ability.

(k) "Educational administrator" means an administrator who is employed in an academic position designated by the governing board of the district as having direct responsibility for supervising the operation

5 CCR 52510

of or formulating policy regarding the instructional or student services program of the college or district. Educational administrators include, but are not limited to, chancellors, presidents, and other supervisory or management employees designated by the governing board as educational administrators.

(l) "Evaluation" refers to a tool to provide and receive constructive feedback to promote professional growth and development.

(m) "Faculty" or "faculty member" means those employees of a district who are employed in academic positions and who are not designated as supervisory or management for the purposes of Article 5 (commencing with Section 3540) of Chapter 10.7 of Division 4 of Title 1 of the Government Cod. Faculty include, but are not limited to, instructors, librarians, counselors, community college health service professionals, disabled student programs and services professionals, extended opportunity programs and services professionals, and individuals employed to perform a service that, before July 1, 1990, required nonsupervisory, nonmanagement community college certification qualifications.

(n) "Inclusion" refers to bringing traditionally excluded individuals or groups into processes, activities, and decision and policy making in a way that shares power.

(o) "Minoritize" refers to the subordination of a person or group's status to a more dominant group or its members based on social identities such as race or ethnicity.

(p) "Non-academic employee" means any employee categorized as a classified administrator or staff member.

(q) "Staff" or "staff member" means those employees of a district who are not encompassed within the definitions in subdivisions (a), (c), (e), (k), or (m), whether or not they are part of the classified service as defined in sections 88003 or 88076 of the Education Code.

Statutory Authority

AUTHORITY:

NOTE : Authority cited: Sections 66700, 70901 and 87001, Education Code. Reference: Sections 87001, 87002, 87003, 88003 and 88076, Education Code.

History

HISTORY

1. New subchapter 1 (section 52510) and section filed 3-17-2023; operative 4-16-2023. Submitted to OAL for filing and printing only pursuant to Education Code 70901.5 (Register 2023, No. 14).

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CA - Barclays Official California Code of Regulations > TITLE 5. EDUCATION > DIVISION 6. CALIFORNIA COMMUNITY COLLEGES > CHAPTER 4. EMPLOYEES > SUBCHAPTER 2. EQUAL EMPLOYMENT OPPORTUNITY PROGRAMS > ARTICLE 1. GENERAL

§ 53000. Scope and Intent

This subchapter implements aspects of state and federal anti-discrimination laws intended to prevent unlawful discrimination in employment. It provides direction to community college districts related to the incorporation of evidence-based and equity-minded practices into existing recruitment, hiring, retention, and promotion activities to promote equal employment opportunities.

Statutory Authority

AUTHORITY:

NOTE : Authority cited: Sections 66271.1, 66700, 70901 and 87105, Education Code. Reference: Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; Sections 11135, 11136, 11137, 11139 and 11139.8, Government Code Article I, Section 31 of the California Constitution; Title 20, United States Code Section 1681; Title 29, United States Code Section 794; and Title 42, United States Code Sections 2000d, 6101, 12101, 12102, 12103, 12111, 12112, 12113, 12114, 12115, 12116 and 12117.

History

HISTORY

1. New chapter 1 (sections 53000-53004) filed 7-19-77; effective thirtieth day thereafter (Register 77, No. 30).
2. Repealer of chapter 1 (subchapter 1, sections 53000-53004) and new chapter 1 (subchapters 1-4, sections 53000-53052, not consecutive) filed 2-1-82; effective thirtieth day thereafter (Register 82, No. 6).
3. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
4. Amendment of subsection (a) and NOTE filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).
5. Amendment of subchapter heading, section and NOTE filed 7-12-2002; operative 8-11-2002. Submitted to OAL for printing only (Register 2002, No. 35).
6. Amendment of subsection (a) filed 9-19-2013; operative 10-19-2013. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 2013, No. 38).
7. Change without regulatory effect amending subsection (a) and NOTE filed 2-2-2018; operative 2-2-2018. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 2018, No. 8).
8. Repealer and new section filed 9-20-2022; operative 10-20-2022. Submitted to OAL for filing and printing only pursuant to Education Code section 70901.5 (Register 2022, No. 40).
9. Renumbering of former subchapter 1 to subchapter 2 filed 3-17-2023; operative 4-16-2023. Submitted to OAL for filing and printing only pursuant to Education Code 70901.5 (Register 2023, No. 14).

5 CCR 53000

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CERTIFICATE OF SERVICE

Case Name: ***Johnson, Daymon v. Watkin,
Steve, et al.***

Case No. **24-6008**

I hereby certify that on November 27, 2024, I electronically filed the following documents with the Clerk of the Court by using the ACMS system:

- **DEFENDANT-APPELLEE SONYA CHRISTIAN'S ANSWERING BRIEF**

I certify that **all** participants in the case are registered ACMS users and that service will be accomplished by the ACMS system.

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on November 27, 2024, at San Francisco, California.

M. Mendiola
Declarant

M. Mendiola
Signature

SA2024304668