

AR 4217.3 Layoff/Rehire for Members of the Classified Service

Classified employees shall be subject to layoff for lack of work or lack of funds. (Education Code 45117, 45308)

Order of Layoff Within a Classification/Determination of Seniority

The order of layoff within a class shall be determined by length of service. (Education Code 45114, 45308) Length of service shall be determined by the date of hire, regardless of the number of hours worked in any assignment. The employee who has been employed the shortest time in the class, plus higher classes, shall be laid off first.

Seniority of classified employees shall be based on the date of hire in a probationary position. In determining seniority, the following rules shall apply:

1. Paid service performed prior to entering probationary status in the classified service shall not be included.
2. Overtime work shall not be included.
3. Substitute and short-term assignments, which are not part of the regular classified service, shall not be included.
4. Time spent on paid leaves of absence, and time spent on approved unpaid leaves of absence shall be included.
5. Time spent on unauthorized leaves of absence, shall not be included.
6. Time spent in any class before a break in continuity of employment because of separation from service shall count toward seniority accrual only when:
 - a. The separation was not a dismissal for cause or resignation in lieu of dismissal for cause; and
 - b. The separation does not exceed 39 months; and
 - c. The employee is rehired with restoration of all benefits pursuant to Education Code section 45309.

Seniority shall be adjusted for a break in service pursuant to this paragraph, including but not limited to a layoff, resignation, or unauthorized leave of absence, by subtracting the length of the break in service from the employee's total seniority.

Rehire after a break in service that does not meet the criteria in (a), (b), and (c) of this paragraph shall result in a new date of hire, which shall be the employee's new seniority date.

7. In the event two or more employees have the same hire date according to the above rules, seniority within a class shall be determined as follows:
 - a. Permanent employees shall be credited with greater seniority than probationary employees in the same class, regardless of their length of service.

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- b. The employee with the greatest seniority in his/her current class, plus any higher class, plus any lower class, shall be considered to have the greatest seniority in the current class.
- c. If two or more employees still have the same seniority within a given class, the tie will be broken by a drawing of lots.

For an employee who is a member of the Military Reserve or the National Guard, 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. (Education Code 452978, 45308)

Notice of a Layoff

Whenever a classified employees is to be laid off for lack of work or lack of funds, written notice shall be given to the employee, informing him/her of the layoff, the date the layoff goes into effect, and displacement rights, and reemployment rights. The notice shall be given: (Education code 45117)

1. At least 60 days prior to the effective date of layoff, if the layoff is for lack of work resulting from a bona fide reduction or elimination of service being performed.
2. No later than April 29, if the layoff is for lack of funds due to the expiration of a specially funded program at the end of any school year. However, if the termination date of the specially funded program is other than June 30, the employee shall be given notice at least 60 days from the effective date of the layoff.

The district is not bound to provide 60-days' notice in the event that it is unable to pay the salaries of classified employees due to an actual and existing financial inability, or if layoff is caused by conditions not foreseeable or preventable by the district. The district will provide information about reemployment and displacement rights, if any, to all employees laid off under these conditions. (Education Code 45117)

The district also is not required to provide the 60-day notice to any person hired as a short-term employee for a period not exceeding 60 days whose service may not be extended or renewed. (Education Code 45117)

Reemployment Eligibility

Classified employees laid off because of lack of work or lack of funds are eligible for reemployment within their classification for a period of 39 months from the date of layoff and shall be reemployed in preference to new applicants. Reemployment shall occur or be offered in order of seniority. Persons laid off also have the right to apply and establish their qualification for vacant promotional positions within the district during the 39-month period.

Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff, reclassification or reassignment shall retain eligibility for an additional period to be considered for reemployment in a position in the previously held classification or an additional number of hours, provided that the same tests of fitness under which they qualified for appointment to the class still apply. The additional period shall be determined by the governing board on a class-by-class basis but shall not exceed 24 months. (Education Code 45298)

Reemployment Procedures

Reemployment shall occur in reverse order of layoff. (Education Code 45308)

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To be eligible for reemployment, an employee must be fully capable of performing the normal and customary duties of the job. An employee who has been laid off from a class must meet the minimum qualifications and any special qualifications for reemployment in the class.

When a vacancy occurs, the district shall give the employee with the most seniority an opportunity to accept or reject the position, by first calling the employee at his/her last known telephone number to notify him/her of the vacancy and then sending written notice by certified and standard mail to his/her last known address. The employee shall advise the district of his/her decision by any means no later than 10 calendar days from the date the notice was sent. If the employee accepts, he/she shall report to work no later than two calendar weeks from the vacancy notification date unless a later date is specified by the district.

In order to be reemployed, the employee must be capable of performing the essential duties of the job with or without reasonable accommodations. When an otherwise eligible employee is unable to perform the essential duties of the job, he/she shall be kept on the reemployment list until another opportunity becomes available or the period of reemployment eligibility expires, whichever occurs first.

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

When a laid-off employee is reemployed, all sick leave credit accumulated at the time of the layoff will be restored.

A laid-off permanent employee who 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 previous 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 a probationary employee at the time of layoff.

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.

Voluntary Demotion or Voluntary Reduction of Hours

Classified employees who take voluntary demotion or voluntary reduction 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 employees who are laid off. In addition, such employees shall retain eligibility to be considered for reemployment in their previously held class or position with increased assigned time, for an additional period of time up to 24 months as determined by the Governing Board on a class-by-class basis, provided that the same test of fitness under which they qualified for appointment to that class shall still apply. (Education Code 45114, 45298)

Employees who take voluntary demotion or voluntary reduction 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

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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)

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