

# MARCH 15 ISSUES UPDATE

*Presentation by Peter C. Carton  
August 8, 2008*

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The 2008 season ended with no changes in statute or in court precedent decisions.

## **NONREELECTION NOTES**

A late 2007 court decision from Sacramento (the *Hoschler* case) emphasized the importance of physical, personal service of non-reelection paperwork prior to the statutory deadlines. *Hoschler* involved a second year tenure track teacher entitled to nonreelection notice by March 15. The employer did not make personal service at all, and the parallel certified mail was not received by the employee until after March 15. Consequently, due to lack of timely notice, the Court awarded tenure status to the teacher.

**Corrective Action Needed:** Our nonreelection instructions have been updated to specify, not just recommend, personal service on the employee. In typical cases, the teacher should be invited to attend and address the board meeting, then handed the notice immediately after board action.

## **LAYOFF NOTES**

Twenty-four member districts adopted March 15 certificated service reduction resolutions (see accompanying list). Initially, approximately 100 tenure track teachers received layoff notices countywide – with a larger number of non-tenure track teachers simply not offered renewed employment. In the majority of cases, teachers either did not request hearings or the employer withdrew notices prior to the hearing date. Seven member districts went to full hearing before the State Office of Administrative Hearings. None of the matters resulted in a subsequent court challenge.

**Seniority Lists:** Data and rankings in the certificated seniority lists remained the focal point of attack by teachers and their representatives.

*Challenge #1: First Paid Date of Service.*

The primary issue in most cases involved a challenge to the first paid date of service assigned to an individual. Around the State, some hearing officers have allowed teachers to claim that they started work – and got paid – prior to the scheduled first day of school. Other hearing officers have reached the opposite conclusion, largely limited to the exact fact situation.

*Challenge #2: Senior part-time employees seeking to use alternate credentials to displace or split a junior teacher's full time job.*

Again, depending on the fact situations, some hearing officers ruled that the senior person may avoid layoff by pointing to a junior staff member in a full-time position. Note: the argument seemed to work better for teachers in the single subject departmentalized world rather than in self-contained classroom assignments.

*Challenge #3: Did an earlier true separation from service take place?*

Except when due to an earlier layoff, any rehire after a separation from service resets the layoff seniority date to zero. However, some employers have been lax in processing paperwork each June 30 for persons who were not automatically renewed. (Examples: interns, temp replacements, persons who cannot even be offered renewed employment until the appropriate June 30 report has been filed with CTC.) Failure of proper documentation may force employers to backdate service to an earlier time.

### **UPCOMING SENIORITY LIST WORKSHOP**

Creating and updating a seniority list is now a perennial task. The process must be updated each September and reviewed at least monthly. Schools Legal Service will offer an intensive workshop on maintaining certificated seniority lists on September 25.

NO.	DISTRICTS	ADOPTED RESOLUTION	LAYOFF HEARING
1.	Arvin	✓	
2.	Beardsley		✓
3.	Coast	✓	
4.	Cuyama	???	
5.	DiGiorgio	✓	
6.	El Tejon	✓	
7.	Fruitvale	✓	
8.	General Shafter	✓	
9.	Hughes-Elizabeth	✓	
10.	KCSS	✓	
11.	Kernville	✓	
12.	KHSD		✓
13.	Mojave		✓
14.	Pond	✓	
15.	Richland	✓	
16.	Rosedale	✓	
17.	San Miguel		✓
18.	Shandon		✓
19.	Southern Kern		✓
20.	South Fork	✓	
21.	Taft City	✓	
22.	Tehachapi	✓	
23.	Wasco El	✓	
24.	Wilsona		✓



# SCHOOLS LEGAL SERVICE

PRESENTS

## CERTIFICATED SENIORITY LISTS: THE GATHERING STORMS

September 25, 2008, 9:30 a.m. - 12:00 p.m.  
UNIVERSITY SQUARE  
Room US1, 2000 "K" Street, Bakersfield, California

### TOPICS:

As of today, Sacramento shows little signs of solving the massive and chronic education funding shortfall. Chances are that your District will soon face unpleasant decisions regarding cuts in certificated programs and staff for 2009-10. March 15 remains the statutory deadline for board action and layoff notices.

A certificated seniority list is essential to any decision-making. When the call comes, will you be ready with the basic staff seniority and credentials data necessary to make informed decisions?

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Workshop materials will cover all current issues, including:

- gathering basic employee data
- information resources, both within and outside the District.
- development and format of seniority lists
- common and hidden errors
- confusion with tenure track progress issues
- circumstances which reset the seniority date to Zero.
- proper documentation of separation from service
- regular updates and maintenance
- ranking; latest layoff hearing decisions
- impact of collective bargaining agreements

### WHO SHOULD ATTEND:

District Superintendents, Principals and Human Resource Administrators - including all worker bees

### REGISTRATION INFORMATION:

Please mail your registration to Schools Legal Service at P. O. Box 2445, Bakersfield, CA 93303 or fax to 661/636-4843. There is no charge for this workshop.

— ATTENDANCE IS LIMITED TO CLIENTS OF SCHOOLS LEGAL SERVICE —

Schools Legal Service is a joint powers entity providing legal and

collective bargaining services to public education agencies since 1976.