

TALB MEMBER LAYOFF INFORMATION PACKET

This is a stressful and difficult process. This packet is intended to help guide you through the process, help you make decisions about challenging your layoff, and assist you with the required paperwork. We are here to help, so please feel free to ask us any questions.

You should review and complete the material in this packet if...

- a. YOU ARE A TALB MEMBER,
- b. YOU ARE GOING TO CHALLENGE YOUR LAYOFF NOTICE,
- c. AND YOU WANT TALB/CTA TO REPRESENT YOU IN THE PROCESS.

LAYOFF REPRESENTATION CHECK OFF LIST

(THESE ARE REQUIRED STEPS IF YOU PLAN TO REQUEST A HEARING)

- ✓ READ THE FREQUENTLY ASKED QUESTIONS (page 1) & INSTRUCTIONS (page 4)
- ✓ REVIEW THE LAYOFF CALENDAR (page 3)
- ✓ SIGN UP FOR A TALB INFORMATIONAL MEETING BY GOING TO WWW.TALB.ORG OR CALLING ERIC AT 562-426-6433. Sign-up to get your preferred time. **Meetings are limited to 25 participants and RSVP is required.** We will add meetings as necessary. Walk-ups (those without RSVP) will be accommodated on a space available basis or if there are "no shows."
- ✓ COMPLETE THE REQUEST FOR HEARING FORM AND RETURN IT TO THE DISTRICT BY THE DEADLINE INDICATED ON YOUR LAYOFF NOTICE (we believe this will be March 15, but not confirmed). Return original to the District and get a receipt from the District; keep a copy for your files; return a copy to TALB. (page 5)
- ✓ COMPLETE THE NOTICE OF DEFENSE FORM AND RETURN IT WITHIN 5 DAYS OF GETTING YOUR "ACCUSATION" FROM THE DISTRICT. Return original to District and get a receipt from the District; keep a copy for your files; return a copy to TALB. (page 6)
- ✓ COMPLETE THE RIF DATA FORM. Return original to TALB. Keep a copy for your files. **THIS SHOULD BE COMPLETED BY MARCH 15.** Please do not wait until the hearing day to sign-up for representation as we need time to prepare our case. (page 7)
- ✓ COMPLETE THE CONSENT TO LEGAL REPRESENTATION FORM. Return original to TALB. Keep a copy for your files. **THIS SHOULD BE COMPLETED BY MARCH 15.** Please do not wait until the hearing day to sign-up for representation as we need time to prepare our case. (page 9)

OPTIONAL, BUT HIGHLY RECOMMENDED:

- ✓ SIGN-UP TO VOLUNTEER FOR THE JUNE INITIATIVE CAMPAIGN at www.talb.org. We will save many jobs if we win this initiative. Please help!
- ✓ READ THE CTA LAYOFF SURVIVAL GUIDE (at www.talb.org under the apple core)

ADDITIONAL RESOURCES: WWW.TALB.ORG under the apple core.

ADDITIONAL QUESTIONS: Call Joe (jboyd@talb.org) or Chris (ccallop@talb.org) at 562-426-6433.

Teachers Association of Long Beach

LAYOFF PROCESS – FREQUENTLY ASKED QUESTIONS

WHAT IS A RIF? *Commonly called a layoff, a "RIF" is a reduction in force due to a lack of funds and/or elimination of programs. It is not the same as getting fired; because the employee did nothing wrong and laid off employees have rehire rights if programs are restored.*

WHAT CAN WE DO TO STOP THE LAYOFFS? *We need to save jobs by stopping the massive funding cuts that will occur if already existing temporary taxes are not extended by the voters through a June election. The June election has not yet been approved by the legislature. If the temporary taxes are extended, many of the layoffs will be rescinded in Long Beach because the cuts to our District will be reduced by approximately \$56 million. Right now we need everyone to support passage of the June initiative so we can save as many jobs as possible.*

HOW DO I SIGN UP TO VOLUNTEER TO HELP WITH THE INITIATIVE? *The volunteer sign-up is at TALB website at www.talb.org.*

WHAT KIND OF ACTIONS WILL WE BE TAKING TO FIGHT THE LAYOFFS AND PASS THE JUNE INITIATIVE? *As the campaign heats up in late March, April, and May, we will be walking our school communities talking to voters about the massive layoffs and the need to save school programs and support our students. We will be calling targeted voters and asking for their support. We will be working to get our families and friends out to vote in order to save our schools. **We estimate that we will need approximately 1,000 volunteers for this effort, so please don't delay and sign up now to help stop the cuts, save jobs, and save student programs.***

IF THE JUNE INITIATIVE PASSES, WILL EVERYONE GET HIRED BACK? *The Legislative Analyst estimates that the cuts in funding to the LBUSD will be \$56 million if the initiative does not pass – and the LBUSD budget cuts are roughly based on this scenario. So, if the initiative passes we expect many of the layoffs will be restored, plus additional restorations due to attrition (retirements, etc.).*

HOW DOES THE LAYOFF PROCESS WORK? *The school board must make a decision about what programs are to be cut and send out notices to certificated employees who may lose jobs as a result. Certificated employees (e.g., teachers, nurses, librarians) must receive their notices by March 15. RIF'd employees are entitled to a hearing before an Administrative Law Judge (ALJ). While not common, in some cases, the Administrative Law Judge may determine that District improperly laid off an employee or employees. Final notices must be received by the employee by May 15, unless the ALJ approves a delay. The District can also conduct a certificated layoff in August under certain narrow circumstances.*

IN THE EVENT OF LAYOFFS, WHO GOES FIRST? *In the broadest terms, layoffs for probationary and permanent employees occur by credential and seniority. Once the district determines what programs will be cut, employees receive a layoff notice based on their seniority and credential to teach in that program. In some cases the District may attempt to make exceptions to the application of seniority and credential criteria – this is known as "skipping". Temporary and Special Contract teachers have a more limited scope of appeal as they are usually on a one-year contract. Temporary and Special Contract teachers laid off last year as probationary or permanent status, remain on layoff and retain their rights from last year to rehire, etc. CDC procedures are more specific to seniority with more limited appeal as there are not multiple credentials and service reductions. We will cover more specifics at the informational meetings.*

WILL THIS PROCESS CAUSE BUMPING? *Yes. Bumping means that a more senior employee might "bump" another more junior employee if they are both "certificated and competent" for that position. This often occurs when the more senior employee is teaching in another area that is being eliminated. What this means in practice is that the layoff process will cause a significant number of reassignments and displacements as the result of both layoffs and elimination of programs.*

THE DISTRICT IS DOING A MASSIVE LAYOFF OF ABOUT 20% (or more!) OF ALL TALB MEMBERS, IS THIS REALLY JUSTIFIED? *No. The District is laying off more certificated employees than is necessary for several reasons, a) Their staffing decisions over the past few years have left them with a budget deficit resulting in more layoffs than would have otherwise been necessary (see 2/7 UPDATE for more details), b) They routinely over-notice in order to get to the actual number of authorized layoffs because they know they have made a certain number of errors, c) They "skip" certain classification of employees out of seniority order but still give them notices, d) They don't account for any attrition (e.g., retirements, leaves) even though they know that will reduce the layoff. **HOWEVER**, the possibility of a massive \$56 million funding cut if the June initiative fails is real. So, a layoff of some significant magnitude is likely if the June initiative fails. But once again, the District is putting more souls through this process than is necessary.*

WHAT SHOULD I DO IF I GET A LAYOFF NOTICE? *The District reports that it has already noticed temporary and special contract teachers, and plans to notice regular (probationary and permanent) contract teachers on about March 4. If you get a layoff notice, we suggest you do the following: 1. Go the www.talb.org and click under the apple core to review the FAQ's, "What to Do If I Get a Layoff Notice", and the Survival Guide. 2. If you plan to request a hearing (or, are not sure) immediately sign-up for one of the TALB informational meetings at www.talb.org, click the apple core and look for the sign-up calendar, 3. If you are requesting a hearing, complete all of the necessary paperwork (it is not too much) provided and return it to the district as directed – we will help you with that at the informational meetings.*

IF I GET A LAYOFF NOTICE, DO I HAVE DUE PROCESS RIGHTS? *Yes. RIF'd employees are entitled to a hearing with an Administrative Law Judge (ALJ) to challenge the layoff on procedural grounds (e.g., challenge that the District did not follow proper seniority, credential status, etc.). We can't challenge the District's right to do a layoff as the law allows the School Board to determine staffing patterns. In other words, they have the right to make a bad decision, but if they do they have to follow the proper procedures when they do so. If you want to request a hearing you must do so (usually) within 7 days. When you get your layoff notice they will include a deadline. Failure to request a hearing will waive your rights and you cannot contest the layoff. CTA will represent all TALB members who so request. We will sign everyone up for representation, if requested, at the informational meeting. Again, if you get a layoff notice, go to www.talb.org for detailed information, required forms, and timelines.*

SHOULD I REQUEST A HEARING BEFORE AN ALJ? *If you think that the process has not been properly followed and you want to fight the layoff, you should sign up for a layoff hearing. Probationary and permanent contract employees will typically have more issues to contest as it relates to seniority and credential. In most cases, if a broad decision is made by the Judge that impacts a class or employees, if you are in that class of employees you will benefit whether or not you attended the hearings Temporary (TC) and Special (SC) contract teachers have a more limited scope of argument that mostly relates to whether or not they are properly classified as a TC or SC.*

ARE THE HEARINGS WORTH MY TIME? *The hearings are a time consuming and often frustrating process. Most ALJ's will rule on very narrow grounds and usually will favor management. Typically, few jobs are saved as a part of the hearing process, but some will be – so if that is your job, it is worth your time. But it is hard to know beforehand. The reality is many more jobs will be saved by passing the June initiative. Last year TALB advocacy resulted in a handful of saved jobs as a result of the ALJ's decision, a number saved jobs behind the scenes, and several changed seniority dates.*

WHEN WILL THE HEARING OCCUR? *The hearing dates are TENTATIVELY set for April 4, 5, 7, 8, 14, 15. The dates are set by the State Office of Administrative Hearings and we have not yet received confirmation. The hearing could go longer (or shorter) depending on the nature of the hearing and the number of respondents. If you request a hearing and are represented by TALB you should plan to attend each day of the hearing. The hearings will usually run from around 8AM to around 4PM, but the judge sets the schedule.*

WILL TALB REPRESENT ME AT THE HEARING? *If you are a TALB member and so request, TALB will work with a CTA attorney to represent you at the hearings. In order for this to occur you must sign up for representation in advance and complete necessary paperwork so we can properly represent you. This will be covered at the informational meetings.*

CAN I REPRESENT MYSELF OR GET MY OWN ATTORNEY? *Yes. Last year, self-represented employees received no favorable decisions from the ALJ and had more limited access to resolving matters behind the scenes with the District. If you get your own attorney you are responsible for all costs. etc.*

IF I DON'T WANT TO CHALLENGE MY LAYOFF, DO I NEED TO DO ANYTHING? *No, if you have determined that you are not going to challenge any procedural errors in your layoff you do not need to attend the informational meetings (but are welcome to attend); return a request for hearing; or attend the hearing dates. We do hope you will still sign up to help with the June initiative because that will be the best way we can all work towards saving many jobs.*

WHERE CAN I FIND OUT WHERE I AM ON THE SENIORITY LIST? *The District has not provided the final seniority list they plan on using for the hearing. Their latest version is at www.talb.org under the apple core on the homepage and there are still a number of obvious errors on the document. For CDC they do not have a seniority list and are currently compiling it. As soon as the District provides their most updated list, we will get it up on the website.*

WHERE CAN I GET MORE INFORMATION? *Sign up for an informational meeting; go to www.talb.org; or call the TALB office at 562-426-6433.*

**RIF CALENDAR
REVISED 3/1/2011**

- 2/25: 4PM INFORMATIONAL MEETING (SPECIAL AND TEMP CONTRACT)
- 2/28: 4PM INFORMATIONAL MEETING (SPECIAL AND TEMP CONTRACT)
5PM INFORMATIONAL MEETING (SPECIAL AND TEMP CONTRACT)
(LBUSD NOTICES OUT THIS WEEK)
- 3/1: 4PM INFORMATIONAL MEETING (SPECIAL AND TEMP CONTRACT)
5PM INFORMATIONAL MEETING (SPECIAL AND TEMP CONTRACT)
- 3/2: 4PM INFORMATIONAL MEETING (REGULAR CONTRACT)
5PM INFORMATIONAL MEETING (REGULAR CONTRACT)
- 3/3: 4PM INFORMATIONAL MEETING (REGULAR CONTRACT)
5PM INFORMATIONAL MEETING (REGULAR CONTRACT)
- 3/4: 4PM INFORMATIONAL MEETING (REGULAR CONTRACT)
5PM INFORMATIONAL MEETING (REGULAR CONTRACT)
- 3/8: 4PM INFORMATIONAL MEETING (REGULAR CONTRACT)
5PM INFORMATIONAL MEETING (REGULAR CONTRACT)
6PM INFORMATIONAL MEETING (REGULAR CONTRACT, CDC, HEAD START)
- 3/9: 4PM INFORMATIONAL MEETING (REGULAR CONTRACT)
5PM INFORMATIONAL MEETING (REGULAR CONTRACT)
6PM INFORMATIONAL MEETING (CDC & HEAD START)
- 3/10: 4PM INFORMATIONAL MEETING (REGULAR CONTRACT)
5PM INFORMATIONAL MEETING (REGULAR CONTRACT)
6PM INFORMATIONAL MEETING (CDC & HEAD START)
- 3/11: 4PM INFORMATIONAL MEETING (REGULAR CONTRACT)
5PM INFORMATIONAL MEETING (REGULAR CONTRACT)
- 3/14: 4PM INFORMATIONAL MEETING (REGULAR CONTRACT)
5PM INFORMATIONAL MEETING (REGULAR CONTRACT)
6PM INFORMATIONAL MEETING (REGULAR CONTRACT)
- 3/15: DATE FOR REQUEST FOR HEARING PAPERWORK
- 4/4: LAYOFF HEARING (LOCATION TBA)
- 4/5: LAYOFF HEARING
- 4/6: LAYOFF HEARING
- 4/7: LAYOFF HEARING
- 4/11: LAYOFF HEARING
- 4/14: LAYOFF HEARING
- 5/15: FINAL NOTICES DUE

R.I.F. FORMS



IMPORTANT INSTRUCTIONS FOR TEACHERS SERVED WITH RIF (LAYOFF) NOTICES

Dear CTA Member:

Each certificated employee who is served with a RIF notice is entitled to a hearing upon request. You must mail or deliver **both** a Request for Hearing and a Notice of Defense to the district within the specified time limit or you may waive your right to a hearing.

1. **REQUEST FOR HEARING.** In order to have a hearing, you must request one. This request must be made in writing within the time specified in the Notice of Intended Dismissal, usually **seven (7) calendar days after you receive the Notice**. Failure to request a hearing within the appropriate time limit will waive your right to participate in the hearing and you may be laid off as a consequence.

To request a hearing, fill out the attached form entitled Request for Hearing and address it to the district official who signed the Notice of Intended Dismissal. Deliver the original to the addressee, either in person or by registered mail at the address provided in the Notice. If you deliver the form personally, get a receipt or keep a record of the date, time, place, and recipient. Keep a copy for your records and provide a copy to your chapter president.

2. **NOTICE OF DEFENSE.** After the district receives your Request for Hearing, it will provide you with documents including a Statement to Respondent and an Accusation. After you receive the Accusation, fill out the form entitled Notice of Defense which is attached to these instructions, unless your attorney has provided you with different instructions. Do not use the forms provided by the district for this purpose. You must deliver the Notice of Defense to the superintendent, or the district official named in the Statement to Respondent, within **five (5) calendar days after the Accusation is served**. The Accusation is served on the date the district hand-delivers the Accusation, or, in the case of service by mail, the date the Accusation is placed in the mail. You may deliver the Notice of Defense personally or by registered mail to the school district at the address given in the Statement to Respondent so long as the Notice is received by the District within the five day period. If you fail to deliver the Notice of Defense on time you may waive your right to participate in the hearing.

If you have any questions about filing a Request for Hearing and/or Notice of Defense, contact your CTA chapter president immediately.

REQUEST FOR HEARING

Dear _____:

I hereby request a hearing to determine whether there is cause to not re-employ me for the 2011-12 school year.

Signature

Printed Name

Address

_____, California _____

School Site

Date

***TALB MEMBERS ~IMPORTANT:**

~ YOU MUST DELIVER THIS REQUEST TO THE DISTRICT BY THE DEADLINE CONTAINED IN YOUR NOTICE.

~ BE SURE TO SECURE PROOF OF DELIVERY FROM THE DISTRICT.

~ RETURN A COPY TO TALB WITH RECEIPT.

~ KEEP A COPY WITH RECEIPT FOR YOUR FILE.

NOTICE OF DEFENSE

TO: Governing Board

_____ School District

_____ (School Site)

Address: _____

_____, California _____

In response to your accusation, dated _____, 2011, 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

Address

_____ California, _____

* TALB MEMBERS ~ IMPORTANT:

Date

- YOU MUST
- ~ RETURN THIS FORM TO DISTRICT WITHIN 5 DAYS OF RECEIVING THE "ACCUSATION!"
 - ~ SECURE A PROOF OF DELIVERY FROM THE DISTRICT.
 - ~ RETURN A COPY TO TALB WITH RECEIPT.
 - ~ KEEP A COPY WITH RECEIPT FOR YOUR FILE

~ RETURN TO TALB
~ KEEP A COPY FOR YOUR FILES



2011 RIF DATA FORM

Personal Information

Last name: _____ First name: _____

Phone: (____) _____ Non-work e-mail: _____

Mailing address: _____

Employment Status and History

Special or temp., but LAID off last year as perm. or prob. contract.
 SPECIAL CONTRACT

Current employment status (check one):

- Prob 1 Prob 2 Permanent Temporary Don't know/unsure

Current position: _____

(Example: Teacher, Nurse, Counselor, etc.)

SCHOOL SITE :

Do you work full time? Yes No If no, what percentage of an FTE do you teach? _____%

If applicable, list current grade level(s) and subject(s): _____

List any other grade levels and subjects you have taught at **this** District, in reverse chronological order, with approximate dates. If you worked less than full-time, please also list hours per week or percent FTE:

Year(s)	Assignment	Hours per week or FTE %
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Seniority Date

Seniority date according to the district: _____ Seniority number: _____

Do you believe your first date of paid probationary service with this District is different from the seniority date listed above? If so:

What do you believe is your first date of paid probationary service? _____

Briefly describe the prior service that you performed for the District: _____

If you are contesting your seniority date, please attach copies of all your contracts with the District, and also **bring copies with you to the hearing.**

(see other side)

Did you work at the District at least 75% of the school year during the year immediately before the year of your seniority date according to the District?

Yes No

If yes, how were you classified by the District?

Temporary Long term sub Day to day sub Other: _____

If yes, what were your dates of prior service? _____

Were you laid off last year? _____

Fully reinstated? _____

Offered a Temp or Special Contract? _____

Credentials, Certifications and Degrees

Please list all of your current credentials, authorizations, and certifications, including CLAD and BCLAD:

Undergraduate major and minor:

Major: _____ Minor: _____

Any post-bachelor's degrees: _____

Subject matter and number of any other post-bachelor's units: _____

Other

Are you aware of any employee in the District with less seniority than yourself, who is being retained to perform a service that you are credentialed and qualified to perform? If so, please list the name(s) of any such person or persons, and seniority date, if known:

Please state any other information you believe may be important to your case:



INFORMATION REGARDING REPRESENTATION

GROUP REPRESENTATION

You are one of several certificated employees in your district (respondents) who were served with layoff notices who have requested a hearing and filed a Notice of Defense in the layoff proceeding. CTA has arranged to provide representation to all members in your situation.

The purpose of the representation provided is to ensure protection of the rights of all respondents to a full, fair and impartial hearing. Representation will include discovery and review of relevant documents, objection to the introduction of improper evidence, cross-examination of district witnesses, and presentation of evidence and motions on behalf of respondents as a group. (For example, in some cases it may be appropriate to move to dismiss the entire proceeding on various procedural grounds.)

POTENTIAL CONFLICTS OF INTEREST

However, each respondent must consider the possibility that he or she may also have particular individual defenses. You must understand that the representation provided by CTA cannot properly assert such an individual defense if it conflicts with the rights of another member of the group being represented in this proceeding.

It is improper for the group's attorney or representative to assert any contention on behalf of one person to the possible detriment of another person being represented. Therefore, respondents who wish to assert individual and possibly conflicting defenses must do so themselves or through a separate attorney or other representative.

Such conflicts of interest among respondents may arise in asserting seniority rights. For example, if you feel that your date of first paid service is earlier than that asserted by the district, you may argue that your retention (and rehire) rights are superior to those of another respondent. Similarly, it may be appropriate for you to present testimony and argue that because of your special qualifications, you have rights superior to those of another respondent employed on the same date as your date of hire.

You will be given an opportunity to assert any individual conflicting defenses or contentions at the hearing and you should exercise this right. You may also retain an attorney at your expense to represent you at the hearing.

Because of their ethical obligations, your CTA attorney or representative cannot properly assert any such defenses or contentions on your behalf. Accordingly, respondents represented by CTA in the layoff proceeding should immediately inform the attorney or staff representative of the existence of any such individual defenses or contentions they may have, so that they may be properly presented at the hearing.

~ RETURN TO TALB
~ KEEP A COPY FOR YOUR FILES .

CONSENT TO LEGAL REPRESENTATION

I, _____, declare that I am a permanent or probationary certificated employee of the LONG BEACH UNIFIED SCHOOL DISTRICT and a member of TEACHERS ASSOCIATION of LONG BEACH (CTA/NEA). 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 CTA 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 hearing by MARIANNE REINHOLD, an attorney who participates in the CTA Group Legal Services Program. By executing this document, I understand and consent to such representation as a member of TALB and CTA 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", classification status issues 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 CTA and, further, that I may do so at any time. I agree that if I do secure independent counsel I will notify my CTA counsel of that fact and recognize that upon that notification my CTA counsel will cease to present me in the proceedings.

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: _____, 2011

Signature

Printed Name

Address

_____, CA _____

Personal E-mail address

Phone

Name of School Site

School Phone

CTA Membership ID#

*~ RETURN TO TALB
~ KEEP A COPY FOR
YOUR FILES.*