

The facts about layoffs

There are only two reasons classified employees can be laid off: "lack of work" and "lack of funds."

If you are laid off, the district is required by law to give you 45 days notice. The law also mandates that layoffs occur by seniority within a single classification on a district-wide basis. In most cases, the last hired is the first laid off within a classification. (Some contracts determine seniority by date of hire as opposed to hours worked.)

If a district eliminates positions and lays off employees, it may try and shift their duties to other employees. However, there are restrictions that govern what the employer can do as far as transferring duties to other employees. If you are asked to take on the work of a laid-off employee, talk to a CSEA representative immediately.

What does your contract say?

Many chapters have successfully negotiated layoff and reemployment provisions into their contracts. As a result, these districts commonly have to bargain over the effects of layoff or reduction of work. When the union is involved, it gives the employees a voice in determining their fate. The following are [negotiable bargaining](#) subjects, to which districts must respond:

- Reason for layoff
- Notice of layoff
- Order of layoffs
- Bumping rights
- Layoff in lieu of bumping
- Equal seniority
- Reemployment rights
- Retirement in lieu of layoff
- Seniority roster and method of computing seniority
- Notification of reemployment opening
- Effects of layoff (health and welfare benefits, severance pay, etc.)

Since layoffs affect wages and hours of an employee, it is mandatory for a district to bargain the effects of taking such action unless the effects are mentioned in the contract already.

In worst-case scenarios, laid-off workers are unable to get another position in the district and become unemployed. Again, these workers still have rights: unemployment insurance and re-employment status to name a few.

The [California Employment Development Department \(EDD\)](#), in accordance with regulations established by State and Federal law, offers unemployment benefits. The EDD is responsible for determining a worker's eligibility for unemployment insurance benefits, paying such benefits and determining and collecting employer taxes, which support the program.

To collect benefits, you must file a claim with the department. The department then checks with the employee's last employer to verify the employee is unemployed through

no fault of his/her own. There are specific legal criteria used by the department when making benefits available, and you are obligated to gainfully seek work.

If your benefits are denied by the department, you have the legal right to go before an administrative law judge to hear arguments for or against eligibility approval.

Reasonable Assurance

The Unemployment Insurance Code requires the district to send all classified employees who work less than twelve months per year a notice stating the likelihood of returning in September. This notice must be sent no later than 30 days prior to the end of your work year. The notice must state the following:

1. Whether or not you have a reasonable assurance of a job in September.
2. The notice must state you should file for unemployment benefits even if you have reasonable assurance of a job next school year.

If you have received a notice of a job next year, the unemployment office will determine if you will receive unemployment benefits during the summer. The district has no say in this matter.

If the unemployment office determines you are not eligible for benefits, and then the district fails to return you to work in September, you will be eligible for benefits back to your first filing.

You can receive retroactive benefits if you file for unemployment insurance immediately following your last working day. If you have not already done so, do it now.

Can you be laid-off without warning?

No. All classified employees, even probationary employees, must receive at least a 30-day advanced notice of a proposed layoff. The notice must inform you of your bumping rights, if any, and return rights.

How is seniority determined?

[California Education Code](#) defines seniority for layoffs by number of hours you've worked within a classification. The employee with the shortest length of service would be laid off first. However, many CSEA chapters have negotiated with their employer to define seniority by date of hire within a classification.

If CSEA has negotiated length of service to mean date of hire (within classification), then the most recently hired employee within the classification would be subject to layoff.

The AFL-CIO offers an entire Web site dedicated to [unemployment help](#). Learn some of the best strategies, techniques and tools to help you survive hard times on the best possible terms.