

LAYOFF/REHIRE

Classified employees shall be subject to layoff for lack of work or lack of funds. (Education Code 45114, 45308)

Order of Layoff/Determination of Seniority

The order of layoff within the class shall be determined by length of service. (Education Code 45114, 45308)

Length of service shall be equivalent to all hours in paid status, whether during the school year, a holiday, recess, or during any period that school is in session or closed. Hours in paid status shall not include hours compensated solely on an overtime basis in accordance with Education Code 45128 and shall not be interpreted to mean any service performed prior to entering into probationary or permanent status, except service in restricted positions. The employee who has been employed the shortest time in a particular class, plus time served in higher classes, shall be laid off first. (Education Code 45114, 45308)

Length of service credit shall be granted for military leave of absence, including voluntary or involuntary active duty during a period of national emergency or war as a member of the Military Reserve or the National Guard. (Education Code 45297, 45308)

(cf. 4161.5/4261.5/4361.5 - Military Leave)

Length of service credit may be granted for time spent on unpaid illness or maternity leave, unpaid family care leave, or unpaid industrial accident leave. Length of service credit shall not be granted for other types of unpaid leaves. (Education Code 45308, 45114)

(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)

Persons employed under Education Code Section 45105(b) or 45259 in "restricted" positions do not acquire permanent status under Education Code 45113 or 45301 and do not acquire seniority credits for the purpose of layoff for lack of work or lack of funds. However, after completing six months of satisfactory service, persons hired into these positions shall be given the opportunity to take qualifying examinations that are required for all other persons serving in the same class in the classified service. If they successfully complete the examination, they shall be entitled to the full rights, benefits and burdens of regular classified employees, and his/her service for layoff purposes shall be counted from the original date of employment in the "restricted" position. (Education Code 45105)

A classified employee shall not be laid off if a short-term employee is retained to render a service that the classified employee is qualified to render. (Education Code 45117)

(cf. 4121 - Temporary/Substitute Personnel)

LAYOFF/REHIRE (continued)

Notice of Layoff

Classified employees subject to layoff because of lack of work in the event of a bona fide reduction or elimination of service being performed shall receive notice of the layoff 45 days before the effective date. They shall be informed of their displacement rights, if any, and their reemployment rights. (Education Code 45117)

In cases where positions in specially funded programs expire at the end of any school year, classified employees subject to layoff for lack of funds shall receive written notice on or before April 29. The notice shall inform them of the layoff effective at the end of the school year, their displacement rights, if any, and reemployment rights. If the termination date of the specially funded program is other than June 30, the notice shall be given at least 45 days before the effective date of the layoff. (Education Code 45117)

The district is not bound to provide 45 days' notice in the event of an actual and existing financial inability to pay the salaries of classified employees or if the layoff is due to a lack of work resulting from conditions not foreseeable or preventable by the district. (Education Code 45117)

The district also is not bound to provide 45 days' notice to any person hired as a short-term employee for a period not exceeding 45 days. (Education Code 45117)

Voluntary Demotion or Voluntary Reduction of Hours

Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff, or in order to remain in their present position rather than be reclassified or reassigned, shall be granted the same rights as persons laid off. (Education Code 45114, 45298)

Reemployment Eligibility

Classified employees laid off because of lack of work or lack of funds are eligible for reemployment within a period of 39 months and shall be reemployed in preference to new applicants. Persons so laid off also have the right to apply and establish their qualification for vacant promotional positions within the district during the 39-month period. (Education Code 45114, 45298)

Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff, reclassification or reassignment shall retain eligibility to be considered for reemployment in a position of the previously held class or positions with increased assigned time, provided that the same tests of fitness under which they qualified for appointment to the class are still applicable. The length of this additional period of time shall be determined by the Board of Trustees on a class-by-class basis and shall not exceed 24 months. (Education Code 45114, 45298)

LAYOFF/REHIRE (continued)

Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff shall have the option of returning to a position in their former class or to positions with increased assigned time as vacancies become available, and without limitation of time. If there is a valid reemployment list they shall be ranked on that list in accordance with their proper seniority. (Education Code 45114, 45298)

Upon rejecting two offers of reemployment, the employee's name will be removed from the reemployment list and he/she will forfeit all reemployment rights to which he/she would otherwise be entitled.

When an employee is notified of a vacancy and fails to respond or report to work within time limits specified by district procedures, his/her name will be removed from the reemployment list and he/she will forfeit all reemployment rights to which he/she would otherwise be entitled.

Reemployment Procedures

Reemployment shall be in reverse order of layoff. (Education Code 45114, 45298, 45308)

In order to be reinstated, an employee must be fully capable of performing the normal and customary duties of the job. Employees whose physical condition is such that they cannot be reinstated at the time called for reemployment will be kept on the reemployment list until physically capable of returning to work or for a period not to exceed 39 calendar months.

(cf. 4032 - Reasonable Accommodation)

When a vacancy occurs, the senior employee who has held prior permanency in the position shall be so notified by certified U.S. mail at his/her last known address and given the opportunity to accept or reject appointment into the vacant position. The employee shall advise the district of his/her decision no later than 10 calendar days following notification. If the employee accepts, he/she shall report to work no later than two calendar weeks from the vacancy notification date or on a later date specified by the district.

When a laid-off employee is reemployed, all accumulated sick leave credit shall be restored.

A laid-off permanent employee shall be reemployed with all rights and benefits accorded to him/her at the time of layoff. A laid-off probationary employee shall be reemployed as a probationary employee, and the time served toward the completion of the required probationary period shall be counted. He/she shall also be reemployed with all rights and benefits accorded to him/her at the time of layoff.

LAYOFF/REHIRE (continued)

A laid-off employee, when reemployed, shall be placed on the salary step held at the time of layoff. An employee who bumped into a lower class shall, when reinstated to the previous class, be placed on the salary step to which he/she would have progressed had he/she remained there. An adjusted anniversary date shall be established for step increment purposes so as to reflect the actual amount of time served in the district.

Legal Reference:

EDUCATION CODE

45101 Definitions

45103 Classified service in districts not incorporating the merit system

45105 Positions under various acts not requiring certification qualifications; classification

45113 Rules and regulations for classified service in districts not incorporating the merit system

45114 Layoff and reemployment procedures; definitions

45115 Layoff: Reinstatement from service retirement

45117 Notice of layoff

45286 Limited term employees

45297 Right to take equivalent examination while employee in military service

45298 Reemployment and promotional examination preference of persons laid off; voluntary demotions or reductions in time

45308 Order of layoff and reemployment; length of service

45309 Reinstatement of permanent noncertified employees after resignation

UNITED STATES CODE, TITLE 38

4301-4307 Veterans' Reemployment Rights

COURT DECISIONS

San Mateo City School District v. Public Employment Relations Board (1983) 33 Cal.3d 850, 866

Management Resources:

WEB SITES

California School Employees Association: <http://www.csea.com>