

**THE ACADEMIC SENATE
FOR CALIFORNIA
COMMUNITY COLLEGES**

**Administrator Retreat Rights:
An Introduction and A Model Procedure**

Educational Policies Committee

**Administrator Retreat Rights:
An Introduction and A Model Procedure**

Introduction:

Assembly Bill 1725, section 87458, made an important change in the employment rights of certificated administrators. This document is intended to explain the provisions of the law on this matter and to provide one model for how a local district might establish its Administrator Retreat Rights Procedure. This material has not been debated or adopted by the Academic Senate and is being distributed at this time to obtain comment with the expectation that it will be debated, amended, and adopted at the Spring Session. In the meantime, it will hopefully also help to inform local senates about the issues which should be considered in developing a local procedure.

Certificated administrators used to acquire faculty tenure. Under the new law, they do not acquire faculty tenure. (Although if they had it when they became an administrator, they do retain it or, if they are hired before June 30, 1990, they can acquire it under the terms of prior law.) However, certificated administrators can acquire the right to become first-year probationary faculty members. They acquire this right only if all of the following are satisfied:

1. There is a process in place for accomplishing this reassignment. That process must be agreed upon jointly by the board and the academic senate. Until there has been an agreement, the district may use the one that was already in existence on January 1, 1989, if any. If the district did not have such a policy in existence on that date and if there has been no agreement, then there would be no retreat right at all.
2. The administrator is being transferred for some reason other than cause; his or her work has been satisfactory.
3. The administrator has worked in the district at least two years.
4. The administrator's position is not part of the classified service.

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The Administrator Retreat Rights Procedure must, then, work in a way that is as clear and precise as the layoff and bumping procedures for faculty and, at the same time, both be fair to the administrator and ensure that the administrator will be able to function as a faculty member at a level consistent with that expected of those who are hired as faculty members. Such a procedure must settle several questions:

1. Which administrators have this right?
2. In which discipline or disciplines does the administrator possess the minimum qualifications required by law? How is this determination made: by whom and when?
3. If the administrator possesses the minimum qualifications in more than one area or in an area that is offered at more than one location or college within the district, how is it determined to which discipline or location the administrator is assigned?
4. What should be specified about the rights of management to reassign administrators other than those who have a right to reassignment, for example, classified administrators or administrators with less than two years of successful experience? Indeed, although the law specifies that administrators dismissed for cause do not have a right to reassignment, unless additional language is adopted in this policy or somewhere, a district could agree voluntarily to reassign such an administrator.

Administrator Retreat Rights Procedure

A Model Administrator Retreat Rights Procedure

In order to properly balance the rights of students, administrators, and faculty, and in accordance with Education Code Section 87458, the Community College District adopts the following Administrator Retreat Rights Policy.

This policy does not apply to certificated administrators hired before the effective date for these sections of Assembly Bill 1725, (June 30, 1990). A tenured employee, when assigned from a faculty position to an administrative position retains his or her status as a tenured faculty member. The assignment of such an administrator to a faculty position shall be done in accordance with section II below. Administrators hired after the effective date can acquire the right to become first-year probationary faculty members as provided by Education Code Section 87458 and in accordance with this procedure.

1. An administrator hired after June 30, 1990, and who did not have faculty tenure in this district at the time of hire, may be reassigned to a first-year probationary faculty position provided that he or she meets all of the following:

A. Holds an administrative position that either:

1. Is not part of the classified service. For every administrative job title, the records of the district shall show whether or not it is part of the classified service. The decision to list a position as not part of the classified service shall be made by joint agreement with the academic senate, or

2. Is part of the classified service, but for whom at the time of hire, he or she was certified by the academic senate as possessing qualifications in a specified discipline or disciplines similar in experience and preparation to what would be expected of a newly hired faculty member. To qualify for reassignment under this provision means that the district may, at its discretion and if the reassignment would not cause the layoff of any contract or regular faculty member, offer such a reassignment to the administrator in question.

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B. Has served in this district a total of at least two years as one or more of the following: a faculty member or instructional or student services administrator. This service has been documented as satisfactory.

C. Is being dismissed due to the elimination of the current position as part of an administrative reorganization or as part of a reduction in force among administrators, that is, for reasons other than for cause. But, if another administrative position of similar rank and responsibilities is open within the district for which this administrator has the minimum qualifications, he or she shall be assigned to that position. In no case shall this district reassign an administrator to a faculty position if evidence exists that justifies dismissal for cause.

II. To determine the discipline and college or location to which an administrator shall be assigned, the following shall apply:

A. The administrator can be assigned only to a discipline in which he or she has at least the minimum qualifications as specified by the Education Code and Title 5. The academic senate shall certify to the governing board for which discipline or disciplines the administrator meets the minimum qualifications and shall recommend the discipline to which the administrator should be assigned. The governing board shall rely primarily upon this judgment. The governing board shall also provide the academic senate with an opportunity to present its views to the governing board before the board makes a determination. A written record of the board's decision, including the views of the academic senate, shall be available for review pursuant to Education Code Section 87358.

B. Whenever possible, the administrator shall be assigned to a discipline in which he or she has not only the minimum qualifications but also where all of the following apply:

1. There are sufficient assignments in the discipline or service at one college or location currently held by temporary faculty to make a full-time assignment for an additional faculty member.
2. The administrator has an interest as indicated by a statement of the administrator's own preference for assignment.
3. The administrator has the most academic preparation and experience.

Administrator Retreat Rights Procedure
**Education Code as Revised by
Assembly Bill 1725**

Section 87454:

A tenured employee, when assigned from a faculty position to an 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.

Section 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, 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:

- (1) 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.
- (2) 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.