

LOS ANGELES COMMUNITY COLLEGE DISTRICT  
PERSONNEL COMMISSION

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LAW AND RULES

January 29, 2004

740 LAYOFF AND REEMPLOYMENT

Education Code Section 88080

**88080. Power of Personnel Commission to Prescribe and Amend Rules.**

The commission shall prescribe and amend ... rules...

Education Code Section 88081

**88081. Subject of Rules.** The rules shall provide for the procedures ... regarding layoffs ...

Education Code Section 88117

**88117. Reemployment and Promotional Examination Preference of Persons Laid off; Voluntary Demotions or Reduction in Time.** Persons laid off because of lack of work or lack of funds are eligible to reemployment for a period of 39 months and shall be reemployed in preference to new applicants. In addition, such persons laid off have the right to participate in promotional examinations within the district during the period of 39 months.

Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff or to remain in their present positions rather than be reclassified or reassigned, shall retain eligibility to be considered for reemployment for an additional period up to 24 months; provided, that the same tests of fitness under which they 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.

Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff shall be, at the option of the employee, returned to a position in their former class or to positions with increased assigned time as vacancies become available, and without limitation of time, but if there is a valid reemployment list they shall be ranked on that list in accordance with their proper seniority.

**CHANGES:**

No change in text.

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Education Code Section 88127

**88127. Order of Layoff and Reemployment; Length of Service.** Classified employees shall be subject to layoff for lack of work or lack of funds. Whenever a classified employee is laid off, the order 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 reverse order of layoff. For purposes of this section, 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 88027.

Nothing contained in this section shall preclude the granting of "length of service" credit for time spent on military leave of absence, or unpaid illness leave, or unpaid industrial accident leave.

"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.

Education Code Section 88005

**88005. Positions Under Various Acts not Requiring Certification Qualifications; Classification.** (a) Positions not requiring certification qualifications created by a governing board of a school district under ..., any future federal or state legislative enactment, or any other special funding, and which are not a part of the regular school program shall nevertheless, be a part of the classified service ...

(b) ...

(c) At any time, after completion of six months of satisfactory service, ... if such person satisfactorily completes the qualifying examination ... His service in the regular classified service shall be counted from the original date of employment in the "restricted" position and shall continue even though he continues to service in a "restricted" position.

CHANGES:

No change in text.

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- (d) ...
- (e) ...

Education Code Section 88015

**88015. Layoff; Reinstatement from Service Retirement.** Notwithstanding any other provision 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 of funds. If he 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 his request for reinstatement from retirement.

This section shall apply to district that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

Education Code Section 88017

**88017. Notice of Layoff Due to Expiration of Specially Funded Program or Bona Fide Reduction or Elimination of Service.** (a) When, as a result of the expiration of a specially funded program, classified positions must be eliminated at the end of any school year, and classified employees will be subject to layoff for lack of funds, the employees to be laid off at the end of the school year shall be given written notice on or before April 29 informing them of their layoff effective at the end of the school year and of their displacement rights, if any, and reemployment rights. However, if the termination date of any specially funded program is other than June 30, the notice shall be given not less than 45 days prior to the effective date of their layoff.

**CHANGES:**

Revised Education Code Section 80017 to reflect January 1, 2004 legislative change.

(b) When, as a result of a bona fide reduction or elimination of the service being performed by any department, classified employees shall be

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given notice of layoff not less than 45 days prior to the effective date of layoff, and informed of their displacement rights, if any, and reemployment rights.

(c) (1) A classified employee may not be laid off if a short-term employee is retained to render a service that the classified employee is qualified to render. This subdivision does not create a 45-day layoff notice requirement for any individual hired as a short-term employee, as defined in Section 88003, for a period not exceeding 45 days.

(2) This subdivision does not apply to the retention of a short-term employee, as defined in Section 88003, who is hired for a period not exceeding 45 days after which the short-term service may not be extended or renewed.

(d) This section does not preclude the governing board of a community college district from implementing either of the following without providing the notice required by subdivisions (a) or (b):

(1) A layoff for a lack of funds in the event of an actual and existing financial inability to pay the salaries of classified employees.

(2) A layoff for a lack of work resulting from causes not foreseeable or preventable by the governing board.

(e) This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were part of Article 3 (commencing with Section 88060) of this chapter.

**CHANGES:**

Revised Education Code Section 80017 to reflect January 1, 2004 legislative change.

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A. Computing Seniority

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

1. Credit of service:
  - a. Prior to July 1, 1971, credit shall include regular assigned time in the class, or in a higher class. A higher class shall be defined as a class having a maximum salary rate. Credit for service in a higher class shall be granted only for the period of time during which the maximum salary was higher than that of the class of which seniority is being computed.
  - b. On or after July 1, 1971, and prior to January 1, 1974, credit shall include all hours of paid status in the class, or in a higher class as defined in a. above.
2. Credit for leave:
  - a. Prior to July 1, 1971, time on informal leave and on the following leaves of absence shall be counted towards seniority: military leave, Red Cross leave, Merchant Marine leave, Peace Corps leave, illness leave, leave to accept work with the Los Angeles Community College District, leaves resulting from an industrial accident or industrial illness (Rule 804), retraining and study leave, and leave prior to layoff (as provided in Rule 741). Time on leaves of absence for other purposes shall not be credited towards seniority for purposes of layoff.
  - b. On or after July 1, 1971, length of service credit shall be granted only for the following types of unpaid leave: military leave of absence, unpaid illness leave, or unpaid industrial accident leave.
  - c. On or after July 1, 1971, length of service credit shall be granted for leave to accept other work with the Los Angeles Community College District only to regular employees in the classified service who are assigned to positions requiring certification qualifications. Such credit will be limited to a period not to exceed 39 months. All seniority and permanency rights shall be secured to such employees for 39 months and their return shall be treated as if there had not been an interruption in their classified service.
3. Laid-off employees do not accumulate seniority credit while on reemployment lists.

**CHANGES:**

No change in text.

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4. Time served prior to a break in service shall not be counted toward seniority, except if an employee is reinstated, reemployed in regular status, or appointed to a regular position from an open or promotional eligibility list within 39 months after layoff while his/her name is on a reemployment list.
5. The Division of Human Resources shall refer to the Personnel Director problems involving reclassification actions which have not indicated seniority status. Appeals from the Director's findings may be made to the Personnel Commission. Problems of a policy-making or precedent-setting nature shall be referred to the Personnel Commission for determination.

When reclassification results either in the merger of two or more classes or the separation of a class into two or more classes, seniority rights of regular employees who are reclassified with their positions and whose former class or classes have been abolished, or separated shall be computed from the date of their earliest entrance into regular service in such classes. When an incumbent is not reclassified with his/her position but is reassigned to the reclassified position in accordance with Commission rules, the employee's seniority credit in the new class may, to the extent determined by the Personnel Commission, include his/her service in the position prior to the reclassification action. The Commission will base its decision on the amount of seniority credit to be granted on the following factors among others:

- a. The date of any change of the class specification for the employee's former and/or new class.
- b. The date of any change in the classification plan.
- c. The date of any significant change in assigned duties and/or responsibilities as evidenced by 80.4 forms, memoranda, or request for reclassification.
- d. The date of introduction of any new forms, equipment, procedures, or other conditions affecting the position.
- e. Any date which will serve to establish the approximate date the employee first started performing the duties and/or responsibilities which provided the basis for reclassification of his/her position.
- f. An employee transferred from one class to another, except under the provisions of Paragraph A.5., above, shall not be credited in the new class with seniority accumulated in the class from which transferred.

**CHANGES:**

No change in text.

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- g. When employees have equal seniority on a retention list for a class, the employee with the greatest amount of seniority credit in classes in the same group as listed in the Class Titles and Salary Schedules booklet shall be retained. If a tie remains, the employee with the greatest amount of paid service in regular status in the class shall be retained. If a tie remains, the employee who scored highest in the non-interview portion of the examination for the class shall be retained. If a tie remains, the employee who filed his/her application earliest shall be retained.

B. Bumping Rights

Regular employees who are to be laid off, or who are to suffer a non-voluntary reduction in assigned time may exercise bumping rights in any equal or lower class in which they hold seniority credit greater than that of an incumbent. The employee to be bumped shall be the one with the least seniority in the class.

Bumping rights are based solely on length of service which is defined in Education Code Section 88127 as hours in paid status. A regular employee who is to be laid off shall exercise bumping rights in those classes in which he/she has rendered paid service in regular status. The order of bumping shall be in descending salary order unless the employee voluntarily agrees to accept assignment to be in a lower class.

If a situation occurs in which an employee could bump into two or more classes at the same level the bumping shall first occur to the class in which the employee had the greatest amount of paid service.

C. Employee Rights and Privileges

1. The reemployment list for a class shall be used before any other means of filling vacancies for that class.
2. An employee who has been laid off from a class, or who is subject to layoff reclassification, or change of location action, may accept a transfer, a voluntary demotion or a voluntary reduction in status or assigned time in lieu of reclassification, change of location or layoff from the District, and shall be granted the same rights as persons laid off. If at the end of the 39-month reemployment period the employee has not been reemployed in his/her former class, he may be considered for reinstatement to his/her former class within an additional period of up to 24 months on approval by the Commission.

**CHANGES:**

No change in text.

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3. An employee who is laid off and exercises his/her bumping rights to a lower class in which he/she had prior regular status or an employee who has taken a voluntary demotion or voluntary reduction in assigned time in lieu of layoff shall, at the option of the employee, have the right to return to any vacant position or a position with increased assigned time in his/her former class provided that there has been no break in regular service with the District. There is no limitation of time for an employee to exercise his/her option as described above. An extension of time beyond 39 months shall not be granted to any current or former employee who has a break in regular service from the initial date of the proposed layoff.
4. An employee on a reemployment list may decline three offers of reemployment in his/her former class and status. After the third refusal no additional offers need be made and the employee shall be considered unavailable until he/she indicates otherwise (Rule 664).
5. Refusal of an offer of limited-term employment shall not affect the standing of any employee on a reemployment list (Rule 664).
6. If an employee is on an eligibility list and is laid off, he/she shall retain his/her place on the eligibility list for the life of that list.
7. Employees on reemployment lists shall be eligible to compete in promotional examinations for which they qualify. If the first day of paid service following appointment from a promotional eligibility list is within 39 months after layoff, the employee shall be paid whichever is the lower rate based on:
  - a. The step of the schedule for the class of appointment which next exceeds the step or flat hourly rate attained in the highest class for which there is a reemployment list on which his/her name appears, or;
  - b. The fifth step of the class of appointment.

The provisions of this Paragraph shall not apply to an employee who, after having been laid off or demoted in lieu of layoff, has received an intervening regular appointment which would entitle him/her to a higher step than prescribed above.
8. The salary rights of employees on reemployment lists are described in Paragraph J. of Rule 582.

CHANGES:

No change in text.

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9. Laid-off employees shall hold reemployment rights for a period not to exceed 39 months.

D. Certification from a Reemployment List

1. Persons shall be certified from reemployment lists in the order of seniority in the class, provided that the eligible 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. In cases of limited-term appointments, the eligible must be willing and able to report for duty on the effective date of the appointment, or he/she will be considered unavailable for the appointment.

2. A name may be removed from a reemployment list only for the following causes:

- a. Conviction of 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 88122 of the Education Code.
- c. Making a false statement or omitting a statement as to any material fact on an application form or health history form.
- d. Dismissal for cause from District employment subsequent to layoff.

Written notice of removal and reason therefore shall be provided to the employee. He/she shall be afforded and notified of appeal rights identical to those provided in Rule 600.

3. A person whose name appears on a reemployment list may be given a medical examination prior to certification. Subject to the conditions described below, he/she may be considered unable to report for duty and may be passed over in order of certification until he/she meets the prescribed standards.

- a. The standards applied in the medical examination shall be no more stringent than those which would be applied to a continuing employee to determine fitness for duty.

**CHANGES:**

No change in text.

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b. No person shall be withheld from reemployment because of health or medical condition which existed prior to layoff because of a normal progressive deterioration of such medical or physical condition. Such a person may be placed on illness leave or appropriate leave after reemployment, if necessary, provided that he/she is willing and able to report for duty as indicated in D.1., above. While on such leave he/she shall receive seniority credit for the purpose of retention in case of future layoff.

4. A person whose name appears on a reemployment list may be considered unable to report for duty and may be passed over in the order of certification if he/she cannot meet the legal requirements to perform the prescribed duties of the class of reemployment.

E. Effect of Reclassification of Position upon Incumbent

If an incumbent cannot be placed following the reclassification of his/her position, he/she shall be laid off and given reemployment rights in the class from which reclassified.

F. Layoff of Probationary Promoted Employee

If placement of a demoted employee cannot be effected following the demotion of the probationer from a promotional position under provision of Rule 762, the employee shall be laid off and shall be given reemployment rights in the class from which he/she was most recently promoted

G. Notification of Layoff

1. Classified Employees

Regular classified employees that are to be laid off shall be given a written notice of layoff and informed of their displacement rights, if any, and reemployment rights, at least 45 days prior to the effective date of the layoff.

2. SFP Employees

Regular SFP employees that are to be laid off shall be given a written notice of layoff and informed of their displacement rights, if any, and reemployment rights, on or before April 29 if the layoff is to be effective at the end of the fiscal year. If the layoff is to be effective on a date other than the end of the fiscal year, the notice shall be given at least 45 days prior to the effective date of the layoff.

**CHANGES:**

Insert paragraph G. to reflect January 1, 2004 legislative change.

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H. Limited-Term Employees

1. A classified employee may not be laid off if a limited-term employee is retained to render a service that the classified employee is qualified to render.
2. Limited-term employees are not subject to the 45-day layoff notice requirement.

**CHANGES:**

Insert paragraph H. to reflect January 1, 2004 legislative change.

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