

CHAPTER XIII: SENIORITY, LAYOFF, DISPLACEMENT AND REEMPLOYMENT

RULE 13.1

SENIORITY PROVISIONS

- Section 13.1.1 Seniority Defined
13.1.2 Seniority Computation
13.1.3 General Provisions
13.1.4 Seniority Lists

RULE 13.2

LAYOFF PROCEDURES

- Section 13.2.1 Procedure for Employee Layoff

RULE 13.3

DISPLACEMENT (BUMPING) RIGHTS

- Section 13.3.1 Displacement Rights for Permanent Employees
13.3.2 Rights of Non-Permanent Employees

RULE 13.4

REEMPLOYMENT

- Section 13.4.1 Reemployment Rights of Permanent Employees
13.4.2 Reemployment Rights of Retired Employees

RULE 13.1 SENIORITY

13.1.1 SENIORITY DEFINED

- A. Seniority shall be defined as the length of service a regular classified employee has served in the class plus higher classes.
- B. For all employment in the regular classified service, seniority shall be determined by the employee's original date of hire in a class plus higher related classes.
- C. No seniority shall be earned during unpaid periods of separation from the service of the school district in excess of thirty (30) working days per year except for military leave. Time spent on military leave shall count toward seniority provided that the employee returns to active service with the District within six (6) months of release or discharge from the military under honorable conditions.
- D. A permanent employee, who is laid off and is subsequently reemployed pursuant to Education Code 45308, shall regain the seniority status held prior to the time of layoff, less the amount of time the employee was in a lay-off status.
- E. Should a permanent employee voluntarily separate from service and be subsequently reinstated to employment pursuant to Education Code 45309. All time spent working in the regular classified service shall count toward seniority accrual when the period of separation does not exceed thirty-nine (39) months.

Reference: Education Code Sections 45308 and 45309

13.1.2 SENIORITY COMPUTATION

- A. Computation of seniority in a class shall include:
 - 1. All time served in the classification from the date of hire into the class in a regular probationary or permanent status.
 - 2. Time for which a regular employee is paid in an equal or higher class on a limited term or provisional basis shall be credited to the employee's regular class.
 - 3. Time served in restricted status upon qualification by the employee as provided in Rule 3.1.6.G.

- B. Computation of seniority in a class shall not include:
 - 1. Time served or compensated for in a substitute, limited term or provisional assignment prior to entering into the classified service as a probationary employee.
 - 2. Time, in excess of thirty (30) working days per year, of unpaid separation from service in the school district except for military leave and the normal summer break for employees serving in less than an eleven (11) month per year assignment.

Reference: Education Code Section 45308

13.1.3 GENERAL PROVISIONS

- A. Whenever a tie in seniority in a class exists, the tie shall be broken in the following manner:
 - 1. The employee with the longest total service in probationary/permanent status with the District shall be accorded the greater seniority.
 - 2. If two (2) or more employees continue to be tied, the Director of Classified Personnel shall provide for the employees to draw lots to break the tie.
- B. When reclassification results either in the merger of two (2) or more classes, or the separation of a class into two (2) or more classes, seniority rights of probationary/permanent employees who are reclassified with their positions shall be computed from the effective date of the reclassification.
- C. An employee changing from one (1) class to another shall retain seniority in the former class; seniority in the new class shall begin on the date of the change.

13.1.4 SENIORITY LISTS

- A. Seniority lists shall be prepared for each class and updated as needed. The lists shall be approved by the Director of Classified Personnel and certified by the Commission.
- B. A record of seniority computation shall be maintained for each employee. This record shall be made available to the employee for review.
- C. When an employee believes that an error has been made on the seniority computation, the employee may notify the Director of Classified Personnel who shall review the computations and any additional information provided by the employee. The Director of Classified Personnel shall determine if a re-

computation is appropriate. Seniority lists shall be corrected and presented to the Commission for certification, as necessary.

- D. In computing seniority for a single class with both full-time and part-time positions, only one list shall be prepared which shall include both the full-time and part-time positions.

RULE 13.2 LAYOFF PROCEDURES

13.2.1 PROCEDURE FOR EMPLOYEE LAYOFF

- A. The Board may layoff employees because of lack of work or lack of funds, and only in accordance with the rules and regulations of the Personnel Commission. 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. In the event of layoff, 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. Employees who have been laid off shall have the right of reemployment. Reemployment shall be in the reverse order of layoff. The seniority list for the class shall be used to carry out all applicable Rules in regard to layoff.
- B. When the Board determines that classified employees must be laid off and has approved the positions, services or programs which are to be eliminated, the Assistant Superintendent-Human Resources shall notify the employees affected.
 - 1. Employees who are to be laid off shall be given notice of layoff not less than forty-five (45) days prior to the effective date of layoff. Employees who are to be laid off due to the expiration of a specially funded program shall be given notice on or before April 29. However, if the termination date of any specially funded program is other than June 30, such notice shall be given not less than forty-five (45) days prior to the effective date of their layoff.
 - 2. The layoff notice shall include the:
 - a. Reason for the layoff;
 - b. Effective date of layoff;
 - c. Employee's displacement (bumping and voluntary demotion) rights;
 - d. Employee's reemployment rights;

- e. Employee's benefit entitlement, unemployment compensation rights, and promotional testing preference;
 - f. Name and classification of the employee, and
 - g. Right to an exit interview during office working hours with the Director of Classified Personnel and bargaining representative.
3. The Board may waive the forty-five (45) day notice for lack of funds in the event of an actual and existing financial inability to pay salaries or for lack of work for causes not foreseeable or preventable by the Board.
 4. When the assigned work year and/or the assigned hours of a position must be reduced, or when a position is reallocated to a lower salary level, the incumbent shall be given the opportunity to elect a voluntary reduction in order to remain in the position. This reduction shall be in lieu of layoff.
 5. When a limited term assignment exists in the same class in which a regular employee is to be laid off, the regular employee shall be offered the limited term assignment. If the regular employee accepts the limited term assignment, the limited term employee shall be terminated. The regular employee remains on the reemployment list.
 6. Probationary employees who are to be laid off shall be given forty-five (45) days notice and returned to the appropriate eligibility list.

RULE 13.3 DISPLACEMENT (BUMPING) RIGHTS

13.3.1

A. Permanent classified employees who are to be laid off may exercise displacement rights in their class or in a class with the same or lower salary in which they hold seniority credit greater than an incumbent. The incumbent who is displaced shall be the one with the least seniority in the class plus higher classes. In determining displacement rights, the following rules shall apply.

1. In cases of reclassification, reorganization or abolishment of position, or in cases where an employee is promoted and subsequently disqualified during probation, an incumbent's seniority in the class shall be computed according to Rule 13.1.2.
2. An employee has the choice of displacing that employee within the employee's classification who has the least seniority in the class or the one who holds the next most comparable assignment. Assignment is defined as the total number of hours of paid status assigned to a position per year. The employee finally laid off shall be the one with the least seniority in the class plus higher classes.

3. When an employee displaces into a lower classification, the employee displaced shall be the one with the least seniority who holds the most comparable assignment. The employee finally laid off shall be the one with the least seniority in the class plus higher classes.
4. If an employee waives the opportunity to displace within the employee's classification, these procedures may be followed only in an equal or a lower classification in which seniority is held. If the employee waives the right to displacement or a vacant position the employee shall be laid off and placed on the reemployment list.
5. An employee shall have five (5) working days to notify the Director of Classified Personnel of the intent to exercise displacement rights.
6. Displacement into a lower class under this Rule shall be considered a voluntary demotion and shall qualify the employee for "Y" rate salary placement under Rule 12.2.8.

13.3.2. RIGHTS OF NON PERMANENT EMPLOYEES

- A. Probationary employees who are laid off shall have no displacement rights but shall be restored to their place on the eligibility list from which they were appointed.
- B. All other employees without permanent status in the classified service, shall hold no displacement rights and may be terminated at the end of their work shift by their supervisor without regard to the notification procedures of Rule 13.2.
- C. No regular employee shall be laid off from any position while temporary or limited term employees are assigned to positions in the same class, unless the regular employee declines the temporary assignment.

Reference: Education Code Sections 45114, 45117 and 45308

RULE 13.4 REEMPLOYMENT

13.4.1 REEMPLOYMENT RIGHTS OF PERMANENT EMPLOYEES

- A. A permanent employee after having had the opportunity to exercise all rights guaranteed under this Rule who must be laid off and placed on a reemployment list for the first comparable vacancy occurring in the class from which the employee was laid off for a period of up to thirty-nine (39) months. The following procedures shall also apply:

1. An eligible on a reemployment list may decline three (3) offers of reemployment in the eligible's former class. After the third refusal, no additional offers need be made and the eligible shall be considered unavailable until the eligible indicates availability in writing.
 2. If an employee is on an eligibility list at the time of layoff, the employee shall be restored to or remain on the list until placed from the list or the employee's eligibility expires.
 3. Eligibles on reemployment lists may compete in promotional examinations for which they qualify and shall be granted seniority credit.
 4. Laid off employees shall not accumulate seniority in the class while on the reemployment list.
- B. An employee who has accepted voluntary demotion or voluntary reductions in assigned time in lieu of layoff has the right to be reemployed without examination, in accordance with the employee's seniority, in a vacant position in the employee's former class within sixty-three (63) months after demotion. Intervening assignments or reassignments to other classes shall not abrogate this right.
- C. Upon reemployment the District shall restore all rights, benefits, and burdens of a permanent employee in the classified service. Salary placement shall be determined according to Rule 12.2.12.

References: Education Code Sections 45298 and 45308

13.4.2 REEMPLOYMENT RIGHTS OF RETIRED EMPLOYEES

- A. Notwithstanding any other provisions of law, any person who was subject to being or was in fact laid off for lack of work or lack of funds and who elected service retirement from the Public Employees' Retirement System shall be placed on an appropriate reemployment list. The District shall notify the Board of Administration of the Public Employees' Retirement System of the fact that retirement was due to layoff for lack of work or lack of funds. If the person is subsequently subject to reemployment and accepts, in writing, the appropriate vacant position, The District shall maintain the vacancy until the Board of Administration of the Public Employees' Retirement System has properly processed the person's request for reinstatement from retirement.

Reference: Education Code Section 45115