

IMPORTANT INSTRUCTIONS FOR MEMBERS SERVED WITH RIF (LAYOFF) NOTICES

Dear CTA Member:

Each certificated employee who is served with a RIF notice is entitled to a hearing upon request. You must mail or deliver **both a Request for Hearing and a Notice of Defense** to the district within the specified time limit or you may waive your right to a hearing.

1. REQUEST FOR HEARING. In order to have a hearing, you must request one. This request must be made in writing within the time specified in the Notice of Intended Dismissal (your layoff notice), usually within **seven (7) calendar days after you receive the Notice**. Failure to request a hearing within the specified time will waive your right to participate in the hearing and you may be laid off as a consequence.

To request a hearing, fill out the attached form entitled Request for Hearing and address it to the district official who signed the Notice of Intended Dismissal. Deliver the original to the addressee either in person or by registered or certified mail to the address provided in the Notice. If you deliver the form personally, get a receipt or keep a record of the date, time, place, and recipient. Keep a copy for your records and provide a copy to your CTA staff representative.

2. NOTICE OF DEFENSE. After the district receives your Request for Hearing, it will provide you with documents including a Statement to Respondent and an Accusation. After you receive the Accusation, fill out the form entitled Notice of Defense, which is attached to these instructions, unless your attorney instructs you differently. Do not use the forms provided by the district. You must deliver the Notice of Defense to the superintendent, or the district official named in the Statement to Respondent, within **five (5) calendar days after the Accusation is served**. The Accusation is served on the date the district mails or hand-delivers the Accusation to you. You may deliver the Notice of Defense personally, or by registered mail to the school district at the address given in the Statement to Respondent, so long as you mail it in time for the District to receive the Notice within the five day period. If you fail to deliver the Notice of Defense on time you may waive your right to participate in the hearing.

If you have any questions about filing a Request for Hearing and/or Notice of Defense, contact your CTA staff representative immediately.

REQUEST FOR HEARING

Dear _____:

I hereby request a hearing to determine whether there is cause not to re-employ me for the 2010-11 school year.

Signature

Printed Name

Address

Date

NOTICE OF DEFENSE

TO: Governing Board
 _____ School District

Address: _____

In response to your accusation, dated _____, 2010, I _____,

1. Request a hearing.
2. Object to the accusation upon the ground that it does not state acts or omissions upon which you may proceed.
3. Object to the form of the accusation on the ground that it is so indefinite or uncertain that I cannot identify the transaction or prepare my defense.

This constitutes my notice of defense pursuant to Government Code Section 11506.

Signature

Printed Name

Address

Date

**CALIFORNIA TEACHERS ASSOCIATION
RIF DATA FORM**

NOTE: Please complete the entire questionnaire to ensure that CTA can fully represent you in the layoff procedure. If you are unsure about past training or experience, check your personnel file. Finally, do make sure to type or print legibly.

1. Last Name _____
2. First Name _____
3. Home Address _____
4. Home Phone _____ Cell Phone _____
5. Personal Email Address _____
6. School/Campus _____
7. School/Campus Address _____
8. School Phone Number _____
9. Current Employment Status _____
(K-12: Probationary 1, 2 or Permanent) (CC: Contract 1, 2 or Regular)
10. Seniority Date According to District (if incorrect, explain)

11. Seniority Number _____
12. First Date of Paid Probationary Service _____
 - a. Did you serve at least 75% of the school year immediately prior to receiving probationary status? _____

13. Credentials and Certificates Held that the District Has Been Notified of or Faculty Service Areas (FSAs) in Which Qualified and the Date of the Qualification

14. District employment history. State teaching assignments (subjects and grade levels), classification (permanent, probationary or temporary) and hours worked per week if less than full-time. List your current assignment first.

Dates	Teaching Assignment	Classification	Hours Per Week (If Not Full-Time)
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

15. If any employment listed above is other than probationary (contract) or permanent (regular), please explain the basis for your classification.

16. Degrees Held (w/Major & Minor): _____

17. Degrees Anticipated (w/Major & Minor): _____

18. Post Bachelor's Degree Units: _____

19. Please explain any breaks in your service with the district. _____

20. Identify every district certificated employee or faculty member you know of who resigned, was dismissed or otherwise terminated, retired or announced his or her intention to terminate employment during the previous or current school year.

21. Identify every district certificated employee or faculty member who you think may retire or resign effective next school year who has not yet done so.

22. If you know of any person in the district with less seniority than yourself who is being retained to perform services that you are credentialed or qualified by FSA to perform (be sure to check a seniority list that indicates persons not served with layoff notices) state the name of that individual, his or her current position, and the position he or she will hold next year.

23. Do you know why any of the individuals listed in paragraph 22 is being retained? If so, explain why as to each individual:

24. List all positions held on committees, advisory groups and appointed or elected positions within the district. _____

25. Please provide any other relevant information regarding your qualifications for service. _____

26. State any other information you think is important to your case.

INFORMATION REGARDING REPRESENTATION

GROUP REPRESENTATION

You are one of several employees in your district (respondents) who were served with layoff notices and who have requested a hearing and filed a Notice of Defense in the layoff proceeding. CTA has arranged to provide representation to all members in your situation.

The purpose of the representation CTA is providing is to protect the rights of all respondents to a full, fair and impartial hearing and to ensure that seniority rights are protected. Representation will include discovery and review of relevant documents, objection to the introduction of improper evidence, cross-examination of district witnesses, and presentation of evidence and motions on behalf of respondents as a group. (For example, in some cases it may be appropriate to move to dismiss the entire proceeding on various procedural grounds.)

POTENTIAL CONFLICTS OF INTEREST

However, each respondent must consider the possibility that he or she may also have particular individual defenses. You must understand that the representation CTA is providing cannot properly assert such an individual defense if it conflicts with the rights of another member of the group being represented in the layoff proceeding.

It is improper for an advocate representing a group to assert any contention on behalf of one person to the possible detriment of another person being represented. Therefore, respondents who wish to assert individual and possibly conflicting defenses must do so themselves or through a separate attorney or other representative.

Such conflicts of interest among respondents may arise in asserting seniority rights. For example, if you feel that your date of first paid service is earlier than that asserted by the district, you may argue that your retention (and rehire) rights are superior to those of another respondent. Similarly, it may be appropriate for you to present testimony and argue that because of your special qualifications, you have rights superior to those of another respondent employed on the same date as your date of hire.

You will be given an opportunity to assert any individual conflicting defenses or contentions at the hearing and you should exercise this right. You may also retain an attorney at your expense to represent you at the hearing.

Because of their ethical obligations, your CTA advocate cannot properly assert any such defenses or contentions on your behalf. Accordingly, respondents represented by CTA in the layoff proceeding should immediately inform the CTA advocate of the existence of any such individual defenses or contentions they may have, so that they may be properly presented at the hearing.

CONSENT TO LEGAL REPRESENTATION BY AN ATTORNEY (CERTIFICATED EMPLOYEES)

I declare that I am a permanent or probationary certificated employee of the _____ DISTRICT and a member of _____ (CTA/NEA). I have received from the district a notice of recommendation of non-reemployment, and have requested a hearing pursuant to Education Code Section 44949. The reasons given for the recommendation for non-reemployment are those set forth in Education Code Section 44955. I understand that similar notices were delivered to other certificated employees of the district and that other employees have also requested a hearing.

I understand that CTA has agreed to provide representation to its members to the extent possible to the entire group or class of certificated employees similarly affected by the district's action and that the CTA attorney will seek to enforce seniority rights under the Education Code.

I hereby consent to and authorize representation at said hearing by _____, an attorney who participates in the CTA Group Legal Services Program. By executing this document, I understand and consent to such representation as a member of _____ and CTA and as a member of the group or class of employees similarly affected by the district's action. I understand that CTA is paying for the fees and expenses incurred by this attorney to represent me in this matter, and that the attorney is representing me with the understanding that this compensation arrangement does not interfere with the attorney's independence of professional judgment or the attorney-client relationship.

In that regard, I agree to abide by, authorize and ratify all decisions made on behalf of the group or class represented. Such decisions may include, but not be limited to, decisions relating to strategy, the presentation of evidence, continuances of hearing dates, and extensions of notice deadlines.

I acknowledge that I have been advised and understand that the relevant issues involved in the hearing include assignments, qualifications, seniority, and so-called "bumping rights", so that real and potential competing and conflicting rights and interests may exist within the group or class represented. I hereby consent to representation by the CTA attorney notwithstanding any such conflicts of interests. I further acknowledge that I have been advised and understand that I am free to secure independent counsel and representation at my own expense in lieu of that provided by CTA and, further, that I may do so at any time. I agree that if I do secure independent counsel I will notify my CTA counsel of that fact and recognize that upon that notification my CTA counsel will cease to represent me in the proceedings.

I agree to cooperate fully in the defense of this matter and acknowledge my individual responsibility promptly to request a hearing, thoroughly to read and review all notices served, and to provide all relevant information, including that relating to seniority and qualifications.

I understand that the representation provided herein relates only to the administrative hearing and that it does not include any appeal or judicial review.

DATED: _____, 2010

Signature

Printed Name

Address

Home Phone

School Phone

Membership Number

**CONSENT TO REPRESENTATION BY A NON ATTORNEY
CTA REPRESENTATIVE (CERTIFICATED EMPLOYEES)**

I, _____, declare that I am a permanent or probationary certificated employee of the _____ DISTRICT and a member of _____ (CTA/NEA), that I have received from the district a notice of recommendation of non-reemployment, and that I have requested a hearing pursuant to Education Code Section 44949. The reasons given for the recommendation for non-reemployment are those set forth in Education Code Section 44955. I understand that similar notices were delivered to other certificated employees of the district and that other employees have also requested a hearing.

I understand that CTA has agreed to provide representation to its members to the extent possible to the entire group or class of certificated employees similarly affected by the district's action and that the CTA representative will seek to enforce seniority rights under the Education Code.

I hereby consent to and authorize representation at said hearing by _____, a CTA representative. By executing this document, I consent to such representation as a member of _____ and CTA and as a member of the group or class similarly affected by the district's action.

In that regard, the undersigned consents to abide by, authorize and ratify all decisions made on behalf of the group or class represented. Such decisions may include, but not be limited to, decisions relating to strategy, the presentation of evidence, continuances of hearing dates, and extensions of notice deadlines.

I acknowledge that I have been advised and understand that the relevant issues involved in the hearing may include assignments, qualifications, seniority, and so-called "bumping rights", so that real and potential competing and conflicting rights and interests may exist within the group or class represented. I further acknowledge that I have been advised and understand that I may secure independent counsel and representation at my own expense in lieu of that provided by CTA and, further, that I may do so at any time upon notice to CTA. I further understand that _____ is not an attorney and the representation provided herein will not be by legal counsel. I have been advised and encouraged to consult with independent legal counsel whenever I wish to do so.

I agree to cooperate fully in the defense of this matter and acknowledge my individual responsibility to promptly request a hearing, to thoroughly read and review all notices served, and to provide all relevant information, including that relating to my seniority and qualifications.

I understand that the representation provided herein relates only to the administrative hearing and that it does not include any appeal or judicial review.

DATED: _____, 2010

Signature

Printed Name

Address

Home Phone

School Phone

Membership Number