

Layoffs and Reemployment

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As recently illustrated in *Tucker v. Grossmont Union High School District*, it is important that companies carefully follow the rules that apply to their layoffs and rehiring.

Charles Tucker worked for the Grossmont Union High School District (“Grossmont”) as a maintenance worker. He was initially a general maintenance worker, then a maintenance supervisor. After he received his MBA, he became the director of maintenance and operations, and then he became director of operations, safety and special projects.

In 2004, Grossmont asked a state agency, the Fiscal Crisis and Management Team (“FCMAT”) to review its classified management structure. FCMAT recommended eliminating Tucker’s position and assigning his duties to others in order to reduce expenditures. Grossmont’s board of trustees adopted that recommendation and voted to eliminate Tucker’s position. Tucker was laid off effective April 2005.

In April 2005, Tucker applied for the open position of maintenance manager with Grossmont. Grossmont’s human resource manager described the maintenance manager position as having a lower class than Tucker’s previous position and different job duties. Even though Tucker was qualified for the position, Grossmont hired someone else who had never worked for Grossmont to fill the position.

Tucker sued Grossmont, claiming, among other things, that Grossmont illegally laid him off and that Grossmont violated his right to reemployment under the Education Code. The trial court found that the lay off had been done correctly, but it agreed that Grossmont violated Tucker’s right to reemployment. The trial court ordered Grossmont to reemploy Tucker in preference to new applicants for any available position for which Grossmont was qualified.

Grossmont appealed, and the appellate court agreed with the trial court. The appellate court dismissed Grossmont’s argument that it only had to rehire laid off employees within the same class from which the employee was laid off. The appellate court discussed the applicable Education Code sections in some detail, noting that the Education Code sections did not impose any such limit. Instead, the Education Code provides that a laid off employee has preferential reemployment rights over any new applicants to available positions for which the employee is qualified, even if the employee is “over qualified”.

Employers must carefully review the applicable laws and any applicable handbook provisions, company policies, and collective bargaining agreements prior to making decisions on rehiring former employees. If they have questions regarding what applies, they should seek legal counsel's advice.