

**PROPOSAL FROM
THE EL CAMINO COMMUNITY COLLEGE DISTRICT
TO THE EL CAMINO COLLEGE FEDERATION OF TEACHERS,
LOCAL 1388, AFT, AFL~CIO
April 11, 2025**

The collective bargaining proposals herein by the El Camino Community College District to the El Camino College Federation Of Teachers, Local 1388, AFT, AFL~CIO ("Federation"), are made expressly pursuant to the Educational Employment Relations Act and the current Collective Bargaining Agreement between the parties. The following article shall be deemed to remain unchanged in the Collective Bargaining Agreement except as set forth below:

**ARTICLE 9
WINTER AND SUMMER SESSION INSTRUCTIONAL ASSIGNMENTS**

Section 9.1. Procedure

By the 6th week of instruction during the fall or spring semesters, respectively, the Deans of the instructional divisions will provide Full-Time Faculty members who desire to teach, a tentative schedule and the opportunity to submit their requests for winter or summer session teaching assignments. The Deans of the instructional divisions will review these requests and will make tentative winter or summer session assignments to Full-Time Faculty members in their divisions based on the priority position of Faculty members in accordance with Section 9.2 of this Article.

Section 9.2. Priorities

- (a) Full-Time Faculty Members shall have a preference in priority order in choosing among winter and summer session classes which are to be offered (which they are qualified to teach) and among the times the classes are offered.
- (b) Each Dean shall determine, among those Full-Time Faculty Members by department in the division who request a teaching assignment during the winter or summer session, those who are qualified by virtue of prior experience and training for such assignments. For purposes of this Article, a Full-Time Faculty Member will be considered a member of that department in which the Full-Time Faculty Member teaches the majority of their teaching load, including overload, during the then-current academic year. No Full-Time Faculty Member will earn priority in more than one (1) department; however, priority in one department does not preclude a teaching assignment in another department.
- (c)
 - (1) WINTER SESSION: A list of Full-Time Faculty Members by department in the order of their current year winter session priorities will be prepared and distributed to all the members of the division by each Dean within twenty (20) working days after the beginning of the spring semester.
 - (2) SUMMER SESSION: A list of Full-Time Faculty Members by department in the order of their current year summer session priorities will be prepared and distributed to all the members of the division by each Dean within twenty (20) working days after the beginning of the fall semester.

Any problems respecting the equitable application of departmental designation for winter or summer session priorities will be resolved by the concerned Dean and the President of the Federation, or designee, prior to June 1st for winter session and December 1st for summer session. The decision of the Dean and the Federation President, or designee, is final and binding and is not subject to the grievance procedure.

- (d) Assignments to winter or summer session teaching will be made among those qualified according to the priorities designated in Section 9.4. If there are more qualified Full-Time Faculty Members in any priority than there are positions available in that priority, the choice among the qualified Full-Time Faculty Members in that priority will be based on the Faculty Member's length of service with the District. Where the length of service is equal, the selection will be determined by highest placement on the seniority list.
- (e) If there are more positions in a given division available than there are qualified Full-Time Faculty Members who desire to teach, and if currently employed Part-Time Faculty Members in that division are qualified for those positions, those Part-Time Faculty Members who have been continuously employed for three (3) semesters or more shall have priority.
- (f) The Dean may offer the assignment to any other qualified person if the position remains unfilled after the procedures of this Section have been complied with.
- ~~g) Notwithstanding the above, the District maintains the right of assignment to the extent authorized by law, and the Dean or appropriate administrator may make changes to any faculty assignment deemed to be in the best interests of students or the District.~~
- ~~h) A violation of Article 9.2(a-g) above caused by unit members, is not subject to the grievance process.~~

[DISTRICT NOTE: As a general rule, a community college district is authorized to "initiate and carry on any program, activity, or may otherwise act in any manner that is not in conflict with or inconsistent with, or preempted by, any law and that is not in conflict with the purposes for which community college districts are established." (Educ. Code § 70902(a); Cal. Constitution Article IX § 14; SEIU, Local 715 v. Bd. of Trs. of the W. Valley/Mission Cmty. College Dist. (1996) 47 Cal.App.4th 1661, 1665.) In addition, Section 70902 also gives a community college district the authority to "[m]anage and control district property" and to "contract for the procurement of goods and services as authorized by law." (§ 70902 (b)(6).) Accordingly, a community college district is permitted to act under its general authority without specific statutory authorization. (Id.) The only limitation placed on a community college district's authority is that it may not act in any manner "in conflict with, or inconsistent with, or preempted by, any law." (Id., Educ. Code § 70902 (a).)

Education Code Section 72400 further gives the governing board broad, general power to "fix and prescribe" the duties to be performed by its employees. Within this authority is the power of the governing board of a community college district "to govern the colleges of the district, including the assignment of instructors employed by the district." (Education Code § 87715.)

When the Education Code gives discretion over a specific subject to the district, regardless of whether it was specific or general, that subject may not thereafter be a subject of bargaining, and any provision in a collective bargaining agreement that contradicts or dilutes the discretion of the district is void and unenforceable. (Sunnyvale Unified School District v. Jacobs (2009) 171 Cal. App. 4th 168, 180; United Teachers of Los Angeles v. Los Angeles Unified School District (2012) 54 Cal. 4th 504, 507 (holding that collective bargaining provisions which annul, set aside, replaces or “directly conflicts with” provisions of the Education Code cannot be enforced).)

In this regard, numerous California courts have held that school and college districts have the inherent power to assign faculty employees to any assignment within their qualifications. In Clark v. Yosemite Community College Dist., (9th Cir. 1984) 785 F.2d 781, 789-790, the court further held that a tenured teacher in California has no vested right in a particular teaching assignment. (*Id.*, citing Thompson v. Modesto City High School District (1977) 19 Cal. 3d 620, 623-24 (school district has broad power to reassign tenured teachers); Malynn v. Morgan Hill Unified School District (1982) 137 Cal. App. 3d 785, 786-89 (same).) Similarly, in Adelt v. Richmond Sch. Dist. (1967) 250 Cal. App. 2d 149, the court held that “[t]enure does not bestow on the school teacher a vested right to a specific school or to a specific class level of students within any school.” (Adelt, at 152.) Rather, “[t]he welfare of school districts demands that they have broad discretion to assign their teachers in the best interests of the school system.” (Adelt, at 153.)

PERB too has recognized that direction of work force and determination of what work is to be performed by employees is a managerial prerogative, at the core of managerial control, and not subject to bargaining. (Davis Joint Unified School District (1984) PERB Decision No. 393; Trustees of the California State University (2006) PERB Dec. No. 1853.) PERB has further rejected union proposals which serve to give the union a role in assigning work, holding that it is at the core of managerial control. (Davis Joint Unified School District (1984) PERB Decision No. 393.)

While broad, the governing board’s authority is not without limits. For example, Education Code Section 87400 limits the Board’s power to hiring only faculty members “who possess the qualifications therefor prescribed by regulation of the board of governors,” as indicated by the established list of disciplines of instruction and minimum qualifications that are “reasonably related” to each. (Educ. Code § 87357.) The Education Code further authorizes a district to establish its own minimum qualifications and equivalency standards for faculty positions. (Educ. Code § 87359.) Additionally, under Education Code 87715, a classroom instructor may not be assigned to work on Saturday or Sunday if he or she has objected in writing based upon religious beliefs or practices. (*Id.*)

Similarly, PERB has held that the right of assignment does not give a District the right to assign employees to extra-duty work or overtime work without bargaining. (Mammoth Unified School District (1983) PERB Decision No. 371.) Also, an employee may not be transferred in retaliation for union activity (San Leandro Unified School District (1983) PERB Decision No. 288), as such a transfer would not have been made in the best interests of the district. (Novato Unified School

District (1982) PERB Decision No. 210.) Most recently, in Cerritos College Faculty Federation v. Cerritos Community College District (2022) PERB No. 2819), in a decision involving the right of a District to refuse to negotiate terms relating to the discipline of faculty after the expiration of the CBA, PERB clarified that “an employer must normally bargain a change to represented employees’ job duties if it is a material change, meaning that the employer is assigning work that was not “reasonably comprehended within the employee’s existing job duties.” (*Id.*, citing Oakland Unified School District (2003) PERB Decision No. 1544, pp. 5-8 & adopting warning letter at p. 2.) PERB also held that the material change standard also covers decisions to transfer a job duty between employees within the same bargaining unit and material changes in represented employees’ workload or performance standards. (Citations omitted.) (*Id.*)

In summary, the District’s authority to determine what work is to be performed by employees includes the right to assign faculty members as part of their regular load to any course, class or discipline for which the instructor meets minimum qualifications or equivalency standards, as contemplated by the language at issue in the CBA. (Educ. Code §§ 72400; 87400; 87357; and 87715.) Additionally, a tenured instructor has no vested right in a particular teaching assignment. (*Clark, supra*; *Adelt v. Richmond Sch. Dist.* (1967) 250 Cal. App. 2d 149, 152-153.) However, this right does not extend to the assignment of duties outside the employee’s job description or regular load, such as extra-duty work or overtime work, without bargaining (*Mammoth, supra.*), changes in job duties not contemplated in their job description, a transfer in assignment, or a change in workload or performance standards. (*Cerritos*, PERB No. 2819).]

Section 9.3. Adjustments

- (a) It is understood that the list of classes to be taught in the winter or summer session is a tentative list, that classes may be dropped or changed, and that changes in assignments must be made to accommodate those situations. It is also understood that most assignments will be full assignments as defined below in this section, but that some assignments will be partial either due to original planning or later adjustments. For the purposes of assignment distribution in the winter or summer session and establishing winter or summer session priority under Section 9.4 or Section 9.5 of this Article, a full teaching assignment equivalency shall be eighteen (18) hours per week. A partial teaching assignment of ten (10) or more hours per week for six or eight-week sessions or twelve (12) or more hours per week for five or seven-week sessions shall count as a full assignment for the winter or summer it was incurred. A partial teaching assignment of twelve (12) or more hours per week for five or seven-week sessions shall count as a full assignment for the winter or summer it was incurred. A partial teaching assignment of less than ten (10) hours per week for six or eight-week sessions, or less than twelve (12) hours per week for five or seven-week sessions, shall not be counted as a winter or summer assignment except when such assignment combined with a partial assignment for a previous winter or summer within a three (3) year period exceeds fourteen (14) or more hours per week. In such a case, the combined partial assignments totaling more than fourteen (14) or more hours per week shall be counted as a full session teaching assignment for the most recent session in which the Full-Time Faculty Member has taught.

- (b) In the event that a Faculty Member's winter or summer session class is being considered for cancellation, the Dean/Associate Dean/Director will first notify the affected Faculty Member of any changes to location, modality, or time that could prevent cancellation. If such changes would prevent cancellation and the affected Faculty Member consents to these changes, the Dean/Associate Dean/Director and Faculty Member shall mutually agree to and execute those changes. If, however, the class is still cancelled, the Faculty Member will not displace another Faculty Member (full-time or part-time).

Section 9.4. Winter Session Priority Schedule

The following schedule is based on a consideration of winters eligible for assignment to winter session teaching and the number and sequence of winters taught (or otherwise employed by the District at a rate of compensation based on the regular salary schedule) during the past three winters. For Full-Time Faculty Members, eligibility for assignment to winter session teaching begins with the first winter following their initial service as contract Full-Time Faculty Members. Leaves of absence shall have no effect on eligibility for winter session priority. All winter classes taught by a Full-Time Faculty Member, regardless of the division in which such classes are offered, shall be counted in determining winter session priority.

| <i>Number of Current Winter Eligible Priority</i> | <i>Total Winter Taught</i> | <i>Previous Winters Taught*</i> | | | <i>Current Year Priority</i> |
|---|----------------------------|---------------------------------|----------|----------|------------------------------|
| | | Column 3 | Column 2 | Column 1 | |
| 3 | 0 | 0 | 0 | 0 | 1 |
| 3 | 1 | 1 | 0 | 0 | 2 |
| 3 | 1 | 0 | 1 | 0 | 3 |
| 3 | 1 | 0 | 0 | 1 | 4 |
| 2 | 0 | | 0 | 0 | 5 |
| 3 | 2 | 1 | 1 | 0 | 6 |
| 3 | 2 | 1 | 0 | 1 | 7 |
| 3 | 2 | 0 | 1 | 1 | 8 |
| 2 | 1 | | 1 | 0 | 9 |
| 2 | 1 | | 0 | 1 | 10 |
| 1 | 0 | | | 0 | 11 |
| 3 | 3 | 1 | 1 | 1 | 12 |
| 2 | 2 | | 1 | 1 | 13 |
| 1 | 1 | | | 1 | 14 |
| 0 | | | | | 15 |

* Columns 1-3 reflect the teaching history of the immediate past three winters; i.e., Column 1 refers to last winter, Column 2 to the winter before that, etc.

Section 9.5. Summer Session Priority Schedule

The following schedule is based on a consideration of summers eligible for assignment to summer session teaching and the number and sequence of summers taught (or otherwise employed by the District at a rate of compensation based on the regular salary schedule) during the past three summers. For Full-Time Faculty Members, eligibility for assignment to summer session teaching begins with the first summer following their initial service as contract Full-Time Faculty Members. Leaves of absence shall have no effect on eligibility for summer session priority. All summer classes taught by a Full-Time Faculty Member, regardless of the division in which such classes are offered, shall be counted in determining summer session priority.

| <i>Number of Current Summer Eligible Priority</i> | <i>Total Summer Taught</i> | <i>Previous Summers Taught*</i> | | | <i>Current Year Priority</i> |
|---|----------------------------|---------------------------------|----------|----------|------------------------------|
| | | Column 3 | Column 2 | Column 1 | |
| 3 | 0 | 0 | 0 | 0 | 1 |
| 3 | 1 | 1 | 0 | 0 | 2 |
| 3 | 1 | 0 | 1 | 0 | 3 |
| 3 | 1 | 0 | 0 | 1 | 4 |
| 2 | 0 | | 0 | 0 | 5 |
| 3 | 2 | 1 | 1 | 0 | 6 |
| 3 | 2 | 1 | 0 | 1 | 7 |
| 3 | 2 | 0 | 1 | 1 | 8 |
| 2 | 1 | | 1 | 0 | 9 |
| 2 | 1 | | 0 | 1 | 10 |
| 1 | 0 | | | 0 | 11 |
| 3 | 3 | 1 | 1 | 1 | 12 |
| 2 | 2 | | 1 | 1 | 13 |
| 1 | 1 | | | 1 | 14 |
| 0 | | | | | 15 |

* Columns 1-3 reflect the teaching history of the immediate past three summers; *i.e.*, Column 1 refers to last summer, Column 2 to the summer before that, etc.

Section 9.6. Study Abroad

- (a) Full-Time Faculty Members chosen for Study Abroad winter or summer assignments cannot be displaced by other Full-Time Faculty Members who have higher winter or summer priority.

- (b) Any winter or summer class taught by a Full-Time Faculty Member for Study Abroad, regardless of the Division in which such a class is offered, shall be counted in determining winter or summer session priority.

Section 9.7. Librarians

- a. Each year that the District has a winter or summer session that requires normal library services, at least three (3) Librarians will be assigned each scheduled day of the winter or summer for the winter or summer session period. Selection of the Librarians will be determined by the priority system of Sections 2, 4 and 5 of this Article.
- b. **Prior to the Winter and Summer intersession, the Dean or designee shall calculate and post work days available during the intersession from which full-time librarians can choose. The department shall maintain and internally post a list of full-time librarians in a rotation order established by the full-time librarians. New full-time librarians shall be added to the bottom of the rotation list upon hire. When a librarian reaches the top of the rotation in the number one slot, such librarian will have first choice in picking days to work in Winter or Summer. The librarian in the next slot will then have an opportunity to choose work days in Winter or Summer until all work day shifts have been filled.**
- c. **The number of days available to those selecting to work Winter or Summer is determined by taking the total number of days in the term multiplied by 3 (the number of librarians required to be on duty each day) and divided by the total number of full-time librarians.**

Section 9.8. Cooperative Career Education

The college may offer Cooperative Career Education classes during the winter or summer sessions covered by the current Agreement. Compensation will remain as stated in Article 10, ~~Section~~ 16. (See Article 10, ~~Section~~ 16(c) for maximum number of students during the covered winter or summer sessions.)

Signed and entered into this _____ day of _____, 2025.

FOR THE DISTRICT

FOR THE FEDERATION

