

POLICY 3131

REDUCTION AND RECALL OF TEACHERS

(Important Note: This policy only involves placement of teachers involving layoff and recall. There is a separate policy that addresses placement issues that do not involve layoff and recall.)

REDUCTION IN STAFF

It is the responsibility of the Board of Education to provide the staff necessary for the implementation of the educational program of the District and the operation of the schools. In making program and staffing decisions, the Board of Education and Superintendent shall determine the size of the teaching staff in response to curricular, fiscal, and other operating conditions and retains the exclusive right to do so. To the extent that such determinations involve the requirements of Section 1248 of the Revised School Code, MCL 380.1248, this policy shall guide the implementation of that statute.

This Policy applies to employees covered by the collective bargaining agreement with the DFT including those covered and/or not covered by the Teacher Tenure Act. The term “teacher” or “employee” when used herein shall refer to all certified professional DFT personnel.

Decisions involving the reduction and recall of professional staff shall be guided by the following standards and procedures:

1. These decisions will be initially premised on retaining the most effective teachers who are certified (or otherwise approved or authorized) and qualified to instruct the courses within the established curriculum, grades, and departments.
 - a. All teachers must be properly certified (or otherwise approved or authorized) for all aspects of their assignment. The certification (or authorization/approval status, as applicable) of a teacher shall be determined by the Revised School Code, the Teacher Certification Code, the Michigan Department of Education's Rules for Special Education Programs and Services, and other applicable statutes and regulatory authority.
 - b. All teachers must also be qualified for all aspects of their assignment. Teacher qualifications shall be determined by the Board through reference to the following standards:
 - i. Compliance with applicable state or federal regulatory standards, including, but not limited to, those standards established as a condition to receipt of foundation, grant, or categorical funding;

- ii. Compliance with applicable accreditation requirements;
 - iii. Assessment of the extent to which a teacher's professional training and academic preparation are relevant to an instructional assignment and are predictive of the teacher's effectiveness in that assignment;
 - iv. Assessment of the extent to which a teacher's prior teaching experience is relevant to an instructional assignment and is predictive of the teacher's effectiveness in that assignment; and
 - v. Possession or satisfaction of any qualification requirement(s) contained in a job posting, job description, or administrative regulation pertaining to the position in question which was promulgated in advance of the reduction or recall.
- c. A teacher shall maintain current and valid certification (or approval or authorization, as applicable), and shall be responsible for filing a copy of his/her teaching certificate (or approval or authorization, as applicable) in the Human Resources Department in conformance with requirements of Section 1532 of the Revised School Code. If a teacher petitions for nullification of his/her teaching certificate or any endorsement on that certificate, he/she shall promptly provide written notice of that petition to the Superintendent or designee. A teacher shall supply current documentation to the District of all of the teacher's qualifications (as defined above).
2. The Superintendent or designee shall be responsible, acting within budgetary approval, for establishing the number and type of teaching assignments to implement the approved curriculum. The superintendent will determine where reductions are necessary.
3. All teacher reductions and recalls are subject to formal action and approval by the Board of Education. The formula for both reduction and recall is listed in section 9 and 10 of this policy.

4. When a teaching position has been identified for reduction and there exists a concurrently vacant teaching position for which the incumbent teacher in the position to be reduced is both certified and qualified, and if that teacher has received an overall rating of at least "effective" on his /her most recent year-end performance evaluation, that teacher shall be assigned to the vacant position unless the Superintendent or designee determines that the educational interests of the District would not be furthered by that placement.
 - a. If the incumbent teacher does not meet the necessary certification and qualifications required for the open position, and has received an overall rating of at least "effective" on his /her most recent year-end performance evaluation, the district reserves the right to move existing staff from their current assignment(s) in order to place the incumbent teacher, thereby avoiding laying off the said teacher.
5. If one or more teaching positions are to be reduced, the Superintendent (or designee) shall first identify the academic level(s) or department(s) impacted by the reduction. Among those teachers who are certified (or approved or authorized) and qualified to instruct the remaining curriculum within the impacted academic levels or departments, selection of a teacher for layoff shall be based on section 9 and 10 of this policy.
 - a. The District shall provide written notice of layoff to affected teachers. Letters of reassurance will be issued by June 30th if possible.
 - b. It is the laid-off teacher's responsibility to maintain current contact information (address, phone and e-mail address) in the Human Resources Department.

In the event of a recall of teachers, the Superintendent or designee shall first identify the grades or departments where additional position(s) will be created. The Superintendent or designee may reassign teachers to the additional position(s) in accordance with District policy regarding teacher placement. Recall of teacher(s) to assignments that remain unfilled shall be accomplished by first recalling the teacher with the highest effectiveness rating who is certified and qualified for the open assignment in accordance with section 9 and 10 of this policy.

- c. The District shall provide written notice via email of recall to teachers and the teacher must accept recall in order to preserve the teacher's employment rights. The teacher on the recall list must respond within 48 hours of being offered a position via written notice (email, fax, or in person).
 - d. A teacher who is recalled and fails to accept recall in a timely manner and fails to report for work by the deadline specified in the recall notice (email), shall be regarded as having forfeited all rights to recall and continued employment unless the Director of Human Resources in his/her discretion, has extended the time limitations, in writing.
- 6. This Policy shall not operate or be applied to retain or recall a teacher whose most recent performance evaluation contains an overall rating of "ineffective" or "minimally effective". Teachers that are rated ineffective and are in the Discipline or the Assistance Phase of the Plan III evaluation process will have no recall rights. Any teacher that is rated ineffective or minimally effective shall return to the building where they left if they are recalled from laid off status. If it is not possible for the teacher to return to their original building or department then the superintendent or designee will make a determination regarding the final placement from the recall list. Teachers that are rated effective and highly effective will have recall rights of up to 4 years in their area of certification.
- 7. This Policy shall not operate or be applied to retain or recall a probationary teacher who has received a rating of either minimally effective or ineffective on his/her most recent annual year-end performance evaluation in preference to any tenured teacher who is rated either effective or highly effective on his/her most recent annual year-end performance evaluation.
 - a. A probationary teacher who is rated as effective or highly effective on his or her most recent annual year-end performance evaluation is not subject to being displaced under this policy by a tenured teacher solely because the other teacher has attained tenure under the Teachers' Tenure Act, MCL 38.71 et seq.
 - b. A probationary teacher that is hired after January 1st of the current school year will not be rated higher than an effective, or highly effective teacher for the purpose of layoff or recall regardless of their attendance or other factors that are listed in section 9 or 10 of this policy.

8. Seniority or the teacher's attainment of tenure under the Teachers' Tenure Act shall not be the primary or determining factors in layoff and recall decisions, except if the decision involves two or more teachers that all have the same effectiveness ratings, as described in section 9 and 10 of this Policy.
9. A teacher's effectiveness rating shall be determined according to their most recent performance evaluation. This means that those teachers will be ranked in the following order.
 1. **Ineffective (lowest rating, first to be laid off)**
 2. **Minimally Effective Teachers**
 3. **Effective teachers**
 4. **Highly Effective teachers (last to be laid off).**

This process will also be followed when building principals and/or department heads submit surplus recommendations to the Human Resources Department unless the Superintendent or designee determines that the educational interests of the District would not be furthered by that assignment. The Human Resources Director will review and finalize surplus recommendations.

10. In the event of a tie in the effectiveness rating of teachers subject to potential layoff and/or recall, the tie will be broken based on the following criteria in rank order beginning with A and then going down the list to F.
 - a. Those teachers with an ineffective rating will be ranked based on the current process that they are engaged in under the Plan III teacher evaluation process. This tie breaker only applies to teachers that are rated ineffective. This section does not apply to minimally effective, effective or highly effective teachers as a tie-breaker.
 1. Discipline Phase (first to be laid off).
 2. Assistance Phase (in this phase for 65 days or more).
 3. Assistance Phase (in this phase for 36-64 days).
 4. Assistance Phase (in this phase for 35 days or less).
 - b. If a teacher is suspended for a total of 5 or more days over a 2 year period they will be laid off prior to those that have less than 4 days of disciplinary suspension(if any).
 - c. Teachers on Step 6 or higher of the absence verification procedure will be laid off prior to those that are not.

- d. The teacher's attendance record, exclusive of any absences taken under the Family and Medical Leave Act or as a reasonable accommodation pursuant to applicable state or federal law. Professional absences will not be included in this calculation. The two most recent years will be calculated on attendance according to the school calendar for teachers (For the purpose of this ranking the 2 years of calculation will include the two proceeding schools year but will end on the same day that the Plan II teacher evaluation year-end documents are due in the Human Resources Department). Any teacher that has less than 16 days of absence over a 2 year period will receive the same rating under this category (the highest possible rating). For example a teacher with 5 absences over a two- year period will receive an equal rating to a teacher with 15 absences over a two-year period. A teacher with 16 or more absences will receive a lower rating. For example a teacher with 18 absences will have a higher rating than those with 20 absences. Teachers with higher levels of absenteeism will receive lower ratings on the layoff and recall list. It is the responsibility of each teacher to code their absence with the appropriate code. The district is not responsible for any absence coding errors. The individual employee must review this information in order to ensure accuracy. This information can be found on the AESOP and E-Voucher Databases.
- e. Attendance at District/Building Professional Development (PD) over a 1 year period. We will use full or half-day professional development days (that are agreed to via the collective bargaining agreement with the DFT for this calculation). The calculation will not include late starts, early arrivals, and staff meeting PD or PD that is scheduled by individual buildings or departments. The teacher's attendance record, exclusive of any absences taken under the Family and Medical Leave Act or as a reasonable accommodation pursuant to applicable state or federal law.
- f. The teacher's disciplinary record (if suspended for 4 days or less over a 2 year period) outcome. Those that receive suspension will be given a lower rating in this category versus those that receive a written reprimand or warning in their district personnel file.
- g. Seniority

*Seniority and/or tenure status will not be a factor the District considers under this policy, except as a final tiebreaker. The layoff and/or recall of those covered by this policy are not subject to any grievance or arbitration procedure.

11. Anyone on a leave of absence for a year or less will be placed in the building or department in which they were in prior to the leave. Their placement and/or employment status will be determined by #9 and #10 of this policy. The most recent year(s) where data is available will be used. Anyone on a leave of absence for more than one year will be placed on the recall list according to the rankings in #9 and #10 of this policy (if data is available). However, they will not be rated higher than any employee rated highly effective or effective that is currently working and not on a leave of absence. Teachers that return from a leave of greater than one year (and if they had either a highly effective, effective, proficient or outstanding rating as their most recent) will be rated higher than teachers that have a minimally effective or ineffective rating or probationary teachers hired on or after January 1st of the current school year.
12. Any part-time teacher that loses their position due to a reduction in staffing has the right to accept a full-time position if a vacancy exists in their area of certification and in accordance with sections 9 and 10 of this policy.

(approved May 13, 2013- Legal Reference: MCL 38.71, *et seq*; MCL 380.11a (K-12); MCL 380.601a (ISD); MCL 380.1248; MCL 380.1532; MCL 423.215)