

La Mesa-Spring Valley School District

Personnel Commission

Layoff, Bumping and Reemployment Processes for Classified Employees

(Last Updated December 13, 2017)

The employees of the La Mesa-Spring Valley School District are its most valuable resource, and great care is taken in selecting them and every effort is made to retain them. Even so, there are times when layoffs or changes of assignment are unavoidable. We have learned that at such times there are a number of questions that are asked by those who may be affected by reductions in staff.

We have created this page to provide you with information and assist in answering any questions that you may have regarding the layoff, bumping and reemployment processes for classified employees. This page will be updated with information, so check back regularly.

If you have questions about the layoff and/or reduction process relative to your specific situation, you may contact:

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OVERVIEW OF CLASSIFIED LAYOFF

Funding for the La Mesa-Spring Valley School District comes primarily from the State's budget. The most difficult aspect of budget development involves planning; and unfortunately, when there is a shortfall in the State's budget, potential layoff of staff is inevitable. Education Code sections 45117, 45298 and 45308, provide the layoff and bumping process, and, effective January 1, 2013, require that classified employees be provided 60 days advance notice of layoffs.

When positions are cut, the person occupying the position, based on their seniority, may be given the opportunity, when available, to reduce their hours and stay at the same location, OR exercise their bumping rights to retain the same or similar number of hours and displace the least senior employee OR accept a voluntary layoff. It is important to note that even when the hours are being reduced for a particular position, the individual may not be able to remain at that site because a more senior employee might exercise their bumping rights and bump them.

After the Board approves the cut of particular *positions*, the actual classified employee layoffs occur in order of seniority (starting with the individual with the least seniority and moving upward) within each classification. Length of service in higher classifications is added to the employee's seniority as well. Classified employees laid off due to lack of funds or lack of work are then placed on a 39-month reemployment list, and are reemployed in descending order by seniority, the reverse order from the layoff process.

In instances where an employee takes a voluntary reduction in hours to stay in their position, they are entitled to an additional 24 months (beyond the 39 months) to be reinstated at their higher hours, should a position become available, based on seniority. When individuals choose voluntary layoff rather than to exercise their bumping rights, they may run the risk that the Employment Development Department (Unemployment) may view their decision as a "Voluntary Quit" (wherein they are the moving party) and not afford unemployment benefits because the employer offered a position and the

individual declined.

In addition to the above Education Code Sections, the rights and procedures governing layoffs and reductions of classified employees in our district are covered in the CSEA Contract, Article 18 Layoff and Reemployment and Personnel Commission Rules and Regulations, Section 60.500 Layoff.

REDUCTION IN FORCE PROCESS AND PROCEDURES

Q: Who is protected by classified layoff and reemployment procedures?

A: All regular status classified employees (bargaining unit members with CSEA) are covered; however, unclassified, non-merit system employees (i.e., substitutes, student helpers, ESS attendants, playground attendants, and restricted employees) are not protected.

Q: What is a reemployment list?

A: A **reemployment list** is a list of persons who have been laid off from a particular job classification. Separate reemployment lists are compiled for separate job classifications. The reemployment list is in the reverse order of the employees who were laid off, meaning the last person laid off will be the first person to return to employment. Whenever a vacancy occurs, the person at the top of the reemployment list for the job classification is offered the job, provided they are still within the 39-month reemployment period. The HR office will contact these individuals in the order of seniority.

Those individuals who resign in good standing (and are eligible for rehire) may contact the school district and be reinstated within 39-months. They must interview for vacant positions alongside with any individuals who have posted for lateral transfer and/or individuals from the eligibility list, based on the discretion of the hiring manager. These individuals must contact the HR office to request to be reinstated.

Q: If my position is being eliminated, or hours being reduced, how would I know that and how much notice would I get?

A: Ideally, your Director or Principal should be the first person to inform you of a change in your employment status. Once a layoff action has been approved by the School Board, the Personnel Commission Office/Human Resources Department will provide you written notification 60 calendar days prior to when your position is being eliminated or hours are being reduced.

The offer to reduce your hours (versus being laid off) depends on your seniority within your classification. The reduced hours are first offered to the most senior employees. You would be offered an option to accept the reduction of hours, and/or to be assigned to a comparable vacant position (with the same number of hours) if there is one. If no comparable position exists, you would be offered to bump the person with the least seniority in the classification, or be placed on a 39-month reemployment list.

Q: I am on a promotional eligibility list. What happens to my name on the promotional list if I am laid off from the School District?

A: Layoff does not remove your name from a promotional eligibility list, or any other types of eligibility lists. You may be offered a position during the life of the eligibility list. In addition, if you were in regular status at the time of layoff, you retain your eligibility to compete in other promotional examinations for 39 months.

Q: How many employees are on the current reemployment lists? How does the District prioritize reemployment from these lists?

A: Each classification's reemployment list varies in length. Reemployment lists are ranked in reverse chronological order of layoff. Basically, the last employee laid off is the first one reemployed.

Q: How long would my name remain on the reemployment list?

A: If you are laid off from the District, your name remains on the reemployment list for 39 months. If you voluntarily reduce your hours and/or status as an option during the layoff process, your name remains on the reemployment list for the original 39 months plus another 24 months.

Q: I am a probationary employee. Am I covered by layoff and reemployment rules?

A: Yes, you are covered. As a general rule, if you had to pass an examination to be appointed to your job, you have earned seniority as a regular employee and therefore have retention and reemployment rights. A probationary employee, if reemployed to a position, will need to complete the unfinished probationary period, before reaching the permanency status.

Q: If a new personnel requisition to fill a position comes in and I am on layoff for that position what happens?

A: Persons who are laid off are placed on the reemployment list in order of their classification seniority, which is in reverse order of layoff. The reemployment list supersedes existing eligibility lists. The laid off employee is offered the position.

Q: Can I take my vacation before layoff or reduction in classification?

A: Vacation may be granted before layoff if the requirements of your work allow it and your supervisor approves your vacation request.

Q: If I am laid off from the District, will I receive all of my accrued vacation pay?

A: Yes, you will receive your accrued vacation, if you are a permanent employee and leave the District employment as a result of layoff. You will not be paid lump-sum vacation if you remain an employee of the District, or if you are in an initial probationary period with the District.

Q: Suppose I am notified that I am going to be laid off in 60 days and I receive a job offer from outside the District, but they want me to start work in about two weeks. Should I resign?

A: If you need to be absent in order to accept a job elsewhere, you may ask your supervisor to approve vacation or an unpaid leave of absence. That way your place on the reemployment list could be protected, giving you a right to return to District employment for 39 months after layoff, if work becomes available.

Q: What is the process if the District is able to re-establish positions or if other stimulus money is found to save positions after the budget cuts?

A: If your school or office is able to re-fund positions, we will need to place the employees who have rights to those positions there. Because not only your school or office is impacted, please keep in mind that we have several locations and many employees who have been disrupted and other employees may have more seniority than you. If you are in a classification which has a lot of cuts, there may be a long reemployment list of individuals with rights to vacancies that open up. Our priority

is to place employees back to the original school or location, but we may not be able to accommodate all requests.

One thing that is difficult to remember is - the position is different from the person. If there are a number of new positions that open up at close to the same time, and there are a number of employees on the reemployment list who have rights to those positions, the HR staff must follow these guidelines. We are mandated by the Education Code, however, to protect the rights of the employees, so we could not place someone who is number nine, for example, ahead of someone who is number one on the reemployment list, even if the school really wants that person.

BUMPING, SENIORITY AND RETURN RIGHTS

Q: Where do I get information about bumping rules? Why are they so complicated? When do they come into play?

A: Generally seniority rules are based on the Education Code. Employees in regular status (other than senior management employees) are protected by the classified layoff and reemployment procedures. Because the budget cut is greater than we have ever faced, with many positions being impacted, the bumping process has not been easy. In addition to the rules being complex, the calculations of seniority must be done carefully and manually. It is critically important that we perform those calculations accurately so that employees' rights are protected.

Q: What is District seniority versus class seniority?

A: District seniority begins the first day of work in a merit position with the District. Class seniority begins as of the first day you started in a position within a job classification. For example, if you were an Office Assistant I for two years and then became an Office Assistant II for three years, you would have five years district seniority counted towards your seniority as an Office Assistant I and three years class seniority towards seniority as a Office Assistant II.

Q: I would like to be prepared. Where do I go to obtain a seniority list or to know my order of layoff and bumping?

A: Personnel Commission is responsible to maintain current seniority lists for all classifications, and your Director, Principal, and CSEA leadership has access to the up-to-date files of the seniority lists for the layoffs that are occurring. You may either contact responsible HR staff, your manager, or your union leaders to obtain your seniority.

Q: I heard that some of my colleagues at my site might be laid off. Can I access their seniority lists so that I may offer them that information?

A: While the seniority of all employees is not secret information, to respect individual privacy and possible misinterpretation of the information (e.g., a particular employee may have taken some leaves), we do not encourage nor do we share that information. However, you have the right to know your seniority.

Q: Are bumping and reemployment rights based on the number of total hours worked or the original hiring date?

A: Seniority in a job classification is based on the first date of hire in regular status in the employee's class. In the event of periods of unpaid time greater than three months, seniority is reduced equal to

the period of unpaid time.

Q: Can I bump into a position, with equal or less pay, that I've never held?

A: No. You can only bump into a position within the classification in which you have previously served. However, the Director, Classified Personnel may place an otherwise qualified laid-off employee into a vacant position in a lower related classification per Commission rules.

Q: While I am on 39-month layoff status, I notice there is an out-of-class vacant position being advertised, and I am interested in, what right do I have over other employees?

A: First of all, you are encouraged to apply for any job openings you are interested in and qualified for. Employees on the reemployment list, who indicate a desire to be considered for an out-of-class vacant position, within a non-related classification, promotional or not, shall be considered during the selection interview for that vacancy, if they follow the same application procedure set forth for all potential applicants, participate and pass the total examination process regardless of rank on the eligibility list. You do not need to be in the top three ranks to receive a selection interview. As long as you make it to the list, you will be contacted for the interview. This right to a selection interview is only valid for the duration of the eligibility list, shall be considered giving preference, and is not a guarantee for rehire. (Reference Tucker v. Grossmont High School District Decision)

Q: I was laid off from the District. What are my return rights?

A: Layoff technically occurs when you lose pay due to lack of work or lack of funds. This means you have been either separated from the District, or your hours have been reduced or bump back to a lower position. Any of these can trigger reemployment rights. Generally speaking, an employee in regular status who is laid off will have reemployment rights for 39 months. Your name will be placed on a reemployment list for the job class that you were laid off from. You will have reemployment rights in reverse order of layoff - so, when a vacancy occurs anytime in the next 39 months, the person at the top of the reemployment list is offered the job. If you do not respond within that time period, your name will be removed from the reemployment list. While you are awaiting reemployment, we also advise that you check for other openings at the District in other classifications that you may be qualified for, and that you apply for and test for those positions to have the most options available.

Q: If I worked as a substitute or limited term employee in a classification, does this time count towards my seniority?

A: No, time served in temporary status, no matter what length, does not count towards seniority. Only time served as a regular employee counts towards seniority in a classification.

Q: In cases of equal seniority, how is layoff determined?

A: When it is necessary to break a tie in seniority to determine which employee is to be laid off or reassigned, the employee to be retained will be determined by lot.

Q: I have been promoted once. What happens if there is no vacancy in my job classification and I do not have enough seniority to bump another employee?

A: You would bump back to your former regular classification according to seniority order. If that is not possible then you would be laid off and your name would be placed on the reemployment list.

Q: There is a position I would like to have and the incumbent has less seniority than me. Can I bump that person?

A: You cannot select a particular position or location to bump into. If there is a vacant position with equal hours in your job classification, you would be placed in that position. Otherwise, you would bump the least senior employee with similar hours in your job classification, according to the bumping procedures outlined in the CSEA contract and Personnel Commission Rules and Regulations.

Q: What if I bump another employee, but I don't like the location of the new position?

A: If your new assignment is inconveniently located, you may file a request for transfer so that you can be considered for vacancies that might occur in the future.

Q: What happens if someone bumps me?

A: You are extended the same rights that they had. (60 day notice, to accept the layoff or bump, and reemployment rights)

Q: If I am the most senior in a position at my site, does that mean I will stay at my site?

A: Not necessarily. Your seniority in a position involves the entire classification for the district and not just positions at your site. Persons from other sites may displace you.

Q: Can I be told who I'd bump before I make that decision?

Generally not. Several employees in a classification may be affected. Placement and bumping cannot begin until all the election forms have been received and order of displacement has been calculated.

Q: What if I'm laid off from an 8 hour position to a 3.75 hour position and then a 6 hour position becomes available?

A: Consistent with your reemployment rights, you will be offered the 6 hour position. If you accept it, you will still be offered the next 8 hour vacancy pursuant to reemployment order with 39-month period.

HEALTH AND OTHER BENEFITS AND UNEMPLOYMENT INSURANCE

Q: What happens to my medical, dental, and vision plan coverage if I am laid off from the School District?

A: If you are currently receiving health benefits and a reduction or elimination of hours results in the loss of those benefits (below the 20-hour weekly minimum), effective during the months of June, July or August, your health benefits will remain in effect until September 30th. You will be eligible for COBRA effective October 1st, and will receive more information from our Payroll & Benefits Department. Employees, who have their hours reduced below six (6) hours, will also have their Café Plan Cash benefits reduced. Please contact Emma Puentes, Lead Payroll and Benefits Technician at (619) 668-5700 x6381 or emma.puentes@lmsvdsd.k12.ca.us, should you have any questions relating to benefits.

Q: If I am laid off from the School District, will I be entitled to Unemployment Insurance?

A: Probably. Claims for Unemployment Insurance benefits must be made by the employee and submitted directly to the Employment Development Department (EDD) via telephone (1-800-300-5616) or the web at www.edd.ca.gov. The EDD will determine if you are eligible to receive

unemployment compensation.

Q: What happens to my PERS retirement funds if I am laid off from the School District?

A: Several choices are available to you. Contact CalPERS at (800) 225-7377 to discuss available options, or visit their website at www.calpers.ca.gov.