

# INSTRUCTIONAL STAFF/ ADMINISTRATIVE STAFF REDUCTION IN FORCE

Code **GCQA/GCQB** Issued **12/01**

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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 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 center. 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 career and technology education centers.

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 center 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 director.
- "Financial exigency" means any significant decline in the center's financial resources that is brought about by the decline in enrollment or by other actions or events that compel a reduction in the center's current operations budget.
- "Change in curriculum" means any elimination, curtailment or reorganization of curriculum offering, program or center operation or a 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.

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- voluntary retirement
  - 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 inclusive of all center teachers. Therefore, the director 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 curriculum or financial exigency has occurred.
    - Once the board (after consulting with the director) has determined that a reason exists which requires an elimination of professional staff positions, the director will, after considering the possibilities set forth above, determine which positions must be eliminated. The director will present his/her recommendations to the board for approval.
    - Once the board had approved the elimination of the specified positions or changes to be made in programs, the director will use specified criteria to select those professional staff members who are to be considered for nonrenewal. The director 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 center
      - total years of teaching experience
      - qualifications and ability as determined by the center evaluation procedure
      - performance evaluation
      - attendance record
      - principal/supervisor's recommendation
      - type of contract
      - extracurricular needs of the center

Length of service in the center 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 director's recommendation, the board acts to terminate employment of a professional staff member, the board will give written notice of that decision to the affected member. The director will send the written notice by certified mail, return receipt requested. The notice will include a statement of the conditions requiring termination of employment and a general description of the procedures followed in making the decision.

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

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### **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 chairman 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 director 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 director may question all witnesses.

Except as herein provided, the chairman 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 director 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 director 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 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 director. Such a determination finally confirms the decision to terminate. The employee will be notified within 10 days following the hearing of the board's decision. If the board determines that the professional staff member's contention has been established, it will inform the staff member and the director by a written notice that states what corrective action must be taken.

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## **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 member 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 center 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 member whose employment has been terminated requests assistance, the center 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 3/18/85; Revised 12/18/01

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Legal references:

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