

**CHAPTER XIII  
LAYOFF AND REEMPLOYMENT**

**13.01 Definitions**

Classified employees in permanent or probationary status shall be subject to layoff for lack of work or lack of funds.

- A. "Layoff" shall be defined as a separation from a regular position or reduction in assigned (time) hours, days, or work year.
- B. "Lack of work" shall be defined as a reduction or elimination of (classified) services.
- C. "Lack of funds" shall be deemed to exist when specified funds budgeted to pay the salaries and other costs of positions belonging to classified employees have expired or are to be terminated.

**13.02 Seniority (Order of Layoff)**

When classified positions, belonging to regular employees, are to be eliminated or reduced, the order of layoff shall be determined by the length of service. The employee who has been employed the shortest time in the class plus higher classes shall be laid off first (Education Code Section 45308).

**13.03 Computation of Seniority**

- A. For employees hired before July 1, 1971, seniority shall be determined by "hire date."
  - 1. Length of service shall be granted for time spent on military leave, illness and industrial accident leave.
  - 2. When two or more employees in the same class have the same hire date, seniority shall be determined by a casting of lots.
- B. For employees hired after July 1, 1971, seniority shall be determined by "hours in paid status." Hours in paid status shall include all leaves of absence with pay, such as sick leave, vacation and time spent on military leave of absence.
  - 1. Exclusions

Hours compensated solely on an overtime basis or prior to appointment in a regular classified position (e.g., provisional or substitute status) as well as breaks in continuity of regular paid service that occur for less than twelve month employees shall be excluded from seniority.
  - 2. Equal Hours

When two or more employees in the same class have equal seniority, the employee with the longest total service shall be considered as more senior. The casting of lots shall break a subsequent tie.
  - 3. Prior Held Classes

In a layoff, employee's seniority for his/her current class shall be upwardly adjusted to include all prior seniority earnings in any class with a higher maximum salary rate as well as a related class with the same maximum salary rate. Related classes shall, in addition to the same salary rate, both belong to the same group ("family") and the same employee unit.
  - 4. Extended Work Year

Notwithstanding the provisions of Sub Rule C(1), above, when the work year of a less than twelve-month employee is extended, to work in his/her class, such time worked shall be eligible for seniority accrual.
  - 5. Position Reclassification

When all or a portion of the positions in a class are reclassified to a higher class pursuant to Rules 6.14-6.17, the employees, in such positions, shall commence seniority accrual in that higher class in accordance with the approval date by the Commission, or when examinations are required, the date employment standards were successfully attained.

6. Probationer's Change in Class

No probationary employee and no permanent employee in probationary status shall retain the seniority earned in a class, when prior to the expiration of his/her probationary period, that employee elects to:

- Terminate his/her employment with the County Office of Education
- Discontinue his/her service in that class to accept appointment in another class as a probationary employee
- Voluntarily demote or reinstate to a prior held class where he/she has achieved permanency
- Notwithstanding the provisions of this sub rule, seniority earned by a permanent employee in a class prior to permanency shall be applied to the class.

7. Non-Permanent (Work Out-of-Class) Assignments

- A regular employee shall continue seniority accrual during a temporary work out-of-class or non-permanent assignment, unless that employee has permanently held the latter (out-of-class) class.
- Effective January 1, 1985, a regular employee shall continue to earn classified seniority (in his/her class) during a non-permanent assignment in a certificated position.

8. Extra Hours

A part-time regular employee shall accrue seniority for all additional (extra) hours worked up to eight (8) hours per day in his/her class; however, additional hours (extra) hours worked in a different class shall not be credited.

9. Transfer/Reassignment

A transfer to a position in the same class shall not affect a regular employee's seniority.

When a regular employee transfers to a position in a related class, his/her seniority shall commence in the latter (related) class at appointment; however, he/she shall also earn seniority in the former class.

10. Certificated Return to Classified Service

A regular classified employee who accepts a position as a temporary teacher and returns to (the classified service) his/her prior class within 39 months, shall have his/her classified seniority upwardly adjusted with the seniority that employee would have normally earned.

**13.04 Seniority Lists**

Prior to issuance of notices of layoff, two (2) seniority lists shall be prepared by Payroll Services. The Director, prior to the approval of the Assistant Superintendent, Human Resources or his/her designee, shall review both lists. Copies of the approved lists shall be presented to the Commission and made available to employees and other interested parties.

A. List for Each Class

Seniority list for each class listing the names and date of hire of all employees who have earned seniority in that class, placed in descending order according to the number of hours in paid status in the class plus higher or related classes. Class incumbents shall be identified. The order for tied placements shall be determined pursuant to Rule 13.03 (B)(2).

B. List for Each Employee

An alphabetical list identifying each employee by name, every class held (in alphabetical order), date of hire, seniority hours earned in paid status for each class plus higher or related classes. Class incumbents shall be identified.

C. Other Employee and Position Data

Each seniority list shall also identify bilingual or bilingual certified employees and previously laid off employees as well as those former employees who have exhausted medical or industrial leave provisions.

### **13.05 Reductions in Force (RIF)**

When classified employees are to be laid off for lack of work or lack of funds, the layoff shall be made in reverse order of seniority in the class where the layoff occurs.

The County Superintendent of Schools or his/her administrative personnel shall: 1) determine the positions and classes to be affected by the layoff; 2) notify the Director at least 60 days, in advance, of the effective date of the reduction; and 3) work with the Director, who shall determine the impact on the classified service, to mitigate the effect of eliminated or reduced positions on employees.

- A. Employees in positions designated by the County Superintendent of Schools to be eliminated or reduced in assigned time due to lack of work or lack of funds shall be given not less than 30 days prior notice by personal service or certified mail. Such notice shall include the following information:
- Effective date
  - Reason for layoff
  - Positions in the classification being eliminated
  - Options in lieu of layoff, if any
  - Reemployment rights
  - Other relevant information
- B. Employees, who have been employed the shortest time in class, plus higher classes, shall be laid off first. Employees affected by displacement due to seniority may exercise bumping rights in a lateral, equal or lower class in which they hold seniority credit greater than that of the least senior incumbent pursuant to Rule 13.06. Displaced employees shall receive not less than 30 days prior notice by personal service or certified mail. Such notice shall include the following information:
1. Effective date
  2. Reason for layoff
  3. Positions in the classification being eliminated
  4. Options in lieu of layoff, if any
  5. Reemployment rights
  6. Other relevant information
- C. Employees, whose positions are to be reduced in assigned hours, days, or work year, shall be given the same rights as employees whose positions have been eliminated.
- D. The names of permanent or probationary employees laid off or who accept a reduction in assigned time shall be placed on the layoff reemployment list for their class, in the relative order of seniority, for a period of thirty-nine (39) months. The reemployment list for a class shall be used before other employment lists and after transfers to position openings that occur in the class.
- E. The County Superintendent of Schools shall notify the employee, in writing, when circumstances no longer warrant the action.
- F. Any employee who is improperly laid off shall be re-employed immediately upon discovery of the error and shall be reimbursed for all loss of salary or benefits.

### **13.06 Rights in Lieu of Layoff**

When a permanent position is to be eliminated or reduced in assigned time per day, week, month, or year, the employee shall have the right to:

- A. Transfer (bump) into a permanent position opening in the class, at equal or comparable assigned time; however, not greater in assigned time than his/her former position.
- B. In the absence of an equal or comparable permanent position opening, the employee may exercise bumping rights to displace the incumbent of the position with equal or comparable time who has the least seniority in the class, provided the employee has greater seniority. If no such position is available, he/she may displace the incumbent with the least seniority among those occupying positions of less time than the original position and greater time than the eliminated/reduced position, provided the employee has greater seniority. An incumbent so bumped from his/her position shall have similar rights.

- C. When the employee is the least senior in the class or occupies the only position in a class, he/she may demote (bump) into any permanent position opening in an equal or next lower class in which he/she previously served in probationary and permanent status.
- D. In the absence of a position opening in the former class, the employee may exercise bumping rights in an equal or the next lower class in which he/she has seniority credit greater than that of the least senior incumbent in the class. An incumbent so bumped from his/her position shall have similar rights.
- E. Employees unable to exercise bumping rights to transfer within the class or demote to a class in which they previously served may request appointment to available position openings in related equal or lower classes for which the Commission determines they are qualified.
- F. Eligible employees may elect service retirement in lieu of layoff through the California Public Employees Retirement System (CALPERS). If the employee subsequently accepts reemployment in an appropriate position opening, the position shall be held until the Public Employees Retirement System has processed the employee's request to return to work (Education Code 45115).

### **13.07 Reemployment**

- A. The names of regular employees (in probationary or permanent status) who are laid off shall be placed on the reemployment list in the class in which the layoff occurred and in order of seniority.
- B. Employees who have been laid off shall be eligible for reemployment for a period of thirty-nine (39) months from the date of layoff.
- C. Employees who accept voluntary demotions or reductions in assigned time in lieu of layoff shall have reemployment rights for a period of sixty-three (63) months, after the effective date of the demotion or reduction, provided that tests of fitness under which they qualified for appointment to the class still apply. Intervening reassignments to other classes shall not abrogate that right.
- D. Failure to accept two equal offers of reemployment in the class for which the layoff occurred, shall cause for removal of name from the layoff reemployment list.
- E. Employees are eligible to participate in promotional examinations during the specified period of reemployment rights, and to have seniority points credited to their final passing score (Education Code 45298).
- F. Employees on the reemployment list, who have expressed interest in limited-term, provisional or substitute employment, shall be re-employed as limited-term and provisional employees or in substitute assignments (in the same class or another class exhibiting similar characteristics) in preference to other employees, eligible persons or substitute workers (Refer to Rule 10.13(B)).

### **13.08 Notice of Layoff Due to Expiration of Restricted Funded Programs**

- A. When, as a result of the expiration of a restricted funded program, classified positions must be eliminated and classified employees will be subject to layoff for lack of funds, the employees to be laid off and shall be given written notice not less than thirty (30) days prior to the effective date of their layoff, and informed of their displacement rights, if any, and reemployment rights pursuant to Rules 13.05-13.07.
- B. When, as a result of a bona fide reduction or elimination of the service being performed by any department, classified employees shall be subject to layoff for lack of work, affected employees shall be given notice of layoff not less than thirty (30) days prior to the effective date of layoff, and informed of their displacement rights, if any, and reemployment rights pursuant to Rules 13.05-13.07.
- C. Nothing herein provided shall preclude a layoff for lack of funds in the event of an actual and existing financial inability to pay salaries of classified employees, nor layoff for lack of work resulting from causes not foreseeable or preventable by the governing board, without the notice required by Sub Rules A or B, above.

### **13.09 Emergency, Provisional or Limited-term Positions**

- A. No regular employee shall be laid off from any position while employees serving in emergency, provisional or limited-term positions are retained in the same class unless the regular employee declines assignment to such temporary positions.
- B. A provisional, emergency or limited term employee may be terminated without regard to the procedures set forth in these rules and without reemployment rights.