

Questions and Answers

Re-opening Adult Ed Tenure

What is the main issue?

After working for over a year with representatives of the UTLA Adult and Occupational Education Committee to revise the previous tenure process in DACE, Assistant Superintendent Santiago Jackson decided to refuse to tenure any more teachers in DACE. That was nearly two years ago. As a result, school site administrators are having difficulty finding qualified teachers to staff classes. The division has resorted to a number of ways, some of them allegedly illegal, to employ teachers.

When and why was tenure closed?

Santiago Jackson suspended tenure in January 2006 in retaliation for a class action lawsuit over alleged illegal employment practices by DACE.

Committee Chair Ernest Kettenring, plaintiff in the lawsuit, tried on several occasions to get the division to discuss the issue, through both a grievance and in informal discussion. The initial objective was not to sue for back wages, but to get the district to change its employment practices to comply with the California Labor Code. The district refused to take the issue seriously, resulting in the next logical step after discussion fails, legal action. The lawsuit is the product of a failure of leadership by the Assistant Superintendent.

DACE requires hourly wage teachers to work “off the clock,” including lesson planning, paper grading, attendance at meetings, and, most egregiously, the ten minute rule, whereby teachers are required to be in their classrooms ten minutes before and after their paid shift. All of the above are required as a condition of continued employment.

The basic premise of the lawsuit is that an employer cannot require work of hourly wage employees during time that they’re not being paid. The district must either pay an hourly wage for all required work, or put adult ed teachers on the K-12 salary schedule – salaried employees, unlike hourly wage employees, can be required to perform other duties outside their assigned classroom hours, as in K-12.

The objective of the lawsuit is to compel the district to change its current employment practices to conform to state law and to pay back wages to all adult ed teachers for the past practice of compelling work without pay. The estimate of back wages owed is \$60 million per year. At present, the lawsuit seeks back wages going back to November 2006. While the district continues to deny the merits of the legal claim and the issue winds slowly through the court system, the potential fiscal liability to the district is increasing at a rate of \$6 million per month. The longer the district refuses to change its employment practices, the larger the claim for back wages grows.

How will reopening tenure affect ADA?

Permanent status, which tenure allows, will promote a core of full-time professional teachers at each school. Our most dedicated teachers will gain more experience, resulting in better teaching. It is our belief that quality of instruction is the most important factor in student attendance. Evans Adult School, with the highest percentage of tenured teachers, is one of the highest ADA generating schools in the Adult Division.

How does the DACE tenure procedure differ from K-12?

K-12 teachers automatically receive tenure after two years of successful teaching. In DACE, there is a required process to become eligible for tenure that includes observation and evaluation.

Why are the two systems so different?

In K-12, there is an emphasis on student achievement, unlike DACE, where the primary emphasis is on student attendance. If DACE valued quality education as much as generating income, they would also value teaching experience and allow its most dedicated teachers to teach more classes.

What is the fiscal feasibility of tenure?

Tenured teachers do not cost any more than non-tenured; the hourly wage is unaffected by status. If anything, more tenured teachers would constitute a minor cost savings to the district. Employee turnover, exacerbated by a lack of job security, increases the costs of hiring, processing, and training teachers who then only stay a few years before moving on to a job that better meets their employment needs. The educational program would also benefit from a more stable and experienced workforce, better meeting student needs, contributing to more consistency in student attendance.

Is firing teachers the only way to deal with fluctuating enrollment?

The claim of wildly fluctuating attendance is just another truism that the administration keeps repeating to justify the status quo. If there were really an issue with wildly fluctuating enrollment, the administration would regularly re-norm administrative and classified norms. Instead, these employee categories are stable.

Student attendance is really quite stable over time. When attendance in individual classes drops, the administration is often too quick to close the class. Closing classes, with students being dumped into another teacher's class in the middle of the term, is counter-productive. When classes are closed and students dumped in the nearest class with empty chairs, students often drop out.

The DACE administration has a long history of repeating the same old excuses for maintaining the status quo, which coincidentally usually means that they don't need to make any effort to re-structure programs to better meet student needs.

Enrollment fluctuation can easily be dealt with through annual attrition, rather than through firing teachers willy-nilly. Normal attrition, through resignations and retirement among the 3,200 teachers in DACE, could accommodate most needs to adjust the size of the work force.

Some administrators complain that tenured teachers become lazy and complacent and can't be fired. Is it true that permanent teachers can't be fired?

No. The Education Code provides a process for terminating teachers with permanent status. However, the Ed Code requires that there be objective reasons for termination, beyond mere whim. Some administrators think it's too much work.

Virtually all of the teachers in K12 enjoy job security. DACE prefers to keep a work force of contingent workers instead. Remember that each of those administrators who complains about tenured teachers seems to think it's perfectly acceptable, in fact necessary, that they themselves enjoy permanent status in their jobs. We call that hypocrisy.