

CERTIFICATED PERSONNELPersonnel Reduction

The Superintendent may determine that a reduction in certificated personnel or a reduction in hours and wages is necessary due to any of the following conditions:

1. Declining enrollment
2. Reduction or discontinuance of programs or services
3. State-mandated modification of the curriculum
4. Reasons related to fiscal crisis as stated in Education Code 44955.5

In cases of declining enrollment, the percentage of reduction in probationary and permanent certificated personnel shall not exceed the corresponding percentage of student attendance lost.

Determination of the Order of Layoffs

When it is necessary to reduce the number of certificated employees for any of the reasons listed above, the services of employees shall be terminated in the inverse of the order in which they were employed by the Office of Education in probationary status, except as otherwise authorized by law.

The Superintendent or designee shall maintain the seniority list for this purpose and shall make it available upon request.

No permanent certificated employee shall be terminated or given a reduction in hours and wages while any probationary employee or other employee with less seniority is retained to render a service which a permanent employee is certified and competent to render, except as otherwise provided by law.

To determine the order of termination between employees who first rendered paid service on the same date, the Superintendent shall rank order those employees solely on the basis of the needs of the Office of Education and students. Upon the request of an employee whose order of termination is to be determined based on such ranking, the Superintendent shall furnish the employee, no later than five days prior to the commencement of the administrative hearing on the layoff, a written statement of the specific criteria used in determining the order of termination and the application of the criteria in ranking the employee relative to the other employees in the group.

Personnel

Superintendent's Policy 4117.3(b)

The Office of Education may deviate from terminating certificated employees in order of seniority for either of the following reasons:

1. To fulfill a demonstrated specific need for personnel to teach a specific course or courses of study, or to provide services authorized by a services credential with a specialization in either student personnel services or health for a school nurse, when the certificated employee has the necessary special training and experience which others with more seniority do not possess.
2. To maintain or achieve compliance with constitutional requirements related to equal protection of the law.

Notice and Hearing Rights

When it becomes necessary to reduce the number of permanent and/or probationary employees pursuant to Education Code 44955 as specified in items 1-4 above, the County Office shall give notice to affected employees, no later than March 15, stating the reasons for the action and the employees' right to a hearing. The County Office shall adhere to the notice, hearing and layoff procedures in Education Codes 44949 and 44955 where applicable.

When an employee has requested a hearing before an administrative law judge regarding the reduction or discontinuance of services, the Superintendent shall make a final decision regarding the sufficiency of the cause and disposition of the layoff upon receipt of the administrative law judge's proposed decision. None of the findings, recommendations, or determinations of the administrative law judge shall be binding on the Superintendent.

The Superintendent may conduct his/her own hearing, adopt the administrative law judge's proposed decision, refer the case back to the administrative law judge for additional evidence, or reject or modify the proposed decision and make his/her own determinations based upon review of the record.

The Superintendent or designee shall give final notice, in the manner specified, to the affected employees before May 15 unless the parties agree otherwise in accordance with procedures required by law.

When layoffs become necessary pursuant to Education Code 44955.5, as specified in item #4 above, layoff proceedings shall be carried out as required by law but in accordance with a schedule of notice and hearing adopted by the Superintendent.

Reappointment

If the number of employees is increased or the discontinued service reestablished, permanent certificated employees shall have the right to reappointment, in order of seniority, for 39 months from the date of termination. Probationary certificated employees shall have the same right for 24 months after being terminated, subject to the prior reappointment rights of permanent employees.

During the period of the preferred right to reappointment, permanent certificated employees shall, in the order of original employment, be offered first opportunity for substitute service during the absence of any employee who has been granted a leave of absence or who is temporarily absent from duty. Such substitute service may be terminated upon the return to duty of the other employee. Such substitute service shall not affect the retention of the employees' previous classification and rights. Probationary certificated employees shall have the same right to substitute service during the period of preferred right to reappointment to the extent required by law, subject to the rights of permanent certificated employees.

Before reappointing any certificated employee to teach a subject which he/she has not previously taught and for which he/she does not have a teaching credential or which is not within the employee's major area of postsecondary study, the Superintendent shall require the employee to pass a subject matter competency test in the appropriate subject.

Reappointed certificated employees shall not be subject to any requirements that were not imposed on employees who continued service. Their period of absence shall be treated as a leave of absence and not considered a break in the continuity of their service.

*Legal Reference:*EDUCATION CODE*44830 Employment of certificated persons**44949 Dismissal of probationary employees**44955 Reduction in number of permanent employees**44955.5 Termination of certificated employees**44956-44959.5 Rights of employees*GOVERNMENT CODE*3543.2. Scope of representation*UNEMPLOYMENT INSURANCE CODE*1089 Notification of unemployment insurance benefits*

CODE OF REGULATIONS, TITLE 22

1089-1 Notification of unemployment insurance benefits

COURT DECISIONS

Vergara V. State of California, (2014) Superior Court State of California, County of Los Angeles, Case No. 484642

California Teachers Association v. Vallejo City Unified School District, (2007) 149 Cal.App.4th 135

Bakersfield Elementary Teachers Association v. Bakersfield City School District (2006) 145 Cal.App.4th 1260

Cousins v. Weaverville Elementary School District, (1994) 24 Cal.App.4th 1846

Forker V. Board of Trustees, (1984) 160 Cal.App.3d 648

King v. Berkeley Unified School District, (1979) 89 Cal.App.3d 1016