

CLIENT NEWS BRIEF

Classified Layoffs- in the Age of COVID-19

Public school districts are faced with unprecedented times this school year due to the global pandemic of coronavirus (COVID-19). As a result, California public school districts closed down their facilities in the middle of March and are now preparing to end the school year in a distance learning environment. At this time, we do not know whether school districts will continue with distance learning when the 2020-21 school year starts in August 2020.

Amidst school closures and a possible economic recession, Governor Gavin Newsom reassured school districts they would still receive funding for the 2019-2020 school year. However, the California state budget for 2020-2021 has not been finalized and it remains unclear how it will be impacted by the economic downturn. Many school districts are therefore preparing for the operational and budgetary uncertainty by considering classified reductions in force. Classified staff can be laid off based upon a lack of work or a lack of funds. (Ed. Code, §§ 45113, 45117.)

Timing Issues

The timing and process for classified layoffs are not as detailed or complicated as certificated layoffs, but there are important considerations that school districts must contemplate.

Generally, classified employees can be released upon 60 days' notice of layoff after board action. This 60 days' notice of layoff should also inform the employee of displacement and reemployment rights. When a classified layoff at the end of a school year is caused by the expiration of categorical monies, notice must be given on or before April 29th, after having taken board action.

Seniority Issues

In classified layoffs, the bumping process can be rather involved if employees have served in multiple classifications. When a classified unit is represented, the collective bargaining agreement may include a bumping process for the school district to follow. Further, seniority is determined by hours served in a classification, unless the school district and the exclusive bargaining unit representative have agreed to use the date of hire in a classification for seniority purposes. In either event, the school district should review its recordkeeping system to validate its seniority rankings.

Note also that the decision to implement classified layoffs is not negotiable, but the effects of a layoff are negotiable. School districts should remember to plan in advance so that timely notice to bargaining unit representatives can be given, and the effects can be bargained prior to the implementation of the layoff.

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As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.

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Service Issues

There layoff statutes do not specify the service method for classified layoff notices. In other sections of the Education Code, California courts have required personal service of employment notices whenever a section of the code does not specify the required method of service. (*Hoschler v. Sacramento City Unified Sch. Dist.* (2007).)

Because personal service is not always possible or practical, courts have made exceptions to the Hoschler rule under special circumstances, such as when actual notice has been given (*Sullivan v. Centinela Valley Union High Sch. Dist.* (2011) 194 Cal. App. 4th 69), or when an employee is evading service (*Hankla v. Governing Bd.* (1975) 46 Cal.App.3d 644, 655).

COVID-19 may present school districts with another special circumstance in that state and local orders issued as a result of COVID-19 recommend the avoidance of person-to-person contact.

Some classified school employees fall under the category of “essential workers” and continue to travel to and from the workplace, and a school district would be within its authority to require these employees to attend meetings at the district office to personally serve these notices. Such steps, however, should be considered carefully, as school district administrators may wish to avoid person-to-person contact due to social-distancing orders. Other classified employees are working from home, and districts are attempting to reduce or eliminate the need for such employees to come to the district office or interact with other district staff.

If a school district wishes to avoid personal service given the current circumstances caused by COVID-19, it should consider ensuring that actual notice (by a conversation via telephone, text message, or emails) is given while concurrently serving written notice by tracked U.S. mail service (without requiring the recipient to sign for receipt). As another option, school districts may consider entering into an agreement with the local union permitting service of layoff notices to be administered in another manner.

Takeaways

School districts who are forced to consider initiating classified staff reductions for the 2020-21 school year should be mindful of the notice deadlines and service requirements due to the current COVID-19 pandemic. If you require assistance or have any questions about the layoff process, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).

Related Resources

The legal and practical realities of the current crisis are ever-changing. In our continued effort to equip public agencies with useful insights, we have compiled a suite of links to several resource and guidance documents and webpages available from the federal and state governments regarding COVID-19. You can access them here: <http://www.lozanosmith.com/covid19.php>.

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