

## BP 7250 EDUCATIONAL ADMINISTRATORS

### References:

Education Code Sections 72411 et seq., 87002(b), 87454, and 87457-87460;  
Government Code Section 3540.1(g) and (m);  
Title 5 Sections 53420 and 53430;  
Wong v. Ohlone College (2006), 137 Cal.App.4th 1379, 40 Cal.Rptr.3d 923

### ❖ From the current CLPCCD Policy 4100 titled Management Personnel

The ~~Governing~~ Board of Trustees shall employ, upon the recommendation of the Chancellor, such ~~management personnel~~ educational administrators as shall be necessary to assist the Chancellor in the conduct of the affairs of the District and colleges. The selection, appointment, assignment and retention of all management personnel, faculty and classified, are the responsibilities of management, subject to the final approval of the Board ~~of Trustees~~.

An administrator is a person employed by the Board in a supervisory or management position as defined in Government Code Sections 3540 et seq.

Educational administrators are those who exercise direct responsibility for supervising the operation of or formulating policy regarding the instructional or student services programs of the District.

Educational administrators shall be compensated in the manner provided for by the appointment or contract of employment. Compensation shall be set by the Board upon recommendation by the Chancellor. Educational Administrators shall further be entitled to health and welfare benefits made available by action of the Board upon recommendation by the Chancellor.

Educational administrators shall be entitled to vacation leave, sick leave, and other leaves as provided by law, this policy, and administrative procedures adopted by the Chancellor.

Every educational administrator shall be employed by an appointment or contract of up to four years in duration.

The Board may, with the consent of the administrator concerned, terminate, effective on the next succeeding first day of July, the terms of employment and any contract of employment with the administrator, and reemploy the administrator on any terms and conditions as may be mutually agreed upon by the Board and the administrator, for a new term to commence on the effective date of the termination of the existing term of employment.

If the Board determines that the administrator is not to be reemployed when his or her appointment or contract expires, notice to an administrator shall be in accordance with the terms of the existing contract. If the contract is silent, notice shall be in accordance with Education Code Section 72411.

**NOTE:** *The language in **green ink** is a sample from the Riverside CCD.*

Educational administrators shall be in possession of the following minimum qualifications for service:

1. Possession of a master's degree from an accredited institution; and
2. One year of formal training, internship, or leadership experience reasonably related to the administrator's administrative assignment

Educational administrators shall be compensated in the manner provided for by the appointment or contract of employment. Compensation and benefits shall be approved by the Board upon recommendation of the Chancellor.

## **Educational Administrator Academic Retreat Rights**

### **I. Tenured Educational Administrators**

In accordance with Education Code Section 87454, an educational administrator whose administrative assignment is terminated and who has acquired faculty tenure within the District shall have the right to be reassigned to a regular faculty position, provided the reason for the termination of the administrative assignment is other than dismissal for cause pursuant to Education Code Section 87732 and in accordance with the following provisions:

1. The retreating administrator will be placed on the salary schedule in accordance with the procedure agreed upon by the District and the Faculty Association (collective bargaining unit).
2. The administrator's original established service area or the service area in which the administrator did the majority of his/her teaching while a faculty member will be used to determine discipline placement.
3. The administrator will not replace a regular (tenured) or contract (tenure track) faculty member in the affected discipline.

**OPTION 1 for Non-Tenured Educational Administrators**

**II. Non-tenured Educational Administrators**

An educational administrator whose administrative assignment is terminated and who does not have faculty tenure within the District shall have the right to become a first year probationary faculty member, provided the reason for the termination of the administrative assignment is other than dismissal for cause pursuant to Education Code Section 87732 and in accordance with the following provisions:

1. The administrator meets minimum qualifications for the requested faculty position, as specified in the list of disciplines as adopted by the Board of Governors of the California Community Colleges, and other such qualifications as may be required in accordance with the collective bargaining agreement between the District and the Faculty Association.
2. The administrator has completed at least two years of satisfactory service within the District, including any prior service as a faculty member.
3. The administrator is not replacing a regular (tenured) faculty member or a contract (tenure-track) faculty member.
4. A position for the retreating administrator must be available within the District.

This position shall have been properly created by the strategic planning committee and will have been appropriately allocated, budgeted, vetted and prioritized in accordance with the prevailing College and District procedures on the affected College.

5. The retreating administrator will be placed on the salary schedule in accordance with the procedure agreed upon by the district and the Faculty Association (collective bargaining unit).

The administrator shall present a formal request for a faculty position to the Chancellor.

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

**OPTION 2 for Non-Tenured Educational Administrators**

An educational administrator who has not previously acquired tenure as a faculty member in the District shall have the right to become a first year probationary faculty member once his/her administrative assignment expires or is terminated, if the following criteria are met:

- The administrator meets the criteria established by the District for minimum qualifications for a faculty position, in accordance with procedures developing jointly by the Chancellor and the Academic Senate and approved by the Board. The Board shall rely primarily on the advice and judgment of the

~~Academic Senate to determine that an administrator possesses minimum qualifications for employment as a faculty member.~~

- ~~• The requirements of Education Code Section 87458(c) and (d), or any successor statute, are met with respect to prior satisfactory service and reason for termination of the administrative assignment.~~

**NOTE:** The language from current CLPCCD Policy 4130 (below) is addressed in new BP 7130 titled Compensation.

❖ **From the current CLPCCD Policy 4130 titled Management Salary Schedule**

The Management Salary Schedule and the implementation procedure for management employees will be adopted each year.

**NOTE:** Due to the details contained therein, consider deleting the language from current CLPCCD Policy 4115 (below) and moving it to new AP 7250 titled Educational Administrators.

❖ **From the current CLPCCD Policy 4115 titled Assignment of Management Personnel**

The Chancellor and Presidents shall direct and assign the work of management personnel using the following general guidelines:

- ~~1. The full-time work week shall consist of a minimum average of forty (40) weekly hours of service.~~
- ~~2. Together with the duties and responsibilities of a minimum average of forty (40) weekly hours of service during a calendar month;
  - ~~a. attendance and participation in relevant meetings and activities of which orientation and commencement (for academic managers) are a part;~~
  - ~~b. membership on appropriate committees both standing and ad hoc;~~
  - ~~c. involvement in community activities and service;~~
  - ~~d. attendance at meetings of the Board of Trustees as required;~~
  - ~~e. special activities or programs of the college requiring leadership and/or participation;~~
  - ~~f. support, generally by attendance, of several co-curricular college activities during the year such as dramatic productions, athletic contests, music performances, forensic meets, student activities, open house.~~~~
- ~~3. The professional activities of managers are typically self-initiated and self-directed. Managers are expected to carry on a continuing program of preparation, self-evaluation, and self-improvement related to their assignments and other general management skills.~~
- ~~4. All management positions shall be exempt from overtime provisions of law due to the duties, flexibility of hours, salary benefit structure, and authority of the position.~~

**NOTE:** Due to the details contained therein, consider deleting the language from current CLPCCD Policy 4160 (below) and moving it to new AP 7250 titled Educational Administrators.

❖ **From the current CLPCCD Policy 4160 titled Pre-retirement Reduction of Annual Workload (Academic Management)**

~~The Board of Trustees may provide for the reduction of academic employee workloads in accordance with the provisions of Education Code Sections 87483 and 22713 and Section 20815 of the Government Code. The intent of this policy is to allow eligible managers to phase in their retirement program through reduced workloads and without loss of health or final retirement benefits. For purposes of this policy, part-time employment means reduction of workload for full-time academic employees who are designated as manager by the Board of Trustees.~~

~~The following regulations shall govern the application of these Education Code sections to managers of the Chabot-Las Positas Community College District:~~

- ~~1. The employee must have reached the age of 55 in or before the school year prior to reduction in workload. This policy shall not apply to employees who are older than 70 years, except that an employee exercising this option and reaching age 70 during the academic year may continue in the program to the end of the academic year.~~
- ~~2. The employee must have been employed full-time in the Chabot-Las Positas Community College District in an academic position requiring certification, qualification or both for at least ten (10) years, of which the immediately preceding five (5) years were full-time employment.~~
- ~~3. The option of part-time employment must be exercised at the written request of the employee. This option may be revoked or altered only with the mutual consent of the Board of Trustees and the employee.~~
- ~~4. The employee shall be paid a salary which is the pro rata share of the salary the employee would be earning had the employee not elected to exercise the option of part-time employment, but shall retain all other rights and benefits for which the employee made the payments that would be required if the employee remained in full-time employment.~~
- ~~5. The District and the employee shall each contribute to the State Teachers' Retirement Fund or Public Employees' Retirement System as provided in Government Code Section 20815 the amount that would have been contributed if the employee had been employed on a full-time basis.~~
- ~~6. The employee shall receive health benefits as provided in Section 53201 of the Government Code in the same manner as a full-time employee.~~

- ~~7. The minimum part-time employment shall be the equivalent of one-half of the number of days of service required by the employee's contract of service during the final year of service in a full-time position. An employee may request as a minimum any assignment which averages fifty percent (50%) or more for the school year. The specific assignment during the school year shall be made by the Chancellor or designee after consultation with the employee.~~
- ~~8. The maximum period for this option of part-time employment is ten (10) years.~~
- ~~9. An employee who desires to reduce his or her workload in accordance with this policy shall make application to the Chancellor of the District. The application shall be made by December 1 of the school year prior to the year when part-time employment is to become effective. The approval of the application is contingent upon the needs of the District determined by the recommendation of the Chancellor and the action of the Board of Trustees.~~
- ~~10. Part-time employment contracts granted in accordance with the provisions of this policy shall be computed as fulfilling full-time equivalent services as set forth in the policy on group medical insurance for retirees.~~

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**NOTE:** The **red ink** signifies language that is **legally required** and recommended by the Policy and Procedure Service and its legal counsel. The language in **black ink** is from current CLPCCD Policy 4100 titled Management Personnel adopted on March 19, 1996; current CLPCCD Policy 4115 titled Assignment of Management Personnel adopted on March 19, 1996; and current CLPCCD Policy 4130 titled Management Salary Schedule adopted on March 19, 1996 and January 16, 2001; and current CLPCCD Policy 4160 titled Pre-retirement Reduction of Annual Workload (Academic Management) adopted on March 19, 1996 and revised on May 21, 2002. The language in **green ink** was added during the review by David and Kit on August 12, 2013. The revisions in **blue ink** were made by David on 5/29/15 after consultation with Wyman and the Chancellor.

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**Date Adopted:**

*(This policy replaces current CLPCCD Policies 4100, 4115, 4130, and 4160)*

## Legal Citations for BP 7250

### Education Code Sections 72411 et seq., 87002(b), and 87457-87460; Government Code Sections 3540.1(g) and (m)

**72411.** (a) Every educational administrator shall be employed, and all other administrators may be employed, by the governing board of the district by an appointment or contract of up to four years in duration. The governing board of a community college district, with the consent of the administrator concerned, may at any time terminate, effective on the next succeeding first day of July, the term of employment of, and any contract of employment with, the administrator of the district, and reemploy the administrator, on any terms and conditions as may be mutually agreed upon by the board and the administrator, for a new term to commence on the effective date of the termination of the existing term of employment.

(b) If the governing board of a district determines that an administrator is not to be reemployed by appointment or contract in his or her administrative position upon the expiration of his or her appointment or contract, the administrator shall be given written notice of this determination by the governing board. For an administrator employed by appointment or contract, the term of which is longer than one year, the notice shall be given at least six months in advance of the expiration of the appointment or contract unless the contract or appointment provides otherwise. For every other administrator, notice that the administrator may not be reemployed by appointment or contract in his or her administrative position for the following college year shall be given on or before March 15.

(c) If the governing board fails to reemploy an administrator by appointment or contract in his or her administrative position and the written notice provided for in this section has not been given, the administrator shall, unless the existing appointment or contract provides otherwise, be deemed to be reemployed for a term of the same duration as the one completed with all other terms and conditions remaining unchanged.

(d) Subdivisions (b) and (c) do not apply to any administrator who holds a position that is funded for less than a college year, is assigned to an acting position whose continuing right to hold the position depends on being selected for the position on a regular basis, is terminated pursuant to Section 87743, 88017, or 88127, or is dismissed for cause.

**72411.5.** In the absence of an express appointment or contract as provided in Section **72411**, every administrator shall serve in his or her administrative assignment at the pleasure of the governing board.

The dismissal of, and imposition of penalties for cause on, an administrator employed by appointment or contract pursuant to Section **72411** shall, if the administrator does not have tenure as a faculty member, be in accordance with the terms of the appointment or contract of employment. If the administrator has tenure as a faculty member, the dismissal of, and imposition of penalties for cause on, the administrator shall be in accordance with the provisions applicable to faculty members.

**72423.** The governing board of each community college district shall provide for the payment of the travel expenses of any representatives of the board when performing services directed by the board.

**87002.** (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.

## **Education Code Section 87454**

### **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 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. )*

#### **87454.**

A tenured employee, when assigned from a faculty position to an educational administrative position, or assigned any special or other type of work, or given special classification or designation, shall retain his or her status as a tenured faculty member.

*(Amended (as amended by Stats. 1988, Ch. 973) by Stats. 1990, Ch. 1302, Sec. 64. Effective September 25, 1990.)*

### **Education Code Sections 87457-87460**

**87457.** Whenever a person employed in an administrative position is assigned to a faculty position, the governing board of the community college district shall give the employee, when requested by him or her, a written statement of the reasons for the transfer.

**87458.** A person employed in an administrative position that is not part of the classified service, who has not previously acquired tenured status as a faculty member in the same district and who is not under contract in a program or project to perform services conducted under contract with public or private agencies, or in other categorically funded projects of indeterminate duration, shall have

the right to become a first-year probationary faculty member once his or her administrative assignment expires or is terminated if all of the following apply:

(a) The process by which the governing board reaches the determination shall be developed and agreed upon jointly by representatives of the governing board and the academic senate, and approved by the governing board. The agreed upon process shall include reasonable procedures to ensure that the governing board relies primarily upon the advice and judgment of the academic senate to determine that the administrator possesses the minimum qualifications for employment as a faculty member. The process shall further require that the governing board provide the academic senate with an opportunity to present its views to the governing board before the board makes a determination and that the written record of the decision, including the views of the academic senate, shall be available for review pursuant to Section 87358.

(b) Until a joint agreement is reached pursuant to subdivision (a), the district process in existence on January 1, 1989, shall remain in effect.

(c) The administrator has completed at least two years of satisfactory service, including any time previously served as a faculty member, in the district.

(d) The termination of the administrative assignment is for any reason other than dismissal for cause.

(e) This section shall apply to every educational administrator whose first day of paid service in the district as a faculty member or an administrator is on or after July 1, 1990.

**87458.1.** (a) A person employed in an administrative or supervisory position requiring certification qualifications upon completing a probationary period, including any time served as a classroom instructor, in the same district, shall be classified as and become a regular employee as a classroom instructor.

(b) This section shall only apply to persons whose first day of paid service in the district without a break in service precedes July 1, 1990.

**87459.** Notwithstanding the provisions of Section 87458 to the contrary, the governing board of any community college district shall, with respect to each person who is employed in an administrative or supervisory position requiring certification qualifications under a contract of employment providing a four-year term of employment and who either has not been previously employed by the district in such position or has been employed in such position but not under such a four-year contract, determine prior to May 15 of the third year under such four-year contract of employment whether to grant or deny the person regular classification as a classroom instructor. If the board grants the classification, the person shall be classified as and become a regular employee as a classroom instructor. This section shall only apply to persons whose first day of paid service in the district without a break in service precedes July 1, 1990.

**87460.** A person employed in an administrative or supervisory

position by more than one district shall be given regular classification in whichever district he or she may select for the regular classification. Other regular classification shall be given to such an employee in a district situated wholly or partly within a city or city and county where the charter of the city or city and county provides for other classification. This section shall apply only to persons whose first day of paid service in the district without a break in service precedes July 1, 1990.

### **Government Code Section 3540.1**

**3540.1.** As used in this chapter:

(g) "Management employee" means any employee in a position having significant responsibilities for formulating district policies or administering district programs. Management positions shall be designated by the public school employer subject to review by the Public Employment Relations Board.

(m) "Supervisory employee" means any employee, regardless of job description, having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to assign work to and direct them, or to adjust their grievances, or effectively recommend that action, if, in connection with the foregoing functions, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.