

Date of Hearing: April 22, 2025

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Mike Fong, Chair

AB 1028 (Fong) – As Amended April 23, 2025

SUBJECT: Community colleges: temporary employees

SUMMARY: Permits a community college part-time faculty member to ask for a written explanation for why they were terminated by the governing board of the community college district and clarifies the procedure for how community college part-time faculty are terminated may be subject to the local collective bargaining agreement. Specifically, **this bill:**

- 1) Requires, if a governing board of a community college district, terminates a part-time faculty member, the governing board must comply with the procedures as delineated in the collective bargaining agreement. If the collective bargaining agreement does not contain provisions regarding the termination of part-time employees, then the governing board must provide written explanation for why the part-time faculty member was terminated; but, only if the part-time faculty member asks for the explanation within 10 days of the termination.
- 2) Permits delay in implementation if the provisions regarding how a community college district is to terminate a part-time faculty member is in conflict with existing collective bargaining agreements, and state the requirements provisions only affect collective bargaining agreements entered into after January 1, 2026.

EXISTING LAW:

- 1) Establishes the CCC under the administration of the Board of Governors of the CCC, as one of the segments of public postsecondary education in California. The CCC shall be comprised of community college districts (Education Code (EDC) Section 70900).
- 2) Establishes that community college districts are under the control of a board of trustees, known as the governing board, who has the authority to establish, maintain, operate, and govern one or more community colleges, within its district as specified. Permits districts to establish policies for and the approval of courses of instruction and educational programs (EDC Section 70902).
- 3) Conditions the receipt of funds from the Student Success and Support Program by July 1, 2017, upon the requirement that if a community college district does not have a collective bargaining agreement with part-time faculty, the community college district must enter into negotiations with the exclusive representatives for part-time faculty and must agree to specified terms and conditions. Clarifies in all cases the employment of part-time faculty will be part-time in nature, contingent upon enrollment and no part-time faculty shall have reasonable assurance of continued employment, irrespective of the status, length of service, or reemployment preference. The terms and conditions for the part-time faculty agreement will include the following:
 - a) The terms of reemployment preferences for Part-time faculty assignments based on the minimum standards up to the range of 60% to 67%;

- b) Policies for termination; and,
 - c) A regular evaluation process for part-time faculty (EDC Section 87482.3).
- 4) Defines a part-time faculty at the CCC as a faculty member who teaches 67% of the hours per week of what is considered a full-time assignment for regular faculty on a similar assignment. Clarifies a part-time faculty are not contract faculty and therefore are not subject to tenure nor subject to the protections provided by the EDC Code for contract faculty (EDC Section 87482.5).
- 5) States wherever possible part-time faculty should be:
- a) Informed of assignments six weeks in advance;
 - b) Paid for the first week of an assignment when class is cancelled less than two weeks before the beginning of a semester and should be paid for all the classes scheduled for that week;
 - c) Have their names listed as the professor for the assigned course;
 - d) Have their names listed in the course schedule provided to students, faculty, and staff for the courses the part-time faculty is assigned to teach; and,
 - e) Considered as an integral part of their department and be given the same rights provided to full-time faculty in terms of book selection, participation in department activities, and the use of college resources (EDC Section 87482.8).
- 6) Requires the issue of earning and retaining of annual reappointment rights to be a subject of negotiation within the collective bargaining rights for part-time employees beginning with contracts adopted after January 1, 2002 (EDC Section 87482.9).
- 7) Authorizes community college districts to employ each academic faculty member as either contract, regular, or part-time (EDC Section 87604).
- 8) Permits a governing board of a community college district to terminate the employment of a part-time employee at its discretion at the end of the day or week, whichever is appropriate. The only part of the termination of a part-time faculty which is subject to judicial review is the time of termination (EDC Section 87665).

FISCAL EFFECT: Unknown, this measure has not been reviewed by the Assembly Committee on Appropriations.

COMMENTS: *Terminology.* The codes containing the provisions for the employment of an employee at the CCC are located in EDC Sections 87000-88280. Within those code sections, there are terms for academic faculty that are used interchangeably to describe the conditions of the faculty's employment. The terms are as follows:

- 1) *Tenured or Regular faculty* – faculty who are (1) employed full-time, (2) have been employed with the same community college district for more than four years, and (3) have been provided tenure (permanent employment status) by the faculty-evaluation committee and the governing board of the community college.

- 2) *Contract faculty or Tenured-tracked faculty* – faculty who are (1) employed full-time, and (2) have been employed at the same community college district for less than four years.
- 3) *Temporary, Part-time, or Adjunct faculty* – faculty who are (1) not employed full-time (less than 67% of a full-time course load), and (2) are not considered tenure-tracked and therefore, are not eligible for tenure according to the Education Code.

For purposes of this analyses, “part-time faculty” will mean faculty who are employed less than 67% of a full-time course load.

Tenure is a designation afforded to faculty who are seen as permanent academic employees of a community college district. In the event of class reduction due to lack of enrollment, part-time faculty are the first to be terminated, then contract faculty, and then tenured faculty based on seniority. Obtaining tenure does not absolve academic faculty from discipline or termination; but, rather limits the “reasons” for which a governing board of a community college district could terminate a tenured academic at a community college. Contained within the Education Code are two articles pertaining to the termination of all academic employees at community colleges: Article 4 - Evaluations and Discipline and Article 6 - Termination of Service and Reduction in Force.

Under Article 4 - Evaluations and Discipline, the distinction between part-time, contract, and tenured faculty is clearly defined. Part-time faculty can be terminated at the discretion of the governing board at the end of the day or week; whereas, contract and tenured faculty must be terminated for cause and have a due process procedure for their dismissal. Unlike contract and tenured faculty, the termination for part-time faculty is not subject to judicial review.

Under Article 6 - Termination of Service and Reduction in Force, the distinction between part-time, contract, and tenured faculty is convoluted and unclear. The Article does clearly define the terms academic employee and therefore, one can assume the due process rights or the procedures a governing board must follow prior to terminating an academic employee, for the “termination of a contract” at the end of the year is afforded to all academic employees.

The Committee may wish to examine Articles 4, 6, and 6.5 of Chapter 3 of Part 51, of Division 7 of Title 3 of the California Education Code to provide clear distinctions between what “due process” rights are afforded to which type of academic faculty employed by the CCC.

Due to the temporary nature of part-time employment, certain due process procedures for termination are not required by the Education Code. If a part-time faculty member is dismissed mid-term or mid-year, the Education Code does not afford the right to the part-time faculty member to receive a reason for their dismissal nor to contest the reason for their dismissal. However, if a part-time faculty’s contract was not renewed for the subsequent year, the part-time faculty has the opportunity to learn the reason for lack of re-employment and to contest the decision to not re-employ them (EDC Section 87740).

Purpose. As contended by the author, “part-time faculty are the backbone of California’s community colleges, and in the unfortunate event that they are let go, they deserve to know the reason they have not been rehired. AB 1028 will give part-time faculty the same consideration, respect, and dignity given to full-time employees, by clarifying the process that must be followed by Community College Districts and explicitly stating that termination processes outlined in bargaining agreements are honored.”

Part-time faculty at the CCC. The CCC is the largest two-year system in the United States and educates roughly 2.1 million students between the 116 campuses located throughout the state.¹ The 115 brick and mortar college campuses are divided into 72 districts managed by local governing boards comprised of locally elected trustees. Calbright College is overseen by the Board of Governors, which is the statewide governing board for all 116 colleges and 73 districts. Each community college district's governing board, employs part-time, contract, and tenured faculty to fulfill the academic duties of the college within the community college district.

In fall 2023 the CCC employed 18,085 tenured/tenure track faculty and 37,942 part-time faculty, as reported in the "CCC Annual Statewide Staffing Report: Headcount by District".² If academic faculty are the train behind the CCC ensuring students have the knowledge necessary to complete their educational journey, then part-time faculty are the engine. Part-time faculty represented 67.7% of the academic workforce at the community college. According to the "Annual Statewide Staffing Report: Salary Distribution by District," compiled by the CCC Chancellor's Office, tenured track/tenured faculty received an average compensation of \$122,541 in fall 2023.³ The report did not include an average compensation for part-time faculty.

In February 2023, the California State Auditor published an audit entitled, "California Community Colleges: Increasing Full-time Faculty and Diversity Remains a Challenge." The audit described the difference between part-time and tenured track/tenured employees by detailing that,

"part-time faculty members are classified as Part-time employees and generally receive fewer employee benefits. Full-time faculty members are typically hired with the expectation that they will work to achieve tenure, which makes them permanent employees. Hiring part-time faculty allows colleges more flexibility to quickly meet changing educational demands in certain fields, but part-time faculty also face challenges that make it more difficult to provide the support their students need. Because colleges can hire part-time faculty faster and at less cost than they can hire full-time faculty, they frequently rely on part-time hiring to fill faculty positions in the short term. In 2021 the Chancellor's Office estimated that the average cost for compensation and benefits of a full-time faculty member was about \$131,000, whereas the average cost of a part-time faculty member who teaches a full load of 15 credits, but generally would not receive benefits, was about \$45,000. Part-time faculty members have less support from the college than full-time faculty members and are given fewer responsibilities."⁴

To remedy the disparities between part-time and tenured track/tenured faculty, the Legislature has provided ongoing funding for: pay parity for comparable work for part-time faculty, compensation for part-time faculty's office hours, and the provision of health care to part-time faculty. The Legislature has also passed a myriad of legislation requiring community college districts to have specific provisions pertaining to part-time faculty within the collective bargaining agreement for faculty.

¹ https://datamart.cccco.edu/Students/Student_Headcount_Term_Annual.aspx

² https://datamart.cccco.edu/Faculty-Staff/Staff_Annual.aspx

³ https://datamart.cccco.edu/Faculty-Staff/Staff_Annual.aspx

⁴ <https://information.auditor.ca.gov/reports/2022-113/index.html#section3>

In the 2024-2025 enacted budget, the State provided \$24 million for office hour compensation for part-time faculty, \$27 million for part-time faculty pay parity, and \$200 million for part-time faculty health insurance reimbursement.⁵

Part-time faculty and collective bargaining agreements. For more than three decades the Legislature has grappled with how to appropriately incentivize community college districts to hire more full-time faculty rather than part-time faculty. Only within the last several years, has the Legislature embraced the fluctuating conditions of CCC enrollment and instead looked towards encouraging parity in working conditions and pay for community college faculty. In 2001, AB 1245 (Alquist), Chapter 850, Statutes of 2001, required community college districts to establish annual re-hiring rights to part-time faculty, essentially creating a “tenured” list for part-time faculty. The legislation required any collective bargaining agreement entered into after January 1, 2002 to include a provision on re-hiring rights. In 2016, SB 1379 (Mendoza), Chapter 891, Statutes of 2016, codified the terms and conditions for part-time faculty required in every collective bargaining agreements for faculty. The legislation required collective bargaining agreements to include terms of reemployment preferences for part-time faculty based on a minimum standards, policies for termination, and a regular evaluation process. Furthermore, as part of the annual Student Equity and Achievement Program submissions, districts are required to self-certify if they are complying with all relevant statutes to receive funding which includes having a collective bargaining agreement with part-time faculty. According to the Chancellor’s Office of the CCC, each of the 73 districts have collective bargaining agreements that include provisions pertaining to part-time faculty.

If current law stipulates, all community college district’s collective bargaining agreements for academic employees must contain termination policies for part-time faculty, why is AB 1028 (Fong) necessary?

Some community colleges have one collective bargaining agreement with one union who represents all academic faculty; whereas, some have separate bargaining agreements with representation for part-time and then, separate representation for tenured track/tenured faculty. For example, San Diego and Cabrillo community college districts have one contract for all academic faculty; whereas, Allan Hancock and Butte community college districts have two separate contracts. Despite having codified requirements for the provisions of a collective bargaining agreement, the breadth of terms and conditions of the agreements vary by district. Committee staff reviewed the collective bargaining agreements from seven community college districts in the various regions of California. Each of the collective bargaining agreements examined have been re-negotiated since 2017 and yet, only two agreements had clear policies for the termination of part-time faculty. Education Code Section 87482.3 states that the collective bargaining agreements for academic faculty must contain the terms and conditions for the termination of part-time faculty; and yet, not every district has a distinctive policy. Furthermore, some districts included the following phrase in their collective bargaining agreement for faculty “except as delineated in this Agreement, adjunct (part-time) faculty have no rights other than those provided in the California Education Code.”⁶ As mentioned in *the existing code section of this analyses*, there are confusing and often, conflicting sections pertaining to the rights afforded to academic faculty in the Education Code. One section of code permits community college

⁵ <https://lao.ca.gov/Education/EdBudget/Details/871>

⁶ <https://www.sdccd.edu/departments/human-resources/employee-relations/collective-bargaining-agreements.aspx>

districts to negotiate termination policies for part-time faculty; whereas, another sections states part-time faculty can be terminated by the governing board at its discretion.

AB 1028 (Fong) seeks to clarify the rights of part-time faculty in both the Education Code and in collective bargaining agreements by stating a part-time faculty member have the right to understand the reasoning behind their termination. AB 1028 (Fong) provides further clarity to community college districts that unions representing part-time faculty can collectively bargain termination procedures for their members during the negotiation of a subsequent agreement.

Arguments in support. As purported by CFT, a union of educators and classified professionals, “this bill provides part-time workers with clarity that they can work to create a termination process that can be locally bargained. This can include bargaining to create due process rights that are similar or equivalent to termination of full-time faculty. Currently part-time faculty members, which is also referred to as temporary employees in the Education Code, work on an ‘at will’ basis, meaning that they can be fired without cause or even provided a simple explanation. While part-time faculty must meet the same qualifications to teach students, they are not provided the same rights as full-time faculty. Students benefit from more experienced instructors, and being able to obtain some due process rights could encourage greater retention of faculty. This legislation simply explicitly states that part-time faculty can bargain due process rights, which consists of whatever is locally agreed upon but if there is no bargained agreement, they can request within 10 days of a termination a written explanation of their termination.”

Arguments in opposition. The Community College League of California, respectfully opposes because, “we are trying to better understand how the change would impact our districts’ operations and how it would interact with how a local board meets. For example, must the board be reconstituted ten days after the termination to respond in writing? What happens if there is no regularly scheduled meeting? Would this notice require the board to allow the terminated employee to speak in a closed or open session? While the employee has no rights for judicial review, is the board exposed to litigation? Additionally, we are seeking clarity on which part-time faculty members are captured by this clause. Would this language only be triggered for employees terminated for cause, or would someone released due to a lack of workload also be captured? Lastly, this language restricts local boards from managing their employees. Education Code section 87482.3 (d) speaks to part-time faculty status and states: ‘In all cases, part-time faculty assignments shall be temporary in nature, contingent on enrollment and funding, and subject to program changes, and no part-time faculty member shall have reasonable assurance of continued employment at any point, irrespective of the status, length of service, or reemployment preference of that part-time, temporary faculty member.’”

Committee comments. As previously stated, each community college district has a collective bargaining agreement which is statutorily required to include provisions pertaining to part-time faculty. Each community college district has self-certified compliance with the code sections pertaining to the rights afforded to faculty. However, confusion remains as to whether and under what circumstances a part-time faculty member is afforded the right to contest and/or litigate their termination. EDC Section 87482.3 provides the collective bargaining rights for part-time faculty which includes the right to have policies pertaining to their termination; however, the same code sections states the following:

“In all cases, part-time faculty assignments shall be temporary in nature, contingent on enrollment and funding, and subject to program changes, and no part-time faculty member

shall have reasonable assurance of continued employment at any point, irrespective of the status, length of service, or reemployment preference of that part-time, temporary faculty member.”

Based on this language, one could assume the termination of a part-time faculty regardless of the time, place, manner, or cause, is not subject to due process, judicial review, or litigation. However, as stated in *terminology section of this analysis*, another section of code provides a semblance of due process rights to part-time faculty should their contract not be renewed for a subsequent academic year. In their opposition letter, the Community Colleges League of California, raises concerns that the provision proposed by AB 1028 (Fong) could potentially open the governing board to litigation. Furthermore, the opposition raises concerns regarding the ambiguity of the term “termination,” and under what circumstances the provisions of the measure would apply.

As stated by CFT, the sponsors of the measure, state the intent of AB 1028 (Fong) is to “provide part-time workers with clarity that they can work to create a termination process that can be locally bargained. This can include bargaining to create due process rights that are similar or equivalent to termination of full-time faculty,” and “if there is no bargained agreement, they can request within 10 days of a termination a written explanation of their termination.”

Given the intent stated by the sponsor, the author may wish to provide clarity as to whether the existing provisions of the bill establish a judicial review process for part-time faculty, and whether the measure establishes further legal liability for CCDs.

The provisions amended by AB 1028 (Fong) amends a code section in the evaluations and discipline section of the faculty employment code for the CCC. Therefore, one could assume the term “termination” applies to termination of services prior to the end of the contract. This would include termination for cause (violations of the faculty code of conduct or illegal activity) or due to class reductions or enrollment reductions. Should AB 1028 (Fong) become law, part-time employees would be able to negotiate the terms of their termination in collective bargaining agreements or receive written explanations of why they were terminated by the governing board of the community college. Both of which are due process rights afforded to tenured track/tenured faculty.

Moving forward to avoid confusion regarding the term termination, the author may wish to clarify the due process rights afforded by AB 1028 (Fong) only apply terminations due to cause as defined by Education Code Section 87732.

Previous legislation. Committee staff acknowledge the robust legislative history of bills aimed at addressing the contrary privileges afforded to part-time faculty versus tenured or tenured track faculty. The below is a diminutive sampling of recent legislation to address the distinctiveness:

- 1) AB 260 (Santiago) of 2023, held under submission in the Assembly Committee on Appropriations, would have required community college districts to begin negotiations with part-time faculty for the purposes of adopting terms of compensation of at least the same ratio as compensation for full-time faculty for comparable duties to ensure pay parity for part-time faculty.
- 2) AB 1190 (Irwin) of 2023, held under submission in the Assembly Committee on Appropriations, would have required a community college district to begin negotiations with

part-time faculty for the purposes of adopting terms of compensation for part-time faculty office hours.

- 3) AB 2277 (Wallis) of 2023, Vetoed by the Governor, would have increased the maximum number of instructional hours a community college part-time faculty member could teach at any community college district. The Governor explained his veto with the following statement:

“This bill requires community college districts on January 1, 2025, or no later than the expiration date of an existing part-time faculty collective bargaining agreement, to negotiate the terms of reemployment preference for part-time faculty assignments. Specifically, the bill redefines a part-time faculty's load as up to a range of 80 percent to 85 percent of what is assigned for full-time faculty, rather than 60 percent to 67 percent, unless otherwise explicitly agreed upon with individual part-time faculty.”

“In 2021, I vetoed a bill substantially similar to this proposal. In that veto message, I acknowledged the enormous role that part-time community college faculty play across the system. I also conveyed that the proposal had significant ongoing cost pressures that are better addressed as part of the budget process, and I committed to proposing an alternative in a future budget. In the 2022 Budget Agreement, consistent with my commitment, funding for the part-time faculty health insurance program was increased by \$200 million ongoing. This bill continues to create unknown, but potentially significant costs or cost pressures in the millions to tens of millions of dollars.”

“In partnership with the Legislature this year, my Administration has enacted a balanced budget that avoids deep program cuts to vital services and protected investments in education, health care, climate, public safety, housing, and social service programs that millions of Californians rely on. It is important to remain disciplined when considering bills with significant fiscal implications that are not included in the budget, such as this measure.

For these reasons, I cannot sign this bill.”

- 4) AB 1752 (Santiago) of 2022, held under submission in the Assembly Committee on Appropriations, would have required community college districts to begin negotiations with part-time faculty, for the purposes of adopting terms of compensation of at least the same ratio as compensation for full-time faculty for comparable duties to ensure pay parity for part-time faculty.
- 5) AB 1856 (Medina, 2022), vetoed by the Governor, would have increased the number of minimum hours a part-time faculty member can teach at a CCD from 67% to 85%. In his veto message, the Governor expressed:

This bill amends statute relating to part-time faculty at the California Community Colleges, including redefining a community college part-time faculty course load as not to exceed 85 percent of the hours of a full-time assignment, rather than not to exceed 67 percent.

As part of my veto message last year for Assembly Bill 375, I made a commitment to supporting community college part-time faculty in the Governor's Budget. This

commitment is reflected in the 2022 Budget Act that provides \$200 million in ongoing funding to incentivize community colleges to provide health insurance for part-time faculty at the community colleges.

The bill is premature as it is unknown how many community college part-time faculty will benefit from the \$200 million now available to districts, which will have a direct impact on the fiscal estimate of this proposed policy change. The bill is estimated to create \$26 million to an excess of \$150 million of Proposition 98 General Fund cost pressures not reflected in the state's current fiscal plan. For these reasons, I am returning this bill without my signature.

Given the efforts over the years to address the inequities between part-time and full-time faculty at the CCC, the Committee may wish to hold an oversight hearing to determine how to address the dearth of progress in providing parity between faculty, who all contribute to the provision of a diverse and educated workforce for California.

REGISTERED SUPPORT / OPPOSITION:

Support

Cft- a Union of Educators & Classified Professionals, Aft, Afl-cio

Oppose

Community College League of California

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