

1 Equivalence to the Minimum Qualifications
2 The Academic Senate for California Community Colleges

3
4 Adopted Spring 1999

5
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8
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40 **Executive Summary**

41
 42 In 1988 the Community College Reform Act (AB 1725) began a phase out of credentials in favor
 43 of a process for establishing minimum qualifications and the determination of equivalencies that
 44 are at least equal to the state-adopted minimum qualifications for a particular discipline.
 45 According to Education Code (§ 87359 and §87360), someone who does not possess the
 46 minimum qualifications for service may be hired as a faculty member if he or she is judged to
 47 possess “qualifications that are at least equivalent to the minimum qualifications...” Equivalency
 48 is a term used in the Disciplines List, a Board of Governors adopted minimum qualifications for
 49 hiring faculty. District equivalency policies recognize three ways of demonstrating equivalency:
 50 1) course work, 2) work experience, 3) eminence in the field (a sub-set of *experience*). A
 51 combination of the three may be recognized. But whatever the means are for determining
 52 equivalency, equivalency should never mean less than the qualifications specified on the
 53 Disciplines List. Because the Equivalency process was created by AB1725 and chaptered into
 54 the California Education Code, districts are not free to ignore this provision within the law.
 55

56 Every district must have an equivalency process. Education Code §87359 (b) requires that “[t]he
 57 process, as well as criteria, and standards by which the governing board reaches its determination
 58 regarding faculty members shall be developed and agreed upon jointly by representatives of the
 59 governing board and the academic senate, and approved by the governing board.” While neither
 60 the Education Code nor Title 5 regulations provide additional guidelines for what constitutes *at*
 61 *least equivalent*, each district’s governing board, acting on the advice of its academic senate,
 62 must establish its standard for equivalency, permitted the standard is not less than qualifications
 63 specified on the Disciplines List. Once the local equivalency process has reached a
 64 recommendation regarding an individual applicant, Education Code §87359(a) requires that the
 65 governing board include action on the equivalency as part of its subsequent hiring action.
 66

67 The Academic Senate has consistently supported the following basic principals for granting
 68 equivalency:

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

76 The Academic Senate believes that faculty members must exemplify to their students the value
 77 of an education that is both well-rounded and specialized.
 78

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

82 Establishing Equivalency through coursework is often relatively simple, as transcripts are
 83 concrete documents that can be compared to concrete criteria. A somewhat more difficult case
 84 would occur when the name of a degree is close to that specified on the Disciplines List but the

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

90
91 It is important to distinguish between general education preparation and specialized (i.e., major)
92 preparation. The Academic Senate supports the principle that all community college faculty
93 exemplify the qualities of a college educated person. This is why the universal requirement for
94 disciplines on the Non-Master's list includes at least an associate degree in addition to six years
95 of experience (or a bachelor's degree and two years of experience). So, when it determines an
96 applicant's equivalency, an equivalency committee should consider whether the applicant
97 satisfies the two-year general education qualification for which she or he seeks equivalency. In
98 addition, the applicant should be expected to provide evidence of equivalent preparation that is
99 as reliable and objective as a transcript. Thus, the candidate seeking equivalence should be
100 measured by the same yardstick as a candidate who possesses the minimum qualifications.
101 Moreover, processes for determining eminence must be defined in hiring practice criteria and
102 mindful that regardless of the discipline or vocational area, the vital importance of general
103 education preparation is that it can endow instruction of any subject with an essential cross-
104 curricular breadth and depth.

105
106 As difficult as it can be to make the judgment of whether a specific candidate's experience is
107 equivalent to the minimum qualifications, it is clear that faculty in the discipline are best suited
108 to make such a decision. However, to ensure that colleagues in various disciplines function with
109 some consistency across the campus -- as opposed to determining specific equivalencies
110 themselves -- the process for determining equivalency should include a way for faculty from
111 outside the discipline to have a role in determining whether disciplines are fair and consistent in
112 their processes for establishing equivalency criteria. Many local academic senates also use an
113 equivalency committee to ensure that discipline selection committees follow the equivalency
114 process consistently and fairly. The role of the human resources office should be limited to
115 collecting, date-stamping, and forwarding applications and other pertinent information to the
116 appropriate discipline selection committee. A college district that attempts to use its human
117 resources office staff to establish equivalence not only risks creating a situation in which
118 candidates are not evaluated appropriately but is out of compliance with the Education Code and
119 Title 5 Regulations (see Education Code §87359 (b) and Title 5 §53430 (b)).

120
121 It is vital to remember that minimum qualifications in a discipline -- and, by extension,
122 equivalency -- are the same whether the position is full- or part-time. Title 5 Regulations do not
123 allow for a different standard of equivalency for part-time faculty. An applicant is either
124 qualified to teach the full range of courses in a discipline or not, regardless of whether applying
125 for a full-time position or a part-time position. Education Code §87359 (a) (see also Title 5
126 §53430) states, "No one may be hired to serve as a community college faculty ... unless the
127 governing board determines that he or she possesses qualifications that are *at least equivalent* to
128 the minimum qualifications specified" (italics added). In addition, minimum qualifications are
129 determined for *disciplines*, not for courses or subject areas within disciplines. Legal Opinion L
130 03-28 (R. Black, 2004) (see Appendix X), supports the position that "a district is not authorized

131 to establish a single course equivalency as a substitute for meeting minimum qualifications in a
132 discipline.”

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

135
136 The paper concludes with recommendations for the determination of equivalencies, including
137 who determines equivalency, that equivalency is granted for a discipline (not for courses or
138 subject areas with disciplines), that policies and procedures must be consistent, objective,
139 evidence based, mindful of general education and specialization, and that local governing boards
140 board include action on the equivalency as part of their subsequent hiring action.

141
142 Following the recommendations, the paper provides a proposed equivalency model as well as the
143 results of an equivalency survey and a legal opinion stating that local districts are not authorized
144 to establish a single course equivalency.

145

146 **Introduction**

147

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

158

159 **THE MEANING OF “EQUIVALENCY”**

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

167

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

173

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

178

179 **BENEFITS OF EQUIVALENCY**

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

186

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

191

192 **LEGAL REQUIREMENTS**

193 Every district must have an equivalency process. According to Education Code §87359 and
 194 §87360, every community college district was required to have adopted such a process as part of
 195 its hiring criteria, policies, and procedures by July 1, 1990. The process for establishing
 196 equivalency needs to specify what the district expects in terms of course work, work experience,
 197 or eminence when considering equivalency applications. Education Code §87359 (b) requires
 198 that “[t]he process, as well as criteria, and standards by which the governing board reaches its
 199 determination regarding faculty members shall be developed and agreed upon jointly by
 200 representatives of the governing board and the academic senate, and approved by the governing
 201 board.”

202

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

216

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

233
 234 Once the local equivalency process has reached a recommendation regarding an individual
 235 applicant, Education Code §87359(a) requires that the governing board include action on the
 236 equivalency as part of its subsequent hiring action.

237
 238 It is also important to understand that an applicant who is granted equivalency and subsequently
 239 hired retains that status for his or her entire career in the district which granted that equivalency,
 240 although when a faculty member applies for a position in another district, she or he may need to
 241 go through equivalency processes in that other district because equivalency is not transferable
 242 from district to district.

243

244 **PRINCIPLES**

245

246 The Academic Senate has consistently supported the following basic principals for granting
 247 equivalency:

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

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

257

258 **CRITERIA FOR DETERMINING EQUIVALENT QUALIFICATIONS**

259

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

263
264 Establishing Equivalency through coursework is often relatively simple, as transcripts are
265 concrete documents that can be compared to concrete criteria. One clear-cut example of
266 equivalency through coursework occurs when someone has all the appropriate courses for the
267 relevant degree, but the applicant's diploma or degree has a different title or area of expertise.
268 For example, if someone earned a degree in Business because a particular college or university
269 combined its economics and business programs, but a review of the transcript shows academic
270 work the same as that for an economics degree, then obviously that business degree is equivalent
271 to a degree in Economics.

272
273 A somewhat more difficult case would occur when the name of a degree is close to that specified
274 on the Disciplines List but the course work is slightly different. An example of this problem
275 occurs in determining whether a degree in education with a concentration in mathematics is
276 equivalent to a degree in mathematics.

277
278 Other more difficult cases occur when work experience is proposed as the equivalent of
279 academic work. Knowledge acquired in a course could also be gained in other ways; however,
280 the problem lies in obtaining convincing evidence to establish that an applicant has enough
281 necessary educational preparation through an alternative means to be judged as knowledgeable
282 as someone with the appropriate degree.

283
284 We must also distinguish between general education preparation and specialized (i.e., major)
285 preparation. The Academic Senate supports the principle that all community college faculty
286 exemplify the qualities of a college educated person. This is why the universal requirement for
287 disciplines on the Non-Master's list includes at least an associate degree in addition to six years
288 of experience (or a bachelor's degree and two years of experience). So, when it determines an
289 applicant's equivalency, an equivalency committee should consider whether the applicant
290 satisfies the two-year general education qualification for which she or he seeks equivalency.

291
292 The applicant should be expected to provide evidence of equivalent preparation that is as reliable
293 and objective as a transcript. Thus, the candidate seeking equivalence should be measured by the
294 same yardstick as a candidate who possesses the minimum qualifications. For example, a
295 journalist with a bachelor's degree in English who has a great many years of work experience in
296 journalism might well be judged to possess the equivalent of a master's degree as far as the
297 general education component is concerned because the general education required for the
298 bachelor's degree would have been essentially the same, despite the difference in disciplines. On
299 the other hand, if an applicant for a position in computer science claims to have equivalent
300 qualifications based on having worked in the computer industry for years but whose degree is not
301 specifically in computers, then the committee deciding equivalency would look at evidence not
302 only addressing the elements of specialization in computers but also the breadth of the
303 applicant's experience to see whether his or her background -- both formal education and
304 experience -- satisfies the general education component of a master's degree (i.e., the general
305 education course work). Evaluating experience depends on the candidate's ability to provide

306 objective, detailed information about what exactly he or she did. Moreover, processes for
 307 determining eminence must be defined in the hiring practice criteria.

308
 309 Of course, no set amount of experience is unquestionably equivalent to a particular degree; ten
 310 years of experience may not be equivalent to even an undergraduate major. Equivalency depends
 311 on the nature of the experience. An applicant may have spent over ten years as an engineer, but
 312 this experience alone would not qualify him or her for an equivalency in mathematics because
 313 the experience of using engineering mathematics is too narrow to assure an understanding of the
 314 mathematics discipline. A problem that may arise particularly when we consider equivalencies
 315 for vocational areas is determining how an applicant who lacks an associate degree has acquired
 316 the broad knowledge that a general education program provides. While the provision and
 317 consideration of such evidence can be a challenge for applicants and local senates, general
 318 education preparation can endow instruction of any subject with an essential cross-curricular
 319 breadth and depth.

320

321 **THE PROBLEM OF DETERMINING EMINENCE**

322 Many districts recognize eminence as a basis for granting equivalency. Although eminence is not
 323 specified in current law, it is not prohibited and has been established in policy in many
 324 community college districts. The Chancellor's Office publication *An Analysis of Faculty*
 325 *Equivalency Policies* (December 1992, p. 43) found that 20 districts specified equivalency by
 326 eminence in their policies, and other districts seem to have added this avenue.

327

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

330

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

341

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

347

348 Finally, districts that choose to use eminence, especially on a case-by-case basis, risk exposing
 349 themselves to allegations that hiring criteria are not applied equally to all candidates. For
 350 instance, suppose that candidate A is granted equivalence based on eminence, while candidate

351 B's appeal for equivalency based on eminence is denied. Absent pre-defined criteria, what
352 prevents candidate B from charging that the decision is based on bias?
353

354 **A PROCESS FOR DETERMINING EQUIVALENT QUALIFICATIONS**

355
356 As difficult as it can be to make the judgment of whether a specific candidate's experience is
357 equivalent to the minimum qualifications, it is clear that faculty in the discipline are best suited
358 to make such a decision. However, to ensure that colleagues in various disciplines function with
359 some consistency across the campus -- as opposed to determining specific equivalencies
360 themselves -- the process for determining equivalency should include a way for faculty from
361 outside the discipline to have a role in determining whether disciplines are fair and consistent in
362 their processes for establishing equivalency criteria.
363

364 To ensure that relevant information is available for the faculty charged with determining
365 equivalency, the application for employment must provide a place for candidates to indicate
366 whether they possess the minimum qualifications or, if not, why they think they possess
367 equivalent qualifications. The latter part could be a separate page with some detailed inquiries.
368

368 Note the sample below:

- 369 1. Degree for which you claim equivalency.
- 370 2. Indicate the educational preparation on which you base this claim for the major of this
371 degree.
- 372 3. Indicate the educational preparation on which you base this claim for the general
373 education requirement of this degree.
- 374 4. Indicate what relevant courses you have taken or other evidence that you have the
375 equivalent of the General Education portion of this degree.
- 376 5. If you are using courses to establish equivalency, please submit both an official transcript
377 and copies of the appropriate pages from the college catalog.
- 378 6. If you are using publications or other work products, please submit them if possible.
- 379 7. Describe in detail work experience which you believe establishes equivalency to the
380 minimum qualifications. If you are using work products or other items which cannot be
381 submitted, provide detailed information from an objective source about the nature of this
382 work product or experience.
383

384 **FACULTY RESPONSIBILITIES**

385
386 Determination of equivalency is a faculty responsibility. Only faculty in the discipline in
387 question possess the academic expertise needed to determine qualifications in that discipline.
388 Thus, while the governing board may, indeed, ultimately provide the legal approval authority for
389 equivalencies, only faculty in a discipline have the expertise to determine whether an applicant
390 possesses the equivalent of the published minimum qualifications.
391

392 Many local academic senates also use an equivalency committee to ensure that discipline
393 selection committees follow the equivalency process consistently and fairly. These academic
394 senate equivalency committees typically consist of three or four members, each member selected

395 for a term of at least one year. As with all appointments to committees, the academic senate
396 should ensure that faculty appointed to the equivalency committee represent the diversity of the
397 faculty and the community they serve. The committee should meet a few days after receiving
398 materials from the discipline committee to review that work. At least one member of the
399 discipline selection committee should meet with the senate equivalency committee.
400 The role of the human resources office should be limited to collecting, date-stamping, and
401 forwarding applications and other pertinent information to the appropriate discipline selection
402 committee. A college district that attempts to use its human resources office staff to establish
403 equivalence not only risks creating a situation in which candidates are not evaluated
404 appropriately but is out of compliance with the Education Code and Title 5 Regulations (see
405 Education Code §87359 (b) and Title 5 §53430 (b)).
406

407 The faculty charged with determining equivalency (usually part of a discipline selection
408 committee) should review for equivalency before beginning the paper screening process. If
409 faculty in the discipline participate at the heart of the equivalency process, and if care is given
410 when establishing the criteria and when drafting an application page to elicit relevant
411 information, then determining equivalence can be done fairly and expeditiously while still
412 maintaining the standards set in Title 5 Regulations. Lastly, a hiring process enacted without an
413 equivalency process is unlawful.
414

415 **DETERMINATION OF EQUIVALENCY FOR PART-TIME HIRES**

416
417 It is vital to remember that minimum qualifications in a discipline -- and, by extension,
418 equivalency -- are the same whether the position is full- or part-time. Title 5 Regulations do not
419 allow for a different standard of equivalency for part-time faculty. An applicant is either
420 qualified to teach the full range of courses in a discipline or not, regardless of whether applying
421 for a full-time position or a part-time position.
422

423 One problem that college instruction offices must address is how to provide a means by which
424 faculty discipline experts can make a determination of equivalency for part-time hires, especially
425 during times when few faculty are on campus.
426

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

438 Office has not regularly monitored hiring practices in districts, the Education Code calls for such
439 monitoring.¹

440

441 **THE SINGLE-COURSE EQUIVALENCY ISSUE**

442

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

448

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

461

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

468

469 Those responsible for staffing may attempt to craft *special* adaptations of equivalency to the
470 minimum qualifications to justify hiring applicants who are qualified to teach only a certain
471 course or subject within a discipline. At first glance, such a solution may appear reasonable, but
472 it is essential that local senates and governing boards avoid granting single-course equivalencies.
473 Suppose, for example, a department head of Physical Education requests that an equivalency
474 committee grant equivalency to a person who has taught aerobics, and that this equivalency is
475 based on the applicant being an experienced expert in that specialty and holding a bachelor’s
476 degree in exercise physiology, a related discipline. Even though this individual may seem to be
477 very well qualified to teach aerobics, the applicant does not meet the minimum qualifications for
478 physical education. Even if the department head assures all concerned that this individual would
479 be assigned to teach only aerobics and no other course offered as physical education, tempting as

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.”

480 it may be, a decision to grant such an equivalency would constitute a violation of Education
 481 Code §87359, which calls for “qualifications that are at least equivalent to the minimum
 482 qualifications.” Moreover, granting an equivalency on the understanding that the applicant would
 483 teach just those classes that he or she has the expertise to teach simply expands the single-course
 484 equivalency concept and thereby violates the principle of equivalency. For the sake of
 485 maintaining the integrity of our profession, we urge local senates to resist attempts such as the
 486 above example and demand that their college’s equivalency processes reflect the principles of
 487 the relevant statutes and not allow for any such adaptations that end up diminishing the minimum
 488 qualifications by permitting single course equivalencies.

489
 490 Misapplications of equivalency regulations clearly undermine the required standards of
 491 minimum qualifications. As stated above, *equivalency* means that an applicant’s preparation is
 492 *equal to* the published minimum qualifications *for a particular discipline*. Those hired as faculty
 493 members, both full- and part-time, are expected to have the expertise to teach a range of courses
 494 in the discipline for which they were hired. To require less from some faculty would be to
 495 develop a second class of less qualified faculty and thereby compromise the integrity of the
 496 entire faculty. If a district hires a faculty member under an equivalency to teach one or two
 497 courses in the discipline, such as Keyboarding in Computers or Basic Firearms in Administration
 498 of Justice, that person has been granted equivalency to teach any course within the discipline and
 499 could request and be assigned to teach a course he or she is not prepared to teach. Colleges can
 500 solve some of the hiring problems they face by creating more full-time positions to attract fully
 501 qualified applicants.

502
 503 Another solution, which is both expedient and appropriate, invokes the process of assignment of
 504 courses to disciplines (see *Placement of Courses in Disciplines*). Assignment of courses to a
 505 varied range of related disciplines, where appropriate, will frequently solve staffing problems
 506 which occur from time to time. It is perfectly appropriate, for example, to assign a course
 507 associated with coaching soccer to the discipline of *coaching* as well as to the discipline of
 508 *physical education*, thereby increasing the pool of qualified applicants. Such a multiple
 509 assignment will also address the claim that if a college grants someone a physical education
 510 equivalency to coach soccer, it must let that individual teach any course in physical education. If
 511 the individual were granted equivalency only in *coaching*, that claim would become groundless,
 512 though the person may be assigned to coach any sport.

513
 514 Likewise, it would be pedagogically sound and appropriate to assign a course such as word
 515 processing to a range of disciplines. Instead of assigning a word processing class only to the
 516 discipline of business, it could also be assigned to computer applications, computer science, and
 517 office management. An instructor with minimum qualifications in office management who is
 518 hired to teach a word processing class could not then legitimately request assignment to other
 519 courses in business without meeting the minimum qualifications for business

520 521 **DETERMINING EQUIVALENCY IN MULTI-COLLEGE DISTRICTS**

522
 523 It is important to understand that when a faculty member is hired, he or she is hired by a district,
 524 not a college. In most multi-college districts, faculty members can be assigned to any facility, or

525 combination of facilities, in that district, although practice varies according to negotiated policies
526 defining rights of assignment and transfer. A variety of possibilities exist for establishing and
527 applying equivalency in multi-college districts.

528
529 Each college may have its own equivalency policy and procedures that the local board accepts,
530 although the local board is likely to insist on consistency between or among the colleges in the
531 district. If colleges have different policies and procedures, each college's faculty would have to
532 accept the possibility that someone hired under the equivalency policy in a sister college may be
533 assigned to their college, unless bargaining agreements or other policies preclude this possibility.

534
535 An alternative arrangement is to have a district-wide equivalency policy and set of procedures to
536 which the academic senate of each college agrees. Hiring committees would submit the
537 documentation of applicants who claim equivalency to a district equivalency committee, which
538 would make a decision. This arrangement has the advantage of allowing a part-time instructor
539 whose equivalency has been established to teach in any college in a district.

540

541 **SURVEY ON EQUIVALENCY PRACTICES**

542

543 To determine how faculty were meeting their responsibilities for establishing equivalency
544 policies and procedures and carrying them out, the Academic Senate surveyed local senates in
545 2004 (reported in the *Rostrum*, December 2004). The survey results indicated that senates
546 understand the need for equivalency committees and are satisfied with the way equivalencies on
547 their campuses are determined. Respondents reported that there is virtually no evidence that
548 administrators play a major role in determining equivalency on their campuses. Equivalency
549 processes are conducted by discipline faculty, often in conjunction with a senate committee. On
550 the other hand, there were reports that policies and procedures are not always followed
551 consistently.

552

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

561

562 **CONCLUSION**

563

564 AB1725 provides the intent language of equivalency and is explicit concerning faculty
565 responsibility: Faculty members derive their authority from their expertise as teachers and
566 subject matter specialists and from their status as professionals. As a result, the faculty have an
567 inherent professional responsibility in the development and implementation of policies and
568 procedures governing the hiring process. *Equivalency considered in this light will remind us*

569 *that our guide must be the published minimum qualifications.* Legal Opinion L 03-28 reiterates
570 and supports adherence to minimum qualifications for a discipline. To maintain the academic
571 integrity of the community colleges and their faculty, equivalency to those minimum
572 qualifications for hire must be granted with careful consideration.
573

574

RECOMMENDATIONS

575

576

1. Equivalency must be determined primarily by discipline faculty.

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2. Equivalency processes for part-time faculty and “emergency hire” should be no different from equivalency for full-time faculty.

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581

3. Local senates must ensure that their district and college policies and processes do not allow for single-course equivalencies.

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583

584

4. Academic senates should assure consistency of the equivalency process.

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5. Equivalency decisions should be based on direct evidence of claims (e.g., transcripts, publications, and work products).

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6. Claims of equivalence must include how both general education and specialization are met.

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592

7. Human resources offices should NOT screen for equivalency.

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8. Local senates must never allow equivalency to be delegated to administration or classified staff.

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9. Equivalency policies should be reviewed every few years.

598

599

10. Criteria for the acceptance of eminence as a means to establish equivalency must be clearly defined in hiring policy.

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602

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.

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606

12. Additional training materials may be obtained from the Academic Senate office and/or at its website.

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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.”

**CALIFORNIA COMMUNITY COLLEGES
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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