

SCHOOL AND COLLEGE LEGAL SERVICES

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THE LEGAL UPDATE

September 11, 1992

To: Superintendents, Member School Districts (K-12)

From: Noel J. Shumway,^{NJS} Coordinator of Employer/Employee Relations

Re: Release of Temporary Certificated Employees
Memo: 16-92

Senate Bill 1281 (Chapter 336) approved by the Governor on July 24, 1992, and effective January 1, 1993 has made significant changes in the Education Code relating to reemployment rights of temporary certificated employees. Under current law any employee classified as a short term substitute or temporary certificated employee who serves for 75% or more of the school year has preferential reemployment rights in the subsequent school year to fill any vacant positions for which the employee was certified and qualified to serve. Under the new law the governing board may avoid such preferential rights by taking action in releasing such an employee:

- (1) At the pleasure of the board prior to the employee serving 75% of the number of days the regular schools of the district are maintained; or
- (2) After serving 75% or more of the number of days if the employee is notified of non-re-election before the end of the school year in which he/she served. (This would be similar to the process used for the non-employment of a probationary teacher).

Should you decide to non-reemploy a temporary employee after the employee meets the 75% time period threshold but then rehire him/her as a temporary for two consecutive years for 75% of each year in the same position, that employee is entitled to "first priority" if the district fills a vacant position at the grade level or in the departmentalized subject matter, in which the employee taught during either of the two years.

These changes do not apply to day-to-day substitute teachers. Additionally, permanent and probationary employees who have been subject to layoff have prior rights to any vacant position superior

to those rights afforded to temporary and substitute personnel who have subsequently become probationary employees.

This new legislation is extremely important for school districts. It provides much needed flexibility in staffing especially in times of economic uncertainty.

Again please note that the legislation is effective January 1, 1993. Should you have any questions concerning these changes please don't hesitate to contact us.

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