

CHAPTER 20

LAYOFF AND REEMPLOYMENT PROCEDURES

20.1 LAYOFF PROCEDURES

20.1.A REASONS 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 rules and regulations of the Personnel Commission and in accordance with Education Code Section 88117 and 88127. 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 rule.

REFERENCE: Education Code Sections 88080, 88081, 88117 and 88127

20.1.B LAYOFF DEFINITION: As used in this rule, the following term has the following meaning:

1. "Reemployment list" means a list of names of persons who have been laid off from permanent positions by reason of lack of work, lack of funds, abolishment or reclassification of position, or who take a voluntary demotion or voluntary reduction in assigned time in lieu of layoff or other reasons specified in these rules, and who are eligible for reemployment without examination in their former class arranged in order of their right to reemployment.
2. Layoff should include reduction in assigned time per day, week, month, or year.

REFERENCE: Education Code Sections 88081, 88117 and 88127

20.1.C LAYOFF RESOLUTION BY BOARD:

1. Before any layoff notice can be issued, the Board shall adopt a resolution outlining the specific numbers and kinds of positions to be eliminated or reduced by classification and assigned time. The layoff resolution shall be signed by the Secretary of the Board, and a copy shall be attached to each layoff notice.
2. No regular employee shall be laid off from any position while employees serving under provisional, limited-term appointment are

retained in positions of the same class unless the regular employee declines the limited-term or provisional assignment.

3. The District shall notify the affected classified employees in specifically funded programs in writing on or before April 29 informing them of their layoff effective at the end of the school year. However, if the termination date of any specially funded program is other than June 30, the notice shall be given not less than forty-five (45) days prior to the effective date of the layoff.
4. The District shall notify affected classified employees in writing a minimum of forty-five (45) calendar days prior to the date of any layoff for lack of work or lack of funds.
5. 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 Human Resources office. Failure of the employee to retrieve delivered mail, or respond to notifications by the U.S. Postal Service of the attempted delivery shall not be grounds for voiding notification, or the staying of the timelines outlined in these rules. For the purposes of this rule, if a notice is mailed, the second working day following the postmark date of the notice shall be considered to be the official date of receipt.
6. LAYOFF NOTICE: A notice of layoff shall contain the following items:
 - (a) The reason for the layoff.
 - (b) The employee's displacement rights, if any.
 - (c) The employee's reemployment rights
 - (d) The right to an exit interview with the Director of Human Resources, during working hours, with a representative of the exclusive representative (if applicable to the position).
 - (e) The name and classification of the employee designated for layoff.
 - (f) A statement that the employee may have a right to unemployment insurance.
 - (g) A statement that the employee has a right to continue insurance at their own expense.

7. 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. A copy of each layoff notice will be sent to the exclusive representative.

- REFERENCE:
1. Education Code Sections 88017, 88080, 88081 and 88127
 2. Government Code Sections 3540-3549.3

(Amended 20.1.C – 3/1/04)

20.1.D. ORDER OF LAYOFFS:

1. In the event of layoff, the order of layoff within the class shall be determined by actual hours in paid status, excluding overtime. The employee who has been employed the shortest time in the class plus higher classes shall be laid off first. Classified employees who have been laid off shall have the right of reemployment. Reemployment shall be in the reverse order of layoff. Human Resources staff shall prepare a layoff list by class and it shall be certified at a regular or special meeting of the Personnel Commission. The Superintendent-President or designee shall use the ratified list to effect the remainder of this Rule.
2. COMPUTING LENGTH OF SERVICE: Length of service for the purpose of establishing retention lists shall be computed as follows:
 - (a) Service credit shall be determined by actual hours paid status excluding hours paid on an overtime basis in the class and includes:
 - (1) Regular assigned time in any higher class, or assigned time of a permanent employee to an exempt, limited term or temporary position.
 - (2) Time on paid leave.
 - (3) Time spent on leave without pay shall not be included when computing seniority, but all time spent on approved leaves with pay or military leave, illness, maternity, family care, or industrial accident leave shall count toward seniority accrual. In the event an employee returns to work following any other unpaid

leave or absence, no further seniority shall be accrued for the time not worked.

- (4) Time served by permanent employees in restricted status if the employee qualified for regular status without a break in service.
- (b) Service credit shall include time on paid leave, family
 - (c) Time served prior to a break in service shall not be counted in computing seniority unless the employee is reinstated, reemployed in regular status, or appointed in regular status from an eligibility list within thirty-nine (39) months after layoff.
 - (d) When reclassification results in the merger of two or more classes or the separation of a class into two or more classes, seniority of a continuing regular employee whose former class has been abolished shall be counted from the date determined by the Personnel Commission to be the date the incumbent started regularly and continuously to perform the duties identified as the basis for the reclassification. Such a determination shall be made at the time that the reclassification is approved.
 - (e) When all or a portion of the positions in a class is reclassified to a class on the same salary range, the extent of seniority credit to be granted incumbents of affected positions shall be determined by the Personnel Commission. The Commission will base its decision on the amount of seniority credit to be granted on the following factors and others that are pertinent to the case:
 - (1) The date of any change in the class description for the employee's former or new class.
 - (2) The date of any pertinent change in the classification plan.
 - (3) The date of any significant change in assigned duties or responsibilities as evidenced by requests for reclassification, and approval of the request for reclassification.
 - (4) Any date that will serve to establish the approximate date the employee first started performing the duties or responsibilities that provided the basis for reclassification of the position.

- (f) An employee transferred or reclassified from one class to a higher class shall not be credited in the new class with seniority accumulated in the class from which transferred, except as provided in 20.1.D.4.
- (g) When it is necessary to break a tie in seniority for the purpose of determining which employee is to be laid off or reassigned, the employee to be retained shall be the one who:
 - (1) Has the greater total seniority with the District.
 - (2) In case the tie remains selection shall be by who had has the longest employment record with the District to include Limited Term Employment assignments.
 - (3) If a tie still exists, the employees will draw lots to determine preference.

REFERENCE: Education Code Sections 88080, 88081 and 88127

20.1E

BUMPING AND DISPLACEMENT 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. No regular employee shall be laid off from any position while employees serving under limited-term or provisional appointment are retained in positions of the same class unless the regular employee declines the limited-term or provisional assignment.

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.
2. If the previous option is unavailable, the employee shall be placed in a vacant position that has additional assigned time in the same class when compared with the employee's current position.
3. If the previous option is unavailable, the employee will be allowed to bump into a position providing an equal or lower assignment in the same class when compared with the employee's current position, and which is occupied by a less senior employee.
4. If the previous option is unavailable, the employee shall also have the option of bumping into an equal or lower class previously held as a regular classified employee, that will provide at least the same or lower assigned time as the employee's current position.

5. When a permanent position is to be reduced in assignment by time per day, week, month or year, the incumbent shall have the right to transfer to any vacant position in the class which is not greater in assigned time than his/her 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/she has greater seniority.
6. If no such option is available, he/she may bump the employee with the least seniority among those occupying positions of less time than the original position and greater time than the reduced position; provided that he/she has greater seniority. An employee so bumped shall have similar bumping rights. The employee will repeat the sequence of options outlined in this Rule for the equal class position first. If no alternative is available in the equal class, the employee will repeat the sequence of options outlined in this Rule for the lower class.

REFERENCE: Education Code Sections 88080, 88081 and 88127

20.1.F VOLUNTARY DEMOTION: Displacement into a lower class shall be considered a voluntary demotion and salary placement shall be in accordance with the Rules on Salary on Demotion. An employee, after having had the opportunity to exercise all rights guaranteed under this policy, who must be laid off and placed on a reemployment list will be selected first in reverse order of layoff for the first opening occurring in any class in which that employee had seniority for a period of up to thirty-nine (39) months. The following rules shall also apply.

1. If an employee is on any eligibility list and is laid off, that employee shall retain that position on such list until reemployed, selected, or expiration of the list.
2. Employees on reemployment lists shall be eligible to compete in promotional examinations for which they qualify.
3. Laid off employees do not accumulate seniority credit while on the reemployment lists.

REFERENCE: Education Code Sections 88080, 88081 and 88127

20.1.G DEMOTION IN LIEU OF LAYOFF: An employee who has accepted demotion in lieu of layoff has the right to be reemployed, in accordance with seniority rules, in a vacant position in the employee's former class within thirty-nine (39) months after demotion. Intervening reassignments to other classes shall not abrogate that right. If the employee has not

been reemployed in that former class within thirty-nine (39) months, eligibility shall be retained for appointment to a vacant position in that class without examination for an additional twenty-four (24) months, provided that the same test of fitness under which the employee qualified for appointment to the class shall still apply.

1. A permanent classified employee who will suffer a layoff for lack of work or lack of funds despite bumping rights, may be offered a transfer to a vacant position in an equal class or a voluntary demotion to a vacant position in a lower class, providing the employee is deemed qualified to perform the duties thereof as determined by the Director of Human Resources.
2. Any transfers which are being considered by exercising the options provided herein shall be made only after consideration of any permanent employees who have had an application for transfer on file.
3. A transfer from a position in one class to a position in another related class shall first be approved by the Director of Human Resources. Determination of whether classes are sufficiently related to permit transfer between them shall be based on the similarity of 1) duties; 2) minimum qualifications; and 3) examination content. The extent to which the two classes must be comparable may depend on additional factors. In general, more latitude is allowed as an employee's length of service with the District increases; when the request for lateral transfer is based on layoff, reclassification, or health or; when the employee meets the minimum qualifications for the class.
4. When additional hours are assigned to a regular employee the assignment shall be offered to the employee in the same class with the highest placement on the reemployment list providing the employee has more seniority than the employee given the additional hours.

REFERENCE: Education Code Sections 88080, 88081 and 88127

20.1.H PERIOD FOR LATERAL TRANSFER: A permanent employee who transfers to a position in a class in which the employee has not previously completed a probationary period shall be considered probationary in that class for the standard probationary period outline in these rules. At any time during this probationary period, the employee may be returned (transferred) to a former class without right of appeal. Any seniority earned by a probationary employee who is returned or transferred to a former class shall be credited to that former class.

20.1.1

PERMANENT EMPLOYEE RIGHTS AND PRIVILEGES:

1. The rights and privileges described above apply to a regular employee who has:
 - (a) Been laid off.
 - (b) Been bumped by person with greater seniority to avoid layoff.
 - (c) Been displaced from a class because of reclassification of a position.
 - (d) Taken voluntary demotion to remain in the same position after reclassification.
 - (e) Accepted demotion, transfer, or reduction in status in lieu of layoff from the District.
 - (f) Returned from leave of absence and could not be assigned in the same class.
 - (g) Failed to complete a probationary period in a class and could not be assigned in a class in which permanency had previously been achieved.
 - (h) Accepted a reduction in assignment or time.
 - (i) Accepted reduction in hours of employment because of the lack of bumping rights and placement opportunity.
 - a. Exhausted all paid and unpaid illness, industrial illness, or industrial accident leave and does not return to duty.
2. When any of the conditions described in Rule 20.1, above, exist, a reemployment list shall be established. A reemployment list may be established for a class, for positions on a specific assignment basis, for full time positions, or for a combination thereof. A reemployment list shall be used before any other means of filling a vacancy in the class or category for which the list was established. Reemployment rights exist for thirty-nine (39) months, except that an employee who takes a voluntary demotion or reduction in assigned time in lieu of layoff shall have an additional twenty-four (24) months.

3. A laid off employee shall retain rank on any eligibility list on which his/her name appears.
4. A permanent employee who has been laid off from the District shall continue to be a promotional candidate in examinations during the thirty-nine (39) month reemployment period.

REFERENCE: Education Code Sections 88080, 88081 and 88127

20.1.J

CERTIFICATION FROM A REEMPLOYMENT LIST:

1. Persons shall be certified from a reemployment list in the reverse order of layoff, provided that the person is willing and able to report for duty on the effective date of the appointment or within fourteen (14) calendar days after the offer of reemployment has been made, whichever is later. In cases of limited term appointments, the former employee must be willing and able to report for duty on the effective date of the appointment, or the employee will be considered unavailable for the appointment.
 - (a) An employee on a preferential list may decline two offers of reemployment in his/her former class. After his/her refusal in writing, no additional offers will be made and the employee shall be considered unavailable until he/she indicates otherwise in writing.
 - (b) Laid off employees do not accumulate seniority credit while on a reemployment list.
2. A name may be removed from a reemployment list only for the following causes:
 - (a) Conviction of a crime or crimes which would be sufficient to support dismissal of a permanent employee.
 - (b) Conduct which would cause dismissal under the provisions of Section 88122 of the Education Code.
 - (c) Making false statements or omitting a statement as to any material fact on an application form or health advisory form.
 - (d) Dismissal for cause from employment subsequent to layoff.
 - (e) Employee removed from list shall be accorded a statement of reasons and the right to a hearing before the Personnel Commission. Written notice of removal and the reason therefor shall be provided to the employee, who shall be

afforded and notified of appeal rights as those provided in Chapter 5.3.G.

3. A person whose name appears on a reemployment list may be given a medical examination prior to certification. Subject to the conditions described below, the employee may be considered unable to report for duty and may be passed over in the order of certification until the prescribed standards are met.
 - (a) The standards applied in the medical examination shall be no more stringent than those that would be applied to a continuing employee to determine fitness for duty.
 - (b) No person shall be withheld from reemployment because of a health or medical condition that existed prior to layoff or because of a normal progressive deterioration of such medical or physical condition. Such a person may be placed on illness leave or other appropriate leave after reemployment, if necessary. While on such leave, the employee shall receive seniority credit for the purpose of retention in case of future layoff. Failure to obtain a District-approved medical examination as directed at the time of layoff shall be sufficient reason to deny the benefits of this paragraph.
 - (c) Written notice of nonapproval and the reason therefor shall be provided to the employee, who shall be afforded and notified of appeal rights identical to those provided in Chapter 5.3.G.
4. If a former employee cannot meet legal requirements to perform the prescribed duties of the class of reemployment, his/her name shall be withheld from certification until those requirements are met.

REFERENCE: Education Code Sections 88080, 88081 and 88127

20.1.K. PROBATIONARY EMPLOYEE RIGHTS: Should a probationary employee be laid off without fault or delinquency on his/her part before completion of the probationary period, the person's name shall be restored to the eligibility list.

REFERENCE: Education Code Sections 88080 and 88081

20.2.A. LEAVE OF ABSENCE PRIOR TO LAYOFF:

1. When a layoff because of lack of funds or lack of work is about to occur, the division concerned shall, insofar as practicable,

determine which classes will be affected. A list of such classes shall be furnished to both the Human Resources and the Personnel Commission.

2. Any regular employee who has received notice of impending layoff may be given a leave of absence, at the discretion of the division head, from or after the date of such notice until the effective date of layoff.
3. Recession of the notice of impending layoff shall cancel all leaves granted under this Chapter. Employees in executive/administrative and supervisory classes shall be allowed twenty-eight (28) calendar days in which to return to employment; employees in other classes shall be allowed fourteen (14) calendar days in which to return to employment.

REFERENCE: Education Code Sections 88080, 88081 and 88127

20.2.B

PERS RETIREMENT IN LIEU OF LAYOFF: 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 reduction in assigned time. Such employees shall complete and submit a form to the Public Employees' Retirement System. The employee shall then be placed on a thirty-nine (39) month reemployment list in accordance with the Rules within this Chapter. If the District makes an offer of reemployment, the retired person shall be allowed sufficient time to request reinstatement with the Public Employees' Retirement System.

REFERENCE: Education Code Sections 88080 and 88081