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COMMUNITY COLLEGE LEAGUE OF CALIFORNIA (CCLC) 2017 ANNUAL CONVENTION

Bargaining Part-Time, Temporary Faculty Reemployment Rights

11/17/2017

PRESENTED BY:

Laura Schulkind & Eileen O'Hare-
Anderson & Shairon Zingsheim

Bargaining Part-Time, Temporary Faculty “Reemployment” Rights

Community College League of California (CCLC) Annual Convention | November 17, 2017

Presented by: Laura Schulkind, Eileen O'Hare-Anderson & Shairon Zingsheim

LCW LIEBERT CASSIDY WHITMORE

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OVERVIEW

Education Code 87482.3

- Effective January 1, 2017
- Districts must negotiate terms of reemployment preference for part-time, temporary faculty assignments
- Condition of Student Success and Support Program (SSSP) funding

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WHAT TERMS MUST BE NEGOTIATED?

What Subjects Must Districts Bargain?

- Terms of reemployment preference for part-time, temporary faculty assignments
 - Based on the minimum standards up to the range of 60 to 67 percent of a full-time equivalent load
- Policies for termination
- A regular evaluation process (consistent with Ed. Code 87663)

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Must The Parties Negotiate Minimum Standards For Reemployment?

- Yes. Parties must negotiate terms of reemployment which must include:
 - Length of service
 - Number of courses taught
 - Results of evaluations
 - Faculty availability, willingness, and expertise

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May Districts Bargain Additional Reemployment Standards?

- Yes
- Must reflect procedure for:
 - Assigning to teach courses or perform non-classroom assignments
 - Evaluating faculty

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Does The 87482.3 Require A Specific Reemployment Preference System?

- No
- Districts decide how to incorporate factors into reemployment system
- No requirement to provide preference regarding a particular assignment

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Is Loss Of Reemployment Preference Negotiable?

- Yes
- Examples:
 - Misconduct
 - Failure to accept assignments

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Revocation Of Reemployment Preference V. Termination

- Revocation of preference
 - Elimination of preferential treatment in reemployment from semester to semester
- Termination
 - Separation from employment

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Revocation Of Reemployment Preference V. Termination

- Districts should distinguish clearly in CBA
- Example: “termination of employment results in the faculty member being removed from the rehire preference list”

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Does 87482.3 Alter The Temporary Nature Of Part-time Faculty Positions?

- No
- Part-time faculty assignments remain temporary
- Contingent on
 - Funding
 - Program change
- No reasonable assurance

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Does 87482.3 Alter At Will Status Of Part-time Faculty Positions?

- Arguably, yes
- Adjuncts with rehire preference
 - Right to terminate at end of day or week – unclear if still applies (Ed. Code 87665)
- Adjuncts without preference
 - At will
 - Ed. Code 87665, terms of CBA apply

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Is The Part-time Faculty Minimum Load Subject To Negotiation?

- Yes
- Parties must negotiate “... based on the minimum standards up to the *range of 60 to 67 percent* of a full-time equivalent load”
- 87482.3 arguably sets floor of 60% of a full-time assignment

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WHEN MUST TERMS BE NEGOTIATED?

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87482.3 Timing Requirements

- Districts without an agreement “in effect as of January 1, 2017, shall commence negotiations”
- Reemployment terms “shall be included as part of the usual and customary negotiations”

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87482.3 Timing Requirements

- District deemed in compliance if:
 - CBA “in effect as of July 1, 2017”
 - CBA satisfies requirements for the terms of reemployment preference set forth in 87482.3

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87482.3 Clarification Needed

- Without agreement “in effect”
 - Expired agreement, status quo?
- “Usual and customary negotiations”
- Compliance after July 1, 2017
 - Agreements “in effect” that don’t satisfy Ed Code?
- Unrepresented part-time temporary faculty

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LCW Recommendation

- Commence negotiations as soon as possible
- Good faith
- Agreement or impasse

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Certifying Compliance With 87482.3

- California Community Colleges Chancellor's Office form
- Submit by July 14, 2017

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Thank You!

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