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## Chapter 17

### *Layoff and Reemployment Procedures*

#### 17.1 LAYOFF PROCEDURES

**17.1.1 REASONS FOR LAYOFF:** The layoff of classified employees shall only occur for a lack of work or a lack of funds, and only in accordance with the rules and regulations of the Personnel Commission and in accordance with Education Code Section 45298 and 45308.

REFERENCE: Education Code Sections 45298 and 45308

**17.1.2 LAYOFF DEFINITIONS:** As used in this rule, the following terms have the following meaning:

17.1.2.1 "Reemployment list" means a list of names of persons arranged in order of their right to reemployment, who have been laid off from permanent positions by reason of lack of work, lack of funds, abolishment or reclassification of position, or who take a voluntary demotion or voluntary reduction in assigned time in lieu of layoff or other reasons specified in these rules, and who are eligible for reemployment without examination in their former class.

17.1.2.2 "Layoff" means layoff from employment, or reduction in assigned time per day, week, month, or year.

17.1.2.3 "Seniority List" means a list of permanent Classified employees by class series and classification in order of seniority, the most senior employee listed first. Probationary employees may also be placed on the seniority list in order of hire date.

The Director of Classified Personnel shall establish and maintain the Seniority Lists for all classes and class series. These lists are to be updated from time to time to ensure their accuracy and availability to the Board of Education.

17.1.2.4 "Seniority:" – The length of time of uninterrupted service of an employee in classified service in the district up to July 1, 1971, shall be computed on the total number of days from date of employment regardless of hours worked per day, or months per year.

From July 1, 1971 to date of termination, seniority shall be computed

on the basis of the number of days worked in a paid status.

If a tie in seniority exists between two (2) or more employees in a classification, the employee with the latest date of employment shall be laid off first. When two employees have the same hire date, seniority will be determined by lottery.

17.1.2.5 “Bumping” means the process by which an employee with greater seniority causes an employee with less seniority to be displaced from his/her present position.

17.1.2.6 “Assignment List” means a list that shows the effective date of reduction of working hours, the employee’s name and classification. The order of list shows employees whose hours were reduced first and then those with subsequent reductions.

REFERENCE: Education Code Sections 45298 and 45308

**17.1.3 LAYOFF PROCEDURES:**

17.1.3.1 Before any layoff notice can be issued, the Board shall adopt a resolution outlining the specific numbers and kinds of positions to be eliminated or reduced by classification and assigned time. The layoff resolution shall be signed by the Clerk of the Board, and a copy shall be attached to each layoff notice.

17.1.3.2 No regular employee shall be laid off from any position while employees serving under limited-term or provisional appointment are retained in positions of the same class unless the regular employee declines the limited-term or provisional assignment.

17.1.3.2.1 A limited-term employee may be laid off (separated/terminated) at the end of the assignment without regard to the procedures set forth in these rules.

17.1.3.3 The District shall notify the affected classified employees in writing a minimum of sixty (60) calendar days prior to the date of any layoff for lack of work or funds. The notice to the affected employee shall specify the reason for the layoff and the effective date. It shall be given to an employee by personal delivery or by certified mail to the last known home address of the employee on file in the Personnel Services office. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these rules. For purposes of this rule, if a

notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.

17.1.3.4 Advance Notification to Exclusive Representative: If any of the impacted positions are represented by a collective bargaining exclusive representative, the District Administration and the exclusive representative shall meet in advance of layoff notices being sent out to review the proposed layoff. A copy of each layoff notice will be sent to the exclusive representative.

17.1.3.5 Upon receipt of the layoff notice, an employee must notify the Personnel Office in writing within three (3) working days, whether or not he/she is electing to exercise seniority rights and “bump” the last person to be hired.

#### 17.1.4 **ORDER OF LAYOFFS:**

17.1.4.1. In the event of layoff, the order of layoff within the class shall be determined by length of service. In computation of seniority, all service within a class plus higher classes counts as seniority within the class. The employee who has been employed the shortest time in the class plus higher classes shall be laid off first. Regular classified employees who have been laid off shall have the right of reemployment for a period of thirty-nine (39) months and shall be reemployed in preference to new applicants. Reemployment shall be in the reverse order of layoff.

17.1.4.2. Service credit shall be determined by hire date excluding hours paid on an overtime basis in the class and includes:

17.1.4.2.1 Regular assigned time in any higher class, or assigned time of a permanent employee to an exempt, limited term or temporary position.

17.1.4.2.2 Time on paid leave.

17.1.4.2.3 Time spent on leave without pay shall not be included when computing seniority, but all time spent on approved leaves with pay or military leave, illness, maternity, family care, or industrial accident leave shall count toward seniority accrual. In the event an employee returns to work following any other unpaid leave or absence, no further seniority shall be accrued for the time not worked.

17.1.4.2.4 Time served by permanent employees in restricted

status if the employee qualified for regular status without a break in service.

17.1.4.3 Time served prior to a break in service shall not be counted in computing seniority unless an employee is reinstated, reemployed in regular status, or appointed in regular status from an eligibility list within thirty-nine (39) months after layoff.

17.1.4.4 When it is necessary to break a tie in seniority for the purpose of determining which employee is to be laid off or reassigned, the employee to be retained shall be the one who:

17.1.4.4.1 Has the greater total seniority with the District.

REFERENCE: Education Code Section 45308

**17.1.5 BUMPING AND DISPLACEMENT RIGHTS:** An employee in the classified service who is laid off from a class, and who has previous service in an equal or lower class, shall have the right to bump a less senior employee in that equal or lower class.

17.1.5.1 The “bumping” employee must have seniority over the last person to be hired in the class. If the employee does not have enough seniority, he/she may “bump” the last person hired in succeeding lower classes in which the employee has previous service, until he/she reaches the last class and then in any class in which the employee has established permanency and over which the employee has seniority. Transferring seniority from one class to another or from one unrelated class to another is not allowed.

17.1.5.2 The employee being “bumped” has the same seniority “bumping” rights and may exercise them in accordance with these rules as though he/she was being laid off.

17.1.5.3 An employee going to a lower class pursuant to these rules, shall receive the maximum of the salary range of the lower class provided that such salary is not greater than the salary received in the higher position.

17.1.5.4 In all cases where an employee elects to exercise seniority rights and move to a lower class in lieu of layoff, his/her name shall be placed on a layoff list for the employee’s former position.

17.1.5.5 If an employee is on any eligibility list and is laid off, that employee shall retain that position on such list until reemployed,

selected, or expiration of the list.

17.1.5.6 An employee on a reemployment list shall be eligible to compete in any promotional examinations for which he/she qualifies.

17.1.5.7 An employee who is laid off does not accumulate seniority credit while on a reemployment list.

17.1.5.8 Refusal of an offer of provisional or limited-term employment shall not affect the standing of any employee on a layoff list.

REFERENCE: Education Code Sections 45260, 45261, and 45308

**17.1.6 REDUCTION OR INCREASE IN ASSIGNED WORKING HOURS:** The Board of Education has the right to reduce or increase the number of assigned working hours for any classified position. Such reduction or increase may be of a temporary or permanent nature.

17.1.6.1 When the assigned hours for a position are to be permanently reduced, the affected employee shall be given not less than sixty (60) days of notice. The employee's name will then be placed on an "assignment list" which shall be kept by name, classification, and effective date of reduction. Provisions applicable to layoff also apply to reduction in time base.

17.1.6.2 In the event of a permanent increase of assigned hours to a position, the employee on the assignment list who has greatest seniority will be offered the position first.

**17.1.7 VOLUNTARY DEMOTION IN LIEU OF LAYOFF:** An employee who has accepted a voluntary demotion in lieu of layoff has the right to be reemployed, in accordance with seniority rules, in a vacant position in the employee's former class within thirty-nine (39) months after demotion. Intervening reassignments to other classes shall not waive that right. If the employee has not been reemployed in that former class within (39) months, eligibility shall be retained for appointment to a vacant position in that class without examination for an additional twenty-four (24) months, provided that the same test of fitness under which the employee qualified for appointment to the class shall still apply.

**17.1.8 CERTIFICATION FROM A REEMPLOYMENT LIST:**

17.1.8.1 Persons shall be certified from a reemployment list in the reverse order of layoff, provided that the person is willing and able to report for duty on the effective date of the appointment or within 14

days after the offer of reemployment has been made, whichever is later. In cases of limited term appointments, the former employee must be willing and able to report for duty on the effective date of the appointment, or the employee will be considered unavailable for the appointment.

17.1.8.2 A name may be removed from a reemployment list only for the following causes:

17.1.8.2.1 Conviction of a crime or crimes which would be sufficient to support dismissal of a permanent employee.

17.1.8.2.2 Conduct which would cause dismissal under the provisions of Section 45303 of the Education Code.

17.1.8.2.3 Making false statements or omitting a statement as to any material fact on an application form or health advisory form.

17.1.8.2.4 Dismissal for cause from employment subsequent to layoff.

17.1.8.2.5 An employee who is removed from the list shall be accorded a statement of reasons and the right to a hearing before the Personnel Commission. Written notice of removal and the reason therefore shall be provided to the employee who shall be afforded and notified of appeal rights.

17.1.8.3 If a former employee cannot meet legal requirements to perform the prescribed duties of the class of reemployment, his/her name shall be withheld from certification until those requirements are met.

REFERENCE: Education Code Sections 45260, 45261, 45298, 45303 and 45308

**17.1.9 PROBATIONARY EMPLOYEE RIGHTS:** Should a probationary employee be laid off without fault or delinquency on his/her part before completion of the probationary period, the person's name shall be restored to the eligibility list.

REFERENCE: Education Code Sections 45260, 45261

## **17.2 LEAVE OF ABSENCE PRIOR TO LAYOFF**

17.2.1 When a layoff because of lack of funds or lack of work is about to occur, the division shall, insofar as practicable, determine which classes will be affected. A list of such classes shall be furnished to both the Personnel Office and the Personnel Commission.

17.2.2 Any regular employee who has received notice of impending layoff may be given a leave of absence, at the discretion of the manager, from or after the date of such notice until the effective date of layoff.

17.2.3 Rescission of the notice of impending layoff shall cancel all leaves granted under this Chapter. Employees in executive/administrative and supervisory classes shall be allowed 28 days in which to return to employment; employees in other classes shall be allowed 14 days in which to return to employment.

REFERENCE: Education Code Sections 45260, 45261 and 45308

**17.3 P.E.R.S. RETIREMENT IN LIEU OF LAYOFF:** Regular employees who have at least five (5) years service credit under the Public Employees' Retirement System and are fifty (50) years of age or older, may elect to accept a service retirement in lieu of layoff, voluntary demotion, or reduction in assigned time. Such employees shall complete and submit a form to the Public Employees' Retirement System. The employee shall then be placed on a thirty-nine (39) month reemployment list in accordance with the Rules within this Chapter. If the District makes an offer of reemployment, the retired person shall be allowed sufficient time to request reinstatement with the Public Employees' Retirement System.

REFERENCE: Education Code Sections 45260 and 45261 □

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