

SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

This Agreement is made and entered into by and between the Minnesota State College Faculty (“MSCF”) and Minnesota State Colleges and Universities (“MINNESOTA STATE”).

1. The parties wish to settle all of their differences without further litigation costs to any of them.

2. MSCF and MINNESOTA STATE have agreed to a complete settlement of all of the disputes existing between them stemming from alleged inaccurate academic year faculty workload calculations, including the lawsuit entitled Minnesota State College Faculty v. Minnesota State Colleges and Universities, Ramsey County District Court, Civil File No. 62-CV-17-7462, and existing and future disputes over the meaning of the arbitration award issued by Jeff Jacobs on May 16, 2016 (“Award”).

3. In response to this lawsuit, MINNESOTA STATE claimed that it had fully and completely implemented the Award by paying all affected faculty members compensation that was due and owing under the Award with respect to faculty workload calculations in which it had not used both credits and contact hours for pay determination during and prior to Fiscal Year 2016. Minnesota State also claimed that the Award need not be implemented prospectively. MSCF disputes these claims.

4. To fully and completely resolve this lawsuit and any existing or future disputes over the meaning of the Award, the Parties agree to the terms set forth in this paragraph. Each Party further agrees to take the actions described in this paragraph as applicable. The Parties agree that this exchange of promises constitutes good and valuable consideration.

A. MSCF agrees that claims with respect to academic year faculty workload calculations for failure to use both credits and contact hours for pay determinations during Fiscal Year 2016 or any time prior, whether known or

unknown, are hereby waived and released. No additional payments beyond those referenced in Paragraph 3 of this Settlement Agreement or actions of any kind will be taken with respect to such claims.

B. Except as otherwise indicated in this Settlement Agreement, MINNESOTA STATE will calculate faculty workload assigned to faculty by its colleges as set forth in the attached schedule of assignments, Exhibit B. For purposes of this Settlement Agreement, the term “faculty” means those employees employed by MINNESOTA STATE’s colleges who are or were assigned to bargaining unit 210. For purposes of this sub-paragraph, proportionate value means: $\# \text{ credits} \div 15 \text{ credits} \times 20 = \text{contact hours}$ or 1 credit equals 1.3333 contact hours for Former MCCFA assignments and $\# \text{ credits} \div 16 \text{ credits} \times 27 \text{ contact hours} = \text{contact hours}$ or 1 credit equals 1.6875 contact hours for Former UTCE assignments. Consistent with Appendix A of the 2017-2019 Master Agreement between the Minnesota State Colleges and Universities Board of Trustees and the Minnesota State College Faculty (MSCF CBA), MINNESOTA STATE is solely responsible for determining whether any given faculty member is a Former MCCFA or Former UTCE faculty member.

C. Notwithstanding any other agreement or understanding to the contrary, the following work assignments will be treated as set forth in this paragraph: lecture classes will be valued at the ratio of 1 credit to 1 contact hour; the lab portion of lecture-labs, excluding flex-labs, will be valued at the ratio of 1 credit to 2 contact hours, except as otherwise determined by the Academic Affairs and Standards Council process set forth in the MSCF CBA.

D. To resolve MSCF's claims for back pay in this litigation for affected faculty members employed during Fiscal Years 2017 and 2018, respectively, the Parties agree to the following:

- a) The Parties agree that individual faculty members' claims are to be determined by an automated spreadsheet approved by the Parties ("Calculator").
- b) Upon execution of this Settlement Agreement, MSCF will distribute the Calculator to all faculty it believes have valid claims for additional compensation under this Settlement Agreement.
- c) Current or former faculty members seeking additional pay based on the Award are required to complete the Calculator and submit it by **11:59 p.m, on October 31, 2019** as an e-mail attachment to **an e-mail address established for this purpose**. MSCF will be provided with copies of all claim submissions. To perfect a claim, each faculty member is required to enter the following information into the Calculator:
 - i. all course assignments, including all lectures and labs in the faculty member's regular workload; and
 - ii. all non-instructional assignments included in the faculty member's regular workload.

Faculty members must complete and submit a separate Calculator for each Fiscal Year for which the faculty member seeks additional pay. Only academic year assignments will be entered into the Calculator.

- E. MINNESOTA STATE will provide MSCF with a list of paid assignments by faculty member within 10 calendar days following the final execution of this Settlement Agreement. The assignments will be shown at the assignment code level for each faculty member as requested by MSCF. The parties understand that for purposes of evaluating disputed Perfected Claims as described in Paragraph 4.I. of this Settlement Agreement, the Referee is not bound by the assignment codes assigned by colleges or MINNESOTA STATE.
- F. Faculty members who fail to submit completed Calculator spreadsheets or who submit Calculator spreadsheets after 11:59 p.m. on **October 31, 2019** will be deemed to have waived any claim for additional compensation under this Settlement Agreement.
- G. Calculator spreadsheets that are timely submitted by faculty members seeking additional pay under the Award (“Perfected Claims”) may be reviewed and disputed by MINNESOTA STATE. MINNESOTA STATE will complete its evaluation within 90 calendar days of **October 31, 2019** and identify any claims it disputes to MSCF.
- H. Upon execution of this Settlement Agreement, the Parties agree to promptly select a referee (“Referee”) to review Perfected Claims disputed by MINNESOTA STATE. The Referee will be paid by MINNESOTA STATE. Total compensation for the Referee will not exceed \$50,000.
- I. The Parties will handle disputed Perfected Claims as follows:
- a) MINNESOTA STATE will submit the Calculator for any Perfected Claim it disputes, along with an explanation of its objection and supporting materials

to the Referee. MINNESOTA STATE will contemporaneously copy MSCF with all materials it submits to the Referee to dispute Perfected Claims.

- b) MSCF will respond to MINNESOTA STATE's disputed claim(s) within 30 business days of MSCF's receipt of MINNESOTA STATE's submission of the dispute to the Referee. MSCF will copy MINNESOTA STATE on any materials it submits to the Referee to respond to any disputed claims.
- c) MINNESOTA STATE shall submit any reply to MSCF's response within 30 business days of MSCF's submission. MINNESOTA STATE's reply is limited to matters raised by its original submission and new matters raised by MSCF's response. MINNESOTA STATE will copy MSCF on any materials or argument it submits as a reply to MSCF's response.
- d) Upon request of either Party, and for good cause shown, the Referee may grant an extension to either party of up to 60 days to complete the activities described in Paragraph 4.I. of this Settlement Agreement. Additional extensions may be agreed to by the Parties.
- e) No further submission of materials or arguments by the Parties shall be permitted following MINNESOTA STATE's reply. Materials or arguments not submitted in a timely manner as described herein shall not be considered by the Referee. The Referee will have 60 calendar days to accept, reject or modify any faculty claim disputed by MINNESOTA STATE. The Referee will notify both Parties of his/her decision. The decision of the Referee will be final and binding on the Parties and faculty. There is no further appeal or review.

- J. Within 20 business days of receipt of an Order of Protection issued by the court in this matter, MINNESOTA STATE will provide MSCF with 1) the name and last known contact information (email and mailing address) of every bargaining unit 210 member employed at any time during FY17 and FY18 and 2) a separate list of the name and last known contact information (email and mailing address) of the 179 faculty members that MINNESOTA STATE identified as being affected by the arbitration award in FY18 during its internal review of individual faculty workloads.
- K. MINNESOTA STATE's total liability for undisputed Perfected Claims and the amounts determined to be owed by the Referee ("Valid Claims") shall not exceed \$1.9 million dollars. Should the aggregate amount of Valid Claims exceed \$1.9 million, MINNESOTA STATE will proportionately adjust all such claims to ensure that the aggregate amount to be paid does not exceed \$1.9 million. If the aggregate amount of Valid Claims is less than \$1.9 million, MINNESOTA STATE will pay only such lesser amount.
- L. MINNESOTA STATE will pay Valid Claims as soon as reasonably practicable following the final determination of any disputed Perfected Claims by the Referee, but no later than 60 calendar days following such determination. Taxes owed by MINNESOTA STATE and any mandatory benefit or retirement contributions owed and required to be paid by MINNESOTA STATE will not count against the \$1.9 million cap.
- M. All payments to individual faculty members will be processed as single lump-sum payments. For faculty who remain employed with MINNESOTA STATE, payments will be subject to standard withholding for lawsuit/arbitration

settlements of claims for unpaid compensation, including, but not limited to, deductions for taxes, FICA, retirement (if applicable), and reflected on the faculty member's W-2. For faculty who are no longer employed by MINNESOTA STATE, payments will be processed through the payroll system as special earnings and applicable withholding and deductions will be also be taken (these employees will be issued a W-2).

- N. MINNESOTA STATE will take steps to ensure its colleges value faculty assignments in accordance with the attached schedule or as otherwise described in this Settlement Agreement for Fiscal Year 2019. MINNESOTA STATE will use good faith efforts to integrate the schedule of assignments into its human resources management system for Fiscal Year 2020.
- O. The Parties agree that this Settlement Agreement supersedes the Award. MSCF agrees that no further grievance or claims, whether such claims pre-date or ante-date this Settlement shall be made under the Award and that the Award does not represent any form of precedent or controlling principle to the extent it conflicts with this Settlement Agreement. This Settlement Agreement does not limit the ability of MSCF to file future grievances or claims that are not waived or resolved by operation of this Settlement Agreement over alleged violations of the Parties' CBA.
- P. All of MSCF's open or pending grievances asserting claims that academic year faculty workload has not been proportionately valued are hereby deemed fully resolved and are withdrawn.
- Q. Nothing in the Settlement Agreement will be construed to limit the Parties' discretion to negotiate new or different terms to the collective bargaining

agreement between them that may modify or supersede the application of proportional value as set forth in this Settlement Agreement.

R. Any disputes between the Parties concerning implementation of this Settlement Agreement or the value of faculty assignments as described herein will be subject to the exclusive remedial process set forth in the grievance and arbitration provisions of the Parties' CBA.

MSCF represents and agrees that no representations as to taxability, tax treatment or tax consequences have been made to it by MINNESOTA STATE or the State of Minnesota.

5. MSCF and MINNESOTA STATE understand that nothing in this Settlement Agreement precludes MINNESOTA STATE from complying with the Minnesota Government Data Practices Act or other federal, state or local law, rule or regulation; an authorization for the release of information executed by MSCF; a subpoena from federal, state or local law enforcement; or a court order.

6. It is expressly understood and agreed as a condition hereof that this Settlement Agreement shall not constitute nor be construed to be an admission of any wrongdoing or liability on the part of MINNESOTA STATE, the State of Minnesota, or any of their respective past or present agents, representatives, officers, or employees.

7. The parties understand that the release of information by MINNESOTA STATE about this matter is governed by Minn. Stat. § 13.01 *et seq.* ("Minnesota Government Data Practices Act") and Minn. Stat. § 15.17 *et seq.* ("Official Records Act"). The parties agree that the specific reasons this dispute is being settled are: (1) to avoid any and all further costs of litigation; and (2) to avoid any and all further risks of litigation. The parties agree that the statement of specific reasons in this paragraph for settling this dispute complies with the requirements of Minn. Stat. § 13.43, subd. 2(a)(6).

8. In consideration for the payments and claim process described in paragraph 4 above, and in exchange for the promises herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, MSCF, its administrators, representatives, agents, attorneys, successors and assigns, completely releases and forever discharges MINNESOTA STATE, and the State of Minnesota, and all of their respective present and former officers, agents, representatives, employees, attorneys, insurers, predecessors and successors in interest, and assigns, in their official and individual capacities, from each and every legal claim or demand of any kind that MSCF ever had or might now have, whether or not any such claim is known to them with respect to uncompensated academic year faculty workload involving proportional evaluation for the work assignments identified in the attached Exhibit B. This release specifically includes, without limitation, all claims MSCF raised or could have raised in the action MSCF brought against MINNESOTA STATE, entitled Minnesota State College Faculty v. Minnesota State Colleges and Universities, Ramsey County District Court, Civil File No. 62-CV-17-7462. MSCF does not release or waive claims that it may have for uncompensated summer pay or uncompensated pay as the result of inaccurate workload calculations in FY19. These claims will be subject to the exclusive remedial process set forth in the grievance and arbitration provisions of the Parties' CBA.

9. MSCF, by and through its counsel, shall, upon execution of this Settlement Agreement, execute a Stipulation Of Dismissal With Prejudice, attached hereto as Exhibit A, prepared in connection with the dismissal of the lawsuit MSCF brought against MINNESOTA STATE, entitled Minnesota State College Faculty v. Minnesota State Colleges and Universities, Ramsey County District Court, Civil File No. 62-CV-17-7462, and thereby agrees to the dismissal with prejudice of this litigation.

10. The parties agree that this Settlement Agreement constitutes the entire agreement between them and no modification of this Settlement Agreement and/or other promises or agreements shall be binding unless in writing and signed by all the parties hereto.

11. This Settlement Agreement is to be interpreted and enforced in accordance with the laws of the State of Minnesota. Any action to enforce this Settlement Agreement shall be adjudicated in the state courts of Minnesota.

12. This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed an original.


13. MSCF agrees that it has read this Settlement Agreement, knows its contents and has signed it as a free and voluntary act having had adequate opportunity to consider its terms and conditions.


Dated: 5/17, 2019

Dated: 5/22, 2019

MINNESOTA STATE COLLEGE FACULTY

MINNESOTA STATE COLLEGES AND
UNIVERSITIES

By: 
Its: President

By: 
Its: CHANCELLOR

Dated: May 17, 2019

EDUCATION MINNESOTA



NICOLE BLISSENBACH
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ATTORNEY FOR MSCF

EXHIBIT A

RAMSEY COUNTY DISTRICT COURT

Minnesota State College Faculty,

Civil File No. 62-CV-17-7462

Plaintiff,

**STIPULATION OF DISMISSAL
WITH PREJUDICE**

v.

Minnesota State Colleges and Universities,

Defendant.

WHEREAS, the above-entitled action has been fully compromised and settled,

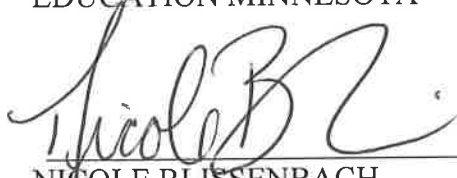
NOW THEREFORE, it is hereby stipulated and agreed, by and between Plaintiff MSCF and Defendant Minnesota State Colleges and Universities, that the above-entitled matter, together with all causes of action and claims that were or that might have been alleged therein, is dismissed on the merits and with prejudice, and without any fees or costs to any party.

Dated: May 17, 2019

Dated: May 22, 2019

EDUCATION MINNESOTA

OFFICE OF THE ATTORNEY GENERAL
State of Minnesota



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ATTORNEY FOR PLAINTIFF

ATTORNEY FOR DEFENDANT

MSCF Faculty Workload Calculations - Former UTCE-Blue

May 8, 2019

Assignment	Workload Basis	Workload Calculation Credits to Contact Hours	Language Reference 2017-2019 CBA
Lecture	Credits	1 Cr : 1 Chr	
¹ Combined Classes - Lecture	Credits	1 Cr : 1 Chr	Art 11, Sec 1, Subd 10
Distant Learning - Lecture	Credits	1 Cr : 1 Chr	Appendix B
Team Teaching - Lecture	Credits	1 Cr : 1 Chr	Art 11, Sec 1, Subd 4
Tutorial - Lecture	Credits	1 Cr : 1 Chr	Art 11, Sec 1, Subd 6

Labs	Contact Hrs	1 Cr : 2 Chrs	Art 11, Sec 3, Subd 1
¹ Combined Classes - Lab	Contact Hrs	1 Cr : 2 Chrs	Art 11, Sec 1, Subd 10
Distant Learning - Lab	Contact Hrs	1 Cr : 2 Chrs	Appendix B
Team Teaching - Lab	Contact Hrs	1 Cr : 2 Chrs	Art 11, Sec 1, Subd 4
² Art Studios	Contact Hrs	1 Cr : 2 Chrs	
² Clinicals	Contact Hrs	1 Cr : 2 Chrs	
³ Flex Labs	Contact Hrs	1 Cr : 1.6875 Chrs	Art 11, Sec 8, Subd 2
Science Labs, ² All Other Labs	Contact Hrs	1 Cr : 2 Chrs	Art 11, Sec 3, Subd 1

All Student Activity Assignments	Credits	1 Cr : 1.6875 Chrs	Art 11, Sec 9, Subd 1.A, C, D, E
Non-Uniform [Student] Activity Assignments	Credits	1 Cr : 1.6875 Chrs	Art 11, Sec 9, Subd 3
Other [Student Activity] Assignments	Credits (<i>Only if granted as release time</i>)	1 Cr : 1.6875 Chrs	Art 11, Sec 9, Subd 2
Applied Music Credit Equivalency	Credits	1 Cr : 1.6875 Chrs	Art 13, Sec 17, Subd 1
Athletic Coordination	Credits	1 Cr : 1.6875 Chrs	Art 11, Sec 9, Subd 1.B
Department/Div/Coord/Chair [includes Program Coord's]	Credits	1 Cr : 1.6875 Chrs	Art 11, Sec 3, Subd 2
High School Mentors	Credits	1 Cr : 1.6875 Chrs	Art 13, Sec 10
Independent Study	Credits	1 Cr : 1.6875 Chrs	Art 11, Sec 1, Subd 5
Internship Supervision	Credits	1 Cr : 1.6875 Chrs	Art 11, Sec 1, Subd 2
Non-Credit Instruction	Credits	1 Cr : 1.6875 Chrs	Art 11, Sec 1, Subd 8
Reasonable Credit Equivalence	Credits/Contact Hrs	1 Cr : 1.6875 Chrs	Art 11, Sec 7
Travel Time	Contact Hrs	1 Cr : 1.6875 Chrs	Art 11, Sec 3, Subd 3.A
Preparations (<i>exceeding 7</i>)	Credits	1 Cr : 1.6875 Chrs	Art 11, Sec 3, Subd 4

Assignment	Workload Basis	Workload Calculation 35 Hours to Credits	Language Reference 2017-2019 CBA
Counselors	35 Hour Week	Hrs÷35Hrs=%x16 crs	Art 11, Sec 5
Librarians	35 Hour Week	Hrs÷35Hrs=%x16 crs	Art 11, Sec 4
⁴ Other Assignments	35 Hour Week	Hrs÷35Hrs=%x16 crs	Art 11, Sec 6

Assignment	Workload Basis	Workload Calculation 35 Hours to Contact Hours	Language Reference 2017-2019 CBA
Counselors	35 Hour Week	Hrs÷35Hrs=%x27 Chrs	Art 11, Sec 5
Librarians	35 Hour Week	Hrs÷35Hrs=%x27 Chrs	Art 11, Sec 4
⁴ Other Assignments	35 Hour Week	Hrs÷35Hrs=%x27 Chrs	Art 11, Sec 6

¹Combined Class calculations for lectures and labs are based on the highest credit value of the combined courses plus one credit.

²Ratio may differ if approved through the AASC process.

³Characteristics of a Flex Lab: i. A flex lab is a delivery mode, like a lecture, lab, online, hybrid and distance delivery, ii. Flex Labs do not have discrete course components scheduled at specific times, iii. Flex Labs are asynchronous and students progress at their own pace, iv. A Flex Lab is a physical place, v. Students register for a course(s) in a Flex Lab. Course components will include an outline, syllabus, assessment and stated outcomes, vi. Students in a Flex Lab may receive a packet of materials in support of their individualized instruction and learning.

⁴Other assignments include "Other Assn Labs" which are instructional labs which require no special advance preparation and no evaluation expectations during the lab periods.

Note: the proportional value of credits to contact hours calculation (1:1.6875) = #crs ÷ 16 crs = percent x 27 Chrs = contact hours

EXHIBIT B

MSCF Faculty Workload Calculations - Former MCCFA-Green

May 8, 2019

Assignment	Workload Basis	Workload Calculation Credits to Contact Hours	Language Reference 2017-2019 CBA
Lecture	Credits	1 Cr : 1 Chr	
¹ Combined Classes - Lecture	Credits	1 Cr : 1 Chr	Art 11, Sec 1, Subd 10
Distant Learning - Lecture	Credits	1 Cr : 1 Chr	Appendix B
Team Teaching - Lecture	Credits	1 Cr : 1 Chr	Art 11, Sec 1, Subd 4
Tutorial - Lecture	Credits	1 Cr : 1 Chr	Art 11, Sec 1, Subd 6
Labs	Contact Hrs	1 Cr : 2 Chrs	
¹ Combined Classes - Lab	Contact Hrs	1 Cr : 2 Chrs	Art 11, Sec 1, Subd 10
Distant Learning - Lab	Contact Hrs	1 Cr : 2 Chrs	Appendix B
Team Teaching - Lab	Contact Hrs	1 Cr : 2 Chrs	Art 11, Sec 1, Subd 4
² Art Studios	Contact Hrs	1 Cr : 2 Chrs	
² Clinicals	Contact Hrs	1 Cr : 2 Chrs	
³ Flex Labs	Contact Hrs	1 Cr : 1.3333 Chrs	Art 11, Sec 8, Subd 2
Science Labs, ² All Other Labs	Contact Hrs	1 Cr : 2 Chrs	Art 11, Sec 2, Subd 3
All Student Activity Assignments	Credits	1 Cr : 1.3333 Chrs	Art 11, Sec 9, Subd 1.A, C, D, E
Non-Uniform [Student] Activity Assignments	Credits	1 Cr : 1.3333 Chrs	Art 11, Sec 9, Subd 3
Other [Student Activity] Assignments	Credits (<i>Only if granted as release time</i>)	1 Cr : 1.3333 Chrs	Art 11, Sec 9, Subd 2
Applied Music Credit Equivalency	Credits	1 Cr : 1.3333 Chrs	Art 13, Sec 17, Subd 1
Athletic Coordination	Credits	1 Cr : 1.3333 Chrs	Art 11, Sec 9, Subd 1.B
Department/Div/Coord/Chair	Credits	1 Cr : 1.3333 Chrs	Art 11, Sec 2, Subd 6
Occupational Program Coord	Credits	1 Cr : 1.3333 Chrs	Art 11, Sec 2, Subd 7
High School Mentors	Credits	1 Cr : 1.3333 Chrs	Art 13, Sec 10
Independent Study	Credits	1 Cr : 1.3333 Chrs	Art 11, Sec 1, Subd 5
Internship Supervision	Credits	1 Cr : 1.3333 Chrs	Art 11, Sec 1, Subd 2
Non-Credit Instruction	Credits	1 Cr : 1.3333 Chrs	Art 11, Sec 1, Subd 8
Reasonable Credit Equivalence	Credits/Contact Hrs	1 Cr : 1.3333 Chrs	Art 11, Sec 7
Preparations (<i>exceeding 7</i>)	Credits	1 Cr : 1.3333 Chrs	Art 11, Sec 2, Subd 4
Assignment	Workload Basis	Workload Calculation 35 Hours to Credits	Language Reference 2017-2019 CBA
Counselors	35 Hour Week	Hrs÷35Hrs=%x15 crs	Art 11, Sec 5
Librarians	35 Hour Week	Hrs÷35Hrs=%x15 crs	Art 11, Sec 4
⁴ Other Assignments	35 Hour Week	Hrs÷35Hrs=%x15 crs	Art 11, Sec 6
Assignment	Workload Basis	Workload Calculation 35 Hours to Contact Hours	Language Reference 2017-2019 CBA
Counselors	35 Hour Week	Hrs÷35Hrs=%x20 Chrs	Art 11, Sec 5
Librarians	35 Hour Week	Hrs÷35Hrs=%x20 Chrs	Art 11, Sec 4
⁴ Other Assignments	35 Hour Week	Hrs÷35Hrs=%x20 Chrs	Art 11, Sec 6

¹Combined Class calculations for lectures and labs are based on the highest credit value of the combined courses plus one credit.

²Ratio may differ if approved through the AASC process.

³Characteristics of a Flex Lab: i. A flex lab is a delivery mode, like a lecture, lab, online, hybrid and distance delivery, ii. Flex Labs do not have discrete course components scheduled at specific times, iii. Flex Labs are asynchronous and students progress at their own pace, iv. A Flex Lab is a physical place, v. Students register for a course(s) in a Flex Lab. Course components will include an outline, syllabus, assessment and stated outcomes, vi. Students in a Flex Lab may receive a packet of materials in support of their individualized instruction and learning.

⁴Other assignments include "Other Assn Labs" which are instructional labs that require no special advance preparation and no evaluation expectations during the lab periods.

Note: the proportional value of credits to contact hours calculation (1:1.3333) = #crs ÷ 15 crs = percent x 20 Chrs = contact hours