

Introduced by Senator Huff

February 21, 2014

An act to amend Section 44949 of the Education Code, relating to school employees.

LEGISLATIVE COUNSEL'S DIGEST

SB 1317, as introduced, Huff. School employees: layoff notices.

Existing law requires that, when a reduction in the number of certificated employees employed by a district is authorized for specified reasons, the notice of termination of the services of an employee in the subsequent school year be given to the employee before May 15. Existing law further requires the superintendent of the district to give written notice, no later than March 15, to the governing board of the district and the employee that it has been recommended that the notice of termination described above be given to the employee.

This bill would make nonsubstantive changes to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 44949 of the Education Code is amended
2 to read:
3 44949. (a) (1) No later than March 15 and before an employee
4 is given notice by the governing board that his or her services will
5 not be required for the ensuing year for the reasons specified in
6 Section 44955, the governing board and the employee shall be
7 given written notice by the superintendent of the district or his or
8 her designee, or in the case of a school district that has no

1 superintendent by the clerk or secretary of the governing board,
2 that it has been recommended that the notice be given to the
3 employee, and stating the reasons ~~therefor~~ *for the notice*.

4 (2) Until the employee has requested a hearing as provided in
5 subdivision (b) or has waived his or her right to a hearing, the
6 notice and the reasons ~~therefor~~ *for the notice* shall be confidential
7 and shall not be divulged by any person, except as may be
8 necessary in the performance of duties. However, ~~the~~ a violation
9 of this requirement of confidentiality, in and of itself, shall not in
10 any manner be construed as affecting the validity of any hearing
11 conducted pursuant to this section.

12 (b) The employee may request a hearing to determine if there
13 is cause for not reemploying him or her for the ensuing year. A
14 request for a hearing shall be in writing and shall be delivered to
15 the person who sent the notice pursuant to subdivision (a), on or
16 before a date specified in that subdivision, which shall not be less
17 than seven days after the date on which the notice is served upon
18 the employee. If an employee fails to request a hearing on or before
19 the date specified, his or her failure to do so shall constitute his or
20 her waiver of his or her right to a hearing. The notice provided for
21 in subdivision (a) shall advise the employee of the provisions of
22 this subdivision.

23 (c) If a hearing is requested by the employee, the proceeding
24 shall be conducted and a decision made in accordance with Chapter
25 5 (commencing with Section 11500) of Part 1 of Division 3 of
26 Title 2 of the Government Code and the governing board shall
27 have all the power granted to an agency in that chapter, except that
28 all of the following shall apply:

29 (1) The respondent shall file his or her notice of participation,
30 if any, within five days after service upon him or her of the District
31 Statement of Reduction in Force and he or she shall be notified of
32 this five-day period for filing in the District Statement of Reduction
33 in Force.

34 (2) The discovery authorized by Section 11507.6 of the
35 Government Code shall be available only if request is made
36 therefor within 15 days after service of the District Statement of
37 Reduction in Force, and the notice required by Section 11505 of
38 the Government Code shall so indicate.

39 (3) The hearing shall be conducted by an administrative law
40 judge who shall prepare a proposed decision, containing findings

1 of fact and a determination as to whether the charges sustained by
2 the evidence are related to the welfare of the schools and the pupils
3 of the schools. The proposed decision shall be prepared for the
4 governing board and shall contain a determination as to the
5 sufficiency of the cause and a recommendation as to disposition.
6 However, the governing board shall make the final determination
7 as to the sufficiency of the cause and disposition. None of the
8 findings, recommendations, or determinations contained in the
9 proposed decision prepared by the administrative law judge shall
10 be binding on the governing board. Nonsubstantive procedural
11 errors committed by the school district or governing board of the
12 school district shall not constitute cause for dismissing the charges
13 unless the errors are prejudicial errors. Copies of the proposed
14 decision shall be submitted to the governing board and to the
15 employee on or before May 7 of the year in which the proceeding
16 is commenced. All expenses of the hearing, including the cost of
17 the administrative law judge, shall be paid by the governing board
18 from the district funds.

19 (d) Any notice or request shall be deemed sufficient when it is
20 delivered in person to the employee to whom it is directed, or when
21 it is deposited in the United States registered mail, postage prepaid
22 and addressed to the last known address of the employee.

23 (e) If after a request for hearing pursuant to subdivision (b) a
24 continuance is granted pursuant to Section 11524 of the
25 Government Code, the dates prescribed in subdivision (c) that
26 occur on or after the date of granting the continuance and the date
27 prescribed in subdivision (c) of Section 44955 that occurs after
28 the date of granting the continuance shall be extended for a period
29 of time equal to the continuance.

30 (f) The governing board may adopt from time to time rules and
31 procedures not inconsistent with this section as may be necessary
32 to effectuate this section.