

CHAPTER 200

LAYOFF AND RE-EMPLOYMENT PROCEDURES

200.1 LAYOFF PROCEDURES

200.1.1 REASON 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 negotiated contract rules and regulations of the Personnel Commission. Any effects of layoff that may be negotiated by and between the District and any recognized exclusive representative shall be in addition to these rules and regulations. Any agreement between the District and a recognized exclusive representative may not provide for less than the mandated employee protections and procedures outlined in this chapter.

REFERENCE: Education Code Sections 45260, 45261, and 45308

200.1.2 ORDER OF LAYOFF: Length of service shall be the only criterion used to effect layoffs. Whenever a classified employee is laid off, the order of layoff within the class shall be determined by seniority date as determined by the hire date within the classification plus any seniority accrued in a higher classification. The employee with the least seniority as provided herein as determined by the Personnel Commission shall be laid off first. Re-employment shall be in the reverse order of layoff. "Length of Service" shall be defined to include the hire date of that employee as a regular probationary or permanent employee in the class, plus any service in higher classes.

200.1.2.1 The Personnel Commission shall grant length of service credit for time spent on unpaid leaves in the following areas: military leave, illness leave, pregnancy disability leave, and industrial accident/illness leave, and Family Medical Leave Act (FMLA) leave.

200.1.2.2 Time spent on approved leaves of absence with pay, such as sick leave and vacation, and time spent on military leave of absence, shall count toward seniority. Breaks in continuity of regular paid service that occur in the summer for 9, 10, and 11 month employees shall count toward seniority.

200.1.2.3 If two or more employees subject to layoff have equal seniority, the decision shall be made by lot for each and every layoff situation.

REFERENCE: Education Code Sections 45101, 45260, 45261, and 45308

200.1.3 BUMPING 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. Seniority for purposes of bumping shall include the total of the previous service in the equal or lower class, plus service in higher classes. In the event of a layoff the following bumping priority will apply:

200.1.3.1 An employee whose position is eliminated or reduced shall first be placed in a vacant position with an equal assignment in the same class when compared with the employee's current position.

200.1.3.2 If the previous option is unavailable, the employee will be allowed to bump into a position providing an equal assignment in the same class when compared with the employee's current position, and which is occupied by a less senior employee.

200.1.3.3 If the previous option is unavailable, the employee will be allowed to bump into a position in the class with fewer hours per day and/or fewer months per year that is held by a less senior employee that is closest to the employee's current assigned time, and which is held by a less senior employee in the class.

200.1.3.4 If the previous option is unavailable, the employee may bump into a higher or lower class where he or she achieved permanent status based on seniority.

REFERENCE: Education Code Sections 45260, 45261, and 45308

200.1.4 VOLUNTARY DEMOTION OR TRANSFER: An employee who will suffer a layoff for lack of work or funds despite his or her bumping rights may accept a voluntary demotion to a vacant position in a lower class or transfer to an equal class, providing that the employee is deemed to be qualified to perform the duties thereof by the Personnel Commission.

REFERENCE: Education Code Sections 45260, 45261, and 45308

200.1.5 LAYOFF VERSUS TEMPORARY POSITIONS: No regular classified employee shall be laid off from any position while employees serving temporary appointments are retained in positions of the same class, unless the regular employee refuses assignment to the temporary position.

200.1.5.1 A substitute, provisional, emergency or limited term employee may be laid off at the direction of the Board of Trustees without regard to the procedures set forth in these rules and without re-employment rights.

REFERENCE: Education Code Sections 45260 and 45261

200.1.6 **ACCEPTANCE OF SUBSTITUTE OR TEMPORARY EMPLOYMENT:** An employee who has been laid off for lack of funds or lack of work and who is on a re-employment list may be employed as a substitute or temporary employee in his original class or any other class for which qualified, and such employment shall in no way jeopardize or otherwise affect his status or eligibility for re-employment.

REFERENCE: Education Code Sections 45260 and 45261

200.1.7 **REFUSAL OF TEMPORARY EMPLOYMENT:** Refusal of an offer of limited-term employment shall not effect the standing of any employee on a re-employment list.

REFERENCE: Education Code Sections 45260 and 45261

200.1.8 **LATERAL TRANSFER:** A classified employee who accepts a lateral transfer to an equal class shall be placed on the same salary range and step as the previous position.

REFERENCE: Education Code Sections 45260 and 45261

200.1.9 **NOTICE OF LAYOFF:** The District shall notify the affected classified employees in writing not less than sixty-five (65) working days prior to the date of any layoff for lack of work or funds in accordance with the VVUHSD/CSEA Agreement, Article 12. Classified management, Supervisory and Confidential will be provided a layoff notice not less than forty five (45) days prior to the date of a layoff.

The notice to the affected employee shall specify the reason for the layoff and be given by personal delivery or by certified mail to the last known home address of the employee on file in the Personnel Commission 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 time lines outlined in these rules.

For purposes of this rule, if a notice is mailed, the second working day following the mailing date of the notice shall be considered to be the official date of receipt.

REFERENCE: Education Code Section 45117, 45260, and 45261

200.1.10 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.

REFERENCE: 1. Education Code Sections 45260, 45261
2. Government Code Sections 3540 - 3549.3

200.1.11 CONTENTS OF LAYOFF NOTICE: Any notice of layoff shall include the following:

200.1.11.1 The reason for the layoff.

200.1.11.2 The employee's displacement rights, if any.

200.1.11.3 The employee's re-employment rights.

200.1.11.4 The effective date of layoff.

200.1.11.5 The name, seniority and classification of the employee designated for layoff.

200.1.11.6 A statement that the employee may have a right to unemployment compensation.

200.1.11.7 A copy of the appropriate negotiated agreement, Chapter 200 of the Personnel Commission Rules and Education Code sections pertinent to Layoff and Re-employment shall be included.

REFERENCE: Education Code Sections 45117, 45260, and 45261

200.1.12 LAYOFF RESOLUTION BY BOARD OF EDUCATION: Before any layoff notice can be issued, the Board of Education shall adopt a resolution outlining the specific numbers and kinds of positions to be eliminated or reduced by

classification and assigned time.

REFERENCE: Education Code Sections 45260 and 45261

200.1.13 DECREASE IN ASSIGNED TIME: When a permanent position is to be reduced in assigned time per day, week, month, or year, the incumbent shall have the right to transfer into any vacant position in the class which is not greater in assigned time than his former position. If a vacant, permanent position of equal time is not available, the incumbent may bump the incumbent of a position with equal time who has the least seniority in the class, provided that he has greater seniority. If no such option is available, he may transfer into vacant positions for which he is qualified (subject to approval by the Personnel Commission) in other equal or lower classes, or he may bump the incumbent with less seniority of a position with less work time in his present class.

200.1.13.1 When an employee is faced with a reduction in assigned time, the rules on transfer and demotion shall be given a liberal interpretation in order to relieve the effect of such reduction.

200.1.13.2 A probationary classified employee shall have bumping rights to an equal or lower class in which permanency has been established.

200.1.13.3 An employee who has demoted in lieu of layoff shall be placed on the step of the salary range of the lower class that is closest to his present salary in the class from which he demotes, provided that he shall not receive a salary increase thereby.

200.1.13.4 Provisional, substitute, limited term and emergency employees shall have no bumping rights.

200.1.13.5 Decrease in assigned time procedures shall comply with state law.

200.2 RE-EMPLOYMENT PROCEDURES

200.2.1 LAI D OFF EMPLOYEES PLACED ON RE-EMPLOYMENT LIST: The names of regular classified employees laid off shall be placed upon the re-employment list for the class from which there were laid off. Names on the re-employment list shall be in order of seniority as defined by these rules.

REFERENCE: Education Code Sections 45260, 45261, and 45298

200.2.2 EMPLOYEES WITH EQUAL SENIORITY: If two or more employees subject to rehire have equal class hire date seniority, then the rehire offer shall be made to the employee with the earliest regular hire date in the District. If District hire date is equal, the decision shall be made by lot.

REFERENCE: Education Code Sections 45101, 45260, 45261, and 45308

200.2.3 ELIGIBLE FOR RE-EMPLOYMENT FOR 39 MONTHS: Laid off employees are eligible for re-employment in the class from which laid off for a thirty-nine (39) month period and shall be employed in the reverse order of layoff. Their re-employment shall take precedence over any other type of employment. In addition, they shall have the right to apply for promotional and transfer positions and use their seniority therein for a period of thirty-nine (39) months following layoff. An employee on a re-employment list shall be notified of promotional and/or transfer opportunities by the Classified Personnel office as they occur.

REFERENCE: Education Code Sections 45260, 45261, and 45298

200.2.4 ELIGIBILITY FOR AN ADDITIONAL 24 MONTHS: An employee who has accepted a demotion or a reduction in assigned time in lieu of layoff for lack of work or lack of funds or abolishment of reclassification of his position shall be re-employed in accordance with his seniority in his former class within sixty-three (63) months after demotion. Intervening reassignments to other classes shall not abrogate that right.

REFERENCE: Education Code Sections 45260, 45261, and 45298

200.2.5 P.E.R.S. RETIREMENT IN LIEU OF LAYOFF AND RE-EMPLOYMENT:

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 reductions in assigned time. Such employees shall, prior to the effective date of the proposed layoff, complete and submit a form to the Public Employees Retirement System provided by the Personnel Commission Office for this purpose. The employee shall then be placed on a thirty-nine (39) month re-employment list in accordance with this regulation. If the District makes an offer of re-employment, and the Personnel Commission Office receives a written acceptance of the offer within two (2) working days of the written offer of re-employment, the retired person shall be allowed sufficient time to terminate his retired status with the Public Employees Retirement System.

REFERENCE: Education Code Sections 45115, 45260, and 45261

200.2.6 ESTABLISHMENT AND MAINTENANCE OF SENIORITY LISTS:

On an annual basis, the Commission shall compile a seniority list of all current employees. Such list shall be complete up to and including August 31st of the current year. In the event of a layoff, the Commission shall update the seniority list and provide the list of Bargaining Unit Members to the Association President no less than five (5) working days prior to any lay off notices being sent out. The seniority list shall include all employees names, job site, their current and past classifications and seniority in each class. Seniority lists shall include, in addition to the employee's name and seniority, the employee's current classification and job site. Seniority lists will be made available after the location of the employment of the laid off employee.

REFERENCE: Education Code Sections 45260 and 45261

200.2.7 OFFER OF RE-EMPLOYMENT AND ACCEPTANCE:

An employee who is laid off and is subsequently determined by the Personnel Commission to be eligible for re-employment based upon his seniority shall be notified in writing of an opening. Such notice shall be sent by certified mail to the last known home address the employee has provided to the District. 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 time lines outlined in these rules. For purposes of this rule, if a notice is mailed, the second working day following the mailing date of the notice shall be considered to be the official date of receipt.

200.2.7.1 A regular employee shall notify the District of his intent to accept

or refuse re-employment within five (5) working days following the receipt of the re-employment notice. If the employee accepts re-employment, the employee must report to work within ten (10) working days following the receipt of the re-employment notice. An employee given notice of re-employment need not accept the re-employment to maintain the employee's eligibility on the re-employment list, provided the employee notified the Personnel Commission Office in writing within five (5) working days from receipt of the re-employment notice.

200.2.7.2 Seniority credits at the time of layoff shall be restored upon re-employment from the re-employment list.

REFERENCE: Education Code Sections 45260, 45261 and 45298