

### **4117.3 Personnel Reduction**

The Governing Board may reduce the number of probationary and permanent certificated employees, when, in its opinion, any of the following conditions makes such reduction necessary:

1. Average daily attendance (ADA) in all of the schools in the district during the first six months of the school year has declined below the level for the same period in either of the previous two school years. (Education Code 44955)
2. A particular kind of service is to be reduced or discontinued not later than the beginning of the following school year. (Education Code 44955)
3. Attendance in the district will decline in the following year as a result of the termination of an interdistrict tuition agreement. (Education Code 44955)
4. An amendment of state law requires modification of the curriculum. (Education Code 44955)
5. During the time period between five days after the enactment of the Budget Act and August 15 of the fiscal year, The Board determines that the district's total revenue limit per ADA for the fiscal year of the Budget Act has not increased by at least two percent. (Education Code 44955.5)
6. In an emergency situation as authorized by law.

#### **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 district in probationary status, except as otherwise authorized by law. (Education Code 44844, 44955)

The Superintendent or designee shall maintain the certificated seniority list for this purpose and shall make it available to employees or their representative(s) upon request.

Unless otherwise provided by law, a permanent employee shall be retained over a probationary employee or any employee with less seniority if the position is one for which the permanent employee is certificated and competent to render service. (Education Code 44955)

The Board may establish appropriate competency criteria that must be met in order for an employee with more seniority to displace a less senior employee.

To determine the order of termination between employees who first rendered paid service on the same date, the Board shall rank order those employees solely on the basis of the needs of the district and students. Upon the request of an employee whose order of termination is to be determined based on such ranking, the Board 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 other certificated employees. (Education Code 44955)

The district may deviate from terminating certificated employees in order of seniority for either of the following reasons: (Education Code 44955)

1. To fill 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 pupil personnel services; clinical counselors; school psychologists; speech, language pathologists and health for a

### **4117.3 Personnel Reduction (continued)**

school nurse, when the certificated employee has the necessary special training and experience which others with more seniority do not possess; or

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, the district shall give notice to the affected employees, as required by law, stating the reasons for the action and the employees' right to a hearing. The district shall adhere to the notice, hearing, and layoff procedures in Education Code 44949, 44955, and other applicable provisions of law.

When an employee has requested a hearing before an administrative law judge regarding the reduction or discontinuation of services, the Board 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 Board. (Education Code 44949)

The Board may adopt, or reject or modify the administrative law judge's proposed decision. If the Board rejects or modifies the proposed decision, the Board will make its own determination based upon its review of the record.

Following the Board's decision, the Superintendent or designee shall give final notice, to the affected employees in the manner specified by law. (Education Code 44955)

When layoffs become necessary pursuant to Education Code 44955.5, layoff proceedings shall be carried out as required by law but in accordance with a schedule of notice and hearing adopted by the Board. (Education Code 44955.5)

#### **Assignment and Reassignments**

The Board will make assignments and reassignments in a manner that retains employees to render any service their seniority and qualifications entitle them to render. Prior to assigning or reassigning any certificated employee to teach a subject he or she has not previously taught, and for which he or she does not have a teaching credential or that is not within the employee's major area of postsecondary study or its equivalent, the Board shall require the employee to pass a subject matter competency test in the appropriate subject. (Education Code 44955)

#### **Reappointment**

If the number of employees is increased or the discontinued service reestablished, laid off permanent certificated employees have the right to reappointment, in order of seniority, for 39 months from the date of termination. Laid off probationary certificated employees have the same right for 24 months after termination, subject to the prior reappointment rights of permanent employees. (Education Code 44956, 44957)

The district may deviate from reappointing a laid off certificated employee in order of seniority for either of the following reasons: (Education Code 44956, 44957)

### **4117.3 Personnel Reduction (continued)**

1. To fill a demonstrated specific need for personnel to teach a specific course or course of study, or to provide services authorized by a services credential with a specialization in either pupil 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; or
2. To maintain or achieve compliance with constitutional requirements related to equal protection of the law.

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 and does not affect the laid off 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. (Education Code 44918, 44956, 44957)

Before reappointing any laid off certificated employee to teach a subject he/she has not previously taught and for which he/she does not have a teaching credential or that is not within the employee's major area of postsecondary study, the Board shall require the employee to pass a subject matter competency test in the appropriate subject. (Education Code 44956, 44957)

Reappointed certificated employees shall not be subject to any requirements that were not imposed on employees who continued in service. Their period of absence shall be treated as a leave of absence and not considered a break in the continuity of their service. (Education Code 44956, 44957)

**Board Approved:**  
November 5, 2015  
August 19, 2004  
Effective Date: August 19, 2004