



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
Ellie R. Austin
Monica D. Batanero
Jennifer Henry
Nancy L. Klein
Damara L. Moore
Jennifer E. Nix
Steven P. Reiner
Kaitlyn A. Schwendeman
Loren W. Soukup
Erin E. Staggs

Of Counsel
Robert J. Henry
Frank Zotter, Jr.

LEGAL UPDATE

May 26, 2021

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

From: Steven P. Reiner, Associate General Counsel *SPR*

Subject: July Notice of Temporary Faculty Employment
Memo No. 09-2021(CC)

This is a reminder that districts are required to provide temporary faculty members written notice indicating the temporary nature of their employment, the salary, and length of time for which the employee is being hired. **This notice must be given at the time of initial employment and thereafter in the month of July each school year.** Temporary faculty members must be given written notice of their classification when hired and before starting work.

The notice requirement 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 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 or she is classified as temporary may entitle that temporary faculty member to claim contract (probationary) status.

Temporary faculty members can be released from employment 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.¹

Once an employee is considered a contract (probationary) employee, he or she can only be dismissed through the non-reelection process or for cause.² The removal of a probationary employee through the non-reelection process requires compliance with various pre-requisites and for cause dismissal is time consuming, expensive, and may not ultimately be successful.

We cannot overemphasize the importance of complying with Education Code section 87477 and giving 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 and we advise districts 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 contract (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.

© 2021 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.

¹ Education Code section 87665

² Education Code sections 87610 & 87732