



# LAW UPDATE EDUCATION

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## LIMITS ON CERTIFICATED AND CLASSIFIED LAYOFFS

With the budget agreement between the Governor and Legislature came Senate Bill 98 ("SB 98"), the education omnibus budget trailer bill with detailed provisions on a number of topics agreed to in the budget negotiation process. SB 98 contains protections against layoffs for certificated and classified employees. SB 98 provides further protection for certain "probationary" employees.

For permanent and probationary certificated employees, SB 98 suspends the summer certificated layoff provisions of Education Code Section 44955.5 (Summer Layoffs) from July 1, 2020 through June 30, 2021.<sup>1</sup> The proposed suspension of summer layoffs does not extend to certificated employees in positions requiring administrative or supervisory credential. Please contact our office if you are contemplating layoff of administrative or supervisory credentialed employees and would like more information.

Certain classified employee groups also received a reprieve from layoffs under SB 98 which applies to LEAs.<sup>2</sup> From July 1, 2020 through June 30, 2021 LEAs may not "implement layoffs or releases" of permanent or probationary employees who hold classifications in, or are assigned to positions in, **nutrition, transportation, or custodial services**. SB 98, however, does not prohibit LEAs from "terminating a classified employee for good cause."

By using the term "releases," SB 98 limits the ability of LEAs to dismiss a probationary employee (in nutrition, transportation, or custodial services) only for "good cause." This "good cause" requirement for termination has the effect of conferring additional rights upon the specified probationary employees. SB 98 likely vests in the designated probationary employees a property interest in continued employment on the same basis as a permanent classified employee including the corresponding due process rights such as a *Skelly* meeting and a pre-termination hearing.

Our Labor and Employment Group is available to assist on these issues and other personnel matters of concern.

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*Education Law Updates are intended to alert Schools Legal Service clients to developments in legislation, opinions of courts and administrative bodies and related matters. They are not intended as legal advice in any specific situation. Consult legal counsel as to how the issue presented may affect your particular circumstances.*

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<sup>1</sup> Education Code 44955.5 applies to school districts.

<sup>2</sup> LEAs includes school districts, county offices of education, community college districts and joint powers authority.