

PART-TIME FACULTY NEGOTIATIONS

Parity, Compensation, and Benefits

Presented by:

Julie Johnson

CHRO, San Mateo CCD

Rex Randall Erickson

Partner

**MCDUGAL BOEHMER FOLEY
LYON MITCHELL & ERICKSON**

– A PROFESSIONAL CORPORATION –



Presentation Overview

1. Part-Time Faculty Overview
2. What is Parity Anyway?
3. Negotiating Compensation
4. Benefits!

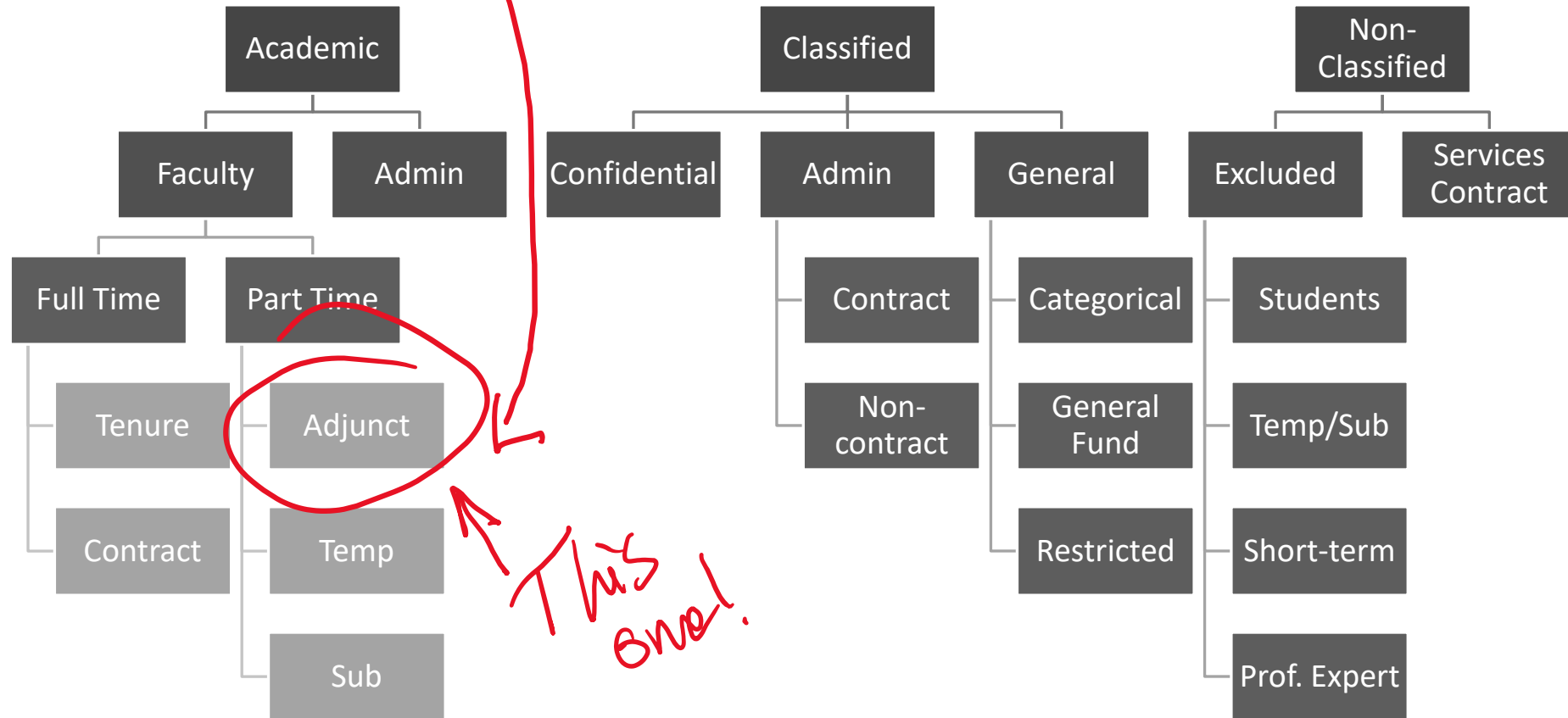




PART-TIME FACULTY



We Are Here

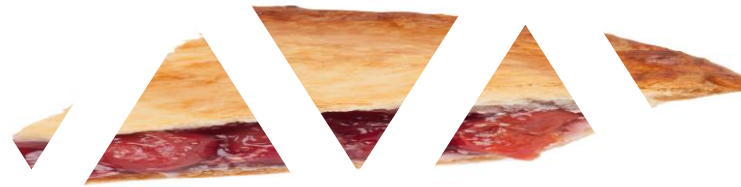


Education Code

“Associate”

“Adjunct”

“Part-Time”



Temporary academic employees who are hired on a semester-to-semester basis in assignments that do not exceed sixty-seven percent (67%) of the hours per week considered a full-time (regular or contract) assignment.

(Educ. Code § 87482.5.)

Programmatic Flux

To fill its short-range needs, a community college district may employ a qualified person as a temporary employee.

(Educ. Code § 87604; Haase v. San Diego Community College Dist. (1980) 113 Cal.App.3d 913, 917.)

Strict Limits; Permissive Retention

The Legislature has created pathways for collectively-bargained reemployment preference for part-time faculty, while recognizing that “no part-time faculty member shall have reasonable assurance of continued employment at any point, irrespective of the status, length of service, or reemployment preference.”

(Educ. Code § 87482.3.)

Part-time faculty may be released at the discretion of the District at the end of a day or week.

(Educ. Code § 87665.)

Potential Pitfalls

Because there are no due-process protections for temporary employees, the statutory designations are narrow and must be strictly interpreted.

(Peralta Federation of Teachers v. Peralta Community College Dist. (1979) 24 Cal. 3d 369.)

Part-time faculty that work in excess of 67% do not meet the terms of the statutes, and are no longer considered “temporary.” They gain an entitlement to be reclassified as a contract employee.

(Stryker v. Antelope Valley Community College District (2002) 100 Cal.App.4th 324.)



PARITY

THE SAME, BUT...NOT

What actually is “Parity”?

2001 CCCCCO Policy Statement:



California
Community
Colleges

“

[P]art-time faculty should be paid comparably to full-time faculty for those professional responsibilities expected equally of full- and part-time faculty.

”

“

[S]pecific definitions and policies regarding comparable pay are to be determined locally, through the collective bargaining process.

”

What actually is “Parity”?

2002 ASCCC Policy Statement:

“

The Academic Senate recommends that local senates work with their local collective bargaining agent, administration and board of trustees to establish principled definitions and policies regarding part-time faculty pay equity, ‘comparable pay for comparable work’ and what should be the professional expectations of all faculty.

”



What actually is “Parity”?

2004 AB-1417:



* kind of

“Funds allocated under the Budget Act of 2004 “shall be allocated solely to **increase the compensation of part-time faculty** from the amounts previously authorized” and “shall be used to assist districts in making part-time faculty salaries **more comparable to full-time salaries for similar work**, as determined through each district’s local collective bargaining process.” ”

What actually is “Parity”?

2009 ACR-138:



** kind of*

“

Community college districts have become “dependent upon a contingent workforce that is poorly compensated and too often lacks basic supports” and the method of prorating part-time faculty “should be **subject to a collective bargaining process** that includes the exclusive representatives of faculty.”

”





The Real World

What have you seen at your District?

EVERYTHING IS FINE

F A C K T
F A K E





The Canary

Karen Roberts, et al. vs. Long Beach Community College District

April 4, 2022

Two adjunct faculty filed a lawsuit on behalf of themselves/others against the Long Beach Community College District, based on the District's alleged **unlawful pay policies and/or practices** which denied Plaintiffs and Class Members the **minimum wages** legally owed to them for work performed during the Class Period.



f G
,

The Coal Mine

Martin, et al. v. Los Rios Community College District, et al.

November 30, 2022

A complex class-vs-class suit involving several part-time adjunct faculty employees of several districts across the state, suing their employers and the California Board of Governors on the theory that adjunct faculty are not paid at least **minimum wages**.

IMPLICATIONS





SPECIFIC TOPICS IN DISPUTE

COLA Adjustments

Cost of Living Ajustment

Does NOT pace actual CPI

Allows coverage of ongoing/increasing costs

- STRS contribution rate up >10% in last 10 years
- PERS contribution rate up >12% in last 10 years
- Benefit rates variable by District, but trending up



COLA Adjustments



NOT an automatic pass-thru

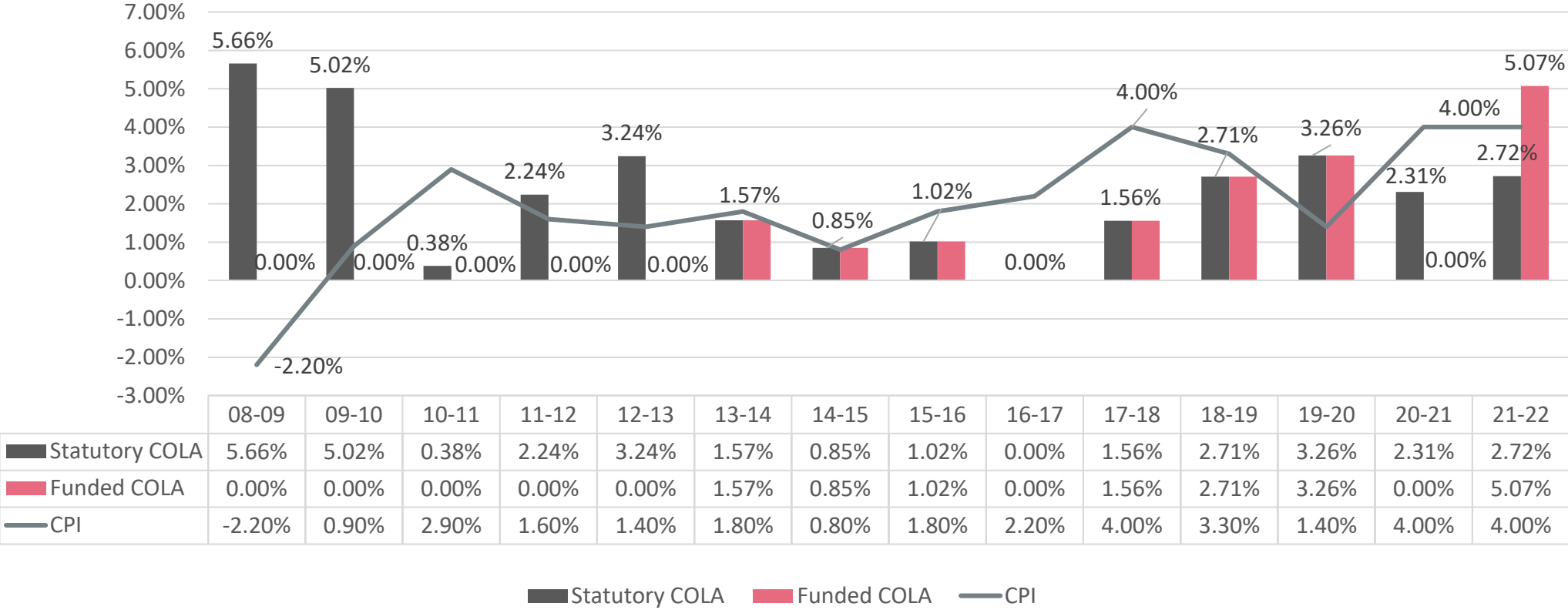
- Prior Contracts?
- Perception of “Past Practice”?

BUT how to communicate to unions?

- Managing Expectations
- Early Messaging

COLA Adjustments

Comparison of Statutory COLA, Funded COLA, and CPI



Office Hours

Reimbursement Program (Educ. Code 87880 *et seq.*)

Unlike Medical, 50% reimbursement is MAX level

Minimum Hours:

“The compensation paid to part-time faculty under this article **shall equal** at least one paid office hour for every two classes or more taught each week or 40 percent of a full-time load as defined by the community college district.”

Office Hours

Excluded from 67% Calculation (Educ. Code 87882.)

Reinforced in 87884(b):

“These hours **shall not be counted** towards the hours per week of teaching adult or community college classes for purposes of acquiring eligibility for tenure or for purposes of fulfilling any probationary hour requirements.”

Ancillary Work

The calculation under the “67% Rule” is based upon what constitutes a full-time load for a full-time faculty member. Courts have looked to how the collective bargaining agreement determines a full-time load for full-time faculty when making calculations as to whether part-time faculty have **exceeded** the minimum under the 67% rule.

If a **stipend** doesn't factor into full-time load, it isn't part of the 67%

*(Theiler v. Ventura County Community College Dist. (2011) 198 Cal.App.4th 852;
Womack v. San Francisco Community College District (2007) 147 Cal.App.4th 854, 861.)*

Ancillary Work

Ancillary “rate” – define hourly compensation? Key to salary schedule? Assign separate stipend based on nature of work?

Other work done by part-time faculty:

- Committee work?
- Assessment work?
- Mandatory trainings?
- District-approved conference/travel?



The Real World

What have you seen at your District?



PART-TIME MEDICAL

Funding Increase

Education Code 87860-87868

Was funded at \$490,000/year

2022-2023 – funded at \$200,490,000

2023-2024 – funded at \$200,490,000

Continuity & Sustainability

Funding via Budget Bill; **not** perpetual

Union lobbying cost-estimates assumed rate of \$12,424 per part-time faculty employee*

Statewide Participation Rates?

- Increased funding = increased participation
- How far does the \$200M pool stretch?

*Based on San Diego/Grossmont

Local Conditions

Different Benefit Providers

Different Medical Plans

Different Cost-per-enrollee

Different Participation Levels

Different Risk-pooling

Inconsistent Applications

CalPERS Medical “Less Than Halftime”

Only allows PT faculty to enroll at <50% Load

District must fund all medical for PT faculty at <50%

Only >40% reimbursable; all others

Doesn't allow PT faculty at 50-67% Load

~~Inconsistent Applications~~— Fixed?

Budget Trailer - Senate Bill 142, signed September 13, 2023

Added language to provide community college districts with the option to contract for part-time faculty healthcare consistent with AB190:

Notwithstanding subdivision (b) of Section 22772, a contracting agency that is a community college district may, by resolution filed with the board, deem all part-time faculty employees who have an appointment of at least one semester and whose teaching assignment with one or more community college districts equals or exceeds two courses or 40 percent of the cumulative equivalent of a minimum full-time teaching assignment, to be employees subject to this part.



The Real World

What have you seen at your District?

QUESTIONS?

THANKS!