

# RBTA Non-Reelect Fact Sheet



## What does it mean to be Non-Reelected?

In California, **non-reelection** of teachers is different from **layoff**.

- **Non-reelection** applies to probationary teachers and means they are not re-elected for the next school year.
- **Layoff**, on the other hand, is the no-fault termination of a probationary or permanent faculty member due to budget reductions or declining enrollment.

The law provides that if a probationary teacher is employed by the district for two consecutive years they will become a permanent (tenured) teacher at the start of their third school year. The district can decide not to reelect a probationary teacher in the first two years of the probationary period. However, they must do so by March 15th of the last probationary school year. If the district does nothing (doesn't notify the teacher of non-reelection prior to March 15th) the teacher is deemed reelected for the following year.

Unfortunately, Districts have the right to decide not to re-elect probationary members. **They do not need to state a reason.** Ed Code 44929.21 *The public school district has "the absolute right to decide not to reelect probationary teachers without providing cause or other procedural protections."* Sunnyvale Unified School District v. Jacobs, 171 Cal. App. 4th 168 (Ct. App. 2009).

## When does this usually happen?

The deadline to notify employees of non-reelection, reduction in force (RIFs) is March 15th. Districts can notify any time prior to March 15th.

## What are my Next Steps?

### You may choose to Resign vs. being Non-Reelected

Per Ivancie Law Firm: "Probationary teachers have drastically limited rights when it comes to non-reelections. If you are a teacher that has been notified of your non-reelection you may want to pursue a **resignation** in lieu of non-reelection. Districts have broad discretion when it comes to reelection. So, in some cases, rather than trying to fight a reelection it may be better just to move on and find employment elsewhere." If you resign, you may reapply to the district for another position.

### RBTA Recommendation:

Remain professional and finish the year strong as you may request a positive Letter of Recommendation from your administrators. In addition, when a district contacts RBUSD for a reference check, RBUSD can share information other than what years you were employed and what subject/grade level you taught.

**The situation you currently face is without a doubt one of the most discouraging anyone can experience. It is an emotionally devastating experience to be told that you are losing your job. We hope you weather this storm quickly and that, with the help of this information, you'll soon be on your way back into the classroom!**

# FAQs

## for Temporary and Probationary Members

### What is the difference between a temporary employee and a probationary employee?

- **Probationary** teachers are continuing employees until given proper notice by the district.
- **Temporary** employees work for the district until the end-date listed on his/her contract (usually 1 year).

### If I am a temporary or probationary employee and I am told I am going to be released from RBUSD employment, what are my due process rights?

Under California law, if you are Probationary 1, Probationary 2 or Temporary teacher, you do not have due process rights, and you can be released without RBUSD having to provide cause.

### PROBATIONARY TEACHERS:

#### What is a non-renewal notice (non-reelect) and when can one be issued?

- If you receive a non-renewal notice, this means your contract will not be renewed the following year.
- First year probationary teachers may be given notice of non-renewal effective at the end of the school year at any time without any statement of reasons or hearing.
- Second year probationary teachers in districts of 250 ADA or more may be given notice of non-renewal effective at the end of the school year, at any time on or before March 15 of the second year, without any statement of reasons of hearing (CA Education Code 44929.21)

#### If I had a good evaluation or if my evaluation was not done properly, can I still be released?

- Yes. School districts have complete discretion to release teachers who are not permanent.

# FAQs

## for Temporary and Probationary Members

### **I've been told I have the option to resign, but if I don't, I will be non-reelected. What does that mean?**

- It means your name will go on a resolution to the RBUSD School Board for approval to non-reelect you, which means the District decided not to renew your employment contract for next school year. (In some districts you are asked on employment applications if you have been non-reelected on a previous district.)
- The non-reelect is reported to the CTC (California Commission on Teacher Credentialing), so any perspective employer will see a non-reelect on your credential, which may make it less likely they will hire you.

### **If I decide to resign, could I still apply for unemployment insurance?**

- Yes. You can apply for unemployment benefits either if you are non-reelected or if you resign instead of being non-reelected.

### **What happens to my sick leave if I resign or if I am non-reelected?**

- If you are employed in another California K-12 school district, your accrued sick leave is transferred to your new district if you are hired within 1 year. When you retire under STRS, all unused sick leave contributes to your retirement if you are vested (worked over 5 years).

## **TEMPORARY TEACHERS:**

### **I am a temporary teacher. What does that mean?**

- The Education Code allows districts to hire a number of temporary teachers to match the number of teachers on leave, as well as the number of teachers in positions paid for by "soft" categorical money.

### **If I have been released as a temporary teacher, what are my rights?**

- State Education Code does not give temporary teachers due process rights and the layoff process does not cover temporary teachers.

### **Temporary teachers can be released with a letter from the employer. Do I have any rights to be rehired?**

- Temporary teachers have no legal rights to be rehired, but you may indicate to RBUSD that you hope to be rehired.