



September 10, 2020

Legal Opinion 2020-08: Student Participation in Community College
Recruitment

The Association of Chief Human Resources Officers within the California
Community Colleges has asked the following question:

Is it permissible for community college students to participate in
the recruitment and selection processes for faculty and
classified employees?

Answer:

Yes. State law does not prohibit student participation in recruitment
and selection processes for faculty and classified employees. To the
extent local policies, administrative regulations, or collective
bargaining agreements would prevent student participation, these
policies, regulations, and agreements are in conflict with the
recommendations of the Vision for Success Diversity, Equity, and
Inclusion Task Force as adopted by the Board of Governors.

A. Background

In September 2019 the Board of Governors adopted recommendations of the
Vision for Success Diversity, Equity, and Inclusion (DEI) Task Force which are
meant to increase faculty and staff diversity in the California Community
Colleges. To implement these recommendations, the Board of Governors also
adopted the DEI Integration Plan tying certain strategies, activities, and best
practices to efforts meant to attain student achievement equity goals.

One of the strategies set forth in the DEI Integration Plan (Plan) is the
diversification of hiring or screening committees with members of diverse
educational backgrounds, gender, and ethnicity. The Plan also tasked the

Academic Senate of the California Community Colleges (ASCCC) and the Association of Chief Human Resources Officers (ACHRO) to partner with the Chancellor’s Office to provide statewide guidance regarding hiring committees, including the composition of these committees. Among the best practices identified in the Plan, were recommendations that students, as interested stakeholders, be included in recruitment and selection and participate in screening processes. Subsequently, as groups have begun the work of implementing the recommendations in the Plan, questions have arisen regarding whether it is lawful to allow students to serve in such capacities.

B. Analysis

The California Constitution grants to the Legislature the power to authorize community college districts to "carry on any programs, activities, or to otherwise act in any manner which is not in conflict with the laws and purposes" for which community college districts were established. (Cal. Const., art. IX, § 14.) The Legislature has exercised that authority in the Education Code, stating that community college districts

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.

(Ed. Code, § 70902, subd. (a)(1).)

Our review of state law reveals nothing that would prohibit students from participating in community college recruitment and selection processes. In contrast, the Education Code's equal employment opportunity (EEO) provisions impliedly support the participation of students to ensure the community college workforce is “continually responsive to the needs of a diverse student population” by “ensuring that all persons receive an equal opportunity to compete for employment and promotion” (Ed. Code § 87100, subd(a).) The Legislature's stated interest supports including in college hiring processes students who are best positioned to express the needs of a diverse student population. Thus, while the law neither expressly mandates

nor prohibits student participation in recruitment and selection, such participation does further the purposes of the Education Code's EEO provisions.

Education Code section 70902, subdivision (b)(4), provides that it is within the powers of the local governing board to “[e]mploy 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.” To the extent local policies, administrative regulations, or collective bargaining agreements prevent student participation, these policies, regulations, and agreements may be in conflict with the recommendations of the DEI Task Force, which the Board of Governors has indicated will be implemented by no later than September 2022. The above notwithstanding, whether to include students in employee selection processes currently remains a local matter for community college districts to determine through local shared governance or bargaining processes.

Finally, a concern has been raised that students participating in employee selection processes would be privy to sensitive and confidential applicant information, and that this is a reason to exclude students from participation. However, with limited exceptions, community college students are adults. In many community college districts, students are already included in recruitment and selection processes as a part of teaching demonstrations, informal interviews with campus presidents, or in search committees. Accordingly, students are capable of understanding the sensitivity of employment-related information, being trained in the proper treatment of confidential information, and being expected to adhere to confidentiality requirements. Like other members of selection committees, students would appropriately be subject to disciplinary action for breaches of an applicant’s privacy. Finally, those students who are honored to participate in hiring processes will receive an invaluable educational experience.

Contacts

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