

## **ARTICLE 14: LAYOFF PROCEDURES AND SENIORITY**

### **14.100 General Provisions**

- 14.110 Nothing in the provisions within this Article shall be construed in any manner as diminishing the rights reserved to the District concerning layoffs as set forth in Article 3: District Rights.
- 14.120 These provisions shall apply only to those classified employees defined in Article 1 – Recognition.

### **14.200 Layoff Procedures**

- 14.210 Classified employees shall be subject to layoff for lack of work or lack of funds. Whenever a classified employee is laid off, the order of layoff within the 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. Reemployment shall be in the reverse order of layoff. “Layoff for lack of funds or layoff for lack of work” includes any reduction in hours of employment or assignment to a class or grade lower than that in which the employee has permanence, voluntarily consented to by the employee, in order to avoid interruption of employment by layoff.
- 14.220 For purpose of this provision only the term “class” and “higher classes” shall refer to those classifications listed in the salary schedule attached as Appendix A of this agreement, in which the employee has permanent status.
- 14.221 For purposes of this Section the term “class” shall refer to “classification” meaning that each position shall have a designated title, a regular minimum number of assigned hours per day, days per week, and months per year, a specific statement of duties required to be performed by the employees in each such position and the regular monthly salary ranges for each position. “Higher class” shall refer to a class with a higher pay range.

### **14.300 Hire Date Seniority – General Guidelines**

1. Overall seniority within the District will be the unit members’ original hire date within Orange Unified School District.
2. Seniority within classification is determined by effective or hire date within that classification or related predecessor classification.
3. For layoff purposes, seniority will be determined by entry date within that classification or related predecessor classification.
4. Definitions:

**HIRE DATE:** Original entry date into the District.

**ENTRY DATE:** Date of entry into specific position.

- a) **Adjusted Hire/Entry Date:** Either date will be adjusted according to breaks in service, i.e., any type unpaid Leave of Absence (LOA), including layoff status.

**NOTE:** Only unpaid status of 30 calendar days or more will be recorded/adjusted for seniority purposes. In the event of a lay-off the District and CSEA will meet to resolve any issue regarding seniority and hire/entry date.

- b) In the case of two or more employees having identical seniority the District shall determine the order of seniority by lot. The order of seniority once determined by the above procedure shall be permanent and shall be entered upon the permanent records of the District. The Superintendent

or designee is authorized and it shall be his/her duty to correct any errors discovered from time to time on the records showing the order of seniority.

5. General Guidelines/Procedures

- a. All work schedules will be looked at as though they were 12 months (hire/entry dates will not be adjusted to reflect non-service months).
- b. Substitute time will not be considered, even if worked during an Unpaid Leave of Absence.
- c. Employees who are currently on Unpaid Leave of Absence (30 days or more) will be adjusted according to the ending date of the Leave. If an employee working less than 12 months is on an Unpaid Leave of Absence until the beginning of the next school year but accepts and completes a summer school assignment and returns to their regularly scheduled assignment the beginning of the next school year, they will be considered as having returned from Unpaid Leave of Absence at the beginning of summer school.
- d. Working out-of-class will have no effect on any dates.
- e. Number of hours worked per day will have no bearing on calculation of seniority.
- f. The effective date for the major reclassifications was 7/1/89. It was agreed at that time that ranges would remain comparable up to that date. Beginning 7/1/89, new comparisons would begin without adjusting previous hours/dates.

**Example:**

RE: John Doe, Athletic Equipment Manager from 10/28/85 at Range 30 until reclassified to Range 32 on 7/1/89. John Doe was administratively transferred to Pool Athletic Field Worker Range 32 on 7/1/90. The adjusted date would be 7/1/89 for Pool Athletic Field Worker, as the comparable position had not been upgraded until that date.

- g. In the case of a tie in a specific position, hire date into the District will be used unless that position was reclassified and then entry date prior to reclassification will be used before hire date. Ties between employees with identical seniority will be decided by lot.
- h. In the case of previous service in a higher range, the entry date will be adjusted to the current position, sample as follows:

TITLE	ENTRY DATE	ADJUSTED DATE
Sr. School Clerk	1/1/93	1/1/92
School Clerk*	1/1/92	1/1/91
Sr. Secretary	1/1/91	1/1/91

\* Any other position(s) that are a lower range will not be considered in the adjustment; time in the higher position(s) will be credited to all equal and lower positions.

- i. When the previous position entry date is later than the current position entry date that signifies a return to a lower position.

**Example:** John Doe, showing current position first.

Lead Custodian Entry Date: 6/15/77

Custodial Foreman\* Entry Date: 7/16/81

Head Custodian Entry Date: 3/15/76

Custodian Entry Date: 4/10/72

Custodial Foreman\* 7/16/81, returning to Lead Custodian 9/8/92.

- j. The seniority list shall be prepared and posted in two segments: the first shall be alphabetical listing by employee name together with hire/entry date in each class and higher class; the second shall be a listing by class with each employee ranked within the class on basis of hire/entry date in class plus higher class.

The seniority lists shall be posted at the end of each fiscal year, and at least two (2) weeks prior to the effective date of any layoff if a layoff occurs at any time other than end of school year. The Union shall receive a copy at the time of posting.

#### 14.400 **Notice of Layoff**

14.410 When, as a result a bona fide reduction or elimination of the service being performed by any department, classified employees shall be subject to layoff for lack of work, affected employees shall be given notice of layoff not less than 60 days prior to the effective date of layoff, and informed of their displacement rights, if any, and reemployment rights.

14.420 When as a result of the expiration of a specially funded program, classified positions must be eliminated at the end of any school year, and classified employees will be subject to layoff for lack of funds, the employees to be laid off at the end of such school year shall be given written notice on or before April 29 informing them of their layoff effective at the end of such school year and of their displacement rights, if any, and reemployment rights. However, if the termination date of any specially funded program is other than June 30, such notice shall be given not less than 60 days prior to the effective date of their layoff.

14.430 Nothing herein provided shall preclude a layoff for lack of funds in the event of an actual and existing financial inability to pay salaries of classified employees, nor layoff for lack of work resulting from causes not foreseeable or preventable by the Board of Education, without the notice required by aforementioned subsections.

14.440 The layoff notice shall contain: a statement of the effective date of layoff; a statement of “bumping”, reemployment and unemployment benefits rights; a statement of seniority posting information and reason for the layoff.

14.450 Written notice shall be provided to the union regarding proposed staff reduction for lack of funds or lack of work.

#### 14.460 **Reduction In Hours**

1. The District shall not be obligated to negotiate the effects of any reduction in hours or layoff of unit members.
2. The District shall be obligated to negotiate the decision to reduce hours of unit members contingent upon compliance with the following procedures:

- a) The parties agree to complete pre-mediation, mediation and fact-finding under Government Code Sections 3548-3548.4 within forty-five (45) calendar days from the date the Union is notified in writing by the District of its intent to reduce hours. The parties agree to expedite and/or waive any applicable statutory timelines to complete the negotiation process within the above period.
- b) Within the above forty-five (45) day timeline, the District and Union agree that one party, by written notice, may require the other party to proceed to the next stage of the negotiation process after completing the following hours:
  1. Pre-mediation negotiations  
8 hours
  2. Mediation  
5 hours
  3. Fact-finding/Deliberation/Remedy  
16 hours

NOTE: The above hours may be extended by mutual written agreement between CSEA and the District.

The parties agree that the fact-finding report must be issued within the above forty-five (45) day timeline.
- c) The timeline set forth in paragraph b above must be completed within the following calendar days:
  1. Pre-mediation negotiations:  
1<sup>st</sup> – 10<sup>th</sup> day
  2. Mediation:  
11<sup>th</sup> – 30<sup>th</sup> day
  3. Fact-finding/Deliberation/Recommendation:  
31<sup>st</sup> – 45<sup>th</sup> day
- d) The timelines in paragraph B and C above may be extended by mutual written agreement of the District and Union.
- e) Within the above forty-five (45) day timeline, the District Board of Education may pass a resolution to reduce hours and issue appropriate notices pursuant to Article 14: Layoff Procedures and Seniority in order to complete the notice of layoff timelines specified in Section 14.500 on or before the above 45 calendar days. Said resolution and notice will specify that said notice and resolution are subject to completion of the procedures specified herein.

#### 14.500 **Bumping**

A regular employee in the classified service who is laid off from a class and who has previous service in paid status in an equal or lower class, shall have the right to bump an employee with the least seniority in that class with the same number of assigned hours/months. (Seniority is determined by hire date as modified by the November 30, 1992 Fact finding Report issued by R. Douglas Collins and Memorandum of Understanding (M.O.U.) dated June 15, 1993). In lieu of layoff, the District may administratively transfer a unit employee to a vacant position in accordance with Article 10: Transfers in this Agreement.

14.510 When a vacancy exists an employee may take a voluntary demotion or reassignment to an equal or lower class in lieu of layoff, provided that such employee is qualified to perform the duties of the position, and provided further that the District approves

such demotion or reduction in time. Such approval shall not be withheld by the District for arbitrary or capricious reasons.

14.600 **Reemployment and Other Rights**

- 14.610 Persons laid off because of lack of work or lack of funds shall be recalled in reverse order of layoff, be eligible for reemployment for a period of 39 months, and be reemployed in preference to new applicants. In addition, such persons laid off have the right to participate in promotional examinations within the District during the period of thirty-nine (39) months.
- 14.620 Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff to remain in their present positions rather than be reclassified or reassigned, shall be granted the same rights as persons laid off and shall retain eligibility to be considered for reemployment for an additional period of up to twenty-four (24) months; provided, that the same tests of fitness under which they qualified for appointment to the class shall still apply. The District shall make the determination of the specified period eligibility for reemployment on a class-by-class basis.
- 14.630 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 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.
- 14.640 Regular employees on layoff status shall notify the District of his or her intent to accept or refuse an offer of reemployment within five (5) working days (excluding only weekends and holidays) of the receipt of such written notice. If more than one vacancy becomes available within a classification, an equal number of notices may be sent. When an employee does not respond, or appears to be avoiding a notice, the Union shall be notified. The Union shall have five (5) additional days to deliver the notification or the employee will be passed over on that round. If more than one employee chooses the same vacancy, preference of assignment will be made in order of seniority. If the employee accepts reemployment, the employee must report to work within fourteen (14) calendar days following such notice. An employee given notice of reemployment need not accept the first or second reemployment opportunity to maintain his or her position on the reemployment list.
- 14.650 An employee may refuse an offer of reemployment to a specific position for which eligible; however, refusal of three (3) offers of reemployment to the classification from which laid off shall automatically cause removal from the list and the loss of any reemployment right.
- 14.660 Whenever a layoff occurs, subsequent vacancies within a classification affected by the layoff shall be filled first by reemployment, then by Transfer (Article 10 of this Agreement) and then through promotion.
- 14.670 If the District utilizes substitutes, individuals who have been laid off will be used as substitutes if such individuals request placement on the substitute roster, such service will in no way affect eligibility for reemployment.
- 14.680 Employees who are either laid off or reduced in hours as a result of layoff shall continue to receive the same level of health and welfare benefits provided by section 12.400 as enjoyed immediately prior to layoff for an additional two months following layoff.

14.700 **Retirement and Layoff**

Notwithstanding any other provision of law, any person who was subject to being or was in fact laid off for lack of work or lack of funds and who elected service retirement from the Public Employees' Retirement System shall be placed on an appropriate reemployment list. The District shall notify the Board of Administration of the Public Employees' Retirement System of the fact that retirement was due to layoff for lack of work or lack of funds. If the person is subsequently subject to reemployment and accepts, in writing, the appropriate vacant position, the District shall maintain the vacancy until the Board of Administration of the Public Employees' Retirement System has properly processed his request for reinstatement from retirement.