ARTICLE 23

EFFECTS OF LAYOFF

23.1 Definition of the Process

Classified employees shall be subject to layoff for lack of work or lack of funds.

23.2 Seniority Procedures

23.2.1 Seniority in the classification being cut is the basis upon which a classified employee shall be laid off. In effecting layoffs, the following rules shall apply:

23.2.1.1 Seniority shall be based upon the amount of paid service in the classification in which the employee has served and shall include actual service and all paid leaves such as vacation, holidays, sick leave, etc. Time compensated on an overtime basis shall not be credited.

a. Seniority shall include all regular time in a class plus time accrued in higher classes as defined by personnel procedures. In the event of a tie of accumulated time, first preference will be given to the employee with the longest total District service as a classified employee. If a tie still exists, the employees will draw lots to determine preference.

1) Employees serving in a class prior to July 1, 1971, shall have seniority based on their initial date of hire as a probationary employee in their class.
2) Employees serving in a class on or after July 1, 1971, shall have seniority based on the number of hours in paid status in the class including voluntary furlough hours, plus equal or higher classes and exclusive of overtime hours.

b. Time spent on leave without pay excluding voluntary furlough, shall not be included when computing seniority, but time spent on approved leaves with pay and on military leaves (reserves) shall count toward seniority accrual.

c. Time spent in the class between breaks of employment because of separation (such as substitute or temporary employment) shall not count toward seniority accrual.

23.2.1.2 When reclassification results either in the merger of two or more classes or the separation of a class into two or more classes, seniority rights of unit employees who are reclassified with their positions
shall be computed from the date of their earliest entrance into regular service in such former classes.

23.2.1.3 An employee transferred from one class to another, or reclassified to a higher class, shall retain his/her seniority in the former class; seniority in the new class shall begin accumulating on the date of transfer. Employees who are reclassified to a different classification, but with the same salary grade, shall have his/her seniority in the new class credited to the former classification.

23.2.1.4 No unit employee shall be laid off from any position while employees serving under non-contract employment are retained in positions of the same class unless the unit employee declines the limited-term position.

23.2.2 Seniority List: Employees shall be ranked by seniority credit in a specified class, plus all higher classes, from which displacements are expected. This list will be used for determining:

Layoff from the classified service in the proper sequence.

The exercise of displacement rights to retain employment.

23.2.3 Displacement Rights: Permanent unit employees who are to be laid off, may exercise bumping rights in their class or in any lower class in which they have served and hold seniority credit greater than an incumbent. They may also exercise bumping rights in their class or in any lower class for which they possess bilingual skills identified as needed for the position, (as described in Section 14.14) and hold seniority credit greater than an incumbent. The employee bumped shall be the one with the least seniority in the class plus related higher classes. In determining bumping rights, the following rules shall apply:

23.2.3.1 In cases of reclassification, reorganization, or abolishment of positions, an incumbent's seniority in the class plus higher related classes shall be computed as outlined in Section A.1. above.

23.2.3.2 Displacement shall be in descending order of assigned time within the classification. Assigned time is defined as the total assigned hours per week multiplied by the assigned weeks per year. For purposes of this calculation, 12-month positions shall be counted as 52 weeks, 11-month positions shall be counted as 48 weeks, 10-month positions shall be counted as 43 weeks, and school session positions shall be counted as 36 weeks. Flexible hour positions shall only be able to displace other flexible hour positions.
Example 1: Position "A" is eliminated. "A" bumps "E", "E" bumps "G".

Example 2: Position "B" is eliminated. "B" bumps "F".

Example 3: Position “C” is eliminated. “C” bumps “G”.

<table>
<thead>
<tr>
<th>Employee</th>
<th>Hours in Class</th>
<th>Assigned Hours/Months</th>
<th>Annual Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>1000</td>
<td>40/12</td>
<td>2080</td>
</tr>
<tr>
<td>B</td>
<td>900</td>
<td>19/10</td>
<td>817</td>
</tr>
<tr>
<td>C</td>
<td>800</td>
<td>30/12</td>
<td>1560</td>
</tr>
<tr>
<td>D</td>
<td>750</td>
<td>40/12</td>
<td>2080</td>
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<tr>
<td>E</td>
<td>600</td>
<td>40/12</td>
<td>2080</td>
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<tr>
<td>F</td>
<td>400</td>
<td>16/11</td>
<td>768</td>
</tr>
<tr>
<td>G</td>
<td>350</td>
<td>19/11</td>
<td>912</td>
</tr>
</tbody>
</table>

23.2.4 Employees exercising displacement rights shall bump the least senior employee(s) in accordance with SENIORITY PROCEDURES. A seniority list will be provided to CSEA Chapter President (or designee by Human Resources).

23.2.5 An employee accepting a position in a lower classification in lieu of layoff, shall be placed on a step in the service of the previous classification which is nearest to, but not higher than the monthly salary he/she would have earned in the former classification.

23.2.5.1 In any case, the employee salary placement shall not exceed the salary he/she would have earned in the former classification.

23.2.5.2 In any case, the salary shall not exceed the maximum step of the current classification.

23.2.5.3 The employee will retain his/her anniversary date for subsequent salary advancement.

23.2.5.4 Salary increments based upon longevity shall continue to be paid in the new classification.

23.2.6 For the purposes of this Article only, Instructional Assistants may be laid off in reverse order of seniority.

**Example:** There are 60 Instructional Assistants in the Continuing Education discipline of ESL. For lack of work or lack of funds, the District lays off 10 Instructional Assistants in Continuing Education ESL, each working 19
hours per week. The 10 laid off are the 10 least senior, hourly Instructional Assistants currently serving in ESL, based upon the total hours in District service.

The District agrees to count all hours spent by Instructional Assistants in any and all of the below mentioned academic disciplines when ranking employees on a seniority list for lay-off purposes.

Disciplines for Continuing Education include:
- Citizenship
- High School Basic Skills
- ESL
- Older Adults
- Home Economics
- Parent Education
- Health and Safety
- Vocational Education
- Adult Basic Education
- Disabled Adults
- Business Skills

23.3 Notification of Employees

23.3.1 Employees affected by layoff shall be given written notice sixty (60) days prior to the effective date of layoff and shall be informed of their displacement rights (bumping), if any, and re-employment rights.

23.3.2 Specially Funded Programs: 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 due to lack of funds; the employees to be laid off shall be given written notice on or before May 29, informing them of their layoff and displacement rights. If the termination date of any specially funded program is other than June 30, such notice shall be given not less than 30 days prior to the effective date of layoff.

23.3.3 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 governing board without the notice required by paragraphs 23.3.1 and 23.3.2 above.

23.4 Rights of Employees Laid off for Lack of Work or Funds (Education Code 88117)
23.4.1 **Re-employment Rights**: Employees laid off are eligible for re-employment for a period of 39 months.

23.4.1.1 An employee on a re-employment list may decline three offers of re-employment in his/her former class. After his/her third refusal, the employee's name will be removed from the re-employment list.

23.4.1.2 **Removal of Name from Re-employment List**

a. An employee's name may be removed from the re-employment list for the class from which they have been laid off if they fail to respond to a written notice of employment within twenty (20) calendar days of notification.

b. The District may take an action to remove an employee's name from the re-employment list permanently for the following reasons:

   Conviction of a crime which would be sufficient to support dismissal of a permanent employee.

   Making false statements on an application form.

23.4.1.3 Classified job announcements will be sent to employees on the 39-month re-hire list.

23.4.1.4 Laid off employees do not accumulate seniority credit while on re-employment lists.

23.4.2 **Displacement Rights**: A permanent employee may exercise bumping rights pursuant to guidelines set forth in 23.2.3 of these guidelines.

23.4.3 **Rights in Lieu of Layoff**:

23.4.3.1 A permanent unit employee who may be laid off despite the exercise of bumping rights in his/her class, in order to avoid layoff, may request and accept a voluntary demotion to a lower class, or voluntary reduction in assigned hours and/or fewer days/months per year than which they had previously served.

23.4.3.2 An employee who has accepted demotion in lieu of layoff has the right to be employed, in accordance with his/her seniority, in a vacant position in his/her former class within 39 months after demotion provided the employee meets the current qualifications for the position.
If at this time the employee does not meet the stated qualifications for that class, the District and CSEA agree to negotiate a reasonable time period in which the employee may prepare for and achieve the stated qualifications, if feasible.

If at the end of this period the employee has failed to achieve the required qualifications the position shall be offered to the next most senior person on the 39 month re-hire list.

a. Intervening reassignments to other classes should not abrogate that right.

b. If he/she has not been re-employed in his/her former class at the end of 39 months, he/she shall be eligible for appointment to a vacant position in that class for an additional period of up to 24 months.

c. All rights acquired by an employee at the time of layoff shall be restored at the time of re-employment.

23.4.4 Benefit Rights: If a person is re-employed by the District within 39 months after the date of previous termination, his/her accumulated sick leave allowance, service credit for vacation allowance, and service credit for longevity pay shall be reinstated.

23.4.5 Substitute Employment: Employees laid off shall be placed on the substitute list for call-in for substitute employment in any class within the District in which they have served and/or have displayed that they meet the minimum qualifications. Such employees shall be afforded such work on a rotational basis in accordance with seniority.

23.4.6 Effects of Layoff on Remaining Employees: Employees remaining in employment shall not be required to work additional hours or required to perform overtime as a result of layoffs.

23.4.7 Employees who have exhausted (or waived displacement rights) may request to be interviewed for vacancies for lateral or lower classifications for which they meet minimum qualifications. These employees shall be interviewed prior to other unit employees or outside applicants, provided the employee requests an interview prior to the closing date of the posting.

23.4.8 The District shall continue to pay health insurance benefits received immediately prior to layoff at the current rate for all employees laid off for one month following the date the District's obligation to maintain said benefits would otherwise cease.
23.4.9 Employees subject to layoff may receive up to three days paid release time to search for alternative employment. Such time must have the prior approval of the immediate supervisor.

23.5 Definitions as Used in this Policy

As used in this policy, the following terms have the meanings delineated below:

23.5.1 Class: A group of positions sufficiently similar in duties and responsibilities that the same descriptive title may be used to designate each position allocated to that class:

- Substantially the same requirements of education, experience, knowledge and ability are demanded of incumbents;
- Substantially the same tests of fitness may be used in choosing qualified appointees;
- The same salary range may be applied with equity.

23.5.2 Class Seniority: The length of service within a classification included within the recognized unit.

23.5.3 Classification: A term which defines those positions in the classified service according to a designated title. Classification excludes working titles.

23.5.4 Displacement Rights (Bumping): The right to displace or bump into a current, lateral, or lower classification. Seniority in a lower classification shall be computed on the basis of hours of paid service in the higher classification(s) plus hours of paid service in the lower classification(s). When a unit employee's position is eliminated or the employee is displaced, the employee has the right to bump only into classification(s) currently or previously held. The employee will first bump into the current classification, and then into any lateral classification(s) previously held. If the employee is then displaced from the lateral classification(s), the employee has the right to bump into the next lower classification(s) previously held.

23.5.5 District Seniority: The length of service from the last continuous date of hire with the District.

23.5.6 Length of Service: For service commencing or continuing after July 1, 1971, means all hours in paid status as a unit employee during the school year, a holiday, a recess, or during any period that school is in session or closed but does not include any hours compensated for in a provisional, substitute, or temporary (limited-service) position.
23.5.7  **Re-employment List**: A list of names of persons who have been laid off from permanent positions by reason of lack of work, or abolishment or reclassification of position, or other reason specified in the Board Policy, and who are eligible for re-employment without examination in their former class, arranged in order of their rights to re-employment.

23.6  **Comprehensive Effects of Layoff**

Article 23 constitutes a comprehensive layoff article. The District will meet with CSEA thirty (30) days prior to the layoff taking effect to discuss the order of layoff and transfer or reassignment of employees in the affected classifications. Refer to Article 14.15.b.