

Instructional Staff Reduction in Force

A justifiable reduction in the number of teaching positions occurs when the Board determines that a fiscal exigency exists and/or program change is to be made that requires cancellation of one or more teacher contracts. In the event of a potential reduction in force, the following policy and accompanying regulation shall apply and any cancellation of a teacher's employment contract shall be in accordance with this policy and accompanying regulation. This policy and accompanying regulation shall not apply to teacher dismissals, nonrenewals or other personnel actions that do not result in a reduction in the number of teaching positions in the district.

Definitions

For purposes of this policy and accompanying regulation, the following definitions shall apply.

1. "Cancellation of employment" means the cessation of employment of a teacher during the term of the teacher's contract when there is a justifiable reduction in the number of teaching positions in the school district for reason(s) of fiscal exigency and/or program change.
2. "Teacher" means any person who is defined as a teacher under the Teacher Employment, Compensation, and Dismissal Act of 1990, C.R.S. 22-63-101 *et seq.*
3. "Fiscal exigency" means any significant decline in the Board of Education's ability to fund the operations of the district as a result of a decline in student enrollment, restrictions on revenues, increased costs or any other action, event or condition that may cause the district's current or projected budget to be insufficient to adequately meet the district's current or projected needs. A fiscal exigency may exist based solely upon current revenue and expenditure projections.
4. "Program change" means the elimination, curtailment or reorganization of curriculum, programs or operations, or a reorganization or consolidation of two or more individual schools. A program change may or may not be related to a fiscal exigency.
5. "Day" means each calendar day; provided, however, that if the deadline for any action under this policy or accompanying regulation falls on a Saturday, Sunday or official school holiday, the next following day that is not a Saturday, Sunday or official school holiday shall be the deadline for such action.

Board of Education's preliminary determination and statement

If the Board determines a fiscal exigency exists and/or program change is to be made and such determination may require the cancellation of employment of one or more teachers, it shall adopt a statement that reasonably identifies the fiscal exigency and/or program change and reasons therefor. This statement shall be transmitted to the superintendent and made available to district faculty. The Board

shall establish the actual number of teacher contracts to be canceled or the amount of teacher salaries and benefits to be reduced consistent with the Board's authority to establish educational programs within the district.

Superintendent's action

Within 30 days after receiving the Board's statement, the superintendent shall submit to the Board recommendations for the cancellation of employment of particular teachers. In making these recommendations, the superintendent shall not be limited to considering only the teachers in the area(s) or program(s) designated by the Board in its adopted statement.

The superintendent shall consider the following as significant factors in recommending a teacher for cancellation of employment:

1. The needs of the district.
2. Merit, meaning teacher performance as determined by the teacher's performance rating over the previous three year period as assigned pursuant to the school district's performance evaluation system. If the teacher does not have three years of performance ratings from the school district, then the superintendent shall consider only those available performance ratings. Nothing in this policy requires consideration of evaluations conducted in other school districts.

After considering the factors above, the superintendent shall also consider the following factors in recommending a teacher for cancellation of employment:

1. Professional experience including experience as an administrator.
2. Education, licensing endorsements and other professional qualifications.
3. Length of service in the school district.
4. Probationary and nonprobationary status.

In the event all factors are equal, cancellation of employment shall be accomplished in a manner that best supports the interests of the school district.

Notice and Board action

Notice to individual teachers and any resulting cancellation of employment by the Board shall be in accordance with this policy's accompanying regulation.

Adopted by the Board: February 22, 2012
Revised by the Board: September 26, 2012
Revised and recoded by the Board: July 17, 2019

LEGAL REFS.: C.R.S. 22-60.5-101 *et seq.* (teacher licensure law)
C.R.S. 22-63-101 *et seq.* (Teacher Employment, Compensation, and Dismissal Act of 1990)
C.R.S. 22-63-103 (11) (definition of teacher)

File: GC-20 (GCQA)

C.R.S. 22-63-202 (3) (*cancellation of employment contracts-reduction in force*)

CROSS REF.:

Board policy:

EL-12, Staff Treatment

Instructional Staff Reduction in Force

The following procedures shall be followed in effecting a reduction in the instructional staff work force.

1. Notice to individual teacher

If, after receiving the superintendent's recommendations, the Board intends to consider the cancellation of employment of any teacher, it shall cause written notice to be given to each teacher whose contract might be considered by the Board for cancellation. The Board shall not be limited to considering only those teachers listed in the superintendent's recommendations.

The written notice shall include:

- a. A copy of the Board's statement adopted pursuant to the accompanying policy;
- b. A copy of that portion of the superintendent's recommendations for cancellation of teacher contracts that pertains to the teacher receiving the notice (if applicable); and
- c. A copy of the accompanying policy and this regulation.

Notice shall be served upon the teacher personally or by certified or registered mail to the teacher's address as it appears in the school district's records. It shall be the teacher's responsibility to ensure that the district has the teacher's current address on file.

2. Review of individual cancellations

Within 10 days after receiving such notice, a teacher may request a hearing. The request must be in writing, addressed to the president of the Board. The request for a hearing must specify the grounds on which the teacher relies and a short statement of facts that the teacher believes support the contention. When appropriate, more than one case may be heard at the same time. The hearing may be held by the Board or by a hearing officer selected by the Board.

The hearing shall be limited to the following issues:

- a. was there a rational basis for the Board's determination that a fiscal exigency exists and/or program change was necessary or appropriate?
- b. was the cancellation procedure arbitrary or capricious?
- c. would the decision to cancel the employment of the teacher be arbitrary or capricious?

The Board shall consider the teacher's request for hearing and shall schedule a hearing to be held within 14 days after the request is received. The teacher shall be given at least seven days' notice of the hearing.

The Board shall act on the cancellation of employment of any teachers who are provided proper notice and do not timely request a hearing at the Board's next regular meeting or at a special meeting called for that purpose.

3. Conduct of hearing

The hearing shall be conducted by the Board, or its designated hearing officer, informally and, upon request of either party, in private. The teacher may be represented by counsel. The district will have no obligation to pay for the service of counsel representing the teacher. A recorded transcription of the proceedings shall be made and maintained and copies of the transcript shall be made available at the expense of the party who makes the request.

Unless otherwise mutually agreed, the hearing shall begin with the teacher's presentation, limited to those grounds specified in the request for a hearing and supported by testimonial and documentary evidence. The superintendent, superintendent's designee or the district's counsel may then present testimonial and documentary evidence in rebuttal of the teacher's contentions or in support of the decision to cancel the teacher's employment contract. The Board or hearing officer may establish other procedural rules as appropriate.

After the district completes its presentation, the Board or hearing officer shall consider the matter. When the matter is considered by the Board, it may convene in an executive session to review and discuss the evidence. However, the final decision will be made in public session. When there is a hearing officer, the hearing officer may take the matter under advisement. The hearing officer shall make written findings of fact and conclusions as to the issues raised and shall forward these findings and conclusions to the teacher and to the Board within 15 days after the close of the hearing.

4. Procedure after hearing

If the hearing was conducted by a hearing officer, the Board will be bound by the hearing officer's findings of fact as long as there is support in the record for such findings. However, any conclusions drawn from those findings will not be binding upon the Board.

The Board shall act on the hearing officer's findings and conclusions at its next regular meeting following receipt of the findings and conclusions or at a special meeting called for that purpose.

If the Board determines that the teacher's contention has not been established, it will notify the teacher and the superintendent in writing and take action with regard to cancellation of the teacher's contract at its next regular meeting or a special meeting called for the purpose.

If the Board determines that the teacher's contention has been established, it shall provide written notice to the teacher and the superintendent that the teacher's contract will not be cancelled.

5. **Exclusive procedure**

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

Approved: July 27, 2019