



LAW OFFICES OF MIDDLETON, YOUNG & MINNEY, LLP

**ENSURE COMPLIANCE WITH ANY LEGAL REQUIREMENT WHEN
CONSIDERING LAYOFFS OR OTHER PERSONNEL ACTION**

In light of the state's current fiscal crisis, many charter schools in California may need to consider staffing reductions for this year and/or next year in order to attempt to cope with potential budget shortfalls.

With a rare exception (described below), and unless a charter school is required to or has otherwise committed to complying with the Education Code provisions for certificated or classified layoffs, there are no statutory restrictions/procedures that govern layoffs of certificated or classified personnel in California charter schools. However, even in the absence of layoff requirements, in carrying out any personnel action, the terms stated in any employment contract, employment handbook, the charter, or applicable collective bargaining agreement must be carefully reviewed before any action is taken.

If your charter school is bound to follow the Education Code for layoffs, certificated layoffs are treated differently than classified layoffs, and with the former especially, a number of very specific statutory/procedural requirements have "deadly" deadlines. Failure to follow such statutorily specified timelines can be fatal to the layoff.

In the event employment is "at-will," in which case reductions in staff are not governed by statute, use of the statutory term "layoff" in releasing such employees may imply Education Code layoff rights including reemployment or bumping rights, use of a seniority system, or other unintended consequences.

In rare cases of mass layoffs or plant closings, charter schools who have 75 or more employees may be subject to the requirements of the Worker Adjustment and Retraining Notification Act ("WARN Act"), depending on the severity of the reduction. Again, this would be rare

We are hopeful that the state will soon develop a viable solution which will mitigate or eliminate the need for any staff reductions. However, in the event such reductions are necessary, it is critical to investigate any potential requirements now in case there are applicable deadlines.

If you have questions, please contact Jim Young (jyoung@mymlaw.com) or Chastin Pierman (cpierman@mymlaw.com) at the Law Offices of Middleton, Young & Minney, LLP at (916) 646-1400.

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