



# SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

A Joint Powers Authority  
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## LEGAL UPDATE

June 23, 2020

**To:** Superintendents/Presidents/Chancellors, Member Community  
College Districts

**From:** Damara L. Moore, Senior Associate General Counsel *DM*  
Kaitlyn Schwendeman, Schools Legal Counsel *KAS*

**Subject:** Budget Bill Limits Certain Classified Layoffs for 2020-2021  
School Year Leading to the Possible Need for Urgent Action  
Memo No. 21-2020(CC)

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We wish to draw attention to an important provision affecting all local educational agencies (“LEAs”) including public schools, community college districts, and county offices of education in Assembly Bill (“AB”) 77, the K-12 Education Trailer Bill.<sup>1</sup>

AB 77 states,  
“**From July 1, 2020, to June 30, 2021, inclusive, the governing board of a school district, county office of education, community college district, or joint powers authority shall not terminate the services of any permanent or probationary classified employees of the school district, county office of education, community college district, or joint powers authority because of a lack of funds or a lack of work, if the employees either hold classifications in, or are assigned to positions in, nutrition, transportation, or custodial services.**” (AB 77, Sec. 94, emphasis added.)

Generally speaking, classified layoff notices must be issued 60 calendar days before the elimination of a position is effective, unless otherwise negotiated with the classified bargaining unit. See Cal. Educ. Code §§ 45117, 45298, and 45308. In a “typical” school year, layoff notices may be issued to any classified employees at any time of the year.

There is some ambiguity in the language of AB 77 regarding whether Governing Boards may pass resolutions to lay off employees between now and June 30, 2020, even though the 60 day notice requirement will lead to the layoff being effectuated after July 1, 2020. We believe the fairest reading of AB 77 is that

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<sup>1</sup> Full text of AB 77, can be found at:  
[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200AB77](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB77).



layoff actions by Governing Boards to eliminate classified employees in the areas **nutrition, transportation, or custodial** taken prior to July 1, 2020, are permissible, even if such actions are not effective until after July 1, 2020. If your local educational agency wishes to lay off employees within these classes for the 2020-2021 school year, a special session board meeting with 24 hour notice to the public should be scheduled promptly to meet the June 30, 2020 deadline, if the action cannot be added to a regular meeting in time.

While the language is ambiguous, AB 77 does not indicate intent to retroactively invalidate Board actions taken prior to July 1, 2020. Nevertheless, local education agencies should be aware that any Board action adopting layoff resolutions between now and June 30, 2020 may be subject to challenge by your classified bargaining unit.

Classified positions that are not in **nutrition, transportation, or custodial** classes, such as instructional aide or secretary, may still be eliminated in accordance with a local educational agency's usual layoff processes.

Please contact our office with questions if you are contemplating a classified layoff for these groups of employees, or for additional information regarding this Legal Update, or regarding any other legal matter.

*The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.*

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