

ARTICLE 11 LAYOFF

11.1 Layoff

Lack of work or a lack of funds may result in the abolition of a position or positions, and the release of a probationary or permanent worker. These reasons must be bona fide. Layoff may never be used as a disciplinary measure. Layoff processes are found in California Education Code sections 88014, 88015, 88017, 88117 and 88127 and will be followed during any reduction in staff through layoffs. If layoff occurs in an area where there is more than one person in the same classification, layoff will proceed in reverse order of seniority. In the event of a layoff, the District shall not:

11.1.1 Use short-term temporary workers, volunteers, students, faculty workers, administrators or supervisors to replace a displaced or laid-off worker;

11.1.2 Contract out the work formerly done by a displaced or laid-off worker;

11.1.3 Require a worker to perform overtime work or increased work assignments over and above their regular assignments as a result of a layoff;

11.1.4 Add increased responsibilities without following appropriate procedures as listed in Article 7.6, Reorganization and Article 15, Classification and Reclassification.

11.2 Reduction in Hours

After a decision to reduce hours has been negotiated, any reduction in regularly assigned hours shall proceed in the order of layoff as prescribed in this article. Persons experiencing such reduction shall be considered laid off for purposes of determining all rights and benefits.

11.2.1 Classified hourly employees agree to work varied schedules of both the number of hours per day and the number of days per week. In academic day only positions, there may be one or two quarters with no work at all. Such variations in schedule shall not be considered reductions for purposes of this article.

11.2.1.1 A classified hourly employee remains in active status until hours become available or they receive a layoff notice except that classified hourly employees who do not work for two consecutive quarters shall be provided a notice of layoff or provided written assurance of an assignment in the next quarter.

11.3 Notice and Consultation with the Union

11.3.1 Once the District has determined that there needs to be a reduction in staff due to either a reduction of funds or a lack of work, the District and the Union shall

make best efforts to meet prior to the implementation of any layoff pursuant to that determination. The purpose of the meeting shall be:

- 11.3.1.1 To determine whether, in accordance with Education Code Section 88017, short term workers are employed performing work that the worker to be laid off is qualified to perform and whether such work is sufficient to create a position in the same classification as the worker to be laid off. Should the work not be sufficient to create a position in the same classification, the parties will explore whether there is sufficient work to create a position in a lower classification into which the worker, if qualified, can be placed, in lieu of layoff.
- 11.3.1.2 To examine alternatives and opportunities available to each worker who may be subject to layoff, unique conditions that may affect specific workers; and the possible consequences for other workers.

11.4 **Notice of Layoff**

When classified positions must be eliminated as a result of the expiration of a specially funded program, a worker who is to be laid off shall receive at least 60 days' notice prior to the layoff. Workers in specially-funded programs ending on June 30 shall be given written notice on or before April 29 or not less than 60 days prior to the effective date of layoff for specially-funded programs ending other than June 30.

When classified positions must be eliminated due to a reduction in services or lack of funds other than those of a specially funded program, the Chancellor shall notify the affected employee(s) and Board of Trustees in writing not later than March 15th of the college year. The layoff shall proceed in accordance with Education Code Section 88017.

Notice of termination shall be given on or before May 15th of the college year with final notice of the Board's determination, unless extended by a continuance. The layoff shall be effective the last workday for that position of the college year. If the governing board of the community college does not give notice of termination as required by law, a permanent employee shall be deemed reemployed for the ensuing college year.

11.4.1 **Placement of Employees Affected by Layoffs**

ACE shall receive a copy of the written recommendation for layoff after the affected employees, and layoffs shall proceed in accordance with Education Code sections 88017, 88117, and 88127. When notice is issued in person, the Union representative shall be invited to attend. The District and ACE shall meet within five (5) days to determine whether employees may be placed in other positions as a result of the layoff, and shall make all good faith efforts to find alternative placement and avoid the necessity of a formal administrative hearing.

The following process is available only during a layoff and is established to facilitate placement of ACE members whose positions have been identified to be eliminated.

- a. First priority will be to fill vacant positions with affected employees who have rights to a vacant position based on seniority in that classification. If only one such affected employee has rights to a vacant position, that employee will be transferred into the position.
- b. When an employee has rights to a vacant position but the placement would have a negative effect on either the employee or the department, then the District and ACE will meet to discuss alternatives to the placement. If alternatives cannot be agreed upon, management reserves the right of assignment.
- c. If no affected employee has a right to a vacant position based upon seniority, affected employees shall be considered in an internal placement process. Through the search and selection process of internal hiring, promotions, voluntary demotions and lateral transfers shall occur. Positions will be opened in the following order:
 1. Phase 1: to all ACE employees.
 2. Phase 2: open to outside recruitment.
- d. The internal placement process will be followed concerning placement of current employees:
 1. A staffing requisition must be submitted which complies with college and District requirements.
 2. The job announcement will be sent via e-mail (eblast) to all ACE employees.
 3. Employees shall submit required documentation and materials, such as a letter of interest and resume, to Human Resources within five (5) days of the eblast being sent.
 4. The hiring committee for Phase 1 will consist of the hiring manager, an ACE member appointed by ACE, and an EEO representative designated by Human Resources. The District may add additional members when deemed appropriate.
 5. The hiring committee for Phase 1 shall review employee materials, conduct interviews of qualified candidates and complete consideration of internal candidates.

If no employee is selected during Phase 1 of the internal placement process, then the hiring manager may proceed with Phase 2. Phase 2 shall follow and adhere to the District's established guidelines for recruitment and selection.

11.5 **Order of Layoff**

Any layoff shall be affected within a class. The order of layoff shall be determined by seniority within that class. A worker with the least seniority in the class plus seniority in higher classes in which the worker has served shall be laid off first. Seniority shall be based on the number of hours a worker has been in paid status in the class or higher classes. If two or more workers subject to layoff have equal seniority in a class, the worker with the later date of initial employment in the District as a probationary worker shall be laid off. If the dates of initial employment are identical, the determination shall be made by lot. The Chief Steward or the ACE designee shall be afforded the opportunity to be present during any such determination by lot.

11.6 **Retirement in Lieu of Layoff**

A worker who is eligible for retirement and who has received a notice of layoff may, in lieu of layoff, elect to accept service retirement without loss of reemployment rights as provided in the Education Code Section 88015.

11.7 **"Bumping Rights"**

A worker laid off from their position in a class may "bump" into the next lower class in which the worker has greater seniority than another worker in that class unless there is a vacant position. If there is a vacant position in the classification the worker shall be placed in the vacant position. Should more than one person in the same classification be laid off, the affected workers in the classification (workers whose positions are being eliminated and the less senior workers who may be affected by bumping) will have the opportunity to select from a list of positions currently held by the least senior workers in the classification whose positions are not being eliminated and any vacant position in the classification. The selection process will be conducted in order of seniority with the most senior worker making the first selection. The time and location of the selection process shall be mutually agreed upon by the Union and the District.

A worker who has exercised "bumping" rights shall be placed on the salary step that the worker would have attained if they had remained continuously in the lower class except that no worker shall be placed on a step in a salary range that is more than 3 ranges lower than their current salary range. A worker who has exercised "bumping" rights shall retain all service recognition and professional growth awards and all years of service towards the Service Recognition Award.

11.8 **Layoff Rather Than "Bumping"**

A worker may volunteer to be laid off. A worker who elects to be laid off rather than exercising their right to "bump" another worker retains all reemployment rights.

11.9 **Reemployment Rights**

A permanent worker who has been laid off or has taken a voluntary demotion or reduction in hours in lieu of layoff shall have reemployment rights for a period of 39 months from the date of layoff, voluntary demotion, or reduction in hours. A worker who takes a voluntary demotion in lieu of layoff shall be granted the same rights for reemployment in their former class as persons laid off but shall retain eligibility for reemployment in the former class for an additional twenty-four (24) months. 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 by seniority 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 for 24 months. The District shall offer such a worker any available position in a class or classes in which the worker had formally achieved permanency. The order of such offers shall be according to the seniority of all workers laid off in the class. A worker re-employed after layoff shall be fully restored to their class as a permanent worker (with all appropriate service credit and level of benefits) and to their former placement on the salary schedule, including earned awards. A probationary worker shall be required to serve the remaining months of probation in the new position.

11.10 **Right to Apply for Other Positions**

In addition to the absolute right to any available position in the class from which they were laid off or in which they had formally achieved permanency and for which they are qualified by seniority, a worker who has been laid off may apply for any open positions in lateral or lower classes in which they have not served and shall be granted an interview for such a position if they meet the basic qualifications set forth in the official job description for the class. Such laid-off worker shall be offered the job over an applicant who is not currently an employee of the District.

11.11 **Reemployment Rights in Other Positions**

If a former classified worker who has been laid off is re-employed off a 39-month reemployment list in a position other than one in a class to which they had rights to reemployment under Section 11.9, they shall be re-employed in probationary status but shall regain hours in paid status for seniority purposes, earned sick leave, unused personal necessity leave, and former vacation status. Salary placement in the class in which the worker has not previously served shall be at Step A, or, in appropriate cases as determined by the Associate Vice Chancellor, Human Resources, Step B; however, the worker shall retain any Service Recognition Awards and Professional Growth Awards earned as a worker of the District.

11.12 **Notification of Opening**

A worker who has been laid off shall be notified in writing by the Associate Vice Chancellor, Human Resources of any opening for which they are eligible under Section 11.9. Such notice shall be sent by certified mail to the last address given to the District by

the worker, with a copy to the Union. The mailing of this notice with a copy to the Union shall constitute the entire notification responsibility of the District.

11.13 **Worker Response**

A worker shall notify the District of their intent to accept or refuse reemployment within 10 days of the mailing of the reemployment notice. If the worker accepts reemployment, they must report to work within 30 days following the mailing of the notice. A worker sent a notice of reemployment need not accept reemployment in order to maintain reemployment rights provided the worker notifies the Associate Vice Chancellor, Human Resources within 10 days. If the District has not heard from the employee within ten (10) days of receipt of the offer, the District may fill the position with someone else. However, if the worker fails to reply within 10 days or refuses three such offers of reemployment ~~he or she~~ they will be notified by the District that they will be removed from the reemployment list. ~~their reemployment rights shall terminate.~~ Thereafter, such individuals may notify the District in writing of ~~his/her~~ their desire to be reactivated on the reemployment list. Employees may indicate a desire to be removed from the list for a specific period of time during the 39-month period; however, this does not extend the 39-month period.

11.14 **Improper Layoff**

A worker who has been improperly laid off shall be re-employed immediately upon discovery of the error and shall be reimbursed for any loss of salary or benefits.

11.15 **Seniority Roster**

Whenever a layoff is recommended, the Union shall be provided with a copy of the most recent seniority roster for affected workers within fifteen workdays.

11.16 **Effects of Layoff**

Workers who are laid off shall be entitled to the following:

- 11.16.1 Paid medical benefits for 3 months for workers and their eligible dependents;
- 11.16.2 Preference for workers whose work year or hours have been reduced in filling temporary jobs that would ordinarily be filled by short-term workers;
- 11.16.3 Reasonable paid release time for the purpose of seeking employment for workers who are subject to termination because of layoff;
- 11.16.4 Payment of accrued vacation hours for workers with fewer than six (6) months of service;

- 11.16.5 Priority registration privileges for workers who have been terminated because of layoff;
- 11.16.6 Eligibility to apply for Educational Assistance funds in accordance with the terms of this agreement during the first six months of layoff. Applications for funds shall be submitted to the Associate Vice Chancellor, Human Resources who shall sign in lieu of the worker's former administrator;
- 11.16.7 Career counseling and job placement assistance for workers who have been terminated because of layoff;

This article expresses the entire understanding between the parties regarding the effects of layoff and each party waives the right to meet and negotiate on the effects of layoff for the life of this *Agreement* except as to those effects that the parties mutually agree to negotiate.