

INSTRUCTIONAL STAFF/ADMINISTRATIVE STAFF REDUCTION IN FORCE

Code **GCQA/GCQB** Revised **3/13**

Purpose: To establish the basic structure for any needed reduction in professional staff.

General statement of policy

Under South Carolina law, the board is responsible for maintaining good public elementary and secondary schools. The board is also responsible for implementing the educational interests of the state. The board's primary consideration is the maintenance of a sound and balanced educational program that is consistent with the functions and responsibilities of the school district. The board recognizes, however, that it may become necessary to eliminate professional staff positions in certain circumstances. Therefore, the board publishes this policy to provide a fair and orderly process should such eliminations become necessary.

Reasons for elimination of professional staff positions

The board has the sole and exclusive prerogative to eliminate professional staff positions consistent with the provisions of state statutes. This elimination should not result in a failure in its duty to implement the educational interests of the state and to provide good public elementary and secondary schools.

The board may find it necessary to eliminate professional staff positions because of decreases in student enrollment, changes in curriculum, financial exigency or other circumstances as determined by the board.

Definitions (as used in this policy)

- "Days" means calendar days.
- "Teacher" or "professional staff" means any employee of the district who holds a certificate issued by the South Carolina State Department of Education and who is employed in a teaching or administrative position below the rank of superintendent.
- "Financial exigency" means any significant decline in the district's financial resources that is brought about by the decline in enrollment or by other actions or events that compel a reduction in the school's current operations budget.
- "Change in curriculum" means any elimination, curtailment or reorganization or consolidation of two or more individual schools that is unrelated to financial exigency.

Procedure

- Before it begins action to not renew professional staff contracts under this procedure, the board will consider its ability to eliminate positions and/or reduce staff by any of the following.
 - voluntary retirement

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- voluntary resignation
- transfer of existing staff members
- voluntary leaves of absence
- salary reductions
- part-time employment
- In the event further reduction is required, the board will adhere to the following guidelines.
 - Reduction in force will be on a districtwide basis. Therefore, the superintendent is not limited to considering for RIF termination only those professional staff members in a particular school, area or program in which the loss of enrollment program change or financial exigency has occurred.
 - Once the board (after consulting with the superintendent) has determined that a reason exists which requires an elimination of professional staff positions, the superintendent will, after considering the possibilities set forth above, determine which positions must be eliminated. The superintendent will present his/her recommendations to the board for approval.
 - Once the board has approved the elimination of the specified positions or changes to be made in programs, the superintendent will use specified criteria to select those professional staff members who are to be considered for nonrenewal. The superintendent will make a recommendation to the board based on the application of the following criteria, but not necessarily in this order.
 - certification (areas and type)
 - degrees earned
 - professional experience in other areas which may be available
 - total years of professional experience in the district
 - total years of teaching experience
 - qualifications and ability as determined by the district evaluation procedure
 - performance evaluation
 - attendance record
 - principal/supervisor's recommendation
 - type of contract
 - extracurricular needs of the schools

Length of service in the district will be a consideration only where the need arises to choose for termination from among employees considered by the administration to be equally competent in their performance.

Notice to individual staff member

If, after considering the superintendent's recommendation, the board acts to eliminate employment of a professional staff member, the board will give written notice of that decision to the affected member. The superintendent will send the written notice by certified mail, return receipt requested. The notice will include a statement of the conditions requiring termination of employment.

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The district will assume that the staff member's address as it appears on the school district record is the correct address. It is the staff member's responsibility to see that the district has his/her current address on file.

Review of individual terminations

A professional staff member may request a review of the board action, provided such request is made within 10 calendar days after his/her receipt of the notice of termination. The only purpose of the review will be to determine whether the decision to terminate was arbitrary or capricious or generated by ill-will, fraud, collusion or other such motives with respect to that individual.

The request for review must be in writing and addressed to the chairperson of the board. The request must clearly state the grounds on which the staff member contends the decision was arbitrary or capricious or generated by ill-will, fraud, collusion or other such motives. The request must include a short, plain statement of facts to support the contention.

The board will hold a hearing within 30 calendar days after they receive the request. The board will give the staff member at least five days' notice of the hearing.

The board will conduct the hearing informally, in public or in private as the staff member may wish. The staff member and the superintendent may each be accompanied by legal counsel. The board will consider only the evidence that is presented at the hearing. The board will only consider the evidence that it considers fair and reliable. The board members, staff member and superintendent may question all witnesses.

Except as herein provided, the chairperson of the board will control the hearing.

The hearing will begin with the staff member's presentation of contentions. This presentation will be limited to those grounds specified in the request for a hearing and supported by such proof as he/she desires to offer.

When the staff member concludes his/her presentation, the board will consider whether the proof offered in support of the contention establishes the contention. This consideration will take place in executive session.

If the board determines that the contention has not been established, it will notify the parties and conclude the hearing. This action finally determines the decision to terminate.

If the board determines that rebuttal is desirable, it will notify the parties and the hearing will proceed. The superintendent may then present, in rebuttal of the staff member's contention or in general support of the decision to terminate, such testimony or documentary proof as he/she desires to offer, including his/her own testimony.

After the superintendent completes his/her presentation, the board will consider the matter in executive session. The burden is on the staff member to satisfy the board by clear and

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convincing evidence that the decision to terminate was arbitrary or capricious, or generated by ill-will, fraud, collusion or other such motives.

If the board determines that the staff member did not establish his/her contention, it will, by a simple unelaborated statement, so notify the staff member and the superintendent. Such a determination finally confirms the decision to terminate. If the board determines that the professional staff member's contention has been established, it will inform the staff member and the superintendent by a written notice that states what corrective action must be taken.

Obligations with respect to re-employment or other employment

For two years after the effective date of a termination pursuant to this policy, the board will not replace the professional staff whose employment has been terminated without first offering the position to the terminated professional staff. The board will make the offer by certified mail, return receipt requested. The board will notify the professional staff member that he/she must submit written acceptance within 15 calendar days. Failure to make written acceptance within 15 calendar days or rejection of the position eliminates all re-employment rights of the professional staff member.

If the professional staff member is recalled within one year, the district will restore all of the sick leave and unused personal leave he/she had accrued on the effective date of the layoff.

If the professional staff whose employment has been terminated requests assistance, the school district will give him/her reasonable assistance in finding other employment.

Exclusive RIF procedure

This RIF procedure is the only procedure that may be used in a reduction in force.

Any existing procedure for reconsidering or examining an employee discharge, nonreappointment or grievance is not available for considering an issue that arises from a reduction in force. Similarly, no other personnel action other than a reduction in force may be considered under this RIF procedure.

Adopted 11/4/82; Revised 3/4/13

Legal references:

- A. S.C. Code, 1976, as amended:
 - 1. Section 59-25-415 – Rehiring of employees terminated for economic reasons.