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**Kern Community College District  
Board Policy  
Chapter 7 – Human Resources**

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**BP 7140 COLLECTIVE BARGAINING**

**References:**

Government Code Sections 3540 et seq.

**NOTE:** This policy is legally required.

If eligible employees of the District select an employee organization as their exclusive representative, and if after recognition by the District or after a properly conducted election, an exclusive representative is certified as the representative of an appropriate unit of employees under the provisions of the Educational Employment Relations Act, Government Code Sections 3540 et seq., the District will meet and negotiate in good faith on matters within the scope of bargaining as defined by law.

Also see BP/AP 2610 titled Presentation of Initial Collective Bargaining Proposals

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Kern Community College District  
**Administrative Procedure**  
Chapter 7 – Human Resources

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**AP 7145 PERSONNEL FILES**

**References:**

Education Code Section 87031;  
Labor Code Section 1198.5

**NOTE:** The language in red ink is **legally advised**. This is often a subject of bargaining for represented employees, and collective bargaining contracts will prevail for those employees.

Personnel records are private, accurate, complete, and permanent.

Every employee has the right to inspect personnel records pursuant to the Labor Code.

Information of a derogatory nature shall not be entered into an employee's personnel records unless and until the employee is given notice and an opportunity to review and comment on that information. The employee shall have the right to enter, and have his/her own comments attached to any derogatory statement. The review shall take place during normal business hours and the employee shall be released from duty for this purpose without salary reduction.

The employee shall not have the right to inspect personnel records at a time when the employee is actually required to render services to the District.

Nothing in this procedure shall entitle an employee to review ratings, reports, or records that were:

- a) obtained prior to the employment of the person involved,
- b) prepared by identifiable examination committee members,
- c) obtained in connection with a promotional examination or interview.

Also see the collective bargaining agreements for applicable employee groups

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**Kern Community College District  
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**BP 7210 ACADEMIC EMPLOYEES**

**References:**

Education Code Sections 87400 et seq., 87419.1, 87482.8, and 87600 et seq.;  
Title 5 Section 51025

**NOTE:** *This policy is legally required.*

Academic employees are all persons employed by the District in academic positions. Academic positions include every type of service, other than paraprofessional service, for which minimum qualifications have been established by the Board of Governors for the California Community Colleges.

Faculty members are those employees who are employed by the District in academic positions that are not designated as supervisory or management. Faculty employees include, but are not limited to, instructors, librarians, counselors, and professionals in health services, DSPS, and EOPS.

Decisions regarding tenure of faculty shall be made in accordance with the evaluation procedures established for the evaluation of probationary faculty and in accordance with the requirements of the Education Code. The Board of Trustees reserves the right to determine whether a faculty member shall be granted tenure.

The District may employ temporary faculty from time to time as required by the interests of the District. Temporary faculty may be employed full-time or part-time. The Board delegates authority to the District Chancellor to determine the extent of the District's needs for temporary faculty.

Notwithstanding this policy, the District shall comply with its goals under the Education Code regarding the ratio of full-time to part-time faculty to be employed by it and for making progress toward the standard of 75% of total faculty work load hours taught by full-time faculty.

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**Kern Community College District**  
**Administrative Procedure**  
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**AP 7210 ACADEMIC EMPLOYEES**

**References:**

Education Code Sections 87400 et seq., 87600 et seq., and 87482.8;  
Title 5 Section 51025

**NOTE:** *This procedure is **optional**; the academic staff of the District has been addressed by BP 7210 titled Academic Employees, and additional procedures are not legally mandated. However, local practice, if any, may be inserted. The contents of any such procedure will be subject to consultation with the Academic Senate.*

**NOTE:** *The following is sample language from other districts for consideration.*

**Sample #1 from another District**

The District employs, for academic positions, persons who possess the qualifications prescribed by regulation of the California Community Colleges' Board of Governors.

**Sample #2 from another District**

The grievance procedure for academic employees shall be in accordance with the appropriate Article of the effective Agreement between the District and the Faculty Association.

Procedures regarding academic employees should be read in conjunction with the appropriate collective bargaining agreement.

**Sample #3 from another District**

The District endeavors to employ persons in academic positions who possess the minimum qualifications prescribed by regulations of the California Community Colleges Board of Governors.

## **Sample #4 from another District**

### **Order-of-Employment Number for Full-Time Faculty**

Every contract or regular employee employed after June 30, 1947, shall be deemed to have been employed on the date upon which he/she first rendered paid service in a probationary position and an order-of-employment number shall be assigned. The order-of-employment number shall be assigned to a new employee by the Human Resources Department. Employees who first render paid service on the same date shall participate in a single drawing, as prescribed in the Education Code, to determine their order of employment. The order, once determined, shall be permanent, entered on the permanent records of the District, and accessible on demand to any certificated employee of the District or his/her designated representative. An employee who has resigned and has been re-employed by the Board of Trustees shall have the date on which he/she first accepted re-employment as his/her order of employment number.

*Also see BP/AP 7120 titled Recruitment and Hiring as well as language in the applicable collective bargaining agreements*

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**Kern Community College District**  
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**AP 7211 FACULTY SERVICE AREAS, MINIMUM QUALIFICATIONS,  
AND EQUIVALENCIES**

**References:**

Education Code Sections 87001, 87003, and 87743.2;  
Title 5 Sections 53400 et seq.;  
ACCJC Accreditation Standard III.A.2-4

**NOTE:** This procedure is **legally required**. Local practice may be inserted. The following is provided as an **illustrative example only**. The equivalency examples are provided in some detail but, in any event, **must be developed and jointly agreed upon** by representatives of the District and the Academic Senate.

**Faculty Service Areas**

Faculty service areas shall be established after negotiation and consultation as required by law with the appropriate faculty representatives.

**Minimum Qualifications**

Faculty shall meet minimum qualifications established by the Board of Governors, or shall possess qualifications that are at least equivalent to the minimum qualifications set out in the regulations of the Board of Governors.

**Equivalencies**

**Equivalency Committee**

An Academic Senate Equivalency Committee shall be established to fulfill the requirement of Education Code Section 87359, which states that the equivalency process "shall include reasonable procedures to ensure that the Board of Trustees relies primarily upon the advice and judgment of the Academic Senate to determine that each individual employed under the authority granted by the regulations possesses qualifications that are at least equivalent to the applicable minimum qualifications..." In order to ensure that the Board of Trustees relies primarily on the advice and judgment of the Academic Senate, the Academic Senate Equivalency Committee shall:

- Be available to screening and selection committees as a resource regarding equivalency determinations.

- Review the decisions of the screening committees as described below.
- Recommend all equivalency determinations to the Board of Trustees.
- Further clarify the criteria to be used for determining equivalency.
- Ensure that careful records are kept of all equivalency determinations.
- Periodically review this procedure and recommend necessary changes to the Academic Senate and Board of Trustees.
- In general, ensure that the equivalency process works well and meets the requirements of the law.

### **Determination of Equivalencies**

The following procedure is to be used to determine when an applicant for a faculty position, although lacking the exact degree or experience specified in the Disciplines List of the Board of Governors that establishes the minimum qualifications for hire, nonetheless does possess qualifications that are at least equivalent to those required by the Disciplines List. The procedure is intended to ensure a fair and objective process for determining when an applicant has the equivalent qualifications. It is not intended to grant waivers for lack of the required qualifications.

All faculty position announcements will state the required qualifications as specified by the Disciplines List, including the possibility of meeting the equivalent of the required degree or experience.

District application forms for faculty positions will ask applicants to state whether they meet the minimum qualifications of the Disciplines List or whether they believe they meet the equivalent. Those claiming equivalency will then be asked to state their reasons and to present evidence. It will be the responsibility of the applicant to supply all evidence and documentation for the claim of equivalency at the time of application.

The [designate authority] will first screen all qualified applicants, assuming that those claiming equivalency are in fact equivalent. Once applicants have been selected for interview, those claiming equivalency will have their claims examined by the [designate authority] prior to being interviewed. Only applicants who are found to meet the test of equivalency shall be selected for interview.

The [designate authority] shall send its decisions concerning equivalency and non-equivalency to the [designate authority] to the Academic Senate Equivalency Committee before candidates are notified of interviews. The Academic Senate Equivalency Committee will review the decisions of the screening, asking the following questions:

- Was the decision made in accord with this procedure?
- Specifically, did the screening committee follow the criteria for evidence of equivalency stated in this procedure?
- Are the Committee's decisions consistent with similar decisions made by earlier committees in this discipline or similar disciplines?

The Academic Senate Equivalency Committee shall employ the following procedures in emergencies or special circumstances:

- In case a candidate to be offered an adjunct or temporary position is also an equivalency claimant, the screening committee shall determine the equivalency status immediately following the interview and make a recommendation to the department chair or appropriate area administrator if there is no chair. This recommendation shall be forwarded to [designate authority].
- [Designate authority] will review the recommendation and either accept or reject it. If the candidate is acceptable, the department is free to extend the job offer; if unacceptable, the selection committee may request a review by [designate authority].
- For the purposes of this procedure, an emergency or special circumstance is defined as a situation in which the full hiring process cannot be carried out in a timely manner. Such situations may include, but are not limited to the following:
  - Vacancies that occur shortly before the beginning of a session in which there is not sufficient time for the full equivalency process to take place.
  - Additional sections of a class added shortly before the beginning of a session or after the session begins.
  - An unforeseen opportunity, occurring shortly before the beginning of a session, to staff sections in locations, venues, or subject matter specialties for courses which previously have been difficult to schedule (certain off-campus sites, contract education, short courses, etc.).

The District may elect to award equivalency for faculty teaching in career and technical (vocational) disciplines that do not require the master's degree.

- Semester units/occupational experience: 120 semester units AND two years of occupational experience in the discipline; or, 60 semester units



AND six years of occupational experience in the discipline; or, 30 semester units or industrial certification AND eight years of occupational experience in the discipline. Note: all semester or equivalent units must all be earned from a regionally accredited postsecondary educational institution.

- **Related occupational experience:** May be substituted by teaching experience in the discipline or related discipline on a year-for-year basis.
- **Recency:** An individual employed to teach a career and technical (vocational) discipline shall demonstrate a competency in the current technology of that discipline.
- **Rare exceptions:** In the rare case that an individual does not specifically meet the equivalency provisions as stated in the above sections, and the department chair, the full-time faculty in that discipline (if applicable), supervising instructional administrator and **[insert position, such as Vice President for Academic Affairs]** agree that the person is otherwise qualified to teach in that discipline, that individual's qualifications may be recommended to the Academic Senate Equivalency Committee Chairperson as deemed "equivalent" for that discipline.

#### ❖ From current KCCD Procedure 5G4C1 titled Equivalency Criteria

### Equivalency Criteria

Equivalency criteria for use in determining minimum qualifications follow:

#### A. Formal education equivalent to the Degree

##### 1) Formal education equivalent to the Master's Degree:

- A Master's Degree in teaching in the discipline
- A Master's Degree in Education, with substantial graduate units in the discipline
- Bachelor's Degree and a combination of thirty (30) semester graduate units in education and the discipline

##### 2) Formal education equivalent to the Bachelor's Degree:

- At least one hundred twenty (120) semester units, including general education and forty (40) units in a discipline, at least thirty (30) of which are upper division or graduate

3) Formal education equivalent to the Associate Degree:

- At least sixty (50) approved units, including general education, as defined in the following guides published by the American Council on Education:

The Guide to the Evaluation of Educational Experience in the Armed Services

The National Guide to Educational Credit for Training Programs

B. Non-Formal Education Equivalencies to the Degree

- 1) Substantial work experience equivalent to the degree, e.g., in computers, engineering, or journalism
- 2) Substantial academic experience and/or accomplishment equivalent to the degree, e.g., teaching at the upper division or graduate level, scholarly publications
- 3) Substantial artistic experience and/or accomplishments equivalent to the degree, e.g., performances, shows, exhibitions, compositions, or books

C. Equivalencies to required experience could include appropriate collegiate education or other training programs that indicate a mastery of the skills of the discipline and knowledge of the working environment of the discipline

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**Kern Community College District**  
**Administrative Procedure**  
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**AP 7212 TEMPORARY FACULTY**

**References:**

Education Code Sections 87481, 87482, 87482.5, and 87482.8

**NOTE:** *The language in red ink is **legally advised**. Local practice may be inserted. The following is provided as **an illustrative example**.*

*The District may employ any qualified individual as a temporary faculty member for a complete academic year, but not less than one semester during an academic year unless the date of rendering first paid service begins during the second semester and prior to March 15th. The employment of these persons shall be based upon the need for additional faculty during a particular semester or year because a faculty member has been granted leave for a semester or year, or is experiencing long-term illness, and shall be limited, in number of persons so employed, to that need.*

*The District may employ any qualified individual as a temporary faculty member for a complete academic year but not less than a complete semester during an academic year. The employment of those persons shall be based upon the need for additional faculty during a particular semester because of the higher enrollment of students during that semester as compared to the other semester in the academic year, or because a faculty member has been granted leave for a semester or year, or is experiencing long-term illness, and shall be limited, in number of persons so employed, to that need. Such employment may be pursuant to contract fixing a salary for the entire semester. No person, other than a person serving as clinical nursing faculty, shall be so employed for more than two semesters within any period of three consecutive years.*

*Any person who is employed to teach classes for not more than 67 percent of the hours per week that are considered a full-time assignment for regular employees having comparable duties shall be classified as a temporary employee, and shall not become a contract employee. However, any agreement prior to January 1, 2009, to limit temporary faculty members to 60 percent of the hours per week that are considered a full-time assignment will govern until the expiration of the agreement. Service as a substitute on a day-to-day basis shall not be used for purposes of calculating eligibility for contract or regular status.*

Screening for temporary faculty shall, insofar as possible, be conducted in accordance with District practices and procedures for employment of regular faculty. In particular, there shall be consideration given to principles of selection that assure the greatest opportunity for participation by underrepresented groups as required by District policies and procedures.

## ❖ From current KCCD Procedure 5H titled Adjunct Employment Procedures

### 5H Adjunct Employment Procedures

#### 5H1 Search Procedures

**5H1A Position Announcements:** District Human Resources will publish a list of potential part-time faculty positions as requested by the department/division. If an individual job description is needed, the Vice President or department/division Dean and discipline faculty shall develop the description.

**5H1B Qualified Applicant Pools:** College Human Resources shall review the applications and determine those that meet minimum qualifications. These qualified applicant pools shall be sorted by discipline. Applicants shall meet discipline minimum qualifications adopted by the Board of Governors. Those not meeting minimum qualifications but wishing to receive an equivalency shall be referred to the College Academic Senate Equivalency Committee.

**5H1C Qualified Applicant Pool Maintenance:** College Human Resources shall maintain active applications in the qualified applicant pool for a period of two years.

**5H1D Approved for Assignment Pools:** A part-time faculty screening committee shall review applications from the qualified applicant pool and determine those candidates to be interviewed.

**5H1E** College Human Resources shall review the candidates selected for interview to determine if legal requirements for non-discrimination and Equal Employment Opportunity have been met. If the Human Resources representative determines those legal requirements have not been met, he/she shall assist the screening committee in addressing the problem(s).

**5H1F** The discipline screening committee shall conduct interviews and determine those candidates that are approved for assignment. The committee shall communicate the results to College Human Resources, which shall work with the successful candidates to complete the employment process. A College Human Resources representative shall be available to consult with the committee on any non-compliance or procedural issues.

**5H1G** Each discipline's screening committee shall review its discipline pool at least once a semester or immediately upon review date(s) established in position announcements.

**5H1H Approved for Assignment Pool Maintenance:** College Human Resources shall maintain active applicants in the approved for assignment pool for a period of five years.

## **5H2 Composition of Part-Time Faculty Screening Committee**

**5H2A** The committee consists of the faculty chair and the appropriate educational administrator or designee. A second faculty member may be included if agreed upon by both the faculty chair and the educational administrator.

## **5H3 Selection of Candidates**

**5H3A Screening Criteria:** The candidates shall be evaluated with respect to, but not limited to, the following criteria: (a) ability to demonstrate skills in teaching or services that will effectively serve the needs of a diverse student population (b) ability to provide specific subject matter expertise that meets the District's core mission

## **5H4 Emergency Circumstances**

**5H4A** If an approved for assignment pool does not exist, and if there is insufficient time to convene a part-time faculty screening committee that includes the faculty chair, the Vice President or department/division dean shall include, whenever possible, at least one tenured faculty member from the relevant discipline in interviewing and selecting adjunct instructors.

**5H4B** If circumstances do not permit the inclusion of any faculty in the contingency or emergency screening of qualified applicants, the Vice President or department/division dean must notify the College Human Resources Manager and the faculty chair. The notification shall state the reasons for not being able to include any faculty

**5H4C** An appointment under emergency circumstances is valid for one semester only. The emergency hire shall be placed back into the qualified applicant pool for future consideration.

*Also see BP/AP 7120 titled Recruitment and Hiring*

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**AP 7213 PART-TIME FACULTY: BENEFITS**

**Reference:**

Education Code Section 87860

**NOTE:** *This procedure is **optional**. Local practice may be inserted or would be included in the collective bargaining contract, if applicable. The District will only implement such a procedure after negotiation with the exclusive representative for a unit that contains part-time faculty, and a decision to participate in this pilot program.*

Also see applicable collective bargaining agreement

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**NOTE:** *The **red ink** signifies language that is **suggested as good practice/optional** by the Policy & Procedure Service and its legal counsel (Liebert Cassidy Whitmore). The language in **blue ink** is included for consideration.*

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**Approved:**

*(This is a new procedure)*

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Kern Community College District  
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**AP 7214 PART-TIME FACULTY: OFFICE HOURS**

**Reference:**

Education Code Section 87880

**NOTE:** *This procedure is **optional**. Local practice may be inserted or would be included in the collective bargaining contract, if applicable. The District will only implement such a procedure after negotiation with the exclusive representative for a unit that contains part-time faculty, and a decision to participate in this pilot program.*

[Also see applicable collective bargaining agreement](#)

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**NOTE:** *The **red ink** signifies language that is **suggested as good practice/optional** by the Policy & Procedure Service and its legal counsel (Liebert Cassidy Whitmore). The language in **blue ink** is included for consideration.*

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**Approved:**

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Kern Community College District  
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**AP 7215 ACADEMIC EMPLOYEES: PROBATIONARY CONTRACT FACULTY**

**References:**

Education Code Sections 87600 et seq.

**NOTE:** This procedure is **legally advised**. Employment of contract faculty is controlled by statute, but the following procedure, which mirrors Education Code requirements, will assure compliance.

The District shall employ a faculty member for the first academic year of his/her employment by contract. Any person who, at the time an employment contract is offered to him/her by the District, is neither a tenured employee of the District nor a probationary employee then serving under a second or third contract shall be deemed to be employed for "the first academic year of his/her employment."

A faculty member shall be deemed to have completed his/her first contract year if he/she provides service for 75 percent of the first academic year.

Before making a decision relating to the continued employment of a contract employee, the following requirements shall be satisfied:

- The employee shall be evaluated in accordance with the evaluation standards and procedures established in accordance with law
- The Board shall receive statements of the most recent evaluations
- The Board shall receive recommendations of the District Chancellor
- The Board shall consider the statement of evaluation and the recommendations in a lawful meeting of the Board of Trustees

If a contract employee is working under his/her first contract, the Board, at its discretion, shall elect one of the following alternatives:

- Not enter into a contract for the following academic year.
- Enter into a contract for the following academic year.
- Employ the contract employee as a regular employee for all subsequent academic years.



If a contract employee is working under his/her second contract, the Board, at its discretion, shall elect one of the following alternatives:

- Not enter into a contract for the following academic year.
- Enter into a contract for the following two academic years.
- Employ the contract employee as a regular employee for all subsequent academic years.

If a contract employee is employed under his/her third consecutive contract, the Board shall elect one of the following alternatives:

- Employ the probationary employee as a tenured employee for all subsequent academic years.
- Not employ the probationary employee as a tenured employee.

The Board of Trustees shall give written notice of its decision and the reasons therefore to the employee on or before March 15 of the academic year covered by the existing contract. The notice shall be by registered or certified mail to the most recent address on file with Human Resources. Failure to give the notice as required to a contract employee under his/her first or second contract shall be deemed an extension of the existing contract without change for the following academic year.

The Board of Trustees shall give written notice of its decision under Education Code Section 87609 and the reasons therefore to the employee on or before March 15 of the last academic year covered by the existing contract. The notice shall be by registered or certified mail to the most recent address on file with Human Resources. Failure to give the notice as required to a contract employee under his/her third consecutive contract shall be deemed a decision to employ him/her as a regular employee for all subsequent academic years.

Also see the applicable collective bargaining agreement

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**AP 7216 ACADEMIC EMPLOYEES: GRIEVANCE PROCEDURE FOR CONTRACT DECISIONS**

**Reference:**

[Education Code Section 87610.1](#)

**NOTE:** *This procedure is **legally required**; however, it is a mandatory subject of bargaining, and must be collectively bargained. Education Code Section 87610.1(a) also requires the union to consult with the academic senate prior to bargaining it. Accordingly, no format is recommended.*

*In districts that do not have a contractual grievance procedure resulting in either advisory or binding arbitration, probationary faculty members who wish to challenge a decision not to grant a second or third contract proceed to a hearing in accordance with Education Code Section 87740, which is before an Administrative Law Judge appointed by the Office of Administrative Hearings.*

**NOTE:** *The following is sample language from other districts for consideration.*

**Sample from another District**

Unless noted otherwise in the collective bargaining agreement, probationary faculty members who wish to challenge a decision not to grant a second or third contract must follow the established grievance process outlined in the collective bargaining agreement. The employee after completing this process may proceed to a hearing in accordance with Education Code Section 87740, which is before an Administrative Law Judge appointed by the Office of Administrative Hearings.

*Also see the applicable collective bargaining agreement*

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**AP 7211 FACULTY SERVICE AREAS, MINIMUM QUALIFICATIONS,  
AND EQUIVALENCIES**

**References:**

Education Code Sections 87001, 87003, and 87743.2;  
Title 5 Sections 53400 et seq.;  
ACCJC Accreditation Standard III.A.2-4

**NOTE:** *This procedure is **legally required**. Local practice may be inserted. The following is provided as an **illustrative example only**. The equivalency examples are provided in some detail but, in any event, **must be developed and jointly agreed upon** by representatives of the District and the Academic Senate.*

**Faculty Service Areas**

Faculty service areas shall be established after negotiation and consultation as required by law with the appropriate faculty representatives.

**Minimum Qualifications**

Faculty shall meet minimum qualifications established by the Board of Governors, or shall possess qualifications that are at least equivalent to the minimum qualifications set out in the regulations of the Board of Governors.

**Equivalencies**

**Equivalency Committee**

An Academic Senate Equivalency Committee shall be established to fulfill the requirement of Education Code Section 87359, which states that the equivalency process "shall include reasonable procedures to ensure that the Board of Trustees relies primarily upon the advice and judgment of the Academic Senate to determine that each individual employed under the authority granted by the regulations possesses qualifications that are at least equivalent to the applicable minimum qualifications..." In order to ensure that the Board of Trustees relies primarily on the advice and judgment of the Academic Senate, the Academic Senate Equivalency Committee shall:

- Be available to screening and selection committees as a resource regarding equivalency determinations.

- Review the decisions of the screening committees as described below.
- Recommend all equivalency determinations to the Board of Trustees.
- Further clarify the criteria to be used for determining equivalency.
- Ensure that careful records are kept of all equivalency determinations.
- Periodically review this procedure and recommend necessary changes to the Academic Senate and Board of Trustees.
- In general, ensure that the equivalency process works well and meets the requirements of the law.

### **Determination of Equivalencies**

The following procedure is to be used to determine when an applicant for a faculty position, although lacking the exact degree or experience specified in the Disciplines List of the Board of Governors that establishes the minimum qualifications for hire, nonetheless does possess qualifications that are at least equivalent to those required by the Disciplines List. The procedure is intended to ensure a fair and objective process for determining when an applicant has the equivalent qualifications. It is not intended to grant waivers for lack of the required qualifications.

All faculty position announcements will state the required qualifications as specified by the Disciplines List, including the possibility of meeting the equivalent of the required degree or experience.

District application forms for faculty positions will ask applicants to state whether they meet the minimum qualifications of the Disciplines List or whether they believe they meet the equivalent. Those claiming equivalency will then be asked to state their reasons and to present evidence. It will be the responsibility of the applicant to supply all evidence and documentation for the claim of equivalency at the time of application.

The **[designate authority]** will first screen all qualified applicants, assuming that those claiming equivalency are in fact equivalent. Once applicants have been selected for interview, those claiming equivalency will have their claims examined by the **[designate authority]** prior to being interviewed. Only applicants who are found to meet the test of equivalency shall be selected for interview.

The **[designate authority]** shall send its decisions concerning equivalency and non-equivalency to the **[designate authority]** to the Academic Senate Equivalency Committee before candidates are notified of interviews. The Academic Senate Equivalency Committee will review the decisions of the screening, asking the following questions:

- Was the decision made in accord with this procedure?
- Specifically, did the screening committee follow the criteria for evidence of equivalency stated in this procedure?
- Are the Committee's decisions consistent with similar decisions made by earlier committees in this discipline or similar disciplines?

The Academic Senate Equivalency Committee shall employ the following procedures in emergencies or special circumstances:

- In case a candidate to be offered an adjunct or temporary position is also an equivalency claimant, the screening committee shall determine the equivalency status immediately following the interview and make a recommendation to the department chair or appropriate area administrator if there is no chair. This recommendation shall be forwarded to **[designate authority]**.
- **[Designate authority]** will review the recommendation and either accept or reject it. If the candidate is acceptable, the department is free to extend the job offer; if unacceptable, the selection committee may request a review by **[designate authority]**.
- For the purposes of this procedure, an emergency or special circumstance is defined as a situation in which the full hiring process cannot be carried out in a timely manner. Such situations may include, but are not limited to the following:
  - Vacancies that occur shortly before the beginning of a session in which there is not sufficient time for the full equivalency process to take place.
  - Additional sections of a class added shortly before the beginning of a session or after the session begins.
  - An unforeseen opportunity, occurring shortly before the beginning of a session, to staff sections in locations, venues, or subject matter specialties for courses which previously have been difficult to schedule (certain off-campus sites, contract education, short courses, etc.).

The District may elect to award equivalency for faculty teaching in career and technical (vocational) disciplines that do not require the master's degree.

- **Semester units/occupational experience:** 120 semester units AND two years of occupational experience in the discipline; or, 60 semester units AND six years of occupational experience in the discipline; or, 30

semester units or industrial certification AND eight years of occupational experience in the discipline. Note; all semester or equivalent units must all be earned from a regionally accredited postsecondary educational institution.

- **Related occupational experience:** May be substituted by teaching experience in the discipline or related discipline on a year-for-year basis.
- **Recency:** An individual employed to teach a career and technical (vocational) discipline shall demonstrate a competency in the current technology of that discipline.
- **Rare exceptions:** In the rare case that an individual does not specifically meet the equivalency provisions as stated in the above sections, and the department chair, the full-time faculty in that discipline (if applicable), supervising instructional administrator and **[insert position, such as Vice President for Academic Affairs]** agree that the person is otherwise qualified to teach in that discipline, that individual's qualifications may be recommended to the Academic Senate Equivalency Committee Chairperson as deemed "equivalent" for that discipline.

#### ❖ From current KCCD Procedure 5G4C1 titled Equivalency Criteria

### Equivalency Criteria

Equivalency criteria for use in determining minimum qualifications follow:

#### A. Formal education equivalent to the Degree

##### 1) Formal education equivalent to the Master's Degree:

- A Master's Degree in teaching in the discipline
- A Master's Degree in Education, with substantial graduate units in the discipline
- Bachelor's Degree and a combination of thirty (30) semester graduate units in education and the discipline

##### 2) Formal education equivalent to the Bachelor's Degree:

- At least one hundred twenty (120) semester units, including general education and forty (40) units in a discipline, at least thirty (30) of which are upper division or graduate

3) Formal education equivalent to the Associate Degree:

- At least sixty (50) approved units, including general education, as defined in the following guides published by the American Council on Education:

The Guide to the Evaluation of Educational Experience in the Armed Services

The National Guide to Educational Credit for Training Programs

B. Non-Formal Education Equivalencies to the Degree

- 1) Substantial work experience equivalent to the degree, e.g., in computers, engineering, or journalism
- 2) Substantial academic experience and/or accomplishment equivalent to the degree, e.g., teaching at the upper division or graduate level, scholarly publications
- 3) Substantial artistic experience and/or accomplishments equivalent to the degree, e.g., performances, shows, exhibitions, compositions, or books

C. Equivalencies to required experience could include appropriate collegiate education or other training programs that indicate a mastery of the skills of the discipline and knowledge of the working environment of the discipline

~~Approved by the Chancellor's Cabinet August 28, 1990~~

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**NOTE:** The **red ink** signifies language that is **legally required** and recommended by the Policy & Procedure Service and its legal counsel (Liebert Cassidy Whitmore). The Policy & Procedure Service provided a legal update to this procedure in April 2015. The language in **black ink** is from the current KCCD Procedure 5G4C1 titled *Equivalency Criteria* approved by Consultation Council on November 27, 2012. The language in **blue ink** is included for consideration.

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**Approved:** November 27, 2012

**Revised:**

*(Replaces Procedure 5G4C1)*

## Legal Citations for AP 7211

### Education Code Sections 87001, 87003, and 87743.2

**87001.** (a) Academic employee" refers to a person employed by a community college district in an academic position.

(b) "Academic position" includes every type of service, excluding paraprofessional service, for which minimum qualifications have been established by the board of governors pursuant to Section 87356.

(c) Wherever in this **code** or any other **code**, the term "certificated employee" or any similar term is used in reference to community college employees, it shall be deemed a reference to academic employees of the community colleges.

(d) Wherever in this **code** or any other **code**, the phrase "position requiring certification qualifications," or any similar phrase is used in reference to positions in the community colleges, it shall be deemed a reference to academic positions in the community colleges. Nothing in this part shall be construed as repealing or negating any provisions in this **code** or any other **code** concerning employees of community college districts for purposes of retirement benefits under the State Teachers' Retirement System by referring to those employees as academic employees.

**87003.** (a) "Faculty" or "faculty member" means those employees of a community college district who are employed in academic positions that are not designated as supervisory or management for the purposes of Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government **Code** and for which minimum qualifications for service have been established by the board of governors adopted pursuant to subparagraph (B) of paragraph (1) of subdivision (b) of Section 70901 or subdivision (a) of Section 87356. Faculty include, but are not limited to, instructors, librarians, counselors, community college health services professionals, handicapped 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.

(b) Any employees who are employed in faculty positions but who perform supervisory, management, or other duties related to college governance shall not, because of the performance of those incidental duties, be deemed supervisors or managers, as those terms are defined in Section 3540.1 of the Government **Code**. The incidental "supervisory" or "management" duties referred to in this subdivision include, but are not limited to, serving as a faculty member on hiring, selection, promotion, evaluation, budget development, or



affirmative action committees, or making effective recommendations in connection with those activities.

**87743.2.** Not later than July 1, 1990, each community college district shall establish faculty service areas. The establishment of faculty service areas shall be within the scope of meeting and negotiating pursuant to Section 3543.2 of the Government **Code**. The exclusive representative shall consult with the academic senate in developing its proposals.

Title 5 Sections 53400 et seq.

Cal. Admin. Code tit. 5, s 53400

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
TITLE 5. EDUCATION  
DIVISION 6. CALIFORNIA COMMUNITY COLLEGES  
CHAPTER 4. EMPLOYEES  
SUBCHAPTER 4. MINIMUM QUALIFICATIONS  
ARTICLE 1. SCOPE AND DEFINITIONS

s 53400. Scope.

This Subchapter implements and should be read in conjunction with the requirements of Education Code Sections 87001, 87002, 87003, 87356 and 87359 concerning minimum qualifications for community college faculty and administrators. The provisions of this subchapter are effective July 1, 1990.

Note: Authority cited: Sections 66700, 70901, 87001, 87356 and 87359, Education Code.  
Reference: Sections 87001, 87002, 87003, 87356 and 87359, Education Code.

5 CCR § 53401

Cal. Admin. Code tit. 5, § 53401

TITLE 5. EDUCATION  
DIVISION 6. CALIFORNIA COMMUNITY COLLEGES  
CHAPTER 4. EMPLOYEES  
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§ 53401. Applicability to Community Services and Contract Classes.

Community service or contract classes which do not award college credit and are not supported by state apportionment are not subject to the provisions of this Subchapter. Contract classes which award college credit are subject to this Subchapter, even if they are not supported by

state apportionment.

Note: Authority cited: Sections 70901(b)(1)(B) and 87356, Education Code. Reference: Sections 70901(b)(1)(B), 78020 through 78023 and 78300, Education Code.

5 CCR § 53402  
Cal. Admin. Code tit. 5, § 53402

TITLE 5. EDUCATION  
DIVISION 6. CALIFORNIA COMMUNITY COLLEGES  
CHAPTER 4. EMPLOYEES  
SUBCHAPTER 4. MINIMUM QUALIFICATIONS  
ARTICLE 1. SCOPE AND DEFINITIONS

§ 53402. Definitions.

(a) "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.

(b) "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 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.

(c) "Faculty" or "faculty member" means those employees of a district who are employed in academic positions that 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 Code and for which minimum qualifications for service are specified in Section 53410-53414 or other provisions of this division. 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.

Note: Authority cited: Sections 66700, 70901 and 87001, Education Code. Reference: Sections 87001, 87002 and 87003, Education Code.

5 CCR § 53403  
Cal. Admin. Code tit. 5, § 53403

TITLE 5. EDUCATION  
DIVISION 6. CALIFORNIA COMMUNITY COLLEGES  
CHAPTER 4. EMPLOYEES

SUBCHAPTER 4. MINIMUM QUALIFICATIONS  
ARTICLE 1. SCOPE AND DEFINITIONS

§ 53403. Applicability of Amendments.

Notwithstanding changes that may be made to the minimum qualifications established in this division, or to the implementing discipline lists adopted by the Board of Governors, the governing board of a community college district may continue to employ a person to teach in a discipline or render a service subject to minimum qualifications, if he or she, at the time of initial hire by the district, was qualified to teach in that discipline or render that service under the minimum qualifications or disciplines lists then in effect.

Note: Authority cited: Sections 70901(b)(1)(B) and 87356, Education Code. Reference: Sections 70901(b)(1)(B) and 87356, Education Code.

5 CCR § 53404  
Cal. Admin. Code tit. 5, § 53404

TITLE 5. EDUCATION  
DIVISION 6. CALIFORNIA COMMUNITY COLLEGES  
CHAPTER 4. EMPLOYEES  
SUBCHAPTER 4. MINIMUM QUALIFICATIONS  
ARTICLE 1. SCOPE AND DEFINITIONS

§ 53404. Definition of Experience.

Where years of professional or occupational experience are referred to in this Subchapter, the requirement is for the stated number of years of full-time experience or the equivalent in part-time experience. Unpaid experience may be counted if it entailed responsibilities substantially similar to those of relevant paid positions in the field. Applicants bear the responsibility for verifying all experience by documentation satisfactory to the districts.

As used in this Subchapter, "professional experience" includes teaching experience.

"Occupational experience" does not include teaching experience.

As used in this Section, "year" means that period of time which in that occupation is accepted by contract or general agreement as a regular work year for that occupation on a full-time basis.

Note: Authority cited: Sections 70901 and 87356, Education Code. Reference: Sections 70901(b)(1)(B) and 87356, Education Code.

5 CCR § 53405  
Cal. Admin. Code tit. 5, § 53405

TITLE 5. EDUCATION  
DIVISION 6. CALIFORNIA COMMUNITY COLLEGES  
CHAPTER 4. EMPLOYEES  
SUBCHAPTER 4. MINIMUM QUALIFICATIONS  
ARTICLE 1. SCOPE AND DEFINITIONS

§ 53405. Certificated Employees.

Whenever in this Division, reference is made to "certificated employees" or to employees in "positions with certification qualifications," where such references are to certificates or credentials issued by the Board of Governors, these references are deemed to also apply to persons employed by districts pursuant to minimum qualifications established pursuant to Subchapter 4 of this Division.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

5 CCR § 53406  
Cal. Admin. Code tit. 5, § 53406

TITLE 5. EDUCATION  
DIVISION 6. CALIFORNIA COMMUNITY COLLEGES  
CHAPTER 4. EMPLOYEES  
SUBCHAPTER 4. MINIMUM QUALIFICATIONS  
ARTICLE 1. SCOPE AND DEFINITIONS

§ 53406. Requirement for Accredited Degrees and Units; Definition of Accredited Institution.

All degrees and units used to satisfy minimum qualifications shall be from accredited institutions, unless otherwise specified in this Article.

For purposes of this Subchapter, "accredited institution" shall mean a postsecondary institution accredited by an accreditation agency recognized by either the U.S. Department of Education or the Council on Postsecondary Accreditation. It shall not mean an institution "approved" by the California Department of Education or by the California Council for Private Postsecondary and Vocational Education.

Determination of equivalency of foreign degrees shall be according to district rule.

Note: Authority cited: Sections 70901 and 87356, Education Code. Reference: Sections 70901(b)(1)(B) and 87356, Education Code.

5 CCR § 53407  
Cal. Admin. Code tit. 5, § 53407

TITLE 5. EDUCATION  
DIVISION 6. CALIFORNIA COMMUNITY COLLEGES  
CHAPTER 4. EMPLOYEES  
SUBCHAPTER 4. MINIMUM QUALIFICATIONS  
ARTICLE 1. SCOPE AND DEFINITIONS

§ 53407. Disciplines Lists.

(a) The Board of Governors hereby adopts and incorporates by reference into this provision the

two lists published by the Chancellor's Office, entitled "Disciplines Requiring the Master's Degree" and "Disciplines in which the Master's Degree is not Generally Expected or Available," as adopted by the Board at its September 2005 meeting, for the following purposes:

(1) to establish a working definition of the term "discipline" as used in section 53410;

(2) to define which disciplines are "reasonably related" to one another, for purposes of section 53410;

(3) to define disciplines in which the master's degree is not generally expected or available, as opposed to those for which the master's degree is required, for purposes of section 53410.

(b) Revisions after September 2005 to the two lists referenced in subdivision (a) shall be considered incorporated by reference into this provision when they have been adopted by the Board.

Note: Authority cited: Sections 70901, 87356 and 87357, Education Code. Reference: Sections 70901(b)(1)(B), 87356 and 87357, Education Code.

### **Accreditation Standard III: Resources**

The institution effectively uses its human, physical, technology, and financial resources to achieve its mission and to improve academic quality and institutional effectiveness. Accredited colleges in multi-college systems may be organized so that responsibility for resources, allocation of resources, and planning rests with the district/system. In such cases, the district/system is responsible for meeting the Standards, and an evaluation of its performance is reflected in the accredited status of the institution(s).

#### **A. Human Resources**

### **Accreditation Standard III: Resources**

The institution effectively uses its human, physical, technology, and financial resources to achieve its mission and to improve academic quality and institutional effectiveness. Accredited colleges in multi-college systems may be organized so that responsibility for resources, allocation of resources, and planning rests with the district/system. In such cases, the district/system is responsible for meeting the Standards, and an evaluation of its performance is reflected in the accredited status of the institution(s).

#### **A. Human Resources**

2. Faculty qualifications include knowledge of the subject matter and requisite skills for the service to be performed. Factors of qualification include appropriate degrees,

professional experience, discipline expertise, level of assignment, teaching skills, scholarly activities, and potential to contribute to the mission of the institution. Faculty job descriptions include development and review of curriculum as well as assessment of learning. (Eligibility Requirement 14)

3. Administrators and other employees responsible for educational programs and services possess qualifications necessary to perform duties required to sustain institutional effectiveness and academic quality.

4. Required degrees held by faculty, administrators and other employees are from institutions accredited by recognized U.S. accrediting agencies. Degrees from non-U.S. institutions are recognized only if equivalence has been established.

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**Kern Community College District**  
**Administrative Procedure**  
Chapter 7 – Human Resources

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**AP 7212 TEMPORARY FACULTY**

**References:**

Education Code Sections 87481, 87482, 87482.5, and 87482.8

**NOTE:** *The language in red ink is **legally advised**. Local practice may be inserted. The following is provided as **an illustrative example**.*

The District may employ any qualified individual as a temporary faculty member for a complete academic year, but not less than one semester during an academic year unless the date of rendering first paid service begins during the second semester and prior to March 15th. The employment of these persons shall be based upon the need for additional faculty during a particular semester or year because a faculty member has been granted leave for a semester or year, or is experiencing long-term illness, and shall be limited, in number of persons so employed, to that need.

The District may employ any qualified individual as a temporary faculty member for a complete academic year but not less than a complete semester during an academic year. The employment of those persons shall be based upon the need for additional faculty during a particular semester because of the higher enrollment of students during that semester as compared to the other semester in the academic year, or because a faculty member has been granted leave for a semester or year, or is experiencing long-term illness, and shall be limited, in number of persons so employed, to that need. Such employment may be pursuant to contract fixing a salary for the entire semester. No person, other than a person serving as clinical nursing faculty, shall be so employed for more than two semesters within any period of three consecutive years.

Any person who is employed to teach classes for not more than 67 percent of the hours per week that are considered a full-time assignment for regular employees having comparable duties shall be classified as a temporary employee, and shall not become a contract employee. However, any agreement prior to January 1, 2009, to limit temporary faculty members to 60 percent of the hours per week that are considered a full-time assignment will govern until the expiration of the agreement. Service as a substitute on a day-to-day basis shall not be used for purposes of calculating eligibility for contract or regular status.

Screening for temporary faculty shall, insofar as possible, be conducted in accordance with District practices and procedures for employment of regular faculty. In particular, there shall be consideration given to principles of selection that assure the greatest opportunity for participation by underrepresented groups as required by District policies and procedures.

❖ **From current KCCD Procedure 5H titled Adjunct Employment Procedures**

**5H Adjunct Employment Procedures**

**5H1 Search Procedures**

**5H1A Position Announcements:** District Human Resources will publish a list of potential part-time faculty positions as requested by the department/division. If an individual job description is needed, the Vice President or department/division Dean and discipline faculty shall develop the description.

**5H1B Qualified Applicant Pools:** College Human Resources shall review the applications and determine those that meet minimum qualifications. These qualified applicant pools shall be sorted by discipline. Applicants shall meet discipline minimum qualifications adopted by the Board of Governors. Those not meeting minimum qualifications but wishing to receive an equivalency shall be referred to the College Academic Senate Equivalency Committee.

**5H1C Qualified Applicant Pool Maintenance:** College Human Resources shall maintain active applications in the qualified applicant pool for a period of two years.

**5H1D Approved for Assignment Pools:** A part-time faculty screening committee shall review applications from the qualified applicant pool and determine those candidates to be interviewed.

**5H1E** College Human Resources shall review the candidates selected for interview to determine if legal requirements for non-discrimination and Equal Employment Opportunity have been met. If the Human Resources representative determines those legal requirements have not been met, he/she shall assist the screening committee in addressing the problem(s).

**5H1F** The discipline screening committee shall conduct interviews and determine those candidates that are approved for assignment. The committee shall communicate the results to College Human Resources, which shall work with the successful candidates to complete the employment process. A College Human Resources representative shall be available to consult with the committee on any non-compliance or procedural issues.



~~5H4G~~ Each discipline's screening committee shall review its discipline pool at least once a semester or immediately upon review date(s) established in position announcements.

~~5H4H~~ **Approved for Assignment Pool Maintenance:** College Human Resources shall maintain active applicants in the approved for assignment pool for a period of five years.

## **5H2 Composition of Part-Time Faculty Screening Committee**

~~5H2A~~ The committee consists of the faculty chair and the appropriate educational administrator or designee. A second faculty member may be included if agreed upon by both the faculty chair and the educational administrator.

## **5H3 Selection of Candidates**

~~5H3A~~ **Screening Criteria:** The candidates shall be evaluated with respect to, but not limited to, the following criteria: (a) ability to demonstrate skills in teaching or services that will effectively serve the needs of a diverse student population (b) ability to provide specific subject matter expertise that meets the District's core mission

## **5H4 Emergency Circumstances**

~~5H4A~~ If an approved for assignment pool does not exist, and if there is insufficient time to convene a part-time faculty screening committee that includes the faculty chair, the Vice President or department/division dean shall include, whenever possible, at least one tenured faculty member from the relevant discipline in interviewing and selecting adjunct instructors.

~~5H4B~~ If circumstances do not permit the inclusion of any faculty in the contingency or emergency screening of qualified applicants, the Vice President or department/division dean must notify the College Human Resources Manager and the faculty chair. The notification shall state the reasons for not being able to include any faculty

~~5H4C~~ An appointment under emergency circumstances is valid for one semester only. The emergency hire shall be placed back into the qualified applicant pool for future consideration.

~~Reviewed and Approved by Vice President's February 22, 2012 Consultation Council  
11/27/12~~

[Also see BP/AP 7120 titled Recruitment and Hiring](#)

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**NOTE:** The **red ink** signifies language that is **legally advised** and recommended by the Policy & Procedure Service and its legal counsel (Liebert Cassidy Whitmore). This procedure reflects updates/revisions from the Policy & Procedure Service in February 2004, February 2007, February 2008,

and September 2008. The language in **black ink** is from the current KCCD Procedure 5H titled Adjunct Employment Procedures reviewed and approved by Vice Presidents on February 22, 2012 and reviewed and approved by Consultation Council on November 27, 2012. The language in **blue ink** is included for consideration.

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**Approved:** November 27, 2012

**Revised:**

*(Replaces Procedure 5H)*

## Legal Citations for AP 7212

Education Code Sections 70902, 87002, 87003, 87481, 87482, 87482.5, and 87482.8

### **EDUCATION CODE - EDC**

#### **TITLE 3. POSTSECONDARY EDUCATION [66000 - 101060]**

*( Title 3 enacted by Stats. 1976, Ch. 1010. )*

#### **DIVISION 7. COMMUNITY COLLEGES [70900 - 88651]**

*( Division 7 enacted by Stats. 1976, Ch. 1010. )*

#### **PART 43. THE CALIFORNIA COMMUNITY COLLEGES [70900 - 70902]**

*( Heading of Part 43 renumbered from Part 43.5 by Stats. 1995, Ch. 758, Sec. 78. )*

#### **70902.**

(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 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.

*(Amended (as added by Stats. 2006, Ch. 817, Sec. 5) by Stats. 2011, Ch. 112, Sec. 4. Effective January 1, 2012. Section operative January 1, 2014, by its own provisions.)*

#### 87002.

(a) "Administrator" means any person employed by the governing board of a community college 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.

(b) "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 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.

(c) "Classified administrator" means an administrator who is not employed as an educational administrator.

*(Repealed and added by Stats. 1990, Ch. 1302, Sec. 6. Effective September 25, 1990.)*

#### 87003.

(a) "Faculty" or "faculty member" means those employees of a community college district who are employed in academic positions that are not designated as supervisory or management for the purposes of Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code and for which minimum qualifications for service have been established by the board of governors adopted pursuant to

subparagraph (B) of paragraph (1) of subdivision (b) of Section 70901 or subdivision (a) of Section 87356. Faculty include, but are not limited to, instructors, librarians, counselors, community college health services professionals, handicapped 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.

(b) Any employees who are employed in faculty positions but who perform supervisory, management, or other duties related to college governance shall not, because of the performance of those incidental duties, be deemed supervisors or managers, as those terms are defined in Section 3540.1 of the Government Code. The incidental "supervisory" or "management" duties referred to in this subdivision include, but are not limited to, serving as a faculty member on hiring, selection, promotion, evaluation, budget development, or affirmative action committees, or making effective recommendations in connection with those activities.

*(Amended by Stats. 1991, Ch. 1038, Sec. 12. Effective October 14, 1991.)*

**87481.** Notwithstanding the provisions of Sections 87478 and 87480, the governing board of a community college district may employ any qualified individual as a temporary faculty member for a complete school year, but not less than one semester or quarter during a school year unless the date of rendering first paid service begins during the second semester or third quarter and prior to March 15th. The employment of these persons shall be based upon the need for additional faculty during a particular semester, quarter, or year because a faculty member has been granted leave for a semester, quarter, or year, or is experiencing long-term illness, and shall be limited, in number of persons so employed, to that need, as determined by the governing board.

Any person employed for one complete school year as a temporary employee shall, if reemployed for the following school year in a vacant faculty position, be classified by the governing board as a contract employee and the previous year's employment as a temporary employee shall be deemed a year of employment as a contract employee for purposes of acquiring permanent status.

For purposes of this section "vacant position" means a position in which the employee is qualified to serve and which is not filled by a regular or contract employee. It shall not include a position which would be filled by a regular or contract employee except for the fact that such employee is on leave.

**EDUCATION CODE - EDC**

**TITLE 3. POSTSECONDARY EDUCATION [66000 - 101060]**

( Title 3 enacted by Stats. 1976, Ch. 1010. )

**DIVISION 7. COMMUNITY COLLEGES [70900 - 88810]**

( Division 7 enacted by Stats. 1976, Ch. 1010. )

**PART 51. EMPLOYEES [87000 - 88270]**

( Part 51 enacted by Stats. 1976, Ch. 1010. )

**CHAPTER 3. Employment [87400 - 87885]**

( Chapter 3 enacted by Stats. 1976, Ch. 1010. )

**ARTICLE 1. General Provisions [87400 - 87488]**

( Article 1 enacted by Stats. 1976, Ch. 1010. )

**87482.**

(a) (1) Notwithstanding Section 87480, the governing board of a community college district may employ any qualified individual as a temporary faculty member for a complete school year, but not less than a complete semester or quarter during a school year. The employment of those persons shall be based upon the need for additional faculty during a particular semester or quarter because of the higher enrollment of students during that semester or quarter as compared to the other semester or quarter in the academic year, or because a faculty member has been granted leave for a semester, quarter, or year, or is experiencing long-term illness, and shall be limited, in number of persons so employed, to that need, as determined by the governing board of the community college district.

(2) Employment of a person under this subdivision may be pursuant to contract fixing a salary for the entire semester or quarter.

(b) A person, other than a person serving as clinical nursing faculty and exempted from this subdivision pursuant to paragraph (1) of subdivision (c), shall not be employed by any one district under this section for more than two semesters or three quarters within any period of three consecutive years.

(c) (1) Notwithstanding subdivision (b), a person serving as full-time clinical nursing faculty or as part-time clinical nursing faculty teaching the hours per week described in Section 87482.5 may be employed by any one community college district under this section for up to four semesters or six quarters within any period of three consecutive academic years between July 1, 2007, and December 31, 2015, inclusive.

(2) A community college district that employs faculty pursuant to this subdivision shall provide data to the chancellor's office as to the number of faculty members

hired under this subdivision, and what the ratio of full-time to part-time faculty was for each of the three academic years prior to the hiring of faculty under this subdivision and for each academic year for which faculty is hired under this subdivision. This data shall be submitted, in writing, to the chancellor's office on or before June 30, 2012.

(3) The Chancellor of the California Community Colleges shall report, in writing, to the Legislature and the Governor on or before September 30, 2012, in accordance with data received pursuant to paragraph (2), the number of community college districts that hired faculty under this subdivision, the number of faculty members hired under this subdivision, and what the ratio of full-time to part-time faculty was for these community college districts in each of the three academic years prior to the operation of this subdivision and for each academic year for which faculty is hired under this subdivision.

(4) A community college district may not employ a person pursuant to this subdivision if the hiring of that person results in an increase in the ratio of part-time to full-time nursing faculty in that district.

*(Amended by Stats. 2014, Ch. 34, Sec. 21. Effective June 20, 2014.)*

**87482.5.** (a) Notwithstanding any other provision of law, any person who is employed to teach adult or community college classes for not more than 60 percent of the hours per week considered a full-time assignment for regular employees having comparable duties shall be classified as a temporary employee, and shall not become a contract employee under Section 87604.

(b) Service as a substitute on a day-to-day basis by persons employed under this section shall not be used for purposes of calculating eligibility for contract or regular status.

(c) (1) Service in professional ancillary activities by persons employed under this section, including, but not necessarily limited to, governance, staff development, grant writing, and advising student organizations, shall not be used for purposes of calculating eligibility for contract or regular status unless otherwise provided for in a collective bargaining agreement applicable to a person employed under this section.

(2) This subdivision may not be construed to affect the requirements of subdivision (d) of Section 84362.

**87482.8.** Whenever possible:

(a) Part-time faculty should be informed of assignments at least six weeks in advance.

(b) Part-time faculty should be paid for the first week of an assignment when class is cancelled less than two weeks before the beginning of a semester. If a class meets



more than once per week, part-time faculty should be paid for all classes that were scheduled for that week.

(c) The names of part-time faculty should be listed in the schedule of classes rather than just described as "staff."

(d) Part-time faculty should be considered to be an integral part of their departments and given all the rights normally afforded to full-time faculty in the areas of book selection, participation in department activities, and the use of college resources, including, but not necessarily limited to, telephones, copy machines, supplies, office space, mail boxes, clerical staff, library, and professional development.

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Kern Community College District  
**Administrative Procedure**  
Chapter 7 – Human Resources

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**AP 7213 PART-TIME FACULTY: BENEFITS**

**Reference:**

Education Code Section 87860

**NOTE:** *This procedure is **optional**. Local practice may be inserted or would be included in the collective bargaining contract, if applicable. The District will only implement such a procedure after negotiation with the exclusive representative for a unit that contains part-time faculty, and a decision to participate in this pilot program.*

[Also see applicable collective bargaining agreement](#)

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**NOTE:** *The **red ink** signifies language that is **suggested as good practice/optional** by the Policy & Procedure Service and its legal counsel (Liebert Cassidy Whitmore). The language in **blue ink** is included for consideration.*

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**Approved:**

*(This is a new procedure)*

## Legal Citation for AP 7213

### Education Code Section 87860

**87860.** It is the intent of the Legislature that part-time community college faculty and their eligible dependents have continuous access to health insurance benefits.

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Kern Community College District  
**Administrative Procedure**  
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**AP 7214 PART-TIME FACULTY: OFFICE HOURS**

**Reference:**

Education Code Section 87880

**NOTE:** *This procedure is **optional**. Local practice may be inserted or would be included in the collective bargaining contract, if applicable. The District will only implement such a procedure after negotiation with the exclusive representative for a unit that contains part-time faculty, and a decision to participate in this pilot program.*

[Also see applicable collective bargaining agreement](#)

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**NOTE:** *The **red ink** signifies language that is **suggested as good practice/optional** by the Policy & Procedure Service and its legal counsel (Liebert Cassidy Whitmore). The language in **blue ink** is included for consideration.*

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**Approved:**

*(This is a new procedure)*

## Legal Citation for AP 7214

### Education Code Section 87880

**87880.** The Legislature finds and declares that community college part-time faculty are required to fulfill the same teaching responsibilities as full-time faculty although students have little or no access to part-time faculty members outside of the classroom. It is the intent of the Legislature that students have the same opportunity for academic assistance and guidance without regard to whether a course at a community college is taught by a full-time or a part-time faculty member. It is the further intent of the Legislature that community college part-time faculty teaching a minimum number of courses be compensated for providing academic counseling and assistance to students outside of the classroom.

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Kern Community College District  
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**AP 7215 ACADEMIC EMPLOYEES: PROBATIONARY CONTRACT FACULTY**

**References:**

Education Code Sections 87600 et seq.

**NOTE:** *This procedure is **legally advised**. Employment of contract faculty is controlled by statute, but the following procedure, which mirrors Education Code requirements, will assure compliance.*

The District shall employ a faculty member for the first academic year of his/her employment by contract. Any person who, at the time an employment contract is offered to him/her by the District, is neither a tenured employee of the District nor a probationary employee then serving under a second or third contract shall be deemed to be employed for "the first academic year of his/her employment."

A faculty member shall be deemed to have completed his/her first contract year if he/she provides service for 75 percent of the first academic year.

Before making a decision relating to the continued employment of a contract employee, the following requirements shall be satisfied:

- The employee shall be evaluated in accordance with the evaluation standards and procedures established in accordance with law. **(Insert or reference local evaluation procedures.)**
- The Board shall receive statements of the most recent evaluations.
- The Board shall receive recommendations of the District Chancellor
- The Board shall consider the statement of evaluation and the recommendations in a lawful meeting of the Board of Trustees.

If a contract employee is working under his/her first contract, the Board, at its discretion, shall elect one of the following alternatives:

- Not enter into a contract for the following academic year.
- Enter into a contract for the following academic year.

- Employ the contract employee as a regular employee for all subsequent academic years.

If a contract employee is working under his/her second contract, the Board, at its discretion, shall elect one of the following alternatives:

- Not enter into a contract for the following academic year.
- Enter into a contract for the following two academic years.
- Employ the contract employee as a regular employee for all subsequent academic years.

If a contract employee is employed under his/her third consecutive contract, the Board shall elect one of the following alternatives:

- Employ the probationary employee as a tenured employee for all subsequent academic years.
- Not employ the probationary employee as a tenured employee.

The Board of Trustees shall give written notice of its decision and the reasons therefore to the employee on or before March 15 of the academic year covered by the existing contract. The notice shall be by registered or certified mail to the most recent address on file with Human Resources. Failure to give the notice as required to a contract employee under his/her first or second contract shall be deemed an extension of the existing contract without change for the following academic year.

The Board of Trustees shall give written notice of its decision under Education Code Section 87609 and the reasons therefore to the employee on or before March 15 of the last academic year covered by the existing contract. The notice shall be by registered or certified mail to the most recent address on file with Human Resources. Failure to give the notice as required to a contract employee under his/her third consecutive contract shall be deemed a decision to employ him/her as a regular employee for all subsequent academic years.

[Also see the applicable collective bargaining agreement](#)

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**NOTE:** The **red ink** signifies language that is **legally advised** and recommended by the Policy & Procedure Service and its legal counsel (Liebert Cassidy Whitmore). The language in **blue ink** is included for consideration.

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**Approved:**

*(This is a new procedure)*

## Legal Citations for AP 7215

### Education Code Sections 87600 et seq.

**87600.** The provisions of this article govern the employment of persons by a district to serve in faculty positions and establish certain rights for these employees. Other provisions of the law which govern the employment of community college faculty or establish rights and responsibilities for these persons shall be applied to persons employed by community college districts in a manner consistent with the provisions of this article.

87601. For the purposes of this article:

(a) "Academic year" means that period between the first day of a fall semester or quarter and the last day of the following spring semester or quarter, excluding any intersession term that has been excluded pursuant to an applicable collective bargaining agreement.

(b) "Contract employee" means an employee of a district who is employed on the basis of a contract in accordance with Section 87605, subdivision (b) of Section 87608, or subdivision (b) of Section 87608.5.

(c) "District" means a community college district.

(d) "Positions requiring certification qualifications" are those positions which provide the services for which certifications have been established in this **code**.

(e) "Regular employee" means an employee of a district who is employed in accordance with subdivision (c) of Section 87608, subdivision (c) of Section 87608.5, or Section 87609.

87602. For the purposes of other provisions of law:

(a) A contract employee is a probationary employee.

(b) A regular or tenured employee is a permanent employee.

87603. This article does not apply to the employment of administrators employed by appointment or contract pursuant to Section 72411.

87604. The governing board of a community college district shall employ each academic employee as a contract employee, regular employee, or temporary employee.



87605. The governing board of a district shall employ faculty for the first academic year of his or her employment by contract. Any person who, at the time an employment contract is offered to him or her by the district, is neither a tenured employee of the district nor a probationary employee then serving under a second or third contract entered into pursuant to Section 87608 shall be deemed to be employed for "the first academic year of his or her employment." A faculty member shall be deemed to have completed his or her first contract year if he or she provides service for 75 percent of the first academic year.

87606. An employment contract shall contain such terms and conditions as the governing board and the proposed employee shall agree upon and as are consistent with the provisions of the law.

87607. Before making a decision relating to the continued employment of a contract employee, the following requirements shall be satisfied:

(a) The employee has been evaluated in accordance with the evaluation standards and procedures established in accordance with the provisions of Article 4 (commencing with Section 87660) of this chapter, a fact determined solely by the governing board.

(b) The governing board has received statements of the most recent evaluations.

(c) The governing board has received recommendations of the superintendent of the district and, if the employee is employed at a community college, the recommendations of the president of that community college.

(d) The governing board has considered the statement of evaluation and the recommendations in a lawful meeting of the board.

87608. If a contract employee is working under his or her first contract, the governing board, at its discretion and not subject to judicial review except as expressly provided in Sections 87610.1 and 87611, shall elect one of the following alternatives:

(a) Not enter into a contract for the following academic year.

(b) Enter into a contract for the following academic year.

(c) Employ the contract employee as a regular employee for all subsequent academic years.

87608.5. If a contract employee is working under his or her second contract, the governing board, at its discretion and not subject to

judicial review except as expressly provided in Sections 87610.1 and 87611, shall elect one of the following alternatives:

- (a) Not enter into a contract for the following academic year.
- (b) Enter into a contract for the following two academic years.
- (c) Employ the contract employee as a regular employee for all subsequent academic years.

87609. If a contract employee is employed under his or her third consecutive contract entered into pursuant to Section 87608.5, the governing board shall elect one of the following alternatives:

- (a) Employ the probationary employee as a tenured employee for all subsequent academic years.
- (b) Not employ the probationary employee as a tenured employee.

87610. (a) The governing board shall give written notice of its decision under Section 87608 or 87608.5 and the reasons therefor to the employee on or before March 15 of the academic year covered by the existing contract. The notice shall be by registered or certified mail to the most recent address on file with the district personnel office. Failure to give the notice as required to a contract employee under his or her first or second contract shall be deemed an extension of the existing contract without change for the following academic year.

(b) The governing board shall give written notice of its decision under Section 87609 and the reasons therefor to the employee on or before March 15 of the last academic year covered by the existing contract. The notice shall be by registered or certified mail to the most recent address on file with the district personnel office. Failure to give the notice as required to a contract employee under his or her third consecutive contract shall be deemed a decision to employ him or her as a regular employee for all subsequent academic years.

87610.1. (a) In those districts where tenure evaluation procedures are collectively bargained pursuant to Section 3543 of the Government **Code**, the faculty's exclusive representative shall consult with the academic senate prior to engaging in collective bargaining on these procedures.

(b) Allegations that the community college district, in a decision to grant tenure, made a negative decision that to a reasonable person was unreasonable, or violated, misinterpreted, or misapplied, any of its policies and procedures concerning the evaluation of probationary employees shall be classified and procedurally addressed

as grievances. Allegations that the community college district in a decision to reappoint a probationary employee violated, misinterpreted, or misapplied any of its policies and procedures concerning the evaluation of probationary employees shall be classified and procedurally addressed as grievances. If there is no contractual grievance procedure resulting in arbitration, these allegations shall proceed to hearing in accordance with Section 87740.

"Arbitration," as used in this section, refers to advisory arbitration, as well as final and binding arbitration.

(c) Any grievance brought pursuant to subdivision (b) may be filed by an employee on his or her behalf, or by the exclusive bargaining representative on behalf of an employee or a group of employees in accordance with Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government **Code**. The exclusive representative shall have no duty of fair representation with respect to taking any of these grievances to arbitration, and the employee shall be entitled to pursue a matter to arbitration with or without the representation by the exclusive representative. However, if a case proceeds to arbitration without representation by the exclusive representative, the resulting decision shall not be considered a precedent for purposes of interpreting tenure procedures and policies, or the collective bargaining agreement, but instead shall affect only the result in that particular case. When arbitrations are not initiated by the exclusive representative, the district shall require the employee submitting the grievance to file with the arbitrator or another appropriate party designated in the collective bargaining agreement, adequate security to pay the employee's share of the cost of arbitration.

(d) The arbitrator shall be without power to grant tenure, except for failure to give notice on or before March 15 pursuant to subdivision (b) of Section 87610. The arbitrator may issue an appropriate make-whole remedy, which may include, but need not be limited to, backpay and benefits, reemployment in a probationary position, and reconsideration. Procedures for reconsideration of decisions not to grant tenure shall be agreed to by the governing board and the exclusive representative of faculty pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government **Code**.

(e) Any employees who are primarily engaged in faculty or other bargaining unit duties, who perform "supervisory" or "management" duties incidental to their performance of primary professional duties shall not be deemed supervisory or managerial employees as those terms are defined in Section 3540.1 of the Government **Code**, because of those duties. These duties include, but are not limited to, serving on hiring, selection, promotion, evaluation, budget

development, and affirmative action committees, and making effective recommendations in connection with these activities. These employees whose duties are substantially similar to those of their fellow bargaining unit members shall not be considered supervisory or management employees.

87611. A final decision reached following a grievance or hearing conducted pursuant to subdivision (b) of Section 87610.1 shall be subject to judicial review pursuant to Section 1094.5 of the **Code** of Civil Procedure.

87612. Until terminated in accordance with provisions of law, a part-time regular employee shall be assigned, and compensated, for a period of service less than 75 percent of the number of days the colleges of the district are maintained during each academic year. The governing board of the employing district may establish an assignment for any period of days less than 75 percent.

At its discretion, the governing board of the employing district may assign and compensate a part-time regular employee for a period of service of 75 percent or more of the number of days the colleges of the district are maintained during each academic year. Such an assignment shall not change the employee's classification to that of full-time regular employee unless an assignment of this type is made for two consecutive academic years.

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Kern Community College District  
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**AP 7216 ACADEMIC EMPLOYEES: GRIEVANCE PROCEDURE FOR CONTRACT DECISIONS**

**Reference:**

Education Code Section 87610.1

**NOTE:** *This procedure is **legally required**; however, it is a mandatory subject of bargaining, and must be collectively bargained. Education Code Section 87610.1(a) also requires the union to consult with the academic senate prior to bargaining it. Accordingly, no format is recommended.*

*In districts that do not have a contractual grievance procedure resulting in either advisory or binding arbitration, probationary faculty members who wish to challenge a decision not to grant a second or third contract proceed to a hearing in accordance with Education Code Section 87740, which is before an Administrative Law Judge appointed by the Office of Administrative Hearings.*

**NOTE:** *The following is sample language from other districts for consideration.*

**Sample from another District**

Unless noted otherwise in the collective bargaining agreement, probationary faculty members who wish to challenge a decision not to grant a second or third contract must follow the established grievance process outlined in the collective bargaining agreement. The employee after completing this process may proceed to a hearing in accordance with Education Code Section 87740, which is before an Administrative Law Judge appointed by the Office of Administrative Hearings.

**Sample from another District**

Rules and procedures for academic grievances, for both Associate and Full Time Faculty, shall be found in the Federation of Teachers AFT-CFT Local #4615 and Federation of Teachers Associate Faculty (AFT-CFT, AFL-CIO) Collective Bargaining Agreements.

Grievance procedures have been developed to provide a prompt and orderly means of resolving contractual issues. A Grievance is a formal allegation by a grievant that the grievant had been adversely affected by a misinterpretation, a misapplication, or a violation of a specific section or article of the contract. A grievant may be any member of the bargaining unit covered by the terms of the contract. Grievances are typically filed with the first level manager or the immediate supervisor (outside of the bargaining unit) having direct jurisdiction over the grievant.

Grievances may be lodged by a faculty or associate faculty member (here after noted as faculty member), by a faculty member accompanied by a representative, through a Federation representative or by a Federation representative in the name of the federation.

### **Sample from another District**

Grievance procedures are outlined in Article 48 in the CBA between ACE and the District. Associate faculty member procedures are outlined in Article 111.

*(NOTE: Also see sample language from other Districts included in the notebook)*

Also see the applicable collective bargaining agreement

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**NOTE:** The **red ink** signifies language that is **legally required** and recommended by the Policy & Procedure Service and its legal counsel (Liebert Cassidy Whitmore). The language in **blue ink** is included for consideration.

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**Approved:**

*(This is a new procedure)*

## Legal Citation for AP 7216

### Education Code Section 87610.1

**87610.1.** (a) In those districts where tenure evaluation procedures are collectively bargained pursuant to Gov. Code Section 3543, the faculty's exclusive representative shall consult with the academic senate prior to engaging in collective bargaining on these procedures.

(b) Allegations that the community college district, in a decision to grant tenure, made a negative decision that to a reasonable person was unreasonable, or violated, misinterpreted, or misapplied, any of its policies and procedures concerning the evaluation of probationary employees shall be classified and procedurally addressed as grievances. Allegations that the community college district in a decision to reappoint a probationary employee violated, misinterpreted, or misapplied any of its policies and procedures concerning the evaluation of probationary employees shall be classified and procedurally addressed as grievances. If there is no contractual grievance procedure resulting in arbitration, these allegations shall proceed to hearing in accordance with Section 87740.

"Arbitration," as used in this section, refers to advisory arbitration, as well as final and binding arbitration.

(c) Any grievance brought pursuant to subdivision (b) may be filed by an employee on his or her behalf, or by the exclusive bargaining representative on behalf of an employee or a group of employees in accordance with Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government **Code**. The exclusive representative shall have no duty of fair representation with respect to taking any of these grievances to arbitration, and the employee shall be entitled to pursue a matter to arbitration with or without the representation by the exclusive representative. However, if a case proceeds to arbitration without representation by the exclusive representative, the resulting decision shall not be considered a precedent for purposes of interpreting tenure procedures and policies, or the collective bargaining agreement, but instead shall affect only the result in that particular case. When arbitrations are not initiated by the exclusive representative, the district shall require the employee submitting the grievance to file with the arbitrator or another appropriate party designated in the collective bargaining agreement, adequate security to pay the employee's share of the cost of arbitration.

(d) The arbitrator shall be without power to grant tenure, except for failure to give notice on or before March 15 pursuant to subdivision (b) of Section **87610**. The arbitrator may issue an appropriate make-whole remedy, which may include, but need not be limited to, backpay and benefits, reemployment in a probationary position, and reconsideration. Procedures for reconsideration of decisions not to grant tenure shall be agreed to by the governing board and the exclusive representative of faculty pursuant to Chap. 10.7 (commencing with Sect. 3540) of Division 4 of Title 1 of the Gov. **Code**.

(e) Any employees who are primarily engaged in faculty or other bargaining unit duties, who perform "supervisory" or "management" duties incidental to their performance of primary professional duties shall not be deemed supervisory or

managerial employees as those terms are defined in Government Code Section 3540.1, because of those duties. These duties include, but are not limited to, serving on hiring, selection, promotion, evaluation, budget development, and affirmative action committees, and making effective recommendations in connection with these activities. These employees whose duties are substantially similar to those of their fellow bargaining unit members shall not be considered supervisory or management employees.