

WHAT HAPPENS AFTER A NOTICE OF REASSIGNMENT OR LAYOFF?

In an effort to provide additional information to members regarding reassignment and layoff, EdCal asked Member Assistance Advocate Brad Lantz, under the direction of Assistant Executive Director Joseph Jones, questions that many members may have regarding the process and other concerns of administrators.

EDCal: What happens next if an administrator has been given a March 15 notice (Education Code 44951)?

Lantz: Assuming that the notice was properly delivered as outlined in an EDCAL March 1 article, a lot depends upon the wording of the notice. If the notice is of a “possible” reassignment, demotion or release, the board of education must act to reassign the administrator by June 30. Such action must be done individually. If the notice says “you are being reassigned or released” the action has to have been approved by the board prior to issuing the notice.

EdCal: What rights do administrators have in the case where the notice states “you are being reassigned, demoted or released?”

Lantz: The administrator has the right to ask for a reason for the action if they are being reassigned to the classroom (EC 44986). However, the courts have determined “any reason is sufficient” and that administrators serve “at the pleasure of the employing authority.” We should also note that if the administrator is being reassigned, demoted or released because of incompetency, the district would have to have given that person an evaluation not more than 60 days prior to giving the notice.

EdCal: We have heard that many districts issued notices to all administrators in the district that they may be reassigned or have their employment status changed. Why are districts doing this and what actions should administrators take?

Lantz: Districts may be issue blanket notices to administrators for many reasons. In some cases the district may be planning on across the board salary reductions or may still be assessing the reductions or changes they will need to make in staffing. They have issued notices to comply with code requirements. Administrators should meet with their supervisors to determine their potential job changes. It is always wise to get any reassurance that you will not be reassigned in writing.

EdCal: Some administrators are concerned that their seniority is not being considered correctly. What are the rules regarding seniority?

Lantz: Education Code 44956 states that a person employed as site administrator who has never taught in a district may accrue only three years seniority. This is particularly difficult for administrators who have been employed in a district for

10, 15, 20 years. This limits their “bumping rights” for teaching positions. Administrators who leave their positions in one district to move to another, and then return to the first district, forfeit previously accrued seniority unless they return to the original district within 39 months.

EdCal: What about administrators who have never taught in the district and have not been site administrators in that district?

Lantz: Upon completing the probationary period they gain permanency in the district; however, they do not gain seniority as a teacher. They may have bumping rights at the district level depending upon their status. (See EC 44987 and EC 44956.5)

EdCal: Some administrators have received both the notice under EC 44951 and also a notice under EC 44955. Why both notices?

Lantz: EC 44955 allows for termination “whenever a particular kind of service (PKS) is to be reduced or discontinued.” This notice is being given to administrators who may be permanent employees of the district and may have bumping rights to a teaching or other certificated position. This notice makes clear seniority or bumping rights and clarifies positions being eliminated.

EdCal: If an administrator is released from employment from a school district, do they qualify for un-employment while they search for another position?

Lantz: The eligibility requirements for school employees are distinct from other employees. The Employment Development Department defines a school employee as “an individual who works or provides services for a public or private nonprofit school employer. A school employee (unless stated otherwise) is also a school supportive employee. These are employees employed by a nonprofit or public entity employer who provide services to, or on behalf of an educational institution. A school employee may not be eligible to receive benefits if all of the following occur:

1. A claim is filed during a recess period.
2. Only school wages are in the period of the claim.
3. There is an offer to return to work for a school employer when the recess period ends.”

A recess period is defined as the period of time between terms, or within terms when classes are not usually scheduled - summer vacation, off-track weeks, holiday recess periods, etc.

EdCAL: Does this mean that an administrator cannot claim unemployment?

Lantz: Not necessarily. It means that it is the responsibility of the claimant to substantiate that there is no “reasonable assurance, written, verbal or implied that the school employee will perform services for an educational institution during the next academic year, term or remainder of a term.” If the administrator has been released from employment in the district, he or she MAY qualify for benefits while they are applying for other positions.

The decision on benefits is dependent upon the EDD evaluation of the claim. Administrators who have been reassigned to the classroom may or may not qualify since the EDD states: “The agreement must ensure the economic terms and conditions are substantially the same conditions in the previous school year or term.”

Administrators should apply or seek guidance from the EDD.

If you have any questions, call the ACSA Member Assistance & Legal Support Team at 800-608-2272 and ask to speak with an Advocate.

EdCal 5/17/10