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THE ASSOCIATION OF CHIEF HUMAN RESOURCE OFFICERS (ACHRO) FALL INSTITUTE

Layoffs!!!!!! The Time has Come

9/23/2025

PRESENTED BY:

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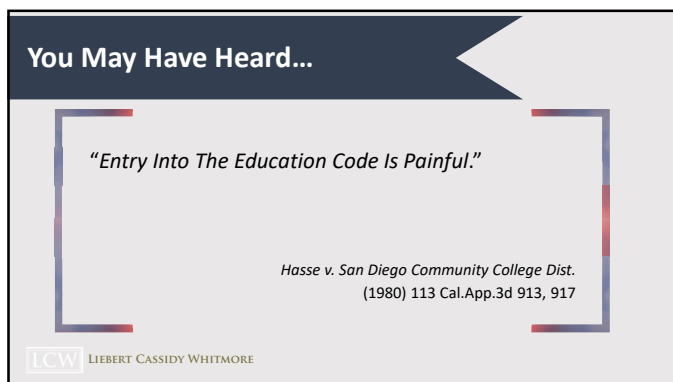
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AGENDA

- Classified Layoffs
 - Seniority
 - Bumping
 - Procedure/Procedural Rights
 - Categorical Layoffs
- Academic Layoffs:
 - Calculating Seniority Dates
 - Bumping
 - Procedure

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Classified Layoffs

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Introduction to Classified Layoffs

- Layoffs are **highly** technical and procedural
- Mistakes could lead to loss of a district's ability to reduce positions
- District must have knowledge of several different areas of the law
 - Calculating seniority dates
 - Bumping
 - Any CBA-specific requirements
- Initial Notices by March 15 or **no layoff**

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District Authority for Classified Layoffs

- Classified employees may be laid off for lack of work or lack of funds
- "Lack of funds" does not require the district to be bankrupt

Ed. Code, § 88017; California School Employees Assn. v. Pasadena Unified School District (1977) 71 Cal.App.3d 318

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Seniority and Order of Layoff

- The order of layoff within a 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

Ed. Code, §§ 88117

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Bumping

- The term "bumping" is not in the Education Code
 - However, it is the common usage for how districts determine order of layoff and provide employees with their "displacement rights" as noted in the Education Code
 - "Bumping" is based on seniority
 - Review the classified collective bargaining agreement for any bargained bumping processes

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Exercise #1 – Calculating Seniority Based on Date of Hire

- Employee A's date of hire for the Clerk Typist Seniority list is January 1, 2017
- Employee A's date of hire for the Secretary I seniority list is September 1, 2017, because only the hire date of the current class—and **higher** classes—are considered

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Exercise #2

- If the District employing Employee A did not have an agreement with Employee A's exclusive representative regarding seniority as date of hire:
 - How would seniority be calculated for Employee A?
 - What positions would Employee A have seniority in?
 - What information would need to be recorded on the seniority sheet?

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Layoff Steps (in brief)

1. Update seniority lists
2. Board Resolution
3. By March 15, notice to affected employees (with bumping and hearing rights)
4. Prepare and attend hearings (if requested)
5. By May 15, adopt/reject hearing decision; provide final notice to laid off employees.
6. Update 39-Month reemployment lists

Ed. Code, § 88017

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Board Resolution

- Before March 15 (hopefully **way** before March 15!):
 - Board Resolution
 - Details include classifications/location; but not individual employees!
 - Recommendation for reduction from the Superintendent/Chancellor

Ed. Code, §§ 45117, 88017

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Procedural Rights – Notice

- District must notice classified employees of layoff with written notice postmarked on or before March 15
- Service by:
 - Certified mail, return receipt; or
 - Personal service

Ed. Code, § 88017

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Hearing Prep

- Notice to employees must provide at least seven (7) days to request a hearing
- OAH generally holds hearings between approximately April 1-May 7 (for both CCDs and all K12 layoffs)
 - Tight window of time
 - OAH has a form to submit to request hearing dates ("Request to Set")
- There are a variety of required notices that must be sent out to both OAH and to affected employees, all of which have tight timelines
- Witnesses must be prepared for hearing

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Procedural Rights – Hearing

- Standard is whether the layoff was in the welfare of the schools/colleges and the pupils/students thereof
- APA process at OAH, including minimal discovery
- Employees may challenge:
 - Seniority date
 - Bumps
 - Status
 - Basis for layoff

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ALJ Proposed Decision

- Advisory decision
- Due to District by May 7
- Prepare Resolution for board to adopt or reject ALJ decision
 - May need special meeting to adopt in time to issue final layoff notices by May 14

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Ed. Code, § 88017

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Last Day

- In a classified layoff, the layoff is effective July 1
- Thus, the last day for laid off employees (unless they resign) is June 30

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Reinstatement

- Laid off employees are eligible for reemployment for a period of 39 months
 - Employees laid off have a right to participate in promotional exams during the same 39 months
 - Persons who take voluntary demotions in lieu of layoff (in other words, have bumped) or a voluntary reduction in hours get an additional period of up to 24 months
 - For a total of 63 months

Ed. Code, § 88117

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Reemployment Preference

An employee who applies for a position outside of the class from which he or she was laid off and is otherwise qualified for the position has **preference** over a new applicant

Ed. Code, § 88117; Tucker v. Grossmont High School District (2008) 168 Cal.App.4th 640

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Note about Specially Funded Program Layoffs

- Can occur year-round, provided it is “as a result of expiration of a specially funded program”
- Must provide at least 60-day notice
 - Like a regular classified layoff, still need to review seniority lists—you are laying off a specially funded *position* not a categorical *employee*
- Process looks similar to a full-time layoff (notices/bumping/etc.)

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Academic Layoffs

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Introduction – A Note about Terminology

- Assisting clients with academic layoffs requires knowledge of unique layoff terminology. We will explain terminology as we go, but here are some terms you may hear:

Terminology	
Bumping	Temporary/adjunct
Tenure/permanent status	Probationary status
Particular Kind of Service	Seniority
Adjunct	Categorical

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Introduction – Authority to Layoff

- A district may layoff academic employees:
 - As a response to a decline in enrollment (“ADA layoff”); or
 - To effect a reduction or discontinuance of a particular kind of service (“PKS layoff”)

Practice Tip: ADA layoffs are complicated, difficult, and unnecessary. Always do a PKS layoff

Ed. Code, § 87743

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Seniority

- Academic layoffs are based on seniority
 - A district may not retain a junior employee over a senior employee in a position for which senior employee has FSA and competency
 - A district may not retain a probationary or temporary/adjunct employee over a permanent employee for which permanent employee has credential/FSA and competency

Ed. Code, § 87743

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Seniority - Basic Rule

- First date of paid service in a probationary/contract position
 - Date is not necessarily the first day of school
 - Includes mandatory, paid training/professional development before the first day of school

Ed. Code, § 87414

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Temporary Employees

- Types of Temporary/Adjunct Employees
 - Temporaries do not have layoff rights
 - But be careful that temporary faculty are properly labeled
 - Mistakes could **negate all or part of a layoff**

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Temporary/Adjuncts

- Adjunct or part-time temporary employees convert to probationary if they serve more than 67% of a full-time assignment for more than two semesters over three consecutive years
 - Does not include day-to-day substitute service
 - Pre-2009 was 60%
- Practice Tip:** in preparation for a layoff, it is essential to review all adjunct employment percentages over the prior 3 years to make sure no adjuncts have accidentally acquired probationary status

Ed. Code, § 87482; Balen v. Peralta Junior College District (1974) 11 Cal.3d 821.

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Categorical Employees

- Categorical employees do not earn permanent status while serving in categorical program, except:
 - Serve 75% of the days of the school/academic year; and
 - Hired into a non-categorical, vacant probationary position in the immediately following school/academic year.

Ed. Code, §, 87470

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Bumps

- Bumping**
 - Employees may bump into a position they have required FSA for and are competent to serve in
 - Generally, no entitlement to partial bumps
 - No entitlement to position requiring Board authorization

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Academic Layoffs: Procedure

1. Update seniority lists

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3. By March 15, notice to affected employees (with bumping and hearing rights)

4. Prepare and attend hearings (if requested)

5. By May 15, adopt/reject hearing decision; provide final notice to laid off employees

6. Re-employment preference (39- or 24-month lists)

Ed. Code, § § 87740; 87744; 87745

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Academic Layoffs: Procedure

• Overall, the process is quite similar to the classified layoff procedure

• If requested, hearing is with OAH. The same tight deadlines apply

• It has been LCW's experience that there is a greater likelihood of layoff hearings occurring due to academic layoffs

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Early Child Development Center Teachers

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Child Development Center (CDC)
Teachers

- CDC Teachers layoffs are governed by Education Code § 8303
- Such layoffs are (like classified) for “lack of work or lack of funds”
- Layoffs can occur at any point in the year

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Child Development Center (CDC)
Teachers

- Order of layoff is defined by length of service
- *Probationary* CDC teachers do not have reemployment rights

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Questions?

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Thank You!

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