



SCHOOL & COLLEGE LEGAL SERVICES
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LEGAL UPDATE

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To: Superintendents/Presidents/Chancellors, Member Community
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Subject: SB 98 Limits Certain Certificated and Classified Layoffs for
2020-2021
Memo No. 23-2020(CC)

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The Governor signed the K-12 budget trailer education Senate Bill (“SB”) 98 on June 29, 2020, which contains implications for community college districts regarding classified layoffs.

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SB 98 provides the following:

SEC. 94.

(a) Given the critical role of classified employees in reopening school and college campuses and addressing the learning loss caused by COVID-19, it is the intent of the Legislature that school districts, county offices of education, community college districts, and joint powers authorities retain all classified employees. With the amount of funding and flexibility provided to schools and community colleges in the Budget Act of 2020, schools and community colleges should avoid layoffs of classified employees in the 2020–21 fiscal year.

(b) 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 implement layoffs or releases of any permanent or probationary classified employees of the school district, county office of education, community college district, or joint powers authority who hold classifications in, or are assigned to positions in, nutrition, transportation, or custodial services. Nothing in this section shall be construed to prohibit a school district, county office of education, community college district, or joint powers authority from terminating a classified employee for good cause. [Emphasis added].

The effect of SB 98 is to protect classified employees who are classified or assigned to three positions:

1. Nutrition;
2. Transportation; and
3. Custodial.



Permanent or probationary employees in these three positions cannot be laid off and, in addition, probationary employees cannot be released from July 1, 2020, to June 30, 2021. Classified employees not in these three positions can be laid off and probationary classified employees not in these three positions can be released from service during the 2020-2021 school year.

Regarding probationary employees, this means that since all probationary employees in these three classes cannot be released, all probationary employees in these three classes will become permanent classified employees during the 2020-2021 school year so long as they complete at least 130 days of paid service.¹ Classified employees, permanent or probationary, in these three classes will only be allowed to be terminated for good cause from July 1, 2020, to June 30, 2021.

The language regarding layoffs is clear in that a governing board or personnel commission cannot adopt a resolution to initiate the layoff of any classified employee in the three positions anytime during the period from July 1, 2020, to June 30, 2021.

Unfortunately, the language in Section 94 of SB 98, and the associated legislative analysis with the development of Section 94, is not clear as to whether or not employers can continue to effectuate layoffs of classified employees in these three positions if the board (or county superintendent) took action to adopt a layoff resolution and the affected employee was provided notice of the layoff prior to July 1, 2020. Classified layoffs only require a governing board or personnel commission to take one action (adopt one resolution) for a layoff to become effective. The employee just happens to receive 60 calendar days' notice prior to the layoff becoming final, but there is no other action that is "implemented" by the board (or county superintendent).

The legal question is whether or not "implement" in Section 94 refers to only the action by the board (or county superintendent) or if it has a more expansive meaning, such as actions taken by an employers' administrators to effectuate the layoff.

Therefore, we encourage clients to contact our office to speak with an attorney regarding the layoff of classified employees in one of the three positions when the layoff resolution was adopted prior to July 1, 2020, but the 60 calendar days' written notice to the employees occurred on or after May 2, 2020.

Please contact our office with questions regarding this Legal Update or 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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¹ Unless the employer has adopted a collective bargaining agreement or policy that allows for a shorter time period.