

LECTURER HANDBOOK MODULE #1: UNDERSTANDING THE PREFERENCE FOR WORK ORDER

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This is a guide prepared by the CFA Lecturers Council, which we hope provides information and resources for Lecturers who are told that they have lost classes or have lost all of their work. For questions this guide doesn't adequately address, please see the links provided and the contact information at the end of the guide.

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I. UNDERSTAND THE ASSIGNMENT FOR WORK AND YOUR CONTRACT INFORMATION; MAYBE THERE'S A CLASS FOR YOU AFTER ALL:

First, you need to understand your Lecturer appointment and your contract rights. Are you a Full-time Lecturer or a Part-time Lecturer? Do you have or don't you have a 3-year appointment?

See the Collective Bargaining Agreement (CBA):

<http://www.calfac.org/2014-2017-contract>

In particular, familiarize yourself with Article 12: Appointment, and especially with Articles 12.3-12.7, 12.12-12.15, and 12.29. Article 12.29 is the Preference for Available Temporary Work section, and contains the order in which available courses must be assigned. 12.29a refers to the beginning of the academic year (i.e., Fall), while 12.29b governs the assignment of classes during the academic year (i.e., terms other than Fall). The CSU administration must follow the order of appointments in Article 12.29, and decisions must be based on your official Personnel Action File (PAF). You have the right to see your own file, and should do so at least once per year. Your PAF may be found either in the office of your Dean or in the campus Faculty Affairs Office.

In addition, review the information in the 2014-2017 Lecturers' Handbook, downloadable from the Lecturers Homepage:

<http://www.calfac.org/lecturers-council> and see especially pages 10-14.

All Lecturers who have been evaluated have "careful consideration" rights for work. See the Lecturers' Handbook and Article 15 for more information about the periodic evaluation process. Pay particular attention to the new language in 15.14; not only does a Lecturer have to be provided with a minimum 5-day notice of a classroom observation, but now the required consultation explicitly has to include both the class to be observed and the scheduling of the observation. This is an important improvement in Lecturer rights.

But all Lecturers - regardless of how long they have taught in a department - should, on a yearly basis each Spring, notify the department chair in writing/email of their desire to teach in the next academic year. We have lost arbitrations because the Lecturer had never "requested" to teach a certain class. So as insurance against this, it is recommended that all Lecturers 1) go through their department's list of courses, 2) identify all of the courses that they're qualified to teach and are interested in teaching, and 3) indicate the names of the courses, the desired number of courses/units, and all of the days that they are available to teach. Even if you have been told that there is no work for you the next term, it's a good idea to email your chair expressing your interest in working and identifying all of the courses you are qualified and willing to teach.

Lecturers with 3-year appointments under Article 12.12 and 12.13 have enhanced preference for work. Departments are required to post no later than June 30th a list of Lecturers who are eligible for 3-year appointments. If your name is not on that list and you believe you are eligible for a 3-year appointment, check with your department. If that does not resolve the issue, contact your campus Lecturer Representative, your CFA campus Field Representative, and/or your campus CFA Faculty Rights Chair.

For an overview of Lecturer rights, download the Lecturer Nuts & Bolts PowerPoint. You can find it on the same Lecturer homepage where you found this Lecturer Handbook module: <http://www.calfac.org/lecturers-council> Finally, check out the information updates for Lecturers, also accessible from the Lecturers Homepage.

What is pertinent here is that Full-time Lecturers with 3-year appointments are higher in the preference for work (#1 in 12.29) than are Part-time Lecturers with 3-year appointments (#3 in 12.29), while Full-time and Part-time

Lecturers without 3-year appointments are lower still (#7) in the Fall term, although Full-time Lecturers on 1-year appointments do have preference for work over 1-year Part-time Lecturers during the academic year (12.29b5). The significance of this in times of reduced course offerings is as follows: if your entitlement has not been met and a Lecturer in your department who is lower than you in terms of 12.29 preference for work is assigned a class or classes that you're qualified to teach, you have the contractual right to bump them from that course in the same way that tenure-stream faculty can bump any Lecturer from his or her course.

The first thing one should do when faced with a loss of work, is to ask the following five questions:

- 1) Have any courses in your department been assigned to TAs? If so, has there been an increase in TAs over the last academic year? If this is the case, contact your chapter Field Representative or Faculty Rights committee, as pressure may be brought to bear that might free up those courses for Lecturers. It is also important to understand that any graduate student serving as a TA must be a currently matriculated student in that department's degree program.
- 2) Have any courses in your department been assigned to Lecturers? If so,
- 3) Are you qualified to teach any of those courses? If you have ever taught the course before, you are de-facto qualified. If you haven't taught the class before but the content is well within your academic area of expertise, you are also qualified to teach the course. It is important to understand that we have arbitration decisions establishing that you merely need to be qualified to teach a class – not better qualified than a Lecturer lower in preference for work than yourself. If so,
- 4) Are any of those Lecturers **new hires** who did **not** teach in your department in the current or prior academic year? Article 12.29 prohibits the hiring of non-incumbent Lecturers unless Article 12.29a8 or b9 have been followed. New in the 2012 CBA, 1-year part-time Lecturers are now included in 12.29a8ii and 12.29b9ii (the "second bite of the apple"). Additionally, it is important to understand that incumbent term (semester or quarter) Lecturers are included in 12.29a8iii's and 12.29b9iii's "Last offer work to any other qualified candidate". So this includes all remaining incumbent Lecturers who need to be offered classes before the department can hire from outside the department. As always, if a course is available to temporary faculty and no incumbent Lecturer is qualified to teach it, then the department is allowed by the CBA to

hire a new Lecturer.

- 5) Are any of the incumbent Lecturers assigned those courses lower in Article 12.29 than you are? It is important here to understand that there is no seniority within an appointment class (cohort) of Lecturer; instead, there are differential preferences for work between cohorts of Lecturers. So if you are a Full-time Lecturer within a 3-year appointment, you can bump Part-time Lecturers with 3-year appointments as well as all Lecturers without 3-year appointments. If you are a Part-time Lecturer with a 3-year appointment, you can bump any Part-time Lecturer without a 3-year appointment (as well as Full-time Lecturers with 1-year appointments). Bumping a fellow Lecturer is never a pleasant eventuality to consider, but it is important to know whether you have that right. It's also important to defend the contract, as well as defend the gains we've accumulated in discouraging the churning of Lecturers and the encouraging of a stable, long-term faculty workforce.

If there are insufficient courses available to meet the entitlement of Lecturers within the same 12.29 cohort, then the department is allowed to use some objective criterion, i.e., length of time in the department (i.e., straight seniority) , the number of times each Lecturer has taught the class, the student opinion of teaching surveys, periodic reviews for the courses in question - some objective criterion that is not simply a capricious decision by the chair. Chairs are permitted to use objective criteria to determine which Lecturer is "better qualified" if deciding between Lecturers in the same cohort. But if you are a Lecturer who is higher in preference for work than another Lecturer, you only have to be qualified - not "best qualified" to be given the work.

Lecturers on semester or quarter appointments who taught in the previous academic year have rights (under 12.29a7 and 12.29b8) to at least receive careful consideration before there are new hires.

If you have a 3-year appointment and your entitlement hasn't been met, you have preference for any classes that have been moved to extension work. See Article 40.22.

II. Understand Layoff, Reduction in Time Base, and Non-Reappointment:

It is important to understand that all Lecturers within a cohort of 12.29 have equal preference for work, so long as they are qualified to do the work in

question; e.g., in 12.29a1, all 3-year full-time appointees pursuant to Articles 12.12 and 12.13 have equal preference for work. The differences occur in what happens to different Lecturers once it is determined they have lost work.

A. Full-time Lecturers with 3-year appointments:

In times of budget crisis, Full-time Lecturers (i.e., those with a 15 unit time base/a 1.0 appointment) who are within a 3-year appointment have to be officially laid off, as per article 38.11 and 38.21; this is true whether they lose one class – or even one unit – or lose all classes. If you are a Full-time Lecturer beginning year one, two, or three of a 3-year appointment, then the CSU is required to give you formal notification of layoff with at least 45 days notice. In addition to this formal layoff notice, such Lecturers are also placed on an official departmental reemployment list which maintains their appointment rights for up to 3 years, provided that they inform their department chair of their current contact information and continued interest in teaching by July 1 of each year they're on the reemployment list. Please see Articles 12.12f and 38.48 for a complete discussion.

If you are beginning a subsequent 3-year appointment, see Article 12.13. If there aren't available courses to meet your full-time entitlement, you can be given a new 3-year appointment that is less than full-time. If you are given no courses, then the terms of the Collective Bargaining Agreement dictate that such Lecturers are also placed on the official reemployment list and will have all rights pursuant to Articles 12.7, 12.8, and 38.48.

B. Full-time Lecturers without 3-year appointments:

If you are a Full-time Lecturer on a 1-year appointment, the partial or complete reduction of your time base is allowed due to budget and enrollment, and does not fall under the layoff article 38 (see 12.29b5). Please see the Lecturer Crisis Modules #2 on health benefits, COBRA, retirement options, and Module #3 on unemployment insurance.

C. Part-time Lecturers with 3-year appointments:

In times of budget crisis, Part-time Lecturers who have 3-year appointments with formal entitlement have preference for courses over all Lecturers without 3-year appointments, but if insufficient courses are available, they can be given courses below their entitlement. If they are within a 3-year appointment, their entitlement remains the same for the entire three years, despite that entitlement not being met. If their entitlement isn't met during year 3 of a 3-year appointment, this will result in their subsequent 3-year appointment having a lower entitlement.

12.12f: "If no work exists in the department to support the initial or subsequent three-year appointment of the temporary faculty unit employee, or if the time base of the temporary faculty unit employee was zero during the third year of her/his three-year appointment, s/he shall be placed on a departmental list pursuant to Article 38.48. When such temporary faculty unit employee is officially notified that no work exists to support the initial or subsequent three-year appointment, the official notification shall also inform the temporary faculty unit employee of the right to be placed on a list for a period of three (3) years. No later than July 1 of each year during the period the temporary faculty unit employee is on the list, the temporary faculty unit employee must inform her/his department chair of the temporary faculty unit employee's interest in and availability for employment. Included in this written notice shall be current, accurate contact information. Failure to notify the chair shall result in removal from the departmental provision 38.48 list."

Please see Article 38.48 for additional information. If you are a Lecturer who has been placed on a department reemployment list, be sure to carefully review all provisions of Article 38.48 and to keep your chair informed about your current contact information and your availability for work by July 1 of each year you're on the reemployment list. And remember: 3-year Lecturers on the department reemployment list have preference for work (12.29a4 and b4) over all Lecturers without 3-year appointments.

D. Part-time Lecturers with 1-year appointments:

If you are a Part-time Lecturer on a 1-year appointment, the partial or complete reduction of your time base after the end of your appointment is allowed due to budget and enrollment, and there is no contractual obligation to reappoint you. But if you have been evaluated and haven't received an unsatisfactory periodic evaluation, you should receive the same number of units you taught the previous academic year and have been offered courses you are qualified to teach up to and including a full-time, 15-unit appointment before any new Lecturer is hired to teach those courses. In the Fall term, you are in the same cohort as term (semester or quarter-appointed) Lecturers, and all Lecturers in the 12.29a7 cohort can be appointed in any order. But during the academic year, meaning Winter quarter or Spring semester or quarter, PT Lecturers with 1-year appointments have higher preference for work (12.29b6) than do term-appointed Lecturers (12.29b8), which means that the 1-year Lecture has the contractual right to bump the term Lecturer from any course the former is qualified to teach if their "entitlement base" has not been met. Please see the next sections on health benefits, COBRA, retirement options and unemployment insurance.

NOTE: For all Lecturers who are non-reappointed: If you return to employment in the CSU within 10 months of separation, you should contact HR/Benefits on your campus and formally request that the sick leave you had when you separated be credited back to your account (see article 24.4). If your separation is longer than 10 months, you should still make the request; even though the campus is not contractually obligated to credit it back to you, they might.

- E. New in the 2014-2017 CBA is the contractual right to be paid for the "16th unit" or however many units above 15 you need to be appointed in order to at least be full-time. This was an important gain in the new CBA - not just for those on quarter campuses, but also those Lecturers on semester campuses whose departments now have 4-unit classes. This new language is found in the new 12.29d, which not only mandates those extra units be compensated at the Lecturer's base salary rate, but also allows the Lecturer - with mutual agreement of the appropriate administrator - to "roll" those units above 15 to a subsequent academic term to allow a reduction in workload without a reduction in compensation. So no longer will Lecturers be forced to work for free in order to be appointed full-time (15 WTUs).

For additional guidance, please contact your campus Lecturer Representative or local CFA chapter for additional help; particularly your campus CFA field staff and Faculty Rights Chair. For contact information go to: <http://www.calfac.org/lecturers-council-representatives> or <http://www.calfac.org/campus-cfa-chapters>

We hope that you have found this guide to be useful. These are very challenging times, and we realize that this may sound like cold comfort if you have been told you have no classes, but we Lecturers are nonetheless better off due to the successive gains hard won by the CFA.