

WHAT TO DO *If You're RIF'd*

A Guide for MTA Members

PUBLISHED BY THE MASSACHUSETTS TEACHERS ASSOCIATION

This booklet is designed to provide basic information on the issues you are facing as a laid-off employee and to direct you to people who can provide further assistance. We hope it helps you in answering the following questions:

- **Was my layoff in accordance with my legal rights?**
- **What rights do I have as a laid-off employee regarding health insurance, unemployment and retirement?**
- **How should I conduct a job search?**
- **Should I maintain my MTA membership?**

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LAYOFF – YOUR LEGAL RIGHTS

CONTRACT RIGHTS

If you are notified that you will be laid off, be sure to review the reduction in force (RIF) provisions of your collective bargaining agreement. If you have any questions about whether the school district followed the proper layoff procedures under the contract, contact your local president immediately. Most contracts contain time limits for filing grievances and your contract rights may be lost if the time limit is not met.¹

TEACHERS: PTS STATUS AND LAYOFFS

You have “Professional Teacher Status” (PTS) if you are a teacher, school librarian, school adjustment counselor, school social worker, school psychologist or school nurse employed by a school committee and you have completed three consecutive years in your current school district. (We will use the term “teacher” in this pamphlet to refer to all of these positions.) PTS rights are set forth in Chapter 71, Sections 41 and 42, of the Massachusetts General Laws.

For service to count toward PTS, a teacher must hold a certificate valid for the position in which the teacher is employed, but it does not matter whether that certificate is a provisional, advanced provisional or standard certificate.

PTS TEACHERS

Even if you have PTS, you can be laid off because of a “reduction in force” (RIF) or for other budgetary reasons. However, there is a condition in the statute: If there is a teacher **without PTS** who is holding a position for which you are “currently certified,” the school district is required to offer you that position. Because the term “currently certified” has not yet been interpreted by a court, it is not clear whether it includes both active and inactive certificates.

- An “inactive certificate” is one that was valid until the most recent five-year recertification cycle but was not renewed during that cycle. Inactive certificates become invalid after five years. An inactive certificate can be renewed if professional development requirements are completed within two years of starting a job requiring that certificate.

Some contracts permit more senior teachers to displace, or “bump,” less senior

¹ Under legislation enacted in 2012 that becomes effective on Sept. 1, 2016, bumping by more senior PTS teachers of less senior PTS teachers under a collective bargaining agreement requires that the more senior teacher be “currently certified” and “at least as qualified for the position as the junior teacher holding the position” where “seniority or length of service [may serve] only as a tie-breaker in personnel actions . . . among teachers whose qualifications are no different using the qualifications collectively bargained.”

teachers when a RIF occurs. If you are a teacher with PTS, however, the law permits you to “bump” a less senior PTS teacher only if you are “currently qualified” for that teacher’s position. Your contract may indicate which qualifications are necessary for you to bump into another position.

If you have questions about your layoff rights as a PTS teacher under your contract or under the PTS law, contact your local president as soon as possible.

NON-PTS TEACHERS

Teachers who do not have PTS can be “nonrenewed” for the next school year, but must be given a nonrenewal notice on or before June 15. Prior to 1993, the law provided for an April 15 deadline for nonrenewal notices, and some contracts may still require that nonrenewal notices be given to non-PTS teachers by April 15. In the past, some school districts facing uncertain funding for the next school year gave blanket nonrenewal notices to nontenured teachers, eventually recalling some or all of them for the next school year.

Non-PTS teachers may have layoff rights under their collective bargaining agreement, such as seniority rights over other non-PTS teachers and other procedural requirements that the employer must follow. As in the case of PTS teachers, however, a non-PTS teacher generally could “bump” into another position only if he or she is “currently qualified” or “currently certified” for the new position.

CIVIL SERVICE AND ESPs

Particularly in larger towns and cities, education support professionals (ESPs) may have layoff and bumping rights under the state’s Civil Service Law (Chapter 31 of the General Laws). Most Civil Service layoff and bumping rights apply only to employees who hold a permanent civil service appointment. The only exception is that provisional appointees must be laid off before any temporary appointees.

Seniority under the Civil Service Law begins on the date of the employee’s first permanent appointment within the appointing authority. In most cases, the “appointing authority” is the municipal school department. *Seniority does not begin on the employee’s date of hire.*

Order of Layoff under Civil Service. All provisional appointees must be laid off first, and then all temporary appointees must be laid off before any permanent appointees are. Within the groups of provisional and temporary employees, the Civil Service Law does not grant any seniority rights or require any particular order of layoff. If it is necessary to lay off permanent appointees, layoffs are in order of reverse Civil Service seniority within the “departmental unit.” The “departmental unit” is usually the school department.

If you are an ESP holding a permanent appointment in a lower-grade position, and you work in a higher-grade position under a provisional or temporary appointment,

layoff and bumping rights under the Civil Service Law apply only to your permanent position. In your higher position, you are treated as provisional or temporary. However, you have the right to resume your lower, permanent position, provided that position continues to exist and is not held by a more senior permanent appointee.

Bumping Rights under Civil Service. If you are a permanent employee who is about to be laid off, you may bump a provisional, temporary or less senior permanent employee in a position in the next lower title or titles in the job series. To exercise this right, you must file a written consent within seven days of receiving your official layoff notice. If you choose to bump, you waive the right to a hearing or to challenge your layoff under Civil Service procedures.

Recall and Reemployment Rights under Civil Service. If you are a laid-off permanent employee and a position in your permanent title becomes available in the school department, you are entitled to be recalled to that position in order of your Civil Service seniority. These recall rights last for 10 years and also apply if you have elected to “bump down,” as noted above.

You may also request the state Personnel Administrator to place your name on a special Civil Service reemployment list in order of your seniority. You must make this request within two years of your layoff. Your name is then certified to other Civil Service appointing authorities for vacancies, in order of seniority in the title you formerly held, just as if your name appeared on a civil service appointment list.

Procedural Requirements and Appeal Rights under Civil Service. Before you as a permanent Civil Service employee can be laid off, you must be given a written notice stating the reasons for the layoff and you must be provided with a copy of sections 41 through 45 of the Civil Service Law. Upon at least seven days’ notice, the school department must conduct a hearing about the contemplated layoff and then decide whether the layoff is justified.

There are two ways you can challenge the school department’s layoff decision. First, you can appeal to the state Civil Service Commission in Boston, but you must do so within 10 days, not including Saturdays, Sundays or holidays. The Civil Service Commission will conduct a hearing, similar to a trial in court, to review the layoff. The losing party may seek court review of the Civil Service Commission’s decision. Second, instead of going to the Civil Service Commission, you could file an appeal in Superior Court. You would have to do so within six months of receiving the school department’s layoff decision. Both the Civil Service Commission and the courts are likely to uphold a school department’s good-faith judgment that a layoff was necessary. However, if the employer made a mistake in the process (for example, by laying off the more senior employee), you could be reinstated with back pay and benefits.

Civil Service and the Collective Bargaining Agreement: ESPs represented by the MTA who have permanent Civil Service appointments are usually covered by collective bargaining agreements. **If there is a clash between RIF provisions in the contract and Civil Service requirements, the Civil Service requirements take priority.** For example, a contract could not give a provisional employee seniority rights over a permanent employee because that would conflict with the Civil Service Law. However, your contract may give you additional rights that are not granted or governed by the Civil Service Law. For example, a contract could provide for the order of layoff among the groups of provisional or temporary employees.

Addresses and websites for Civil Service Issues:

Massachusetts Division of Human Resources
One Ashburton Place, Room 301
Boston, MA 02108
617.727.9700
www.mass.gov/hrd

Massachusetts Civil Service Commission
One Ashburton Place, Room 503
Boston, MA 02108
617.727.2293
www.mass.gov/csc

HEALTH INSURANCE AFTER A LAYOFF

Over the Summer: If you are a teacher or other public school employee and you are laid off at the conclusion of the school year, you are entitled to remain in the school district's health insurance plan *with the employer continuing to contribute its usual portion of the monthly premiums for July and August, in most instances.* If you are paid on a 10-month basis, your portion of the monthly premiums for July and August should be deducted from your last paycheck. If this does not occur, contact your local president immediately. Again, your right to file a grievance may be lost if you do not act promptly.

COBRA: Under the federal "COBRA" law, you are entitled to remain in the school district's group health (and dental, where available) insurance plans for up to 18 months after you are laid off. Laid-off employees are required to pay the full premium cost, and they may also be required to pay an additional 2% for administrative costs.

If you retire after being laid off, you are eligible for your school district's retiree health insurance plan if you are currently enrolled in the district's group

health insurance. There is legislation pending to reduce retiree health insurance benefits prospectively. Under the proposed legislation, many employees will be “grandfathered” at the level of the existing employer premium contributions for retirees. In addition, any employee over age 50 with at least 15 years’ service (or age 55 with 10 years’ service) as of July 1, 2013, will be eligible for an employer premium contribution of 50 percent under retiree health coverage. Municipalities/regional school districts may impose restrictions on retirees returning to the health plan later if they are not enrolled in health insurance when they retire, so if you are not currently enrolled in a health plan through your school district, you should check on your school system’s requirements for retiree participation in group insurance. If you have questions about your health insurance benefits as a retiree, you should ask your local association president.

If you Defer Retirement: If you are eligible to retire at the time you are laid off (see the section on retirement below for eligibility information) but choose to defer retirement, you may remain in the school district’s group health insurance plan until you retire (even after the 18-month COBRA period) provided you pay the full premium during that time.

Other sources of health insurance while you are collecting unemployment compensation. The former, Massachusetts Medical Security Plan, which provided medical coverage to certain recipients of unemployment benefits, was discontinued effective Dec. 31, 2013. In addition to exercising COBRA rights, recipients of unemployment benefits may obtain coverage through the Massachusetts Health Insurance Connector Authority at www.mahealthconnector.org. The Health Connector is Massachusetts’ insurance exchange under the *Affordable Care Act* and offers access to subsidized health insurance coverage, either through the public MassHealth program or through private insurance, depending on income and other resources.

Under the *Massachusetts Health Reform Act*, and now the federal *Affordable Care Act*, Massachusetts residents are required to maintain health insurance coverage or face federal and state tax penalties.

If you have questions about insurance coverage, contact your local association president.

LAI-D-OFF EMPLOYEES ARE ENTITLED TO COLLECT UNEMPLOYMENT COMPENSATION

YOU SHOULD FILE YOUR CLAIM for unemployment compensation as soon as the school year is over. You are eligible to collect benefits as soon as the school year is over (i.e., approximately the end of June), following a one-week waiting period, unless and until you receive “reasonable assurance” of a job for the upcoming school year or find other “suitable employment.” If you are a teacher, you may collect benefits over the summer even if you are still receiving paychecks during those months since your salary is considered to have been fully earned during the school year and “deferred” until the summer. However, as soon as any school employee receives in writing “reasonable assurance” of a job in any school system for the next school year, eligibility for unemployment ends. If you continue to collect benefits after that time, the Department of Unemployment Assistance (DUA) may seek reimbursement.

TO BE ELIGIBLE for unemployment compensation, you must be actively seeking employment. The exact amount of your benefit depends on your salary, but the maximum benefit in February 2014 was \$679 per week. A person who worked the entire school year and did not work during the preceding summer would reach the maximum benefit on an annual salary of approximately \$40,000. Eligibility continues for up to 30 weeks (and perhaps longer, depending on whether the federal government has implemented an “extended benefits” program). If you obtain part-time employment, you may be eligible to collect reduced benefits.

YOU MAY FILE A CLAIM with the DUA either by telephone or in person. If you are filing by telephone and you are in area code 351, 413, 508, 774 or 978, call 1.877.626.6800. From all other area codes call 617.626.6800. DUA suggests that you telephone on the day of the week that corresponds to the last digit of your Social Security number: 0 and 1 on Monday; 2 and 3 on Tuesday; 4 and 5 on Wednesday; 6 and 7 on Thursday; 8 and 9 on Friday.

WHEN YOU FILE, be prepared to give DUA the following information: your Social Security number, the year you were born, your home address and telephone number, whether you have filed a claim in Massachusetts or any other state during the past 12 months, your last date of employment, the names and addresses of all employers you have worked for during the 15 months prior to filing your claim and the dates you worked for each of them, the names, dates of birth and Social Security numbers for any dependent children, and your alien registration number if you are not a U.S. citizen.

Full information on filing claims can be found on the DUA website at www.mass.gov/dua (Click on the button “UI Online for Claimants”).

If your claim is denied, contact your local association president. As an MTA member, you are entitled to be represented by an MTA attorney at no charge in any hearing regarding your unemployment compensation eligibility.

The DUA website (www.mass.gov/dua) and Massachusetts One-Stop Career Centers have a wide range of free services to help people seeking employment, including a computerized job bank, employment counseling, job search workshops and local labor market information.

You can find a One-Stop Career Center through the DUA’s website as follows: Go to www.mass.gov/dua. Click on “Programs and Services for Claimants’ on the left, then click on “Job Search Services.” Finally, click on “Massachusetts One-Stop Career Centers.”

RETIREMENT

You are eligible to retire (1) if you are laid off at any age and have 20 or more years of service as a public employee and **(2)** if you are 55 years of age and have at least 10 years of service.

The first kind of retirement is called a “termination retirement.” If you take a termination retirement allowance, your annual pension will consist of one-third of your average regular compensation for your highest three consecutive years, **plus an annuity** based upon the amount of your contribution.

The second kind of retirement is a superannuation retirement. Your allowance will be determined by a formula using your years of service, your age at retirement and your average regular compensation for your highest three consecutive years. Your allowance could also be affected by your status as a veteran.

Whether retirement is best for you, and which type of retirement allowance is most advantageous, depends upon your age, years of service and expectation of returning to public service. MTA Retirement Consultants provide free consultations for members. These consultants can assist you in evaluating your retirement options. You can make an appointment to see an MTA Retirement Consultant in the MTA’s Boston office by calling 1.800. 392.6175, ext. 8240. MTA Retirement Consultants also hold office hours on Saturdays in MTA Regional Offices and are available for phone consultations. A listing of MTA Regional Offices appears at the end of this pamphlet. The Regional Office schedule and phone numbers for MTA Retirement Consultants are published in *MTA Today* and listed on the MTA website under “Your Career: Planning for Retirement.” In addition, the Client Service

representatives of the Massachusetts Teachers Retirement System (or your local retirement board) can assist you in evaluating your options. The MTRS's offices and telephone numbers, along with other helpful information, can be found at www.mass.gov/mtrs.

As long as you maintain your MTA membership you are eligible to be represented by an MTA attorney at no charge if any legal problems arise. To be eligible for MTA Legal Services as a retired member, you must have maintained unbroken MTA membership in the five consecutive years immediately preceding retirement, and then maintain continuous MTA membership as retiree (either as an annual retired member or as a life member).

Should you withdraw your contributions? If you are involuntarily laid off and do not retire, you have the right to withdraw the money that was deducted from your paychecks for retirement contributions, plus all accrued interest. It takes approximately 60 days for the Massachusetts Teachers' Retirement System to process your request. Once those contributions are returned to you, you will not be required to pay them back unless you return to service and wish to purchase credit for your prior years. There are important considerations, however:

- If you return to public service after withdrawing your contributions, the retirement system will treat you as a new member of the system and you will have to pay the rate of contribution and receive the level of benefits that apply to new members. While you will have the option of purchasing your prior service, you will still be treated as a new member. For example, at this time new members of the MTRS must contribute 11% of their salaries toward retirement. They are subject to a higher minimum retirement age and a different formula to calculate pension amounts. Depending on when you became a member and whether you have opted for Retirement Plus, you may be contributing at a lower rate and be subject to more advantageous provisions relating to age of retirement and calculations of benefits. *If you do not withdraw your contributions and return to service, you will be able to maintain your previous lower rate of contribution and higher level of benefits.*
- There are likely to be substantial federal tax implications if you take a direct refund without rolling the funds over into another qualified retirement plan. You should discuss this *beforehand* with your retirement system's client service representatives and/or a tax adviser.

JOB SEARCH SUGGESTIONS

PLANNING YOUR JOB SEARCH

A successful job search involves commitment and careful preparation. This first step is to investigate the job market to identify openings. Speak to relatives, friends, co-workers (current and former), fellow members of professional organizations and other acquaintances and tell them you are looking for employment. These personal contacts can provide valuable job leads and referrals. Read the Employment section of local newspapers, especially the Sunday edition of major urban papers (e.g., *The Boston Globe*). Read periodicals and trade journals, attend job fairs and use the Internet. Contact potential sources directly via telephone or the Internet. If you register with a professional search firm, make sure the employer pays the placement fee.

The next step is to prepare for the interview process. There are three critical components to this process: the cover letter, the résumé and the interview.

Cover Letter

The cover letter is a brief (one page, three or four paragraphs) letter of introduction that accompanies and complements your résumé. Cover letters are usually tailored to a specific position and should highlight your most notable qualifications, skills and achievements that are related to that position. Be sure to include the position for which you are applying, explain how your qualifications would benefit the district or organization, and add a brief statement of noteworthy accomplishments.

Résumé

Your résumé is a snapshot of your relevant skills, experiences and accomplishments. It should be no more than two pages in length and should focus on areas of specific relevance to the position you seek. Although there are many ways to construct your résumé, you should include the following information: name, address, telephone number, education, summary statement of qualifications, professional experience and major accomplishments. The design should be simple and easy to read, and should emphasize your relevant strengths.

Interview

Successful interviews require careful preparation. Your preparation starts with research. Become knowledgeable about the position, the company and the community. Next, prepare honest but dynamic oral responses to the general type of interview questions that you can expect to be asked. Start by reviewing your skills, experiences and accomplishments that are relevant to the job opening. Practice responses to interview questions that include the relevant information you want to convey. Be sure to talk about accomplishments and successes. Remember that when answering questions, always try to refer to your skills, experiences and accomplishments.

Common Interview Questions

- Tell me about yourself. *Refer to your qualifications.*
- What are your strengths? *Relate to the job qualifications.*
- What are your weaknesses? *State a weakness and your improvement efforts.*
- Why are you applying for this position? *Refer to the reputation of the district or company.*
- Why should we hire you? *Refer to your qualifications and accomplishments.*

Other Questions

- Why did you choose this field of work?
- How did you handle a difficult work situation? What are your outstanding achievements? What are your career goals?

Remember to remain positive in your answers and while promoting your skills.

JOB SEARCH RESOURCES

Massachusetts Department of Elementary and Secondary Education

The DESE maintains resources for educators looking for employment. Links to job openings can be found at www.doe.mass.edu/jobs.

Helpful tips on résumés, cover letters and interviews are available at www.doe.mass.edu/GEM.

The Massachusetts Association of School Superintendents (MASS)

MASS maintains a listing of educator positions, which can be sorted by job title, district, county or posting date. Go to www.massupt.org and click on “MASS Education Job Site.”

The Massachusetts Department of Unemployment Assistance (DUA)

The same offices of the DUA that process unemployment claims also provide a wide range of free services to help people seeking employment. These services include the largest computerized job bank in New England, employment counseling, job search workshops and local labor market information. See the section of this pamphlet on unemployment for a list of those offices, their addresses and phone numbers, or go to DUA’s website at www.mass.gov/dua.org.

Other Sources of Information

Unfortunately, there is no central clearinghouse of information about available school positions. Most school systems advertise in the major newspapers in their area. These announcements also can be found on the newspaper's Web page. For example: *Boston Globe* classified ads can be found at www.boston.com/jobs.

Many school districts maintain websites that list vacant positions. These sites can usually be found by using any of the Internet search engines, such as *Yahoo.com*, and searching for "[insert name of city/town] Public Schools."

MAINTAINING YOUR MTA MEMBERSHIP

In the event that you encounter difficulty in collecting unemployment or discover problems with your health insurance or retirement benefits, you may need legal assistance to enforce your rights. If you have a legal problem in these areas and you have maintained your MTA membership, an MTA attorney can be assigned to assist you.

MTA members who have been laid off are entitled to remain members of MTA at 50 percent of the usual dues, either for three years or the period during which they are entitled to recall, whichever is longer.

In addition to legal services, MTA membership gives you access to the MTA Attorney Referral Program (discounts for personal legal problems not connected with your employment) and to benefits, such as discounted auto, homeowners, life, disability and dental insurance, mortgage refinancing, financial planning, long-term care, vision care and access to more than 1,000 discounts in New England provided through MTA Benefits. For more details on your benefits through MTA membership, call 1.800.336.0990 or visit www.mtabenefits.com.

MTA OFFICES & REGIONAL SERVICE CENTERS

MTA BOSTON HEADQUARTERS

20 Ashburton Place | Boston, MA 02108
617.878.8000 | 800.392.6175 | Fax 617.742.7046

HIGHER EDUCATION DIVISION

20 Ashburton Place | Boston, MA 02108
617.878.8236 | 800.392.6175 | Fax 617.248.0194

METRO REGION

BRAINTREE SERVICE CENTER

100 Grandview Rd., Suite 320 | Braintree, MA 02184-2635
781.380.1410 | 800.479.1410 | Fax 781.380.1441

NE & SE REGIONS

LYNNFIELD SERVICE CENTER

50 Salem St., Bldg. B, Suite 9 | Lynnfield, MA 01940
781.246.9779 | 800.421.3332 | Fax 781.246.9774

RAYNHAM SERVICE CENTER

90 New State Highway, (Rt 44) | Raynham, MA 02767
508.822.5371 | 800.336.1118 | Fax 508.880.7575

CENTRAL & WESTERN REGIONS

AUBURN SERVICE CENTER

48 Sword St. | Auburn, MA 01501
508.791.2121/2 | 800.542.5504 | Fax 508.753.4503

BERKSHIRE SERVICE CENTER

188 East St. | Pittsfield, MA 01201-6124
413.499.0257 | 800.464.8088 | Fax 413.442.4099

WESTERN SERVICE CENTER

55 Bobala Rd., Suite 3 | Holyoke, MA 01040
413.535.2415 | 800.432.1117 | Fax 413.535.0196



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