



CLIENT NEWS BRIEF

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YOUR ESSENTIAL CHECKLIST FOR CERTIFICATED AND CLASSIFIED LAYOFFS

In the past few years, most public school districts in California have been forced to cut their staffing levels to accommodate the deep cuts in school funding from Sacramento. This year, Governor Brown has proposed a state budget that maintains programmatic funding for schools at the same level in 2011-12 as that in effect for 2010-11. The Governor's proposal is not final, however, and will be adjusted through compromises with the State Legislature, and in the Governor's May Revise, and potentially by a Special Election in June 2011.

Although the status of the State budget is uncertain, if you are considering layoffs at the end of this school year, now is the time to begin the work needed to effectuate the timely completion of the process.

Certificated Layoffs

If your school district is contemplating a certificated reduction in force for the 2011-12 school year, the district should promptly begin drafting and adopting a board resolution to authorize the layoff. A district must serve affected employees with the required Notice of Intent to Layoff prior to March 15th. (Ed. Code § 44955.) The hearing process must be completed and the final layoff notices must be given to employees prior to May 15th.

Given the tight timeline to accomplish certificated layoffs, we recommend that districts begin doing some of the basic groundwork for this process as soon as possible. Some of the immediate and essential steps are:

- Developing and distributing a seniority list, verifying the following information;
 - o Seniority dates (first date of paid probationary service)
 - o Current assignments
 - o Current credentials and authorizations
- Reviewing and verifying your list of temporary teachers, teachers assigned to categorically-funded programs, and teachers on leaves of absence;

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- Determining ADA figures for 2011-12 and particular kinds of services (PKS) to be reduced;
- Determining the needs of the district, competency standards, and criteria for breaking ties in seniority dates;
- Determining bumping and skipping order (if applicable); and
- Developing necessary board resolutions.

You should be mindful that teachers who are misclassified as “temporary” may create problems for you during a layoff hearing. In Bakersfield Elementary Teachers Assn. v. Bakersfield City School District (2006) 145 Cal.App.4th 1260, the court held that only those employees who meet the statutory definition of temporary employees may be classified as temporary, and all other employees are entitled to layoff rights. ([See CNB No. 4, 2007.](#)) In California Teachers Association v. Vallejo City Unified School District (2007) 149 Cal.App.4th 135, the court held that teachers holding “provisional” credentials may be probationary and entitled to statutory layoff rights. ([See CNB No. 14, 2007.](#)) Improper classification of certificated employees can result in the invalidation of some or all of a teacher layoff. Thus, the employee verification process is particularly important to ensure that employees are properly classified.

Additionally, note that any administrative reassignments back into the classroom may affect your certificated layoff. The Education Code provides specific seniority rules for administrators, which might result in reassigned administrators being “bumped” and laid off. The administrative reassignments and probationary non-reelections are essential pieces that must be considered as part of the layoff puzzle.

Classified Layoffs

The timing and process for classified layoffs are not as detailed or complicated as certificated layoffs, but there are still many considerations for your district. Classified staff can be laid off based upon a lack of work or a lack of funds. (Ed. Code §§ 45113, 45117.) Generally, classified employees can be released upon 45 days’ notice after board action. When a classified layoff at the end of a school year is caused by the expiration of categorical monies, notice must be given on or before April 29th after having taken board action.

In classified layoffs, the bumping process can be rather involved if employees have served in multiple classifications. Further, if seniority is determined by hours served in a classification, rather than date of hire, the determination of a seniority ranking can be very complex.

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While both certificated and classified layoffs are authorized by the Education Code, all districts should consult their collective bargaining agreements (CBA) for any rules or time lines that differ from the basic statutory framework. Many districts have negotiated CBA provisions that impact this process by providing additional procedures. Also, with both classified and certificated layoffs, bargaining unit representatives may demand to negotiate the effects of a layoff.

At Lozano Smith, we have extensive experience in both certificated and classified layoff processes. If you would like to have our firm's assistance in any stage of the process, please do not hesitate to contact one of our [eight offices](#) located statewide or consult our [website](#).

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As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.