

## **REDUCTION IN FORCE**

### **1. Definition and Scope.**

a. This policy applies to reductions-in-force that are implemented by “layoffs” as contemplated by § 16-1-33 of the *Code of Alabama*, as amended.

b. A reduction-in-force may be declared by the Board of Education and layoffs approved thereunder if the Board determines that decreased student enrollment or a shortage of revenues requires a reduction in the work force (beyond normal attrition) in order to maintain effective provision of educational services or to meet the Board’s financial, legal, or operational obligations.

c. A “layoff” within the meaning of this policy is a separation from employment with the Board of Education. However, employees who are laid off under authority of this policy are eligible for recall to employment as conditionally provided in this policy. The term “layoff” does not include or apply to the expiration of temporary, occasional, or “at-will” appointments or to decisions not to renew or extend employment beyond the expiration of annual or other specified terms of appointment. Moreover, layoffs are not subject to challenge or review under Alabama Act. No. 2011-270 (the Students First Act of 2011), as the same exists or is hereafter amended.

### **2. Criteria for Implementing Layoffs.**

a. The Board of Education will determine, upon the Superintendent’s recommendation, the areas (including, but not limited to, grade level, discipline, program and/or school), departments, groupings, or classifications for reductions (layoffs), and the number of reductions.

b. Nothing herein shall be deemed or construed to limit or abridge the Board of Education’s legislative discretion to identify areas, departments, groupings, or classifications for reductions (layoffs), or the number or reductions. (For example, the Board is not required to justify by objective criteria or otherwise a decision to implement layoffs in noninstructional categories or employees before doing so with instructional staff.)

c. The order, priority, rank or selection of individual employees who are to be laid off under the authority of this policy shall be determined on the basis of objective criteria determined by the Board of Education. Notwithstanding the foregoing, certain objective criteria has already been addressed in this policy with respect to certified employees and classified employees, as stated in Section 3 and Section 4 of this policy.

d. The criterion or criteria on which the layoffs are to be based shall be announced or otherwise made known by the Board to employees affected by the layoff no later than the date notice of the layoff is provided to the employees.

e. Prior to implementing any layoffs under this policy, the Superintendent (or his/her designee) shall review anticipated attrition by resignation, retirement, and/or voluntary leaves of absence to determine whether the same may be used as alternatives to the layoffs, and shall advise the Board of Education concerning the same.

f. As a part of, as a consequence of, or in conjunction with reductions-in-force, the Board, upon the Superintendent's recommendation, may transfer and reassign personnel. Such transfers and reassignments are not subject to challenge or review under Alabama Act. No. 2011-270 (the Students First Act of 2011), as the same exists or is hereafter amended.

g. "Objective criteria" within the meaning of this policy may include any lawful selection standard (or combination of standards) that is verifiable, calculable, measurable, or otherwise determinable by means or methods other than the personal or subjective judgments or opinions of the person(s) applying the criteria, and that would be expected to produce the same result if applied to the same employees or group of employees by different persons. For purposes of this policy, objective criteria may include, but are not limited to:

(i) Seniority, longevity, or time in service that will be more specifically described in the notice of layoff that is provided to affected employees;

(ii) Years of experience;

(iii) Degrees, certification, or licensure;

(iv) Job classification; and/or

(v) Written or otherwise documented performance evaluations that can be fairly, accurately, and objectively compared to other similarly situated employees for the purpose of ordering or ranking, provided that such evaluations predate the reduction in force announcement or declaration by not less than thirty days.

### **3. Layoff of Tenured Certified Employees**

a. With respect to certified employees that have attained tenure, the Board of Education has identified the following objective criteria set forth in this Section 3 to apply to those individual employees who are subject to layoff under this policy.

b. No tenured certified employee will be laid off when there is another position within the same area, department, grouping, or classification identified for reductions that is occupied by a nontenured certified employee.

c. With respect to tenured certified employees that are subject to layoffs, all such employees within the identified area(s), department(s), grouping(s), or classification(s) will be rank ordered from the greatest amount of full-time service time as certified employees within the school system to the least amount of full-time service time as certified employees within the school system. The staff member(s) with the least amount of such service time as certified employees

within the school system, based on the actual date of full-time employment as reflected in the board minutes, will be the first to be subject to layoff. For purposes of this Section (3), service will be deemed effective although the employee has taken an approved leave of absence or other authorized leave.

In the event that two or more staff members have the same amount of service time as certified employees within the school system, the following additional criteria will be used to determine the order of the layoffs:

(i) Highest degree(s) held by the employee that is applicable to the employee's position (the employee with the lower degree to be subject to layoff first). In the event that the use of this criterion is not determinative, then the next criterion will apply.

(ii) Total years of experience as a full time certified employee in the field of education (the employee with the least amount of such service time to be reduced first). In the event that the use of this criterion is not determinative, then the Board of Education may determine other objective criteria to apply.

#### **4. Layoff of Nonprobationary Classified Employees**

a. With respect to classified employees that have attained nonprobationary status, the Board of Education has identified the following objective criteria set forth in this Section 4 to apply to those individual employees who are subject to layoff under this policy.

b. No nonprobationary classified employee will be laid off when there is another position within the same area, department, grouping, or classification for reductions that is occupied by a probationary classified employee.

c. With respect to nonprobationary classified employees that are subject to layoffs, all such employees within the identified area(s), department(s), grouping(s), or classification(s) will be rank ordered from the greatest amount of full-time service time as classified employees within the school system to the least amount of full-time service time as classified employees within the school system. The staff member(s) with the least amount of such service time as classified employees within the school system, based on the actual date of full-time employment as reflected in the board minutes, will be the first to be subject to layoff. For purposes of this Section (4) (c), service will be deemed effective although the employee has taken an approved leave of absence or other authorized leave.

In the event that two or more staff members have the same amount of service time as classified employees within the school system, the following additional criteria will be used to determine the order of the layoffs:

(i) Highest degree(s) held by the employee (the employee with the lower degree to be subject to layoff first). In the event that the use of this criterion is not determinative, then the next criterion will apply.

(ii) Total years of experience related to the duties of the employee's position (the employee with the least amount of such experience to be reduced first). In the event that the use of this criterion is not determinative, then the Board of Education may determine other objective criteria to apply.

**5. Recall.** Employees who have been laid off under the terms of this policy will be given priority in filling positions as enrollment or financial circumstances warrant, provided that:

- a. The nature of the position and qualifications therefore has not materially changed;
- b. The laid-off employee remains properly qualified, licensed, or certified; and
- c. The laid-off employee confirms in writing his or her availability for and interest in re-employment to the Superintendent (or his designee) in accordance with any directives that may be contained in or transmitted in conjunction with the notice of layoff.

Circumstances permitting, and to the extent practicable, the selection of employees for recall will be based on the criteria that were applied to the layoffs themselves if there are more employees eligible for recall than positions available to fill. When layoffs occur over a period of time, the Board will take relative length of separation of service into consideration in assigning recall priority, other factors being equal. In no case will any right to be recalled to employment extend beyond two years from the effective date of the employee's layoff. Recalled employees will retain credit for tenure or nonprobationary status, years of service, and the pay and benefit status that they held on the effective date of their layoff. No pay, benefits, status, or additional rights will accrue or be credited to the recalled employee for the time he or she has been laid off.

**6. Notice.** Notification of layoff and recall shall be by United States certified or registered mail, hand delivery, or such other means as are reasonable under the circumstances. Upon receipt of notification of recall, a laid-off employee shall respond affirmatively to the notice of recall in accordance with such specific directions or instructions as may be contained therein. Any laid-off employee who does not so respond or who otherwise declines an offer of reemployment by the Board will be deemed to have waived any right to be recalled under the terms of this policy.

SOURCE: Athens City Board of Education, Athens, AL

ADOPTED: July 21, 2011

LEGAL REF: Ala. Code § 16-1-33 (1975); Ala. Code § 16-11-9 (1975); Ala. Code § 16-12-3 (1975); Ala. Act. No. 2011-270 (Students First Act of 2011)