



SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

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LEGAL UPDATE

July 8, 2016

**To: Superintendents/Presidents/Chancellors, Human Resources
Directors, Member Community College Districts**

**From: Steven P. Reiner 
Assistant General Counsel**

**Subject: July Notice of Temporary Faculty Employment
Memo No. 08-2016(CC)**

This is a reminder that districts are required to provide contract and temporary faculty written notice of their employment classification, the salary they will be paid, as well as the length of time for which the employee is being hired. **This notice must be given during July of each year.** If employees are hired after July 1, districts must provide them with written notice of their classification when they are hired and before they start work.

The requirement for written notice of classification is described in Education Code, section 87477 as follows:

Governing boards of community college districts shall classify as contract employees, those faculty members who have not been classified as regular employees or as temporary employees. The classification shall be made at the time of employment and thereafter in the month of July of each school year. At the time of initial employment during each academic year, each new faculty member shall receive a written statement indicating his or her employment status and the salary that he or she is to be paid. **If a community college district hires a faculty member as a temporary employee, the written statement shall clearly indicate the temporary nature of the employment and the length of time for which the person is being employed. If a written statement does**



not indicate the temporary nature of the employment, the faculty member shall be deemed to be a contract employee of the community college district, unless employed with regular status.

The written notice to the individual employee that is required by section 87477 is critically important when a district hires temporary faculty. Failure to provide specific notice to each temporary faculty member that he/she is classified as temporary may entitle that temporary faculty member to claim contract (probationary) status. As you know, temporary faculty members can be released from employment under Education Code, section 87665 at the board of trustee's discretion "at the end of a day or week, whichever is appropriate" and subject to any locally established conditions.

Once an employee is considered a probationary employee, he or she can only be dismissed for cause or through the non-reelection process. Both of these processes for the removal of probationary employees are time consuming, expensive, and may not ultimately be successful.

Accordingly, we cannot overemphasize the importance of complying with Education Code, section 87477 and giving all of your temporary faculty the written notice described above that specifically identifies them as temporary employees in July of each year.

We understand that some districts refer to their temporary faculty who are employed at 67% or less under Education Code, section 87482.5 as "adjunct" faculty. It is important that the notice of temporary status specifically identify the employee classification as "temporary" as opposed to "adjunct." The term "adjunct" is not a recognized legal classification under the Education Code, so be sure to use the classification of "temporary" employee.

Please also ensure that your district is able to identify a specific Education Code provision that allows for temporary employment for each faculty member you classify as temporary. If the district cannot identify a specific basis for temporary status, the individual employee may claim probationary status.

Please contact our office with questions regarding this Legal Update or any other legal matter.

The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.

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