



SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

*A Joint Powers Authority
serving school and
college districts
throughout the state.*

5350 Skylane Boulevard
Santa Rosa, CA 95403

Tel: (707) 524-2690
Fax: (707) 578-0517
santarosa@sclscal.org
www.sclscal.org

General Counsel
Carl D. Corbin

Attorneys
Monica D. Batanero
Nancy L. Klein
Damara L. Moore
Jennifer E. Nix
Steven P. Reiner
Mia N. Robertshaw
Loren W. Soukup
Patrick C. Wilson
Frank Zotter, Jr.

Of Counsel
Robert J. Henry
Margaret M. Merchat
Virginia A. Riegel

LEGAL UPDATE

October 5, 2016

To: Superintendents/Presidents/Chancellors, Member Community
College Districts

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

Subject: CBA Prevails Over Management Handbook Regarding Salary
Placement
Memo No. 18-2016(CC)

This Legal Update is to alert you to a recent case involving the salary due to a former educational administrator upon her retreat to a first-year faculty position. At issue were conflicting provisions between a management handbook and the faculty collective bargaining agreement (CBA) as to how many years of credit the former administrator was entitled to upon her reassignment as a first-year faculty member.

The court held that where a CBA and Board-adopted handbook conflict, the CBA takes precedence.

In *Hott v. College of the Sequoias Community College District* (2016)¹, Hott was a former administrator with 15 years of administrative experience, but no faculty experience, when she retreated to a first-year probationary faculty position after her administrative position was eliminated due to budget cuts.

When Hott was originally hired as an administrator, she was given a management handbook that had been adopted by the Board. A section in the handbook titled "Permanent Reassignment," stated "[w]hen a management employee is reassigned to a lower level management or *non-management position*, s/he shall be granted year-for-year credit on the salary scheduled for each year of employment with the District." (Emphasis added) Under a section titled "Retreat Rights," the handbook stated that retreat rights were governed by the Education Code, including section 87458 and all other applicable laws.

¹ Official case citation is not yet available.



Under Education Code section 87458, an educational administrator whose assignment expired may be reassigned to a *first-year* probationary faculty position.² Section 87458 does not explicitly address seniority rights or salary placement, other than stating reassignment is to a *first-year* position.

Under the faculty CBA, a reassigned administrator with no prior experience as a faculty member was eligible for a maximum of 5 years of credit for past teaching or occupational experience in terms of placement on the salary schedule.

Hott took the position that her first-year probationary faculty position was a *non-management* position, as referenced in the handbook, which entitled her to year-for-year credit (15 years) on the salary schedule as a first-year probationary faculty member.

The College took the position that Hott was eligible for a first-year faculty position under Education Code 87458 and that the CBA governed Hott's salary placement. Under the CBA, she was entitled to a maximum of 5 years of credit on the salary schedule as a result of her occupational experience as a former administrator.

The court found that the handbook and CBA were in conflict with regard to salary placement. In particular, the handbook granted year-for-year credit, and the CBA granted up to 5 years credit for occupational experience. The court stated that "individual contracts" or handbooks may not interfere with the terms of collective bargaining agreements because collective bargaining parameters are governed by statute. As such, the court agreed with the College's position that the CBA governed the terms of Hott's placement on the salary schedule as a first-year faculty member, and Hott was entitled to 5 years of credit for her occupational experience as a former administrator.

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.

© 2016 School and College Legal Services of California

All rights reserved. However, SCLS grants permission to any current SCLS client to use, reproduce, and distribute this Legal Update in its entirety for the client's own non-commercial purposes.

² In *Wong v. Ohlone College* (2006) 137 Cal.App.4th 1397, the court held that although Education Code section 87458 states terminated community college administrators "shall have the right to become" a first-year probationary faculty member, there is no absolute right to a position if there is not one available.