**AGENDA**

- Legal Backdrop
- Fostering Inclusive Work Cultures
- Rethinking Job Descriptions and Functions
- Recruiting Strategies

**THE HIRING CHALLENGE**

- The law has changed
- The vocabulary has changed
- The concepts have changed

But . . .
- Expected results have not changed
THE LAW HAS CHANGED

- Law has long required “equal opportunity” employment
- Meaning of “equal” has changed

  equal access → to equal treatment

THE VOCABULARY HAS CHANGED

Affirmative Action → EEO

Affirmative Action Hiring → Diversity Hiring

Underrepresented Groups → Monitored Groups

THE CONCEPTS HAVE CHANGED

Improving representation of specific underrepresented groups

Creating work environments that are “diverse” in many respects (race/ethnicity, gender, religion, age, disability, sexual orientation, socio-economic status, marital status, geography, etc.)
**EXPECTED RESULTS**

- Eliminate under representation based on gender, race, color, ethnicity and national origin

**LEGAL BACKDROP**

- Federal/State anti-discrimination laws (Pre-“Prop. 209”)
- Law regulating hiring in community colleges
- Proposition 209
- Statutory response to Prop. 209
- Regulatory response to Prop. 209

*Note: Review of law is a mandatory component of selection committee training.*

**FEDERAL/STATE EMPLOYMENT ANTI-DISCRIMINATION LAWS**

- Title VII
- ADA
- ADEA
- Title IX
- FEHA
**FEDERAL/STATE EMPLOYMENT ANTI-DISCRIMINATION LAWS**

Collective effect, no discrimination on basis of:

- Race
- Religious creed
- Color
- National Origin
- Ancestry
- Physical/Mental Disability, Medical Condition
- Marital status
- Sex/Gender (gender identify/gender expression)
- Age
- Sexual Orientation
- Genetic Information

**FEDERAL/STATE EMPLOYMENT ANTI-DISCRIMINATION LAWS**

Employment Discrimination Includes:

- Refusal to hire
- Rejection from training program
- Discharge from employment/training program
- Any decision affecting employment compensation, terms, conditions, privileges
- If based on protected status

**FEDERAL/STATE EMPLOYMENT ANTI-DISCRIMINATION LAWS**

Proposition 209*

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

*Cal. Const. Art. 1, Sec. 31
PROP 209 & THE COURTS*

• Targeted recruitment = unlawful preference

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

PROP 209: LEGISLATIVE RESPONSE

• Recruitment may include:
  – “Focused outreach and recruitment” of women and minorities*
  – Outreach that “should result” in diversification**

*Gov. Code 11139.6(a)(1)
**Gov. Code 11139.6(d)

PROP 209: LEGISLATIVE RESPONSE

• Recruitment must include:
  – Outreach to economically disadvantaged*

*Gov. Code 11139.6(a)(3)
PROP 209: LEGISLATIVE RESPONSE

• General recruitment includes*:
  – General circulation media
  – Local/Regional media
  – Non-English media
  – Directed to women, minorities low income groups
  – General-market job fairs
  – Job fairs with high participation of women/minorities
  – Personal contacts

*Gov. Code 11139.6(e)

PROP 209: LEGISLATIVE RESPONSE

• Funding contingent on:
  “...recruiting, training and advancement opportunities that will result in equal employment opportunities . . .”*

* EC 87101(c)

Fisher v. Univ. of Texas (2013)

• 2013 U.S. Supreme Court decision
• Reinforces that race-based standards in the student admissions process must withstand “strict scrutiny”
• Race based standards must:
  – Serve a compelling state interest; and
  – Be narrowly tailored to achieve that interest
**Fisher v. Univ. of Texas (2013)**

- Implications:
  - Prop. 209 already precludes consideration of race
  - If district considers race, sex, color, ethnicity or national origin under a Federal program, strict scrutiny will apply
  - Strict scrutiny is equally applicable to employment

**RECRUITMENT & DIVERSITY POST - 209**

**Regulatory Response:**

- Multi-step process to promote diversity

  *Title 5, Section 51010 et seq.*

  *untested

  Note: Draft regs are pending with the Dept. of Finance

**RECRUITMENT & DISABILITIES**

- Reasonable accommodation for applicants
- Alternative formats on request
- Access to interviews
- Identify essential job functions
RECRUITMENT & DISABILITIES

- Practice Pointer:
  - Beware of job announcements that have an inadvertent chilling effect on disabled job applicants
  - Example:
    • “The employee in this position must be able to sit, stand, walk, stoop, lift up to 20 lbs., etc.”

CCD HIRING POST-209*

- Prior law explicitly mandated affirmative action
- Amended after Connerly v. State Personnel Board
- Two premises:
  - Diverse workforce serves students better
  - EEO hiring achieves diversity
- Challenge for CCDs: EEO hiring that achieves diversity

* EC 87106-87108

CCD HIRING POST-209

Lawful strategies fall into 3 categories:
- Work culture
- Job definition
- Recruiting strategies
**CCD HIRING POST-209**

Focus on work culture*
- to improve applicant pools
- to improve employee retention

*E.C. 87101

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**FOSTER INCLUSIVE WORK CULTURES**

- Inclusion isn’t tolerance
- Inclusion is:
  - Appreciation
  - Curiosity
  - Empathy
  - Enrichment

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**FOSTERING INCLUSIVE WORK CULTURES**

- Requires:
  - Leadership
  - Institutional commitment – at all levels
**FOSTERING INCLUSIVE WORK CULTURES**

- Leadership:
  - Must have “buy-in” at the top
    - Boards
    - Chancellors
    - Presidents
  - Visible support for diversity and inclusion

**INSTITUTIONAL COMMITMENT – AT ALL LEVELS**

- Starts with:
  - Personal commitment
  - Willingness to examine personal attitudes & conduct

**INSTITUTIONAL COMMITMENT - AT ALL LEVELS**

- Community wide “buy-in” essential for success
- Ensure input from all stakeholders
- Utilize “principles” of shared governance
- Actual procedures will depend on district shared governance agreements
- Mutual agreement with faculty for faculty hiring procedures
- Inter-departmental collaboration—H.R and academic departments
INCLUSIVE WORK CULTURES AND RETENTION

- Mentoring Programs
- Opportunities for growth
- Classified → Academic
- Leadership opportunities
- Environment within schools
- Cultural events
- Access

CCD HIRING POST-209

- Fostering inclusive work cultures

WHAT WORKS?

CCD HIRING POST-209

Rethink job functions and job descriptions

- Modernize and update by asking:
  - Should we redefine the job?
  - How do issues of diversity impact this work?
  - What job-related criteria value/attract diverse candidates?
  - What job-related criteria assess "sensitivity to diversity..."
### Rethink Job Functions

- For example, in faculty context:
  - Global perspective is consistent with CCD mission
  - Is global perspective evident in how jobs are defined and knowledge/skills required?
  - If not: reexamine curriculum, programs, majors, etc.

  * Note: this will both improve work culture and diversify pool of qualified candidates.

### RETHINK JOB DESCRIPTIONS, SPECIFICATIONS AND QUALIFICATIONS

- Identify job-related criteria likely to enhance applicant pool diversity
- Develop job descriptions reflecting these criteria

### RETHINK JOB DESCRIPTIONS AND QUALIFICATIONS

- What are possible criteria (if job related) that:
  - Will recognize the knowledge, skills, abilities of a more diverse group of candidates?
  For….
  - a biology professor?
  - a bookstore manager?
  - a dean?
**IMPROVE ASSESSMENT OF “SENSITIVITY TO DIVERSITY”**

- Applicants still must demonstrate: “sensitivity to and understanding of the diverse academic, socioeconomic, cultural, and ethnic backgrounds of community college students.”
- For academic and administrative positions
  
  TREAT THIS AS A MINIMUM QUALIFICATION!

*EC 87360

**EXERCISE:**

**“WHAT ARE WE LOOKING FOR?”**

- Break into small groups
- Pick position to consider: Biology Professor, Dean of Humanities, Bookstore Manager
- Identify at least 3 potential barriers to hiring qualified individuals from a traditionally underrepresented group
- Identify at least 3 criteria for assessing “sensitivity to diversity” that are related to specific position
- Identify at least one way job description can “go global”

**RECRUITING STRATEGIES**

- Recruiting strategies that:
  - Create highly qualified, diverse applicant pools
  - From which you hire “blind”
RECRUITING STRATEGIES

- Most important recruiting strategies precede the interview:
  - Leadership
  - Community buy-in that this really matters
  - Solid, updated job descriptions & announcements
  - Well-trained screening & selection committees

RECRUITING STRATEGIES

- Recruiting strategies that work:
  - Add to (don’t replace) traditional avenues
  - Personal connections with career centers
  - Outreach to professional organizations
  - Groom your own students
  - Make district attractive to applicants
  - You are always recruiting and hiring
  - Assume a buyer’s market

What this means for selection committees:

- Understand educational value of workforce diversity
- Know district criteria for assessing “sensitivity to diversity”
- Develop appropriate questions to assess criteria within context of position