
The **FISCAL REPORT** *an informational update*

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Ask SSC . . . Can a New Teacher Who Was Formerly a Classified Employee Be Reinstated to Classified Service?

Q. We have a new teacher who was in a classified position for many years, earned her credential, and was hired as a teacher this year. She is on the bottom of the seniority list and is slated to be rified. Does she have any classified seniority rights?

A. The answer is "yes," the employee has classified seniority rights, *sort of*. Keep in mind that seniority rights are not the same as reemployment or displacement/bumping rights under the classified layoff provisions of the Education Code.

A permanent classified employee who resigns his or her position to accept a position in the certificated service of the district is not entitled to 39-month reemployment rights under Education Code Section 45298 and cannot exercise bumping rights provided for in Education Code Section 45117. These provisions apply only to classified employees affected by a reduction in classified service. In your case, the employee is no longer in the classified service of the district. A certificated employee cannot bump a classified employee as an effect of his/her certificated layoff, and he/she has no reemployment rights.

But he or she does have seniority rights-*if reinstated within 39 months of his/her resignation*. Education Code Section 45309 provides that any permanent classified employee who voluntarily resigned his/her permanent classified position can be reinstated to his/her former classification. If the district has a vacancy in the employee's former classification, and if there are no classified employees on a 39-month rehire list in that classification, the employee can be reinstated. If reinstated within 39 months, the district must classify the employee as permanent and restore all rights and benefits of employment, including his/her seniority.

Good luck as you navigate your certificated and classified, layoffs. I know firsthand the challenges you are facing. It is evident that you want to do all that you can to minimize the impact whenever and wherever you can.

-Suzanne Speck

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