The Board of Trustees may reduce the number of probationary and permanent certificated employees when, in the opinion of the Board, one or more of the following conditions makes such reduction necessary:

1. Average daily attendance (ADA) in all of the schools in the district during the first six months of the school year has declined below the level for the same period in either of the previous two school years. (Education Code 44955)

2. A particular kind of service is to be reduced or discontinued not later than the beginning of the following school year. (Education Code 44955)

3. Attendance in the district will decline in the following year as a result of the termination of an interdistrict tuition agreement. (Education Code 44955)

4. An amendment of state law requires modification of the curriculum. (Education Code 44955)

5. The state Budget Act reveals that the district's total revenue limit per ADA for the fiscal year of that Budget Act has not increased by at least two percent. (Education Code 44955.5)

**Seniority**

Except as otherwise provided by law, a permanent employee who is certificated and competent to render a service shall not be terminated or given a reduction in hours and wages while a probationary employee, or other employee with less seniority, is retained to render the service. (Education Code 44955)

The Superintendent or designee shall prepare a master seniority list on the basis of district records and evidence presented. (Education Code 44846)

**Special Procedure Based Upon Late Adoption of the State Budget**

When the Board, during the time period between five days after enactment of the Budget Act and August 15, determines that the total revenue limit per ADA has not increased by at least two percent and that the district therefore needs to reduce the number of certificated staff pursuant to Education Code 44955.5, the Board shall adopt a schedule of notice and hearings and the district shall otherwise proceed pursuant to Education Code 44949 and 44955. (Education Code 44955.5)
PERSONNEL REDUCTION  (continued)

Reappointment

If the number of employees is increased or the discontinued service reestablished, permanent certificated employees under 65 years of age shall have the right to reappointment, in order of seniority for 39 months, after being terminated. Probationary certificated employees under 65 years of age shall have the same right for 24 months after being terminated, subject to the prior reappointment rights of permanent employees. (Education Code 44956, 44957)

Reappointed certificated employees shall not be subject to any requirements that were not imposed on employees who continued in service. Their period of absence shall be treated as a leave of absence and not considered a break in the continuity of their service. (Education Code 44956, 44957)

(See ETA Collective Bargaining Agreement)

Legal Reference:
EDUCATION CODE
44830  Employment of certificated persons
44949  Dismissal of probationary employees
44955  Reduction in number of permanent employees
44955.5  Termination of certificated employees
44956-44959.5  Rights of employees
GOVERNMENT CODE
3543.2  Scope of representation
COURT DECISIONS
Cal.App.4th 1260

Policy
adopted: March 21, 2013

EVERGREEN SCHOOL DISTRICT
San Jose, California