



## PERSONNEL – CERTIFICATED EMPLOYEES

### BOARD POLICY – PERSONNEL REDUCTION

BP 4117.3

The County Board of Education and the County Superintendent of Schools or designee may reduce the number of probationary and permanent certificated employees when, in its opinion, any of the following conditions makes such reduction necessary:

1. Average daily attendance (ADA) in all of the classrooms in the SBCEO program during the first six months of the school year have 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 SBCEO program 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. During the time period between five days after the enactment of the Budget Act and August 15 of that fiscal year, the County Superintendent of Schools or designee determines that SBCEO'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)

#### **Determination of the Order of Layoffs**

When it is necessary to reduce the number of certificated employees for any of the reasons listed above, the services of employees shall be terminated in the inverse of the order in which they were employed by the SBCEO in probationary status, except as otherwise authorized by law. (Education Code 44844, 44955)

The County Superintendent or designee shall maintain the seniority list for this purpose and shall make it available upon request.

Unless otherwise provided by law, a permanent employee shall have the right to be retained over a probationary employee or any employee with less seniority if the position is one for which the employee is certificated and competent to render service. (Education Code 44955)

To determine the order of termination between employees who first rendered paid service on the same date, the County Superintendent or designee shall rank order those

employees solely on the basis of the needs of the SBCEO and students. Upon the request of an employee whose order of termination is to be determined based on such ranking, the County Superintendent or designee shall furnish the employee, no later than five days prior to the commencement of the administrative hearing on the layoff, a written statement of the specific criteria used in determining the order of termination and the application of the criteria in ranking the employee relative to the other employees in the group. (Education Code 44955)

The SBCEO may deviate from terminating certificated employees in order of seniority for either of the following reasons: (Education Code 44955, 44956)

1. To fill a demonstrated specific need for personnel to teach a specific course or courses of study, or to provide services authorized by a services credential with a specialization in either student personnel services or health for a school nurse, when the certificated employee has the necessary special training and experience which others with more seniority do not possess
2. To maintain or achieve compliance with constitutional requirements related to equal protection of the law

### **Notice and Hearing Rights**

When it becomes necessary to reduce the number of permanent and/or probationary employees pursuant to Education Code 44955 as specified in items #1-4 above, the SBCEO shall give notice to the affected employees, no later than March 15, stating the reasons for the action and the employees' right to a hearing. The SBCEO shall adhere to the notice, hearing, and layoff procedures in Education Code 44949, 44955, and other applicable provisions of law.

When an employee has requested a hearing before an administrative law judge regarding the reduction or discontinuation of services, the County Superintendent shall make a final decision regarding the sufficiency of the cause and disposition of the layoff upon receipt of the administrative law judge's proposed decision. None of the findings, recommendations, or determinations of the administrative law judge shall be binding on the County Superintendent. (Education Code 44949)

The County Superintendent or designee may conduct its own hearing, adopt the administrative law judge's proposed decision, refer the case back to the administrative law judge for additional evidence, or reject or modify the proposed decision and make its own determination based upon its review of the record.

Following a final decision, the County Superintendent or designee shall give final notice, in the manner specified, to the affected employees before May 15 unless the parties agree otherwise in accordance with procedures required by law. (Education Code 44955) When layoffs become necessary pursuant to Education Code 44955.5 as specified in item #5 above, layoff proceedings shall be carried out as required by law but in

accordance with a schedule of notice and hearing adopted by the County Superintendent. (Education Code 44955.5)

## Reappointment

If the number of employees is increased or the discontinued service reestablished, permanent certificated employees shall have the right to reappointment, in order of seniority, for 39 months from the date of termination. Probationary certificated employees shall have the same right for 24 months after being terminated, subject to the prior reappointment rights of permanent employees. (Education Code 44846, 44956, 44957)

During the period of the preferred right to reappointment, permanent certificated employees shall, in the order of original employment, be offered first opportunity for substitute service during the absence of any employee who has been granted a leave of absence or who is temporarily absent from duty. Such substitute service may be terminated upon the return to duty of the other employee. Such substitute service shall not affect the retention of the employees' previous classification and rights. Probationary certificated employees shall have the same right to substitute service during the period of preferred right to reappointment to the extent required by law, subject to the rights of permanent certificated employees. (Education Code 44918, 44956, 44957)

Before reappointing any certificated employee to teach a subject which the employee has not previously taught and for which the employee does not have a teaching credential or which is not within the employee's major area of postsecondary study, the County Superintendent or designee shall require the employee to pass a subject matter competency test in the appropriate subject. (Education Code 44956)

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)

---

### Policy Reference Disclaimer:

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the County Superintendent of Schools or designee to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

### Management Resources

	Description
Court Decision	Moreland Teachers Assoc. v. Kurze, (1980) 109 Cal.App.3d 648
Court Decision	King v. Berkeley Unified School District, (1979) 89 Cal.App.3d 1016
Court Decision	Forker v. Board of Trustees, (1984) 160 Cal.App.3d 13
Court Decision	Cousins v. Weaverville Elementary School District, (1994) 24 Cal.App.4th 1846
Court Decision	California Teachers Association v. Vallejo City Unified School District, (2007) 149 Cal.App.4th 135
Court Decision	Bakersfield Elementary Teachers Association v. Bakersfield City School District, (2006) 145 Cal.App.4th 1260

Website

[CSBA](#)

**State**

22 CCR 1089-1  
Ed. Code 44830  
Ed. Code 44949  
Ed. Code 44955  
Ed. Code 44955.5  
Ed. Code 44956-44959.5  
Gov. Code 3543.2  
Unemp. Ins. Code 1089

**Description**

[Notification of unemployment insurance benefits](#)  
Employment of certificated persons  
Dismissal of probationary employees  
Reduction in number of permanent employees  
Termination of certificated employees  
Rights of employees  
Scope of representation  
Notification of unemployment insurance benefits

ADOPTED BY COUNTY BOARD:  
REVISED:

February 2, 2023