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Equivalence to the Minimum Qualifications

THE ACADEMIC SENATE FOR CALIFORNIA COMMUNITY COLLEGES

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Contents

EXECUTIVE SUMMARY	1
INTRODUCTION	4
THE MEANING OF “EQUIVALENCY”	5
BENEFITS OF EQUIVALENCY	5
LEGAL REQUIREMENTS	6
PRINCIPLES.	7
CRITERIA FOR DETERMINING EQUIVALENT QUALIFICATIONS	8
THE PROBLEM OF DETERMINING EMINENCE	10
A PROCESS FOR DETERMINING EQUIVALENT QUALIFICATIONS.	11
FACULTY RESPONSIBILITIES.	12
DETERMINATION OF EQUIVALENCY FOR PART-TIME HIRES	13
THE SINGLE-COURSE EQUIVALENCY ISSUE	13
DETERMINING EQUIVALENCY IN MULTI-COLLEGE DISTRICTS	16
SURVEY ON EQUIVALENCY PRACTICES	16
CONCLUSION	17
RECOMMENDATIONS.	17
APPENDIX A: EQUIVALENCY POLICY: A PROPOSED MODEL	19
APPENDIX B: LEGAL OPINION ON SINGLE COURSE EQUIVALENCY	26

Executive Summary

In 1988 the Community College Reform Act (AB 1725) began a phase out of credentials in favor of a process for establishing minimum qualifications and the determination of equivalencies that are at least equal to the state-adopted minimum qualifications for a particular discipline. According to Education Code §§ 87359 and 87360, someone who does not possess the minimum qualifications for service may be hired as a faculty member if he or she is judged to possess “qualifications that are at least equivalent to the minimum qualifications...” Equivalency is a term used in the Disciplines List, a list of Board of Governors adopted minimum qualifications for hiring faculty. District equivalency policies recognize three ways of demonstrating equivalency: 1) course work, 2) work experience, and 3) eminence in the field (a sub-set of experience). A combination of the three may be recognized. But whatever the means are for making determinations, equivalency should never mean less than the qualifications specified on the Disciplines List. Because the equivalency process was created by AB1725 and chaptered into the California Education Code, districts are not free to ignore provisions within the law.

In 1988 the Community College Reform Act (AB 1725) began a phase out of credentials in favor of a process for establishing minimum qualifications and the determination of equivalencies that are at least equal to the state-adopted minimum qualifications for a particular discipline.

Every district must have an equivalency process. Education Code §87359 (b) requires that “[t]he process, as well as criteria, and standards by which the governing board reaches its determination regarding faculty members shall be developed and agreed upon jointly by representatives of the governing board and the academic senate, and approved by the governing board.” While neither the Education

Code nor Title 5 Regulations provide additional guidelines for what constitutes *at least equivalent*, each district's governing board, acting on the advice of its academic senate, must establish its standard for equivalency, permitted the standard is not less than qualifications specified on the Disciplines List. Once the local equivalency process has reached a recommendation regarding an individual applicant, Education Code §87359(a) requires that the governing board include action on the equivalency as part of its subsequent hiring action.

The Academic Senate has consistently supported the following basic principles for granting equivalency:

- ▶ Equivalent to the minimum qualifications means *equal to* the minimum qualifications, not nearly equal.
- ▶ The applicant must provide evidence of attaining coursework or experience equal to the general education component of a regular associate or bachelor's degree.
- ▶ The applicant must provide evidence of attaining the skills and knowledge provided by specialized course work required for a master's degree (for disciplines on the Master's List) or requisite experience or coursework (for disciplines on the Non-Master's List).

The Academic Senate believes that faculty members must exemplify to their students the value of an education that is both well-rounded and specialized.

Many criteria for determining equivalency seem obvious and can be handled in a simple manner. Others are more difficult. The three means of demonstrating equivalency are coursework, work experience, and eminence.

Establishing equivalency through coursework is often relatively simple, as transcripts are concrete documents that can be compared to concrete criteria. A somewhat more difficult case would occur when the name of a degree is close to that specified on the Disciplines List but the course work is slightly different. Other more difficult cases occur when work experience is proposed as the equivalent of academic work. Knowledge acquired in a course could also be gained in other ways; however, the problem lies in obtaining convincing evidence to establish that an applicant has enough necessary educational preparation through an alternative means to be judged as knowledgeable as someone with the appropriate degree.

It is important to distinguish between general education preparation and specialized (i.e., major) preparation. The Academic Senate supports the principle that all community

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college faculty exemplify the qualities of a college educated person. This is why the universal requirement for disciplines on the Non-Master's list includes at least an associate degree in addition to six years of experience (or

a bachelor's degree and two years of experience). So, when it determines an applicant's equivalency, an equivalency committee should consider whether the applicant satisfies the two-year general education qualification for which she or he seeks equivalency. In addition, the applicant should be expected to provide evidence of equivalent preparation that is as reliable and objective as a transcript. Thus, the candidate seeking equivalence should be measured by the same yardstick as a candidate who possesses the minimum qualifications. Moreover, processes for determining eminence must be defined in hiring practice criteria and mindful that regardless of the discipline or vocational area, the vital importance of general education preparation is that it can endow instruction of any subject with an essential cross-curricular breadth and depth.

As difficult as it can be to make the judgment of whether a specific candidate's experience is equivalent to the minimum qualifications, it is clear that faculty in the discipline are best suited to make such a decision. However, to ensure that colleagues in various disciplines function with some consistency across the campus—as opposed to determining specific equivalencies themselves — the process for determining equivalency should include a way for faculty from outside the discipline to have a role in determining whether disciplines are fair and consistent in their processes for establishing equivalency criteria. Many local academic senates also use an equivalency committee to ensure that discipline selection committees follow the equivalency process consistently and fairly. The role of the human resources office should be limited to collecting, date-stamping, and forwarding applications and other pertinent information to the appropriate discipline selection committee. A college district that attempts to use its human resources office staff to establish equivalence not only risks creating a situation in which candidates are not evaluated appropriately but is out of compliance with the Education Code and Title 5 Regulations (see Education Code §87359 (b) and Title 5 §53430 (b)).

It is vital to remember that minimum qualifications in a discipline—and, by extension, equivalency—are the same whether the position is full- or part-time. Title 5 Regulations do not allow for a different standard of equivalency for part-time faculty. An applicant is either qualified to teach the full range of courses in a discipline or not, regardless of whether applying for a full-time position or a part-time position. Education Code §87359 (a) (see also Title 5 §53430) states, “No one may be hired to serve as a community college faculty ... unless the governing board determines that he or she possesses qualifications that are *at least equivalent* to the minimum qualifications specified”

(italics added). In addition, minimum qualifications are determined for *disciplines*, not for courses or subject areas within disciplines. Legal Opinion L 03-28 (R. Black, 2004) (see Appendix X), supports the position that “a district is not authorized to establish a single course equivalency as a substitute for meeting minimum qualifications in a discipline.”

The Academic Senate supports the principle that all community college faculty exemplify the qualities of a college educated person.

It is also important to understand that when a faculty member is hired, he or she is hired by a district, not a college.

This paper concludes with recommendations for the determination of equivalencies, including who determines equivalency, that equivalency is granted for a discipline (not for courses or subject areas with disciplines), that policies and procedures must be consistent, objective, evidence based, mindful of general education and specialization, and that local governing boards include action on the equivalency as part of their subsequent hiring action.

Following the recommendations, this paper provides a proposed equivalency model as well as the results of an equivalency survey and a legal opinion stating that local districts are not authorized to establish a single course equivalency.

Introduction

This paper is the second revision of the first paper on equivalency adopted by the Academic Senate Plenary Body in 1989. That paper was intended to help local academic senates develop policies and procedures in response to Education Code §87359, which requires that each district’s governing board and academic senate jointly develop an equivalency policy. This second revision provides a more thorough discussion of equivalency than the original paper and the 1999 revision and also includes the legal opinion from the General Counsel of California Community Colleges System Office distributed December 23, 2003, prohibiting single-course equivalencies. In addition, it includes results of the Academic Senate’s 2004 survey on equivalency practices in California community colleges. The concepts discussed in the first two equivalency papers remain substantively unchanged in this paper.

The Meaning of “Equivalency”

By passing the Community College Reform Act (AB 1725) in 1988, the California State Legislature phased out a system of credentials for community college faculty and replaced it with a process for establishing minimum qualifications. AB 1725 also established that qualifications equivalent to the published minimum qualifications must be recognized. According to Education Code §§ 87359 and 87360 someone who does not possess the minimum qualifications for service may be hired as a faculty member if he or she is judged to possess “qualifications that are *at least equivalent to the minimum qualifications...*” [Italics added].

Equivalency is a term used in the Disciplines List, a list of Board of Governors adopted minimum qualifications for hiring faculty. The current Disciplines List can be found in the System Office’s publication *Minimum Qualifications for Faculty and Administrators in California Community Colleges*. Equivalency refers to any qualifications that are at least *equal to* the state-adopted minimum qualifications for a particular discipline.

District equivalency policies recognize three ways of demonstrating equivalency: 1) course work, 2) work experience, and 3) eminence in the field (a sub-set of *experience*). A combination of the three may be recognized. But whatever the means are for determining equivalency, equivalency should never mean less than the qualifications specified on the Disciplines List.

Benefits of Equivalency

One benefit of the equivalency process is that it allows for greater flexibility in hiring. Applicants who can provide conclusive evidence that they have education or experience at least equal to what is required by the minimum qualifications deserve careful consideration, even if their degrees have titles different from those recognized in the Disciplines List or if they acquired their qualifications by a route other than a conventional one. If equivalency were not an option, some fully qualified candidates would not receive consideration.

District equivalency policies recognize three ways of demonstrating equivalency: 1) course work, 2) work experience, and 3) eminence in the field (a sub-set of experience).

On the other hand, the authority to determine equivalent qualifications is not a license for a district to waive or lower standards and accept less-than-qualified individuals. The fact that a particular candidate is the best a college can find does not change the requirement that he or she possess qualifications at least equal to the published minimum qualifications.

Legal Requirements

Every district must have an equivalency process. According to Education Code §87359 and §87360, every community college district was required to have adopted such a process as part of its hiring criteria, policies, and procedures by July 1, 1990. The process for establishing equivalency needs to specify what the district expects in terms of course work, work experience, or eminence when considering equivalency applications. Education Code §87359 (b) requires that “[t]he process, as well as criteria, and standards by which the governing board reaches its determination regarding faculty members shall be developed and agreed upon jointly by representatives of the governing board and the academic senate, and approved by the governing board.”

Once the governing board and the academic senate *jointly agree* upon policy and procedures for establishing equivalency, the governing board must *rely primarily* on the advice of its academic senate for carrying out the process. The term *jointly agree* means that the district’s academic senate(s) and governing board agree on a policy. When such agreement has not been reached, whatever policy is in place remains in effect until joint agreement has been reached. Education Code §87359 (b) mandates reasonable procedures to ensure that the governing board *relies primarily* upon the advice and judgment of the academic senate to determine that each faculty member employed “possesses qualifications that are *at least* equivalent to the applicable minimum qualifications specified [in the Disciplines List]” (italics added). Sound policy dictates that the practice of granting equivalencies must not mean lowering standards. Conversely, a district may not refuse to consider equivalencies in the name of raising standards. The equivalency process was created by AB1725 and chaptered into the California Education Code. Districts are not free to ignore this provision within the law.

Clearly, the faculty, through its academic senate and with concurrence of its board, is responsible for defining equivalency

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and maintaining a process for determining equivalent status for individual applicants. It is very important that when fulfilling this role, faculty maintain its focus on sound practices and avoid the lure of expediency. Policies and procedures that are designed primarily to address last-minute staffing needs threaten the principle that every instructor in the California Community College System is at least minimally qualified. Although the Education Code establishes faculty and the governing board as jointly responsible for developing policies and practices and designates the academic senate as primarily responsible for determining individual cases of those claiming equivalency, the Education Code does not establish the criteria that districts apply to determine equivalency. While §87359 states that equivalency means “qualifications that are at least equivalent to the minimum qualifications,” neither the Education Code nor Title 5 Regulations provide any further guidelines for what constitutes *at least equivalent*. That is determined by each district’s governing board using the advice of its academic senate. Whatever a governing board, acting on the advice of its academic senate, calls equivalent is, by law, its standard for equivalency, even if that standard appears very weak to a reasonable person.

Once the local equivalency process has reached a recommendation regarding an individual applicant, Education Code §87359(a) requires that the governing board include action on equivalency as part of its subsequent hiring action.

It is also important to understand that an applicant who is granted equivalency and subsequently hired retains that status for his or her entire career in the district which granted that equivalency, although when a faculty member applies for a position in another district, she or he may need to go through equivalency processes in that other district because equivalency is not transferable from district to district.

Principles

The Academic Senate has consistently supported the following basic principles for granting equivalency:

- ▶ Equivalent to the minimum qualifications means *equal to* the minimum qualifications, not nearly equal.
- ▶ The applicant must provide evidence of attaining coursework or experience equal to the general education component of a regular associate or bachelor’s degree.

- ▶ The applicant must provide evidence of attaining the skills and knowledge provided by specialized course work required for a master's degree (for disciplines on the Master's List) or requisite experience or coursework (for disciplines on the Non-Master's List).

The Academic Senate believes that faculty members must exemplify to their students the value of an education that is both well-rounded and specialized.

Criteria for Determining Equivalent Qualifications

Many criteria for determining equivalency seem obvious and can be handled in a simple manner. Others are more difficult. The three means of demonstrating equivalency are coursework, work experience, and eminence.

Establishing equivalency through coursework is often relatively simple, as transcripts are concrete documents that can be compared to concrete criteria. One clear-cut example of equivalency through coursework occurs when someone has all the appropriate courses for the relevant degree, but the applicant's diploma or degree has a different title or area of expertise. For example, if someone earned a degree in business because a particular college or university combined its economics and business programs, but a review of the transcript shows academic work the same as that for an economics degree, then obviously that business degree is equivalent to a degree in economics.

A somewhat more difficult case would occur when the name of a degree is close to that specified on the Disciplines List but the course work is slightly different. An example of this problem occurs in determining whether a degree in education with a concentration in mathematics is equivalent to a degree in mathematics.

Other more difficult cases occur when work experience is proposed as the equivalent of academic work. Knowledge acquired in a course could also be gained in other ways; however, the problem lies in obtaining convincing evidence to establish that an applicant has enough necessary educational preparation through an alternative means to be judged as knowledgeable as someone with the appropriate degree.

We must also distinguish between general education preparation and specialized (i.e., major) preparation. The Academic Senate supports the principle that all community college faculty exemplify the qualities of a college educated person. This is why the universal requirement for disciplines on the Non-Master's list includes at least an

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associate degree in addition to six years of experience (or a bachelor's degree and two years of experience). So, when

it determines an applicant's equivalency, an equivalency committee should consider whether the applicant satisfies the two-year general education qualification for which she or he seeks equivalency.

The applicant should be expected to provide evidence of equivalent preparation that is as reliable and objective as a transcript. Thus, the candidate seeking equivalence should be measured by the same yardstick as a candidate who possesses the minimum qualifications. For example, a journalist with a bachelor's degree in English who has a great many years of work experience in journalism might well be judged to possess the equivalent of a master's degree as far as the general education component is concerned because the general education required for the bachelor's degree would have been essentially the same, despite the difference in disciplines. On the other hand, if an applicant for a position in computer science claims to have equivalent qualifications based on having worked in the computer industry for years but whose degree is not specifically in computers, then the committee deciding equivalency would look at evidence not only addressing the elements of specialization in computers but also the breadth of the applicant's experience to see whether his or her background—both formal education and experience—satisfies the general education component of a master's degree (i.e., the general education course work). Evaluating experience depends on the candidate's ability to provide objective, detailed information about what exactly he or she did. Moreover, processes for determining eminence must be defined in the hiring practice criteria.

Of course, no set amount of experience is unquestionably equivalent to a particular degree; ten years of experience may not be equivalent to even an undergraduate major. Equivalency depends on the nature of the experience. An applicant may have spent over ten years as an engineer, but this experience alone would not qualify him or her for an equivalency in mathematics because the experience of using engineering mathematics is too narrow to assure an understanding of the mathematics discipline. A problem that may arise particularly when we consider equivalencies for vocational areas is determining how an applicant who lacks an associate degree has acquired the broad knowledge that a general education program provides. While the provision and consideration of such evidence can be a challenge for applicants and local senates, general education preparation can endow instruction of any subject with an essential cross-curricular breadth and depth.

The Problem of Determining Eminence

Many districts recognize eminence as a basis for granting equivalency. Although eminence is not specified

in current law, it is not prohibited and has been established in policy in many community college districts. The System Office publication *An Analysis of Faculty Equivalency Policies* (December 1992, p. 43) found that 20 districts specified equivalency by eminence in their policies, and other districts seem to have added this avenue.

Common as eminence is in policy, this designation poses problems of definition. Just what should constitute eminence if there is no legal definition of the term?

Historical analysis helps us understand how this term has been used. A Title 5 Regulation that has been repealed defined eminence as “superior knowledge and skill [...] in comparison with the generally accepted standard of achievement in the subject field.” Furthermore, this regulation indicated how eminence should be determined stating, “[d]etermination of eminence should be based on a conviction that the applicant, if measured by recognized authorities in his subject field, would be judged superior.” *An Analysis of Faculty Equivalency Policies* points out that this exact language survives in Monterey Peninsula College’s equivalency policy (p. 44). Other districts require that an applicant who claims eminence must be recognized beyond his geographic area. Still other districts have no clear criteria and make decisions on a case-by-case basis.

Another problem with the concept of equivalence by eminence is that it does not include any reference to the broad educational background provided by a general education. Someone may be recognized by her peers as having extraordinary skills and knowledge but not possess the equivalent of completing a general education program. For this reason, eminence has been used by some districts in combination with other criteria, such as “an associate or bachelor’s degree.”

Finally, districts that choose to use eminence, especially on a case-by-case basis, risk exposing themselves to allegations that hiring criteria are not applied equally to all candidates. For instance, suppose that candidate A is granted equivalence based on eminence, while candidate B’s appeal for equivalency based on eminence is denied. Absent pre-defined criteria, what prevents candidate B from charging that the decision is based on bias?

Although eminence is not specified in current law, it is not prohibited and has been established in policy in many community college districts.

A Process for Determining Equivalent Qualifications

As difficult as it can be to make the judgment of whether a specific candidate's experience is equivalent to the minimum qualifications, it is clear that faculty in the discipline are best suited to make such a decision. However, to ensure that colleagues in various disciplines function with some consistency across the campus—as opposed to determining specific equivalencies themselves—the process for determining equivalency should include a way for faculty from outside the discipline to have a role in determining whether disciplines are fair and consistent in their processes for establishing equivalency criteria.

To ensure that relevant information is available for the faculty charged with determining equivalency, the application for employment must provide a place for candidates to indicate whether they possess the minimum qualifications or, if not, why they think they possess equivalent qualifications. The latter part could be a separate page with some detailed inquiries. Note the sample below:

1. Degree for which you claim equivalency.
2. Indicate the educational preparation on which you base this claim for the major of this degree.
3. Indicate the educational preparation on which you base this claim for the general education requirement of this degree.
4. Indicate what relevant courses you have taken or other evidence that you have the equivalent of the General Education portion of this degree.
5. If you are using courses to establish equivalency, please submit both an official transcript and copies of the appropriate pages from the college catalog.
6. If you are using publications or other work products, please submit them if possible.
7. Describe in detail work experience which you believe establishes equivalency to the minimum qualifications. If you are using work products or other items which cannot be submitted, provide detailed information from an objective source about the nature of this work product or experience.

Faculty Responsibilities

Determination of equivalency is a faculty responsibility. Only faculty in the discipline in question possess the academic expertise needed to determine qualifications in that discipline. Thus, while the governing board may, indeed, ultimately provide the legal approval authority for equivalencies, only faculty in a discipline have the expertise to determine whether an applicant possesses the equivalent of the published minimum qualifications.

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Many local academic senates also use an equivalency committee to ensure that discipline selection committees follow the equivalency process consistently and fairly. These academic senate equivalency committees typically consist of three or four members, each member selected for a term of at least one year. As with all appointments to committees, the academic senate should ensure that faculty appointed to the equivalency committee represent the diversity of the faculty and the community they serve. The committee should meet a few days after receiving materials from the discipline committee to review that work. At least one member of the discipline selection committee should meet with the senate equivalency committee.

The role of the human resources office should be limited to collecting, date-stamping, and forwarding applications and other pertinent information to the appropriate discipline selection committee. A college district that attempts to use its human resources office staff to establish equivalence not only risks creating a situation in which candidates are not evaluated appropriately but is out of compliance with the Education Code and Title 5 Regulations (see Education Code §87359 (b) and Title 5 §53430 (b)).

The faculty charged with determining equivalency (usually part of a discipline selection committee) should review for equivalency before beginning the paper screening process. If faculty in the discipline participate at the heart of the equivalency process, and if care is given when establishing the criteria and when drafting an application page to elicit relevant information, then determining equivalence can be done fairly and expeditiously while still maintaining the standards set in Title 5 Regulations. Lastly, a hiring process enacted without an equivalency process is unlawful.

Determination of Equivalency for Part-time Hires

It is vital to remember that minimum qualifications in a discipline—and, by extension, equivalency—are the same whether the position is full- or part-time. Title 5 Regulations do not allow for a different standard of equivalency for part-time faculty. An applicant is either qualified to teach the full range of courses in a discipline or not, regardless of whether applying for a full- or part-time position.

One problem that college instruction offices must address is how to provide a means by which faculty discipline experts can make a determination of equivalency for part-time hires, especially during times when few faculty are on campus.

Ideally, part-time faculty should be hired from a pool of available faculty whose minimum qualifications have been established. That means that applicants for part-time positions who claim equivalency should have that equivalency determined early enough to be included in the pool of fully qualified applicants before classes are staffed. When faculty are hired under equivalency but have not been granted equivalency by a process agreed to by the academic senate, those hires may be legally challenged and result in the district's being put in an untenable position. Imagine having to explain to a faculty member who has been hired without having had his or her qualifications verified that he or she no longer has a job. Hiring an applicant whose equivalency has not yet been established according to regulations is a clear violation of the Education Code and will result not only in a possible lawsuit but in the district's loss of state apportionment and the units earned being withdrawn on student transcripts. Although the System Office has not regularly monitored hiring practices in districts, the Education Code calls for such monitoring.¹

The Single-course Equivalency Issue

Education Code §87359 (a) (see also Title 5 §53430) states, “No one may be hired to serve as a community college faculty ... unless the governing board determines that he or she possesses qualifications that are *at least equivalent* to the minimum qualifications specified” (italics added). In addition, minimum qualifications are determined for *disciplines*, not for courses or subject areas within disciplines.

¹ Education Code §87358 calls for the Board of Governors to “designate a team of community college faculty, administrators, and trustees to review each community college district’s application of minimum qualifications to faculty and administrators.”

To verify this interpretation of relevant Education Code statutes, the Academic Senate requested a legal opinion from the System Office. In response, the Senate received Legal Opinion L 03-28 (R. Black, 2004) (see Appendix X), which supports the position that “a district is not authorized to establish a single course equivalency as a substitute for meeting minimum qualifications in a discipline.” This opinion goes on to repeat the basis for issuing a list of disciplines to be used in applying minimum qualifications for service (see Education Code §87357 (b)). L 03-28 also offers an explanation of why some have accepted the option for a single-course equivalency. It cites the history of the single-course provisional credential recognized under the old credentialing system, whereby the holder of such a credential was authorized to teach that course for a limited time (three semesters). But this provisional credential no longer exists. L 03-28 concludes firmly and simply that “a district is not authorized to establish a single course equivalency as a substitute for meeting minimum qualifications in a discipline.”

Misunderstandings of the above statute defining equivalency in terms of disciplines and not single courses may have been motivated by the difficulty of finding part-time faculty to staff classes, especially in disciplines where qualified faculty willing to teach part-time are scarce or in areas of the state where enough qualified faculty do not live. Although reasons for circumventing these regulations may stem from understandable difficulties, such problems are no excuse for hiring someone who is not qualified to teach in the discipline.

Those responsible for staffing may attempt to craft *special* adaptations of equivalency to the minimum qualifications to justify hiring applicants who are qualified to teach only a certain course or subject within a discipline. At first glance, such a solution may appear reasonable, but it is essential that local senates and governing boards avoid granting single-course equivalencies. Suppose, for example, a department head of Physical Education requests that an equivalency committee grant equivalency to a person who has taught aerobics, and that this equivalency is based on the applicant being an experienced expert in that specialty and holding a bachelor’s degree in exercise physiology, a related discipline. Even though this individual may seem to be very well qualified to teach aerobics, the applicant does not meet the minimum qualifications for physical education. Even if the department head assures all concerned that this individual would be assigned to teach only aerobics and no other course offered as physical education, tempting as it may be, a decision to grant such an equivalency would constitute a violation of Education Code §87359, which calls for “qualifications that are at least equivalent to the minimum qualifications.” Moreover, granting an equivalency on the understanding that the applicant would teach just those classes that he or she has the expertise to teach simply expands the single-course equivalency concept and thereby violates the principle of equivalency. For the sake of maintaining the integrity of our profession, we urge local senates to resist attempts such as the above example and demand that their college’s equivalency processes reflect the principles of the relevant statutes and not allow for any

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such adaptations that end up diminishing the minimum qualifications by permitting single course equivalencies.

Misapplications of equivalency regulations clearly undermine the required standards

of minimum qualifications. As stated above, *equivalency* means that an applicant's preparation is *equal* to the published minimum qualifications *for a particular discipline*. Those hired as faculty members, both full- and part-time, are expected to have the expertise to teach a range of courses in the discipline for which they were hired. To require less from some faculty would be to develop a second class of less qualified faculty and thereby compromise the integrity of the entire faculty. If a district hires a faculty member under an equivalency to teach one or two courses in the discipline, such as Keyboarding in Computers or Basic Firearms in Administration of Justice, that person has been granted equivalency to teach any course within the discipline and could request and be assigned to teach a course he or she is not prepared to teach. Colleges can solve some of the hiring problems they face by creating more full-time positions to attract fully qualified applicants.

Another solution, which is both expedient and appropriate, invokes the process of assignment of courses to disciplines (see Academic Senate 1994 adopted paper *Placement of Courses in Disciplines*). Assignment of courses to a varied range of related disciplines, where appropriate, will frequently solve staffing problems which occur from time to time. It is perfectly appropriate, for example, to assign a course associated with coaching soccer to the discipline of *coaching* as well as to the discipline of *physical education*, thereby increasing the pool of qualified applicants. Such a multiple assignment will also address the claim that if a college grants someone a physical education equivalency to coach soccer, it must let that individual teach any course in physical education. If the individual were granted equivalency only in *coaching*, that claim would become groundless, though the person may be assigned to coach any sport.

Likewise, it would be pedagogically sound and appropriate to assign a course such as word processing to a range of disciplines. Instead of assigning a word processing class only to the discipline of business, it could also be assigned to computer applications, computer science, and office management. An instructor with minimum qualifications in office management who is hired to teach a word processing class could not then legitimately request assignment to other courses in business without meeting the minimum qualifications for business.

Determining Equivalency In Multi-college Districts

It is important to understand that when a faculty member is hired, he or she is hired by a district, not a college. In most multi-college districts, faculty members can be assigned to any facility, or combination of facilities, in that district, although practice varies according to negotiated policies defining rights of assignment and transfer. A variety of possibilities exist for establishing and applying equivalency in multi-college districts.

Each college may have its own equivalency policy and procedures that the local board accepts, although the local board is likely to insist on consistency between or among the colleges in the district. If colleges have different policies and procedures, each college's faculty would have to accept the possibility that someone hired under the equivalency policy in a sister college may be assigned to their college, unless bargaining agreements or other policies preclude this possibility.

An alternative arrangement is to have a district-wide equivalency policy and set of procedures to which the academic senate of each college agrees. Hiring committees would submit the documentation of applicants who claim equivalency to a district equivalency committee, which would make a decision. This arrangement has the advantage of allowing a part-time instructor whose equivalency has been established to teach in any college in a district.

Survey on Equivalency Practices

To determine how faculty were meeting their responsibilities for establishing equivalency policies and procedures and carrying them out, the Academic Senate surveyed local senates in 2004 (reported in the *Rostrum*, December 2004). The survey results indicated that senates understand the need for equivalency committees and are satisfied with the way equivalencies on their campuses are determined. Respondents reported that there is virtually no evidence that administrators play a major role in determining equivalency on their campuses. Equivalency processes are conducted by discipline faculty, often in conjunction with a senate committee. On the other hand, there were reports that policies and procedures are not always followed consistently.

But there was one very disturbing finding: 37% of respondents reported that policies in their districts allow for single-course equivalency. Considering that 90% of respondents reported no dissatisfaction with their equivalency policies and that faculty report controlling their equivalency processes, it is fair to conclude that many local senates are not opposed to granting single-course equivalencies and in fact participate fully in granting them. Such practices place these local senates in direct opposition to a position adopted by the delegates of the Academic Senate for California Community Colleges and violate the law. We urge local senates to review and revise equivalency policies that allow for single-course equivalencies immediately.

Conclusion

A B1725 provides the intent language of equivalency and is explicit concerning faculty responsibility: Faculty members derive their authority from their expertise as teachers and subject matter specialists and from their status as professionals. As a result, the faculty have an inherent professional responsibility in the development and implementation of policies and procedures governing the hiring process. **Equivalency considered in this light will remind us that our guide must be the published minimum qualifications.** Legal Opinion L 03-28 reiterates and supports adherence to minimum qualifications for a discipline. To maintain the academic integrity of the community colleges and their faculty, equivalency to those minimum qualifications for hire must be granted with careful consideration.

Recommendations

1. Equivalency must be determined primarily by discipline faculty.
2. Equivalency processes for part-time faculty and “emergency hire” should be no different from equivalency for full-time faculty.
3. Local senates must ensure that their district and college policies and processes do not allow for single-course equivalencies.
4. Academic senates should assure consistency of the equivalency process.
5. Equivalency decisions should be based on direct evidence of claims (e.g., transcripts, publications, and work products).
6. Claims of equivalence must include how both general education and specialization are met.

7. Human resources offices should NOT screen for equivalency.
8. Local senates must never allow equivalency to be delegated to administration or classified staff.
9. Equivalency policies should be reviewed every few years.
10. Criteria for the acceptance of eminence as a means to establish equivalency must be clearly defined in hiring policy.
11. Once the local equivalency process has reached a recommendation regarding an individual applicant, Education Code §87359(a) requires that the governing board include action on the equivalency as part of its subsequent hiring action.
12. Additional training materials may be obtained from the Academic Senate Office and/or at its website.

Appendix A: Equivalency Policy: A Proposed Model

(This model should be viewed as a template, which would have to be adapted to the specific needs of your college or district)

Policy

It is the policy of the _____ Community College District that faculty hiring procedures and guidelines be established to provide for a college faculty of highly qualified people who are expert in their subject areas, who are skilled in teaching and serving the needs of a varied student population, who can foster overall college effectiveness, and who are sensitive to and themselves represent the racial and cultural diversity of the adult population of the state of California.¹

The governing board, represented by the administration, has the principal legal and public responsibility for ensuring an effective hiring process^{2,3}, including action on the equivalency as part of its subsequent hiring action.⁴ The faculty, represented by the academic senate, has an inherent professional responsibility in the development and implementation of policies and procedures governing the hiring process,⁵ which ensure the quality of faculty peers.⁶

One part of the process needed to fulfill these responsibilities is a procedure for determining when an applicant for a faculty position, though lacking the exact degree or experience specified in the Disciplines List as minimum qualifications, nevertheless does possess qualifications that are at least equivalent.

The procedure will require that the decision to grant equivalency be the responsibility of discipline faculty working through an Equivalency Committee created by the academic senate. The academic senate and college administration will be responsible for establishing and monitoring the process to assure its fairness, efficiency, and consistent adherence to standards.

Procedures

Qualifications

Only infrequently will candidates meet the minimum qualifications through the equivalency process. Candidates who have completed all the appropriate course work for a particular degree but do not possess the specific degree named on the Discipline List may possess equivalent qualification. Very rarely, a candidate who is obviously

well qualified will be able to demonstrate through publications or other substantial achievements that he or she has qualifications equivalent to those specified in the Disciplines List. However, an applicant who claims equivalent qualifications will have to provide conclusive evidence, evidence as clear and reliable as the college transcripts being submitted by the other candidates, that he or she has qualifications that are at least equivalent to what is required by the minimum qualifications. Specifically, an applicant making the claim must provide conclusive evidence in regard to the following:

- I. For establishing the equivalent of a required degree, possession of at least the equivalent in level of achievement, and breadth, depth of understanding, and rigor for each of the following:
 - A. The General Education required for that degree; and
 - B. Course work required for the degree major.

A candidate must provide conclusive evidence in regard to both A and B above to be considered to possess the equivalent of the degree in question.

- II. For establishing the equivalent of required experience, possession of thorough and broad knowledge for each of the following:
 - A. Mastery of the skills of the vocation thorough enough for the proposed specific assignment and broad enough to serve as a basis for teaching the other courses in the discipline; and
 - B. Extensive and diverse knowledge of the working environment of the **vocation**.

A candidate must present conclusive evidence in regard to both A and B above to be considered to possess the equivalent of the experience in question.

Evidence

Conclusive evidence shall be:

1. A transcript showing that the applicant successfully completed appropriate courses at a regionally accredited college or equivalent foreign institution whose accredited status is recognized by the district;
2. Publications that show the applicant's command of the major in question, or his or her general education;
3. Other work products that show the applicant's command of the major or occupation in question; and
4. Work experience verification.

Selection Committee Procedures

Prescreening of applications shall be done in accordance with the district hiring policy as jointly developed and agreed upon by the academic senate and the governing board (See Education Code §87358). If there are three or more discipline members on the selection committee, those discipline members may pre-screen the applications for minimum qualifications. If there are not at least three full-time members of the discipline in question, the academic senate equivalency committee may call on part-time faculty or faculty members from a related discipline to help in this task.

The selection committee shall determine which candidates will receive an interview. No candidate shall receive an interview unless the minimum qualifications or the equivalent are met. If the committee has chosen any candidates for interview who do not meet these minimum qualifications, then the committee shall evaluate these applicants' claims of equivalency according to the process described below.

The application and supporting materials for any candidate who does not meet the minimum qualifications shall be forwarded to the equivalency committee of the academic senate for review prior to any candidate receiving an interview. The selection committee shall also send to the equivalency committee a separate statement for each criterion of equivalency claimed by the applicant. (For better communication between selection committees and the equivalency committee, the college may choose to have a member of the equivalency committee actually sit with any selection committee whenever it is considering equivalency. Some colleges may choose to have an Equivalency Committee with a specified number of permanent members plus temporary members from the discipline in question.)

Senate and Board Procedures

The following section intersperses policy language with explanatory and background information with the intention of providing examples to local senates of policy language, its intent, and its origins within law and regulations.

If a candidate who has been judged to have met equivalency to the minimum qualifications is recommended for hire to the governing board, the board shall provide an opportunity for the academic senate to present its views before the board makes a determination as to the person's having equivalent qualifications. A written record of the decision—including the views of the academic senate and the criteria and evidence used by the governing board in making the determination—shall be reflected in the governing board's action employing the individual and shall be available for review pursuant to §87358 of the Education Code.

The equivalency committee of the academic senate shall, by the end of its first year of operation, adopt policies further defining what evidence shall be required for establishing equivalency. These policies shall address such issues as the following:

1. For the equivalent of a Master's degree, shall the General Education courses required for any bachelor's be regarded as sufficient (since there is no General Education requirement at the graduate level)?
2. For the equivalent of an Associate's degree, shall the six years work experience required by the minimum qualifications be accepted as the equivalent of the major? Thus, a candidate with six years of experience would need to show courses or other evidence only in order to establish the equivalent of the General Education for that degree.
3. For the equivalent of any degree or requirement, is providing evidence that the courses taken would have met the requirement of at least one accredited college sufficient? Or, would these courses have to meet the requirement of the college at which they were taken? Or, would they have to meet the requirement for the Associate's degree of the college for which the candidate seeks to work?

The academic senate's equivalency committee can establish specific criteria for determining the equivalent of the General Education component of a degree since those requirements are rather similar for most degree programs. For instance, an equivalency committee might adapt the General Education portion of an established transfer pattern such as IGETC (Intersegmental General Education Curriculum). On the other hand, establishing the equivalence of work experience will be unique to each discipline. A committee composed of faculty from the same discipline should list the specific skills that would need to be mastered to establish equivalence to the applicable years of experience. For establishing the equivalency of the major, such a committee shall recommend measures of the quality of the experience, publications, or other work products that will establish equivalence to the major. That committee may be either a department committee or the committee that writes the job announcement or the selection committee. In any case, it must complete its work before any applications are reviewed. The proposal of the committee shall be reviewed by the academic senate's equivalency committee which must be satisfied that the requirements of each department are substantially similar to the requirements of other departments in level of proficiency required and that all departments are acting consistently with the letter and spirit of Assembly Bill 1725 and now Title 5.

Setting out criteria in advance can make the process of determining equivalency efficient and consistent. However, there will always be candidates with claims for equivalency based on unforeseeable qualifications. Therefore, the list of criteria shall only indicate

what evidence will definitely be accepted. The qualifications of individual candidates may still be evaluated individually on the specific evidence submitted through the process indicated above.

Faculty Seeking To Serve In An Additional Discipline Or To Qualify For Additional Faculty Service Areas

Faculty who are already employed may acquire new assignments only if they meet the requirements specified in the Disciplines List, possess qualifications that are at least equivalent to those specified in the Disciplines List, or possess an appropriate credential. Those who believe that, although they lack both the specified qualifications or credential, they do possess the equivalent shall be subject to the process described above except that the process shall begin when a faculty member submits a request together with the information required of candidates for hire as indicated above. A committee of discipline faculty, the same as that established for selection committees in the hiring policy agreed upon jointly between the academic senate and the governing board, shall review that material and make a recommendation to the equivalency committee. That committee will make its recommendations to the governing board through the academic senate, since no interview or selection is involved. (This process resolves only whether the instructor has the equivalent of the minimum qualifications, not whether the instructor will be assigned to a new discipline.)

[Note that Faculty Service Areas (FSAs) in some districts are not aligned with the published Minimum Qualifications for a discipline. More than one district has only a single FSA, but that does not mean any faculty member can teach any course offered. For a more complete discussion of this topic, see *Qualifications for Faculty Service in the California Community Colleges*, 2004.]

Review and Revision

This equivalency policy and its procedures are subject to review and revision at the request of either the academic senate or the governing board. Changes in this policy require the joint agreement of the academic senate and the governing board. Until there is joint agreement, this policy will remain in effect.

1. Assembly Bill 1725, Section 4 (p) (1) "The laws, regulations, directives, or guidelines should help the community colleges ensure that the faculty and administrators they hire and retain are people who are sympathetic and sensitive to the racial and cultural diversity in the colleges, are themselves

representative of that diversity, and are well prepared by training and temperament to respond effectively to the educational needs of all the special populations served by community colleges.”

2. Assembly Bill 1725, Section 4 (s) (2) “The governing board of a community college district derives its authority from statute and from its status as the entity holding the institution in trust for the benefit of the public. As a result, the governing board and the administrators it appoints have the principal legal and public responsibility for ensuring an effective hiring process.”
3. Education Code, Section 87359 “No one may be hired to serve as a community college faculty member, instructional administrator, or student services administrator under the authority granted by the regulations unless the governing board determines that he or she possesses qualifications that are at least equivalent to the minimum qualifications specified in regulations of the board adopted pursuant to Section 87356. The criteria used by the governing board in making the determination shall be reflected in the governing board’s actions employing the individual. The process, as well as criteria and standards by which the governing board reaches its determinations, 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 each individual employed under the authority granted by the regulations possesses qualifications that are at least equivalent to the applicable minimum qualification specified in regulations adopted by the board of governors. 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.”
4. Education Code, Section 87359(a) “No one may be hired to serve as a community college faculty member or educational administrator under the authority granted by the regulations unless the governing board determines that he or she possesses qualifications that are at least equivalent to the minimum qualifications specified in regulations of the board of governors adopted pursuant to Section 87356. The criteria used by the governing board in making the determination shall be reflected in the governing board’s action employing the individual.”

5. Assembly Bill 1725, Section 4 (s) (3) "Faculty members derive their authority from their expertise as teachers and subject matter specialists and from their status as professionals. As a result, the faculty has an inherent professional responsibility in the development and implementation of policies and procedures governing the hiring process."
6. Assembly Bill 1725, Section 4 (t) "While the precise nature of the hiring process for faculty should be subject to local definition and control, each community college should in a way that is appropriate to its circumstances, establish a hiring process that ensures that (1) Emphasis is placed on the responsibility of the faculty to ensure the quality of their faculty peers."

Appendix B: Legal Opinion on Single Course Equivalency

STATE OF CALIFORNIA

CALIFORNIA COMMUNITY COLLEGES CHANCELLOR'S OFFICE

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December 23, 2003

Mark Snowwhite, Secretary
Academic Senate for California Community Colleges
428 J Street, Suite 430
Sacramento, CA 95814

Re: Single Course Equivalencies
Legal Opinion L 03-28

Dear Dr. Snowwhite:

You requested our assessment of the ability of a community college district to establish a single-course equivalency for hiring faculty. We understand your question to focus on whether a person may be considered to meet minimum qualifications for purposes of teaching a single class where that person does not possess the minimum qualifications (usually a master's degree or its equivalent) in the discipline under which the single course falls.

As you know, Education Code section 87356 requires the Board of Governors to adopt regulations to establish minimum qualifications for service as a community college faculty member. Education Code section 87357 requires the Board of Governors to engage in various activities in establishing those minimum qualifications. Subsection (b) of section 87357 requires the Board to issue a list of disciplines that is to be distributed to the districts "for their use in applying the minimum qualifications for service."

Title 5 of the California Code of Regulations ("title 5"), section 53407 reflects the Board's adoption of disciplines lists. Although the disciplines lists are not fully set out in the regulations, they are incorporated by reference. Section 53407 contemplates disciplines where a master's degree is required as a minimum qualification and disciplines where a master's degree is not generally expected or available as a minimum qualification.

Title 5, section 53410 sets the basic minimum qualifications for credit instructors which include either a master's degree "**in the discipline** of the faculty member's assignment" or a master's degree "**in a discipline** reasonably related" to the assignment and a bachelor's degree "**in the discipline** of the faculty member's assignment." We believe that these Education Code and title 5 sections establish a firm relationship between the disciplines and minimum qualifications.

Education Code section 87359 requires the Board of Governors to adopt regulations setting forth a process to allow local districts to employ faculty members who do not meet the minimum qualifications adopted by the Board of Governors. The section provides that a person may be hired to serve as a faculty member if the district governing board determines that the individual "possesses qualifications that are at least equivalent to the minimum qualifications specified in regulations of the board of governors adopted pursuant to Section 87356." The section requires a process to ensure that "**each individual faculty member** employed under the authority granted by the [equivalency] regulations possesses . . . minimum qualifications specified in regulations adopted by the board of governors." (Emphasis added.)

Title 5, section 53430 establishes the standards for hiring faculty based on equivalencies, and it echoes the language of Education Code section 87358 that **each** individual faculty member must possess minimum qualifications. As noted above, the regulations contemplate a relationship between minimum qualifications and disciplines.

Education Code section 87356 verifies that each individual faculty member is expected to possess minimum qualifications under the regulations. The regulations demonstrate that the focus of minimum qualifications for "teaching faculty" is on the qualifications of persons to teach in a discipline, not to teach individual courses.

The concept of expertise within a discipline is reflected elsewhere in the regulations. Title 5 section 53403 allows persons who have been employed "to teach **in a discipline**" to continue teaching even if the minimum qualifications or disciplines list are amended after the person is initially hired.

It is likely that the concept of single course equivalencies grew out of the provisional credential that was available when a credentialing system was used to establish eligibility for community college district faculty employment. Under that system, a person could secure a "provisional" credential that listed a course that the individual could teach. The credential allowed its holder to teach the specific course, but the circumstances authorizing such services were very narrow. Former title 5, section 52223 provided the particulars, as follows:

"52223. A District shall establish the existence of the following facts:

- (a) The district has made every reasonable effort to locate and to employ a person holding a credential other than a provisional credential to teach the particular course to be named on the credential.
- (b) No such credentialed person is ready, able, and willing to accept such employment in the district.

(c) The district shall employ the applicant to teach the course to be named on the credential.”

Former section 52225 provided an alternative to the conditions of former section 52223. Under section 52225, a provisional credential could be issued if a local board made a finding that there was an inadequate number of credentialed persons available in the state who were qualified to instruct in a particular discipline or skill and the board found the discipline or skill to be an emergency area of instruction.

The services of a person who taught under a provisional credential did not count towards tenure. The initial term of the provisional credential was one calendar year from issuance, and reissuance of the credential could not result in employment to teach the same course in the same district for more than three calendar years. (Former title 5, section 52228.) Thus, even under the predecessor credentialing system, the norm was that districts would hire faculty who were qualified to hold “regular” credentials, and service only in specific courses was allowed in very narrow circumstances.

The current minimum qualifications closely resemble the former credential requirements in many areas. It is telling that no current regulations clearly carry over the standards of the provisional credential. If a person were able to produce a provisional credential that was reissued prior to the expiration of the credentialing system, and that person has not exhausted the maximum three calendar years of instruction authorized by the former regulations, that person may be eligible to serve under the terms of the provisional credential up to the maximum authorized three calendar years of service. (See Ed. Code, § 87355 that authorizes service under an unexpired credential notwithstanding the replacement of the credential system with the minimum qualifications system.) However, we believe that such a circumstance is highly unlikely, and we would need to make a specific assessment of the credential and a fuller review of the former regulations in order to make a definitive determination regarding the continued viability of the provisional credential.

Based on the foregoing, we conclude that a district is not authorized to establish a single course equivalency as a substitute for meeting minimum qualifications in a discipline.

Sincerely,

Original signed by Ralph Black

Ralph Black
General Counsel

RB:VAR:sj

cc: Fusako Yokotobi, Human Resources
Bobbie Juzek, Human Resources