

Edition

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A Layoff Survival Guide

UTLA RIF Dept.

In conjunction with the

Legal Department of the California Teachers Association

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UNITED TEACHERS LOS ANGELES • CALIFORNIA TEACHERS ASSOCIATION

A Layoff Survival Guide



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Dear Colleague:

The situation you currently face is without a doubt one of the most discouraging anyone can experience. It is an emotionally devastating experience to be told that you are losing your job through no fault of your own.

This booklet has been prepared by the Legal Department of the California Teachers Association in conjunction with UTLA RIF Department, to help you through this difficult time by letting you know the legal framework that governs layoffs and non-disciplinary terminations under California law. In addition, this booklet provides an overview of your rights to rehire and unemployment as well as your rights under the so-called federal "COBRA" law to maintain your current health coverage following your termination. Of course, the information in this booklet is necessarily presented in summary form. For more detailed information applicable to your particular situation, please contact your UTLA Area Representative.

Be assured that while you are coping with this difficult situation, UTLA will continue to fight for you. We will work tirelessly to restore budget cuts made to schools and we will continue our fight for the adequate funding necessary so that our schools can provide the top quality education that our students deserve.

We hope that you weather this storm quickly and that, with the help of this information, you will soon be on your way back into a classroom or school site in LAUSD. We look forward to the day when you and the other dedicated professionals who have fallen victim to these trying economic times return. In the meantime, know that UTLA will continue to do our part to assure that result.

Sincerely,

*Warren Fletcher
UTLA President*

*Juan Ramirez
UTLA Elementary Vice President*

*Gregg Solkovits
UTLA Secondary Vice President*

*Betty Forrester
UTLA/AFT Vice President*

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UTLA Treasurer*

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UTLA Secretary*

Notice: Due to UTLA's appeal in the litigation of the ACLU Reed Case, many issues regarding seniority remain unresolved.

Accordingly, your assigned site may not serve as protection from an ultimate layoff.

Regardless of where you are assigned, if you receive a RIF notice, you should follow the instructions as provided in the RIF survival guide.

Please review the checklist.

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WHEN CAN A SCHOOL DISTRICT LAY YOU OFF?

IT'S NOT YOUR FAULT. Through no fault of your own, you are suddenly facing possible unemployment. Knowing there wasn't enough state money to go around does not make it any easier when you and your family's finances are at stake. There is help out there; you will have a job again and the economy will rebound. But right now you have to take action to ensure that you do everything possible to ease the fear and burden of unemployment. Take a deep breath, and we'll walk you through how the layoff and termination process works under California law and explain the rights that you enjoy to rehire, unemployment, and health insurance coverage, should worse come to worse and you lose your job. Because certificated employees, education support professionals and community college faculty members have different rights under California law in the layoff and termination process, the following summarizes the law applicable to each different group of educational employees.

Certificated Employees.

1. Permanent and Probationary Teachers.

If you are a permanent or probationary teacher, you can be laid off if the school board determines that economic circumstances require decreasing the number of permanent employees. The board can identify a particular kind of service (such as a course or program) that will be reduced or discontinued, or base the layoffs on either a drop in the district's average daily attendance ("ADA") or a state law modifying the curriculum. You must be either personally given, or sent by registered mail, written notice that you are on the district's proposed layoff list by **March 15th, 2012**. Educ. Code Sec. 44955(b).

IMPORTANT NOTE – if you are a probationary employee and the district is terminating you due to economic circumstances, it must give you the notice described above and follow the full March 15th layoff procedure described at page 8; it cannot simply give you a notice of non-re-election. *Cousins v. Weaverville Elementary SD* (1994) 24 Cal.App.4th 1846, 30 Cal.Rptr.2d 310. The district can, however, give you a layoff notice and then, subsequently, give you a notice of non-re-election for reasons unrelated to the economic circumstances on which the layoff was based. *CTA v. Mendocino USD* (2001) 92 Cal.App.4th 522, 111 Cal.Rptr.2d 879.

WHEN CAN A SCHOOL DISTRICT LAY YOU OFF?

A district can also lay off permanent and probationary teachers during the time period after the state legislature approves the budget and August 15th, if the board determines that its total revenue limit per unit of ADA has not increased by at least 2% and that it is necessary to decrease the number of permanent employees. Educ. Code Sec. 44955.5. UTLA does not believe that a district may avoid the specific March 15th layoff procedure by waiting until after March 15th to notice teachers for layoff on the ground that the legislature's anticipated approval of the budget later this spring will reopen the layoff window any time up until August 15th.

2. Teachers Employed in a Categorical Program.

If you work in a categorically funded program and neither funding for the program, nor the contract for the program has been terminated, you must be laid off through the March 15th RIF procedure that applies to permanent and probationary teachers including the notice described above and the hearing described on page 6. In addition, if you were classified as a permanent or probationary teacher before being assigned to a categorically funded program, you must be transferred to another position or laid off pursuant to the March 15th RIF procedure regardless of whether or not categorical funding or the contract has been terminated.

3. Temporary Teachers.

If you are a temporary teacher, you may be dismissed at any time prior to serving 75% of the school year. Educ. Code Sec. 44954. After that point, a school district may release you only by providing you a release notice by the end of the school year indicating that you will not be reemployed for the next school year. Educ. Code Sec. 44954(b). Temporary teachers are not entitled by statute to a hearing when they are terminated.

Many districts misclassify teachers as temporary employees. As a general rule, you should only be classified as a temporary employee if you have been hired for one of the following reasons:

- to replace a permanent or probationary teacher on long term leave. Educ. Code Sec. 44920;
- to teach a class or perform duties that will not last for more than the first three months of any school term, Educ. Code Sec. 44919(a);
- to teach special adult classes or in a school for migrant populations for no more than four months of the school term, *Id.*;
- to serve in limited coaching assignments, Educ. Code Sec. 44919(b);
- to teach one semester only in anticipation of a reduction in student enrollment, Educ. Code Sec. 44921; or

WHEN CAN A SCHOOL DISTRICT LAY YOU OFF?

- to teach for no more than 20 days due to an emergency, Educ. Code Sec. 44919(c).

If you are employed in one of these specific assignments for more than the specific time period described above, you are automatically reclassified by law as a probationary employee and your prior “temporary” service must count as probationary service. Educ. Code Secs. 44919(a), 44921. If you are employed in another assignment you cannot be classified as a “temporary” employee even if you do not yet have a “preliminary” or “clear” credential, for example, you are working under an emergency permit, waiver, intern credentials, etc.

IMPORTANT NOTE – if you are hired for one of these temporary assignments and the District does not provide you with a written notification that your employment is temporary on or before your first date of paid services, and in July of every year thereafter, you are automatically classified by law as a probationary employee. Educ. Code Sec. 44916.

4. Substitute Teachers.

If you are a substitute teacher, you may be released at any time by the school board. Educ. Code Sec. 44953. Substitutes are not entitled by statute to a hearing when they are terminated.



WHAT SHOULD YOU DO IF YOU RECEIVE A LAYOFF NOTICE?

If you have received a layoff notice, and haven't yet done so, contact your UTLA Area Representative right away. If you are a member they will be able to advise you regarding the steps you should take to ensure that your rights are protected during the layoff process.

In addition, because layoffs must be in reverse seniority order, below are some steps you can take to help with your representation in the layoff process.

Certificated Employees.

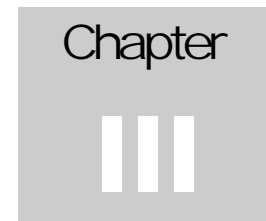
1. **Figure out your seniority date** and collect the documents you need to prove up that date if need be. The general rule is that your seniority date is your first day of paid service as a probationary employee ("PROB"). There are three important exceptions:

Your prior year of service in a categorical position will count as your first year of service as a PROB if you served in the categorical position for at least 75% of the school year and were subsequently employed by the district as a PROB in a position requiring certification. Educ. Code Sec. 44909. So, if you worked 75% of the 2009-10 school year in a categorical position, and were employed this year by the district as a PROB, your seniority date would be your first day of paid service in the 2009-10 school year.

Remember that your first day of paid service may NOT be the first day of school. If you were paid and directed to attend an in-service day before school, that day may count as your first paid day of service. Conversely, if you did not start work until after school started, your first paid day of service will be the day you actually started working for pay, not the day that school started.

WHAT SHOULD YOU DO?

2. Make sure that ALL of your credentials and certifications are on file with the school district especially certifications to teach English language learners. If you hold a credential or certification, but it is not on file with the district by March 15th, you will not be credited with that credential or certification in the RIF hearing. Some districts try to argue that an even earlier date serves as the cutoff point, so it is important to get your credentials and certifications on file as soon as you can. If you need to check on your credentials, look them up on the CTC website at <http://www.ctc.ca.gov/lookup.html>.
3. Fill out the attached questionnaire (in Appendix, UTLA form # 3) regarding your prior service credentials and certifications to facilitate your representation in the RIF process.
4. If you receive a layoff notice, contact your UTLA Area Representative right away. In addition, fill out and hand in to the District a request for hearing. A sample of such a request is appended at the end of this booklet. The hearing request form must be received by the District within **7 days** of the date of your layoff notice unless the layoff notice specifies a later date. Make sure to keep a date stamped copy of the notice for your records.



WHAT IS THE MARCH 15TH LAYOFF PROCEDURE?

The Key Dates in the March 15th Lay off Process.

If you are a permanent or probationary certificated employee of a school district, or a tenured or contract employee of a community college, and you receive a notice this spring that you are on the list of employees subject to layoff, the following procedure and timeline will govern the layoff process.

Event	Date	Explanation
Layoff Notice	March 15th	You will receive an individual notice stating that the District intends to lay you off. The notice must be written and either personally given to you or mailed to you by registered mail by March 15 th .
Request for a Hearing	Must be served on the District within 7 Days After Receiving Layoff Notice or Another (Later) Date Specified in Layoff Notice	The layoff notice will ask if you want a hearing. YOU DO! To get one fill out the attached Request for a Hearing form or the form provided by your CTA representative and hand it in to the District within 7 days of receiving your layoff notice (unless a later date is specified in the layoff notice). Take two copies with you when you hand the form in and ask the District to date stamp one of them for you to keep for your records.
Notice of Accusation	You will receive this after you request a hearing.	After you serve your request for hearing, the district will respond by serving you with a document called a "Notice of Accusation." Don't worry – this is just legal babble – it does not mean you have done anything wrong. This document may either be given or sent to you.

WHAT IS THE MARCH 15TH LAY OFF PROCEDURE?

Event	Date	Explanation
Notice Of Defense	Within 5 days of Service of notice of Accusation	As soon as you receive the Notice of Accusation, fill out the attached Notice of Defense and give it to the District (again, making sure that you keep a date stamped copy for yourself). Your chapter or representative may ask you to fill out a different Notice of Defense form instead, in which case you should follow their instructions. Make sure that your Notice of Defense is received by the district within 5 days of your receipt of the Notice of Accusation.
Time and Place of Hearing	N/A	A trial type hearing will be held before an administrative law judge (“ALJ”) over the district’s proposed layoff list. Your CTA representative will tell you when and where the hearing will be.
ALJ Proposed Decision	No Later than May 7 th	The ALJ who presided over the trial must give his proposed decision to the governing board and employees by May 7 th .
Notice of Final Decision by Board	No Later than May 15 th	The governing board has until May 15 th to review the ALJ decision and issue its final decision including its final layoff notices to employees. The final layoff notices can be served personally or by registered mail.
Subsequent Court Review		In rare instances, the governing board’s decision can be challenged in court by way of a Petition for Writ of Administrative Mandate.

The Issues that Must be Resolved in the RIF Process.

As a general rule, layoffs must be in reverse order of seniority – “last hired, first fired.” One of the key issues that must be resolved in the March 15th RIF process is whether or not the district layoff list is in the correct order. That is why it is so important for you to figure out your seniority date so you can make sure that the district has the correct date.

1. “Skipping” and “Bumping” Issues for Certificated Employees.

You have the right to “bump” any junior employee who is retained to render a service that you are both “certificated and competent” to provide. Educ. Code Sec. 44955. If you seek to teach a subject that you have not previously taught and for which you are not credentialed or which was not your

WHAT IS THE MARCH 15TH LAY OFF PROCEDURE?

major area of post-secondary study, the school district will require you to pass a subject matter competency test before assigning you to teach that subject. *Id.*

If you have the same seniority date as another employee, the school district will decide how to rank you on the layoff list based on criteria it chooses reflecting “the needs of the district and the students thereof.” Educ. Code Sec. 44955(c). The district must provide you or your representative, upon request, with the criteria it is using for this purpose and its application in ranking you among other employees with the same seniority date. (*Collective Bargaining Agreement, Article XI, Section 6.2*)

The district may also deviate from the order of seniority if the district demonstrates “a specific need for personnel to teach a specific course or course of study” and that the more junior employee “has special training and experience necessary to teach that course or course of study.” Educ. Code Sec. 44955(d). That is why it is so important that you carefully and completely fill out the RIF questionnaire (attached in Appendix 1) so that your representative in the RIF process can determine, if the district attempts to skip you on this basis, whether or not the district’s “skip” is vulnerable to a strong challenge.

WHAT ARE YOUR REHIRE AND OTHER RIGHTS IF YOU ARE LAID OFF?

Permanent Teachers – Rehire, Substitute & Leave Transfer Rights.

1. **Rehire Right** – You have the right to be rehired in order of seniority if, at any time within 39 months of the layoff, the number of employees is increased or the service that was discontinued leading to your layoff is re-established. Educ. Code Sec. 44956(a). If you seek to teach a subject you have not previously taught, and for which you do not have a teaching credential or in which you did not major, you must pass a subject matter competency test in the appropriate subject. Educ. Code Sec. 44956(a)(1).

– The district may refuse to rehire in seniority order if it demonstrates a specific need for personnel to teach a specific course or course of study, and shows that the more junior employee has special training and experience necessary to teach that course or course of study, which the more senior employee does not possess. Educ. Code Sec. 44956(a)(3)(A).

– If you are rehired, the period of the layoff will not be considered a break in service, but neither shall it count towards STRS credit. Educ. Code Sec. 44956(a)(4). At any time prior to the completion of your first year of service after rehire, you can continue, or make up, your contributions to STRS for the period during which you were laid-off but neither the state or district is obliged to match those contributions. Educ. Code Sec. 44956(a)(7). If you reach retirement age or become disabled before you are rehired, you are entitled to receive all retirement or disability benefits that you would have received while employed. Educ. Code Sec. 44956(a)(8).

– You may waive your rehire rights for a period of up to a year (meaning that you can ask to be passed over when the district makes rehire offers) without losing the right to subsequent offers of rehire. Educ. Code Sec. 44956(a)(2).

WHAT ARE YOUR REHIRE RIGHTS?

2. **Substitute Right** – You have the right to temporary and substitute positions, again in order of seniority, while you are waiting to be rehired into a permanent position. Educ. Code Sec. 44956(a)(5). If you substitute teach 21 days or more in a 60 day period, your pay shall be no less than if you had been reappointed to a permanent position. Educ. Code Sec. 44956(a)(5).

3. **Leave Transfer Right** – If you obtain employment in another school district, you can transfer your accrued sick leave from your prior district by providing your current district with written notice that you would like to transfer your accrued sick leave together with the name and address of your former district. Educ. Code. Sec 44979.

Probationary Teachers – Rehire, Substitute and Leave Transfer Rights.

1. **Rehire Right** – You have the right to be rehired in order of seniority if, at any time within 39 months of the layoff, the number of employees is increased or the service that was discontinued leading to your layoff is re-established. Educ. Code Sec. 44957(a). If you seek to teach a subject you have not previously taught, and for which you do not have a teaching credential or in which you did not major, you must pass a subject matter competency test in the appropriate subject. Educ. Code Sec. 44957(a).

– The district may refuse to rehire in seniority order if it demonstrates a specific need for personnel to teach a specific course or course of study, and shows that the more junior employee has special training and experience necessary to teach that course or course of study, which the more senior employee does not possess. Educ. Code Sec. 44957(b)(1).

– If you are rehired the period of the layoff will not be considered a break in service, but neither shall it count towards STRS credit. Educ. Code Sec. 44957(c). At any time prior to the completion of your first year of service after rehire, you can continue, or make up, your own and the district's contributions to STRS for the period during which you were laid-off. Educ. Code Sec. 44957(e).

2. **Substitute Right** – You have the right to temporary and substitute positions, again in order of seniority, while you are waiting to be rehired into a permanent position. Educ. Code Sec. 44957(d).

3. **Leave Transfer Right** – If you obtain employment in another school district, you can transfer your accrued sick leave from your prior district by providing your current district with written notice that you would like to do so together with the name and address of your former district. Educ. Code Sec. 44979.

HOW DO YOU GET UNEMPLOYMENT BENEFITS AND MAINTAIN YOUR HEALTH INSURANCE AND MEMBERSHIP IF YOU ARE LAID OFF?

Unemployment Insurance Benefits.

1. Eligibility.

Employees who are laid off or who are not re-elected are eligible to receive unemployment insurance benefits. In addition, a probationary employee who resigns effective the end of the school year after being given the choice to resign or be non-re-elected, is also eligible to receive unemployment insurance benefits.

2. How to file for a Claim for Unemployment Insurance Benefits.

File for UI benefits immediately after your last day of work. There is a one week, unpaid waiting period. The fastest and most convenient way to file a claim is online at <http://eapply4ui.edd.ca.gov> Or, print out the online application, hand write your answers, and fax or mail to the California Employment Development Department (at EDD, 800 Capitol Mall, MIC 83, Sacramento, California 95814, 1-800-300-5616 (English), 1-800-326-8937 (Spanish)).

Due to the recession and the resulting increase in the number of claims, you may experience a long wait on telephone lines.

3. What information is needed to file a claim?

- Your name, address, phone number and social security number.
- School District Office address and phone number.
- Specific reason you are no longer working. If you were laid off, state you were laid off and have no reasonable assurance of reemployment the following school year. If you resigned in lieu of being non-re-elected, state that you resigned after the employer informed you that you would be dismissed for reasons other than misconduct.
- Last day of work.

HOW DO YOU GET UNEMPLOYMENT BENEFITS?

- Citizenship status, and if applicable, alien registration number.
- Driver’s license number or state ID number.
- Report all wages earned whether or not you have already received them.
- Complete the form fully and accurately. Unanswered questions may delay processing. Use blue or black ink.

4. What happens after the claim is filed?

Within 10 days of filing your claim, you should receive by mail either claim materials or notice that a telephone interview has been scheduled, if further information is needed. If you do not receive notification in the mail after 10 days, contact EDD. Your first UI benefit check should arrive within about three (3) weeks after filing.

5. Benefit Amount & the Limited Federal Tax Exemption.

You can receive a regular benefit up to a maximum of \$450 a week depending on your past earnings. If you file in May or June, 2012, your benefit amount will be calculated on the highest quarter in the base period of the twelve months ending December 31, 2011.

NOTE – Your first \$2,400 in state unemployment benefits are not subject to federal taxes. Any benefits you receive above \$2,400 are subject to federal taxes.

HOW DO YOU GET UNEMPLOYMENT BENEFITS?

Maintaining Your Health Insurance

District-paid health benefits continue as long as the employee is in paid status for some time each pay period. Coverage ceases at the close of the month in which the employee's termination is effective, except for District-paid life-insurance, which terminates on the date the employee ceases to be employed (Article XVI – Health and Welfare, Section 7.0c, of the CBA). LAUSD Benefits Administration notifies the COBRA Third Party Administrator (SHPS) and that organization sends out COBRA applications to those affected.

1. Notice of, and Nature of, COBRA Rights.

Within 90 days of your termination from employment or of a reduction in hours of employment resulting in you losing employer paid health coverage, the District must notify you of your right to continue your health coverage under COBRA. Your right is to continue the same health insurance coverage that you had as an employee, including any coverage you carried for your spouse or dependents. You are obligated, however, to pay for some (in the case of involuntary terminations) or all (in the case of voluntary terminations) of the premiums to maintain coverage. Even if you choose not to continue your health coverage, you may elect to continue health care coverage for your children and/or your spouse may elect to continue coverage.

2. Premium Amounts following Voluntary Terminations.

If you are voluntarily terminated, you may choose to maintain your health insurance coverage for up to 18 months by paying the full premium due (which may be no more than 102% of the premium the plan pays for non-COBRA participants).

3. When, and to Whom, Must the Premium Be Paid?

You must pay the premium to the plan. Your first premium payment must be received by the plan within 45 days of your election of COBRA benefits. Your subsequent payments must be received within 30 days of the due dates set by the plan for premium payments. Make sure to make your premium payments on time. A plan can terminate your COBRA coverage if your payments are not received before the end of the 30 day grace period.

Reduction in Force

Questions & Answers

Q: What is the difference between “Reduction In Force (RIF)” and “Displacement” (bumping)?

A **reduction in force** is an involuntary separation of an employee from service due to a shortage of funds, lack of work, organizational changes, or other reasons of business necessity which require a reduction in staff. Employees are laid-off and lose their job with the District.

Displacement occurs when a school is over-taught. It results in one or more teachers having to leave their assigned site. A displaced teacher does **NOT** lose their District job (contract), they only lose their assignment to that site.

Q: When will the notices be sent?

When a decision is made, permanent employees must be given the first notice no later than March 15th of the school year prior to implementation. A probationary employee subject to termination shall be provided written notice thereof at least fourteen (14) calendar days prior to such termination. Such notice shall be mailed by certified or registered mail to the address on file in the District's computer system as of the date of mailing, or shall be served on the employee by direct delivery.

Q: Who has a right to a hearing?

Permanent certificated employees who received RIF notices have a right to a hearing, if the hearing is requested in writing within seven calendar days. After the District receives the request from the employee, the District will issue a document known as an “Accusation.” The employee must then file a “Notice of Defense.”

Q: What is the purpose of a hearing?

RIF hearings are primarily to determine whether the district has committed an error as defined under the California Education Code. Frequently legal arguments are asserted on behalf of our members without the necessity of their appearance. For example, the districts overall proprietary right to layoff certificated bargaining unit members due to budgetary constraints may be challenged without the need of your testimony.

Q: What starts the clock on the process?

The postmarked date of the RIF notice determines the deadline for filing the *Request for Hearing* form. **DO NOT WAIT.** The form must be submitted to the District, addressed to the person issuing the notice within **7 calendar days**. Refer to the mailing address on the RIF notice.

Q: How can I find out my status?

Some teachers have not signed an updated contract or have overlooked their status. You should contact LAUSD's Human Resource Division (213)241-6131. They will be able to provide the required information.

Q: Who is entitled to reinstatement?

A RIF'd employee has a preferred right to re-employment for a period of 39 months following the layoff. No probationary or other employees with less seniority may be employed to render a service for which a laid off permanent employee is certificated and competent to render. During the 39 month period, the district must offer substitute teaching opportunities to laid off employees in order of their seniority. If an employee serves as a substitute in any position requiring certification for 21 days or more within a period of 60 school days in any school year, the compensation the employee receives for substitute services, shall not be less than the amount the employee would have received if he or she had not been laid off. A reappointed permanent or probationary employee does not suffer a break in service or loss of seniority due to the termination (layoff).

Q: Will teachers that are affected by the RIF be able to substitute?

Yes, they will be allowed to substitute on a priority basis, see preceding question.

Q: What is the last date that I would be informed if I was really losing my job next year?

We don't have definitive information at this time. For permanent teachers, we may not know the final outcome until the hearings are concluded and the rulings issued. For non-permanent teachers, unfortunately, a final determination may come as late as the beginning of the school year.

Q: What happens to my health benefits if I received a RIF notice?

Health benefits terminate on the last day of the month in which your termination is effective. You can apply for COBRA and retain health benefits through COBRA for 18 months. After 18 months of COBRA, there is an option to continue "medical benefits only" through CAL-COBRA for another 18 months.

- A teacher in a full-time assignment who is RIF'd, but worked at least 100 full-time days from July 1, 2010 to June 30, 2011 is eligible to continue receiving District-paid health benefits, effective July 1, 2012, provided the employee is in paid status for the June pay period and signed up to substitute teach. A teacher who qualifies as described above does not have to work July to September, 2012 to be eligible to receive health benefits July to September 2012. The teacher must work at least one day per calendar month, beginning October 1, 2012 to June 30, 2013 to maintain health benefits through September 30, 2013.
- Any teacher who is completing his/her first year of full-time teaching service (defined as 100 or more full-time days), can enroll in health benefits October 1, 2012, as long as he/she signs up to substitute teach. There are not District-paid health benefits for them over the summer (July, August, September 2012), but they can enroll in COBRA during that time period. The teacher must work at least one day per calendar month starting October 1, 2012 to maintain eligibility. Eligibility is based on service provided in the fiscal year July 1, 2011 to June 30, 2012, but the plan year for substitute health benefits is October 1, 2012 to September 30, 2013.

Teachers who are rehired as a substitute will need to re-enroll in the District-paid health benefits. It is not automatic. The employee should call 213 241-4262 regarding COBRA and to make certain that the benefits did roll over.

The transfer of Health Benefits may be delayed. We urge you to take care of your Health, Dental and Vision needs prior to June 30, 2012, in the event there is a lapse in coverage.

Q: Will my STRS Service Credit be affected by a RIF?

Service credit for the current school year may or may not be affected by a RIF. It depends upon the effective date of the layoff. If the effective date is at the end of the school year and the employee has completed all required contract hours at full pay, the employee will be credited with a full year of service in the pension system in which they are a participant. If the layoff is effective prior to the end of the school year, the employee will not have met their contract hours requirement and the service credit will be reduced. If the employee later returns to District service, they can purchase service credit through their pension fund for the time period during which they were not working for LAUSD. If the employee does purchase service credit, neither LAUSD nor the State is required to contribute.

Unemployment Compensation: Teachers who receive a RIF notice are entitled to unemployment compensation. Additional information regarding unemployment compensation can be found on www.utla.net or www.edd.ca.gov.

Q: I did not receive a RIF letter, what does this mean?

If you are a permanent employee and did not receive a notice postmarked by March 15, 2012, then you are considered safe, and there is nothing to do. If you are a probationary teacher, you may receive a notice at any time prior to 14 days before the last date of your service as an employee of LAUSD.

Q: I am in a CLAD training class, will I receive a RIF notice?

Technically, the required CLAD certification is not related to the RIF process; however, your job may still be in jeopardy if you do not possess the proper certification to teach. If you are currently enrolled in CLAD classes, such as CTEL, UTLA strongly advises you to complete the CLAD certification process. There are consequences and actions the District can impose on any teacher that is not properly certified to teach in order to meet the needs of the students. Please see the "CLAD" link.

Q: If my school becomes a Charter School, will it save my job?

No. During these economic times there are no guarantees of job security from layoffs or separation of employment. Those schools that are not currently Chartered will not be able to convert prior to the July 1st deadline. RIF's will have already occurred before a school can become a Charter. All school districts, including Charter schools will be affected by state budget constraints.

Q: Can QEIA funds be used to save my job at my school?

QEIA funds which were intended to reduce class-size can be used to fund positions. The positions purchased are saved, but this does not extend to the personnel filling them. So, QEIA funds can save positions but not specific personnel.

Q: If I am laid off, and apply to be a sub, am I still qualified to receive unemployment compensation?

Teachers who receive a RIF notice are entitled to unemployment compensation. Unemployment benefits are for the unemployed and the under-employed. As a sub, you may qualify for partial unemployment benefits. Additional information regarding unemployment compensation/benefits can be found on www.edd.ca.gov. **EDD phone line (800)300-5616**

Please check our website www.utla.net for updates.

APPENDIX OF IMPORTANT RIF FORMS

INDEX OF RIF FORMS

REQUEST FOR HEARING (UTLA FORM #1)

NOTICE OF DEFENSE (UTLA FORM #2)

UTLA – RIF DATA FORM & QUESTIONNAIRE (UTLA FORM #3)

UTLA RIF ATTORNEY ALERT FORM (UTLA Form #4)

CONSENT TO LEGAL REPRESENTATION (UTLA Form #5)

CHECKLIST

MAKE SURE THE FOLLOWING IS DONE PRIOR TO MARCH 15TH

- **Make sure of the accuracy of your seniority date. If you are in doubt, let the district know immediately, do not agree to any date and request clarification. Seniority is very important.**
- **Make sure you turn in all credits, coursework and credentials earned during the year. It may make a difference.**

Important Instructions for Members Served with Layoff (“RIF”) Notices

We do not view your layoff as being inevitable and, until the final decision is made, UTLA staff and our attorneys are committed to doing everything possible to guarantee the protection of your rights. The arena where those rights are defended is in the hearing before an Administrative Law Judge. We urge you to request the hearing, to attend the hearing and to follow the advice of your attorney and, if requested, actively participate in your own defense. You have worked too hard to become a teacher to simply give up without a fight.

In order to participate in the hearing you must complete some paperwork and submit some of that paperwork to the district in a timely manner. Please follow the instructions in this packet very carefully. If, at any time, you have a question or concern you are urged to contact your UTLA Area Representative. The number to call during business hours is (213) 487-5560.

In this packet you will find the following forms:

- (1) **REQUEST FOR HEARING.** In order to have a hearing, you must request a hearing. You will receive a formal Notice of Intended Dismissal from your District, will be delivered by certified mail. You must return the *Request for Hearing* form to the district office **within 7 calendar days**. If you fail to return the form in time, then you have, in effect, waived your right to a hearing. It is a very brief, but extremely important form. Address the form to the person whose name was on the notice you have received. MAKE A COPY before submitting the form to the District office. If you choose to deliver the form in person, HAVE YOUR COPY DATE STAMPED, and then KEEP THE STAMPED COPY FOR YOUR FILE, we are preparing for your hearing. If you choose to fax or mail, please obtain a fax transmittal confirmation or mail by certified mail/return receipt. DO NOT send this form to UTLA.
- (2) **NOTICE OF DEFENSE.** Soon after submitting your *Request for Hearing* form, you will receive, from the District, a form we call an “Accusation.” Don’t fear. “Accusation” is a legal term and does not suggest that you have been accused of anything. Remember: YOU HAVE NOT DONE ANYTHING TO EARN OR DESERVE THE TERMINATION NOTICE! Then fill out the *Notice of Defense* form and return it to the District office **within 5 working days**. Again, MAKE A COPY for placement in your hearing file. If you fail to file the *Notice of Defense* form, you will have waived your right to a hearing. DO NOT send this form to UTLA.
- (3) **RIF DATA FORM.** This form will give the attorneys information and a perspective on your particular case. Complete this form with precise information. Only answer items to which you have facts. Fax this form to UTLA.
- (4) **REDUCTION IN FORCE HEARING “ATTORNEY ALERT!”** The information contained on this form summarizes the issues to be heard in your hearing. Please give accurate and concise information. Fax this form to UTLA.

(5) **CONSENT TO LEGAL REPRESENTATION.** UTLA will provide legal representation on your behalf and as a group. You are consenting to the legal assistance provided by our attorneys as well as understanding that you are part of a group or class where other employees are similarly affected by the District's actions. This form must be completed in order for our legal firm to represent you. Fax this form to UTLA.

(6) **CHECKLIST.** The checklist will guide you through the process of completing and submitting the forms in a timely manner. Use this form to your advantage. Note the date also when each step in the process is completed.

Above all else, please know that all of us at UTLA Headquarters are here to assist you in these trying times. Should you have any questions or concerns, please feel free to contact your area representative.

In solidarity,

UTLA Officers and Staff

North

Elsie Myers
213 368-6273

Sonya Tsujimura
213 368-6235

South

Christopher Arellano
213 368-6253

Cami George
213 637-5155

Lydia Laurans
213 368-6222

Central

Jose Govea
213 368-6213

Kim McLaughlin
213 368-6264

Valley East

Steve Klein
213 368-6228

Leisette Rodriguez
213 368-6214

Valley West

Tom Alfano
213 368-6233

Ed Kaz
213-637-5150

Lydia Laurans
213 368-6222

Harbor

Carl Joseph
213 368-6234

Sharon Harrison
213 637-5156

West

Roger Scott
213 368-6211

East

Bruce Williams
213 368-6221

Luis Vicente Ovalles
213 368--6224

EEC/Adult Ed.HHS

Rocco Miceli
213 637-5174

Special Education

Scott Gerber
213 637-5145



REQUEST FOR HEARING

Dear _____:

I hereby request a hearing to determine whether there is cause to not re-employ me for the 2012-2013 school year.

Signature

Printed Name (please print legibly)

Employee Number

Address

City State Zip Code

Phone Number

Date

Please submit this form to:

LAUSD Headquarters
Attn: Vivian Ekchian
Chief Human Resources Officer
PO Box 3307
Los Angeles, CA 90051
(213) 241-6131 Office
(213) 241-8418 Fax



NOTICE OF DEFENSE

To: The Governing Board of the Los Angeles Unified School District

Address: 333 So. Beaudry Avenue
Los Angeles, CA 90017

In response to your accusation, dated _____, 2012,
I, _____,

- (1) Request a hearing.
- (2) Object to the accusation upon the ground that it does not state acts or omissions upon which you may proceed.
- (3) Object to the form of the accusation on the ground that it is so indefinite or uncertain that I cannot identify the transaction or prepare my defense.

This constitutes my Notice of Defense pursuant to Government Code Section 11506.

Signature

Printed Name

Employee #

Street Address

City

CA
State Zip Code

Phone Number

Date

Please submit this form to:

LAUSD Headquarters
Attn: Vivian Ekchian
Chief Human Resources Officer
PO Box 3307
Los Angeles, CA 90051
(213) 241-6131 Office
(213) 241-8418 Fax



RIF DATA FORM

Please fill out as much of this form as you can and please write or print legibly.

Name: _____ Employee No: _____

Local District: _____ UTLA Area (please circle): N S E W H C VE VW

School/Work Site: _____

Contact Numbers/Home: _____ Cell: _____

Personal E-mail Address (not LAUSD): _____

Current Assignment or Position (Check One):

- | | | |
|---|--|--|
| <input type="checkbox"/> Elementary Teacher | <input type="checkbox"/> Secondary English Teacher | <input type="checkbox"/> Elementary Counselor |
| <input type="checkbox"/> Secondary Math Teacher | <input type="checkbox"/> Secondary Science Teacher | <input type="checkbox"/> Diploma Project Advisor |
| <input type="checkbox"/> Psychiatric Social Worker | <input type="checkbox"/> Secondary Counselor | <input type="checkbox"/> PSA Counselor |
| <input type="checkbox"/> Secondary Social Studies Teacher | <input type="checkbox"/> Audiometrist | <input type="checkbox"/> Other _____ |

Employment Status (Circle One):

Temporary Probationary 1 Probationary 2 Permanent

Do You Dispute Your Employment Status? **Yes No**

Date-of-Hire According to the District: _____

Do you dispute this date? **Yes No**

Credential and/or Certificates Held: _____

Advanced Degrees Held: _____

Are you aware of any certificated employee in the District with less seniority than yourself who was not issued a dismissal notice? **Yes No**

District employment history: State teaching assignments (subjects and grade levels), classification and hours worked per week **if less than full time**. List your current assignment first.

Dates	Assignment	Classification	Hours if Part Time

If any employment listed above is other than probationary or permanent, please explain the basis for your classification. _____

Please explain any breaks in your service with the District. _____

List all positions held on committees, advisory groups and appointed or elected positions within the district. _____

Please provide any other relevant information regarding your qualifications for service. _____

Please explain any issue or circumstance that might explain why you disagree with either your date of hire, your employment status or other relevant issues that may arise in the hearing. State any other information you think is important to your case. Please use the back of this form if necessary.

Be sure you have collected copies of any contracts you have signed during your employment in the district.

Fax this form to attention: **RIF Department/Michelle Zamari**ppa
at UTLA (213) 487-1266 or (213) 487-1262



REDUCTION IN FORCE HEARING “ATTORNEY ALERT!”

The purpose of this form is to provide your attorney a brief summary of the issue(s) you believe should be raised during your hearing. Please complete this form as completely and concisely as possible.

Name _____ School or Work Site _____

Employee No: _____ UTLA Area: N S E W H C VE VW

Phone Numbers: Home _____ Cell _____

Personal e-mail address: _____

Current Assignment (Circle One):

Teacher Counselor Nurse Speech Therapist Other _____

Seniority Date _____ Date of Hire _____

Do you agree with this date? **Yes No** If not, what do you claim is your correct date of hire? _____ Please offer a very brief explanation of the reason for this disagreement.

What grade level (elementary) or subjects (secondary) do you currently teach?

Do you perform any other duties or assignments at your site you believe might be relevant in your hearing? Please list. _____

What credential(s), authorizations, advanced degrees, or certificates do you possess that are current and relevant? _____

Please use the rest of the space available to describe the issue you want your attorney to consider during your hearing. Please use the back if necessary, but please keep your description brief. _____



CONSENT TO LEGAL REPRESENTATION

I declare that I am a permanent or probationary certificated employee of the Los Angeles Unified School District and a member of United Teachers Los Angeles. I have received from the district a notice of recommendation of non-reemployment, and have requested a hearing pursuant to Education Code Section 44949. The reasons given for the recommendation for non-reemployment are those set forth in Education Code Section 44955. I understand that similar notices were delivered to other certificated employees of the district and that other employees have also requested a hearing.

I understand that UTLA has agreed to provide representation to its members to the extent possible to the entire group or class of certificated employees similarly affected by the district's action.

I hereby consent to and authorize representation at said hearings by an attorney from the firm Trygstad, Schwab and Trygstad. By executing this document, I understand and consent to such representation as a member of United Teachers Los Angeles, and as a member of the group or class of employees similarly affected by the district's action.

In that regard, I agree to abide by, authorize, and ratify all decisions made on behalf of the group or class represented. Such decisions may include, but not be limited to, decisions relating to strategy, the presentation of evidence, continuances of hearing dates, and extensions of notice deadlines.

I acknowledge that I have been advised and understand that relevant issues involved in the hearing include assignments, qualifications, seniority, and so-called "bumping rights," so that real and potential competing and conflicting rights and interests may exist within the group or class represented. I further acknowledge that I have been advised and understand that I am free to secure independent counsel and representation at my own expense in lieu of that provided by UTLA and, further, that I may do so at any time upon notice.

I agree to cooperate fully in the defense of this matter and acknowledge my individual responsibility promptly to request a hearing, thoroughly to read and review all notices served, and to provide all relevant information, including that relating to seniority and qualifications.

I understand that the representation provided herein relates only to the administrative hearing and that it does not include appeal or judicial review.

Dated: _____, 2012

Signature

Printed Name (Please print legibly)

Contact Numbers: Home _____

Employee Number: _____

Cell _____

Email Address: _____

Fax to UTLA (213) 487-1262 OR (213) 487-1266 - ATTENTION RIF DEPARTMENT

2/1/2012 9:15 AM



IMPORTANT INSTRUCTIONS FOR MEMBERS SERVED WITH LAYOFF (“RIF”) NOTICES

CHECKLIST

Dear UTLA Member,

This checklist is provided to assist you in the process of protecting and exercising your rights as a result of the District’s issuance of a Reduction in Force notice to you. Please follow all directions carefully. Keep in mind that any step omitted in the process may delay or deny your right to a hearing or legal representation.

- Step 1. Carefully read all documents.
- Step 2. Completed the ***Request for Hearing*** form (page 20).
- Step 3.** Submitted to LAUSD Headquarters the ***Request for Hearing*** form (page 20) within **7 calendar days** with *proof of delivery*, addressed to the personnel issuing the notice.
- Step 4. Completed forms for UTLA.
 - Completed the ***RIF Data Form*** (pages 22 & 23).
 - Completed the ***Consent to Legal Representation*** (page 25) form.
 - Completed the ***Reduction in Force Hearing “Attorney Alert!”*** form (page 24).
- Step 5. Copied all documents to be submitted and retained for your personal file.
- Step 6. Faxed the following forms to UTLA at (213) 487-1262 or (213) 487-1266 **ASAP**.
 - Faxed the ***RIF Data Form*** (pages 22 & 23) to UTLA with proof of delivery.
 - Faxed the ***Consent to Legal Representation*** (page 25) form to UTLA with proof of delivery.
 - Faxed the ***Reduction in Force Hearing “Attorney Alert!”*** form (page 24) to UTLA with proof of delivery.
- Step 7. AFTER** receiving the District’s “Accusation” form, you submitted the ***Notice of Defense*** form (page 21) to LAUSD Headquarters with proof of delivery.
- Step 8. **Contact your Board Member requesting the Board to rescind the decision to layoff personnel that impacts the classroom** (See website for contact info).

If you have any questions, please contact your Area Representative at 213 487-5560.