

LOS ANGELES UNIFIED SCHOOL DISTRICT
PERSONNEL COMMISSION

740

February 27, 2013

LAW AND RULES

740 LAYOFF AND REEMPLOYMENT

Education Code 45298

- a. A person laid off because of lack of work or lack of funds are eligible to reemployment for a period of 39 months as follows:
 1. The person's reemployment shall take preference over new applicants.
 2. The person shall have the right to participate in promotional examinations within the district during the period of 39 months.
 3. If the person is reemployed in a new position and fails to complete the probationary period in the new position, he or she shall be returned to the reemployment list for the remainder of the 39-month period. The remaining time period shall be calculated as the time remaining in the 39-month period as the date of reemployment.
- b. An employee who takes a voluntary demotion or a voluntary reduction in assigned time in lieu of layoff or to remain in his or her present positions rather than be reclassified or reassigned, shall be granted the same rights as persons laid off and shall retain eligibility to be considered for reemployment for an additional period of up to 24 months; provided that the same tests of fitness under which the employee qualified for appointment to the class shall still apply. The personnel commission shall make the determination of the specific period of eligibility for reemployment on a class-by-class basis.
- c. An employees who takes a voluntary demotions or a voluntary reductions in assigned time in lieu of layoff shall be, at the option of the employee, returned to a position in his or her former class or to a position with increased assigned time as vacancies become available, and without limitation of time, but if there is a valid reemployment list the employee shall be ranked on that list in accordance with his or her proper seniority.

Education Code 45308

- a. Classified employees shall be subject to layoff for lack of work or lack of funds. If a classified employee is laid off, the order of layoff within the class shall be determined by length of service. The employee who has been employed the shortest time in the class, plus higher classes, shall be laid off first. Reemployment shall be in order of seniority.

CHANGE: To reflect the current language of Education Code Sections 45298 and 45308; specifically Paragraph B to state that notices shall be sent by the Personnel Commission via U.S. certified mail (return receipt requested) not less than 60 days to the effective day of an employee displaced from a class because of layoff, bumping, or restoration of an employee with the right to a position.

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- b. For the purposes of this section, in school districts with an average daily attendance below 400,000, for service commencing or continuing after July 1, 1971, "length of service" means all hours in paid status, whether during the school year, a holiday, recess, or during any period that a school is in session or closed but does not include any hours compensated solely on an overtime basis as provided for in Section 45128. Nothing in this section shall preclude the governing board of a school district from entering into an agreement with the exclusive representative of the classified employees that defines "length of service" to mean the hire date. For purposes in this section, in school districts with an average daily attendance of 400,000 or more, for service commencing or continuing after January 1, 1986, "length of service" shall be determined by the date of hire.

If a governing board enters into an agreement with the exclusive representative of classified employees that defines "length of service" to mean the hire date, the governing board may define "length of service" to mean the hire date for a classification of employee not represented by an exclusive bargaining unit.

- c. Nothing contained in this section shall preclude the granting of "length of service" credit for time spent on unpaid illness leave, unpaid maternity leave, unpaid family care leave, or unpaid industrial accident leave. In addition, for military leave of absence, "length of service" credit shall be granted pursuant to Section 45297. In the event an employee returns to work following any other unpaid leave of absence, no further seniority shall be accrued for the time not worked.
- d. "Hours in paid status" shall not be interpreted to mean any service performed prior to entering into a probationary or permanent status in the classified service of the district except service in restricted positions as provided in this chapter.

A. Computing Length of Service

Length of service for the purpose of establishing retention lists shall be computed as follows:

1. Service credit shall be determined by the date of hire in regular status in the class and includes
 - a. regular assigned time in any higher class;
 - b. assigned time in any senior management position, but such time shall only be credited to classifications in which the employee has underlying regular status;
 - c. time on the following paid leaves: industrial accident or industrial illness, maternity, military, and illness

CHANGE: Amended to align with the provisions of CFRA and ensure compliance with the laws
Remove: February 27, 2013, page 2 of 7. Add: May 23, 2016, page 2 of 8.

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- d. assigned time in provisional status shall count in the class in which the incumbent has regular status; provisional time will be counted in the higher class if the employee is subsequently appointed to the higher class before July 1, 2010, however, time in provisional status will not be counted towards the higher class even if the employee is subsequently regularly appointed on or after July 1, 2010 to the higher class
 - e. time on the following unpaid leaves: apprentice training; industrial accident or industrial illness as provided in Rule 804; leave prior to layoff as provided in Rule 741; maternity; military as provided in Rule 820; Peace Corps, Red Cross, or Merchant Marine as provided in Rule 805; CFRA eligible, and retraining and study
 - f. time served by a regular employee after being granted a salary differential as provided by Rule 581 will be counted in the higher class if the employee is appointed to the higher class before July 1, 2010, however, time served by a regular employee after being granted a salary differential as provided in Rule 581 will not be counted in the higher class if the employee is appointed to the higher class on or after July 1, 2010
 - g. time served in restricted status if the employee qualified for regular status without a break in service.
2. Time in a regular assignment 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 39 months after layoff.
 3. Time served in substitute, temporary, or limited-term assignments by eligibles from a reemployment list shall accrue no additional seniority.
 4. 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.
 5. 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:
 - a. the date of any change in the class description for the employee's former or new class
 - b. the date of any pertinent change in the classification plan

CHANGE: Amended to align with the provisions of CFRA and ensure compliance with the laws
Remove: (Reissue) December 7, 2011, page 3 of 8. Add: May 23, 2016, page 3 of 8.

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- c. the date of any significant change in assigned duties or responsibilities as evidenced by 80.4 forms, memoranda, or requests for reclassification
 - d. the date of introduction of any new forms, equipment, procedures, or other conditions affecting the position
 - e. 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.
6. Except as provided in Paragraphs A.4 and A.5, above, an employee transferred from one class to another shall not be credited in the new class with seniority accumulated in the class from which transferred.
 7. 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
 - a. has the greater total seniority with the District
 - b. in case the tie remains, had the higher rank on the eligibility list from which the tied employees were appointed.
 - c. in case the tie remains, has the lower employee number

"Total seniority with the District" shall include service in a Public Service Employment (PSE) class provided that, on or after January 1, 1981, the employee was appointed without break in service to a regular position in the Classified Service.

B. Bumping and Placement Rights

1. As provided in Education Code Section 45117, when an employee must be displaced from a class because of layoff, bumping, or restoration of an employee with the right to a position, the employee who has the least seniority in the class shall be laid off first. Notice shall be sent by the Personnel Commission via U.S. certified mail (return receipt requested) to the affected employees not less than 60 days prior to the effective date. During an inactive period of an assignment basis, affected employees shall be laid off effective at the close of the day immediately preceding the day on which they would normally have reported to work in accordance with their individual assignment basis. Bumping and placement rights shall be operative on the day following the effective date of layoff.

CHANGE: To reflect that additional tie breakers are needed due to the January 1st start date of all transferred Community Representatives and Playground Aides into the classified service through Assembly Bills 2261 and 670.

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2. Regular employees who are laid off may exercise bumping rights in any equal or lower class in which they hold seniority credit greater than that of an incumbent. They may exercise bumping rights into a class at a higher level held within five years of the subject layoff provided that the Personnel Commission staff makes a determination that there has been no substantial change in assigned duties and responsibilities of that class. The employee to be bumped shall be one with the least seniority in the class. Laid-off employees shall be placed on the reemployment list in order of seniority.
3. When the assignment basis of a position is reduced by ten or more working days in a fiscal year, the incumbent shall be placed in a vacant position in the same class on the former assignment basis; if no such position is available, the incumbent shall have the right to displace the least senior employee in that class and on that assignment basis, provided that the incumbent has greater seniority. An employee who refuses an assignment to such a vacant position or declines to exercise bumping rights to a position in the same class and on the same assignment basis shall have waived the right to such an assignment.

C. Employee Rights and Privileges

1. The rights and privileges described below apply to a regular employee who has
 - a. been laid off
 - b. been bumped by a person with greater seniority
 - c. been displaced from a class because of reclassification of 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 reduction in assignment basis of ten days or more because of the lack of bumping rights and placement opportunity
 - i. accepted reduction from full-time to part-time employment because of the lack of bumping rights and placement opportunity

CHANGE: To update Rule 740 to reflect changes that were caused by the amendment of Rule 659; which provides change of location (transfer) opportunities for current employees during specified times, when a reemployment lists exists.

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- j. exhausted all paid and unpaid illness, industrial illness, or industrial accident leave and does not return to duty.
 - k. filed for a service retirement in lieu of layoff
2. When any of the conditions described in Paragraph C.1, above, exist, a single reemployment list for the classification shall be established which shall contain the names of all employees with regular status in the class who have been laid off, demoted, or have had their hours or basis reduced because of lack of work or lack of funds. Names on the reemployment list shall be ranked in accordance with their proper seniority as determined by length of service. 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, except as provided in Rule 659, Order of Precedence in Certification to Vacancies. Reemployment rights exist for 39 months, except that no time limit applies to an employee who has taken voluntary demotion or reduction in assigned time in lieu of layoff.
 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 39-month reemployment period.
 5. As provided in Education Code Section 45298, the Commission may grant the privilege of return to former class for up to 24 months after the 39-month reemployment period of employees subject to Paragraph C.1.d, above.
 6. Employees who file in writing with the Employment Transactions Services Branch for service retirement in lieu of layoff shall be placed on an appropriate reemployment list in accordance with their proper seniority.
- D. Certification from a Reemployment List
1. Persons shall be certified from the reemployment list for the classification in order of seniority, provided that the person is willing and able to report for duty on the effective date of the appointment or within 14 days after the offer of reemployment has been made, whichever is later. If an employees who filed for a service retirement in lieu of layoff subsequently accepts reemployment in writing, the vacancy shall be maintained until the employee's request for reinstatement from retirement has been properly processed. 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.

CHANGE: To update Rule 740 to reflect changes that were caused by the amendment of Rule 659; which provides change of location (transfer) opportunities for current employees during specified times, when a reemployment lists exists.

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2. An employee on a reemployment list may be employed as a substitute or limited-term employee in a class in which he or she has reemployment rights or any other class for which the employee is qualified. No seniority shall accrue for such substitute or limited-term assignments as provided by Paragraph A.3 above; however, the employee shall remain on the reemployment list and retain all reemployment rights to a regular assignment consistent with his or her seniority.
3. 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 45303 of the Education Code.
 - c. Failure to report for review of loyalty or criminal record as directed.
 - d. Making false statements or omitting a statement as to any material fact on an application form or health history form.
 - e. Dismissal for cause from employment subsequent to layoff.

Written notice of removal and the reason therefor shall be provided to the employee, who shall be afforded and notified of appeal rights identical to those provided in Rule 600.

4. An employee who has been notified of impending layoff from the District may be directed to report for medical examination. 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.

CHANGE: To clarify existing procedures utilized to computer length of service credit, reemployment rights for retirees, and maintenance of reemployment lists to accommodate successive reductions in force.

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- c. Written notice of non-approval and the reason therefor shall be provided to the employee, who shall be afforded and notified of appeal rights identical to those provided in Rule 600.
5. 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.

CHANGE: To clarify existing procedures utilized to computer length of service credit, reemployment rights for retirees, and maintenance of reemployment lists to accommodate successive reductions in force.

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