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

Procedure

General Statement of Policy

Under South Carolina law, the board is responsible for maintaining effective public elementary and secondary schools. The board is also responsible for furthering 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 further the educational interests of the state and to provide effective 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

For the purpose of this policy, the following terms are defined below:

- "Days" means calendar days.
- "Financial exigency" means any significant decline in the district's financial resources that is brought about by a decline in enrollment or by other actions or events that compel a reduction in the district's current operations budget.
- "Change in curriculum" means any elimination, curtailment, or reorganization of curriculum offering, program, or school operation or a reorganization or consolidation of two or more individual schools that is unrelated to financial exigency.

Procedure

Before it begins action not to 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 methods:

- voluntary retirement
- voluntary resignation
- transfer of existing staff members
voluntary leaves of absence
salary reductions
part-time employment

Once the Superintendent has determined that elimination of certificated staff positions is desirable or necessary, the Superintendent shall determine what position(s) must be eliminated and what individual(s) are to be terminated and shall present his/her recommendations to the Board of Trustees for approval. Professional staff positions may need to be eliminated because of such things as decreases in student enrollment, changes in curriculum, financial exigency or other circumstances as determined by the Superintendent and Board.

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

Prior to commencing action to terminate certificated staff members under this policy, due consideration shall be given to the ability to achieve position elimination and/or reduction in staff by voluntary retirement or resignation, transfer, voluntary leaves of absence, and part-time employment.

In the event termination of certificated staff is required, the board will adhere to the following guidelines:

- Reduction-in-force (RIF) terminations will be on a district-wide basis.
- The Superintendent shall not be limited to considering only those employees professional staff members in the particular school, area, or programs in which the loss of enrollment, curriculum, 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 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:
- The recommendation concerning specific employees to be terminated under this policy shall be based upon the following considerations:

  - Professional experience
  - certification (areas and type)
  - Area(s) of certification
  - degrees earned
  - Education level
  - Performance evaluation
  - Attendance record
  - professional experience in other areas which may have open positions
  - Experience in other areas of certification
  - total years of professional experience in the district
  - total years of teaching experience
  - performance evaluation
  - attendance record
Principal's or Supervisor's recommendation;
- Type of contract;
- Extra-curricular needs of the schools;
- Length of service in the District; and
- Any other factor considered appropriate by the Superintendent.

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.

The Superintendent may determine the appropriate weight to give to these factors depending upon the needs and circumstances of the District.

**Notice to Individual Employee Staff Member:**

If, after considering the superintendent'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 superintendent or his/her designee 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. Notification will be provided to affected employees as soon as possible and as far in advance of the termination date as possible. In no case will affected employees be terminated with less than 2 weeks notice.

The district will assume that the staff member's address as it appears on the 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 Termination**

A professional staff member may request a review of the board action, provided such request is made within 10 days following receipt of the notice of termination. 

Within ten (10) calendar days after receiving a notice of termination under this policy, an employee may request a hearing on the matter before the Board of Trustees. The only purpose of the review will be to determine whether the decision to terminate was arbitrary, 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, 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.
Any such request shall be in writing and addressed to the Chairman of the Board of Trustees. The request for review will specify the grounds on which it is contended that the decision to terminate was arbitrary, discriminatory or otherwise improper and must include a short, plain statement of facts that the employee believes supports his/her contention.

The board will hold a hearing. The hearing will be held within thirty (30) calendar days after it receives the request. The board will give the staff member at least five days' notice of the hearing. The request is received.

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 only consider the credible evidence that is presented at the hearing. The board members, superintendent, and staff members may question all witnesses.

Except as herein provided, the chairman of the board will control, preside over 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 concludes 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 convincing evidence that the decision to terminate was arbitrary, 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 concludes the decision to terminate. The hearing shall be conducted in an informal manner as determined by the Board. The employee may be accompanied by legal counsel and shall be required to satisfy the Board by clear and convincing evidence that the decision to terminate was arbitrary, discriminatory or otherwise improper. The employee shall be notified within ten (10) calendar 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 superintendent in writing what corrective action must be taken.
Obligation with Respect to Re-employment

For two years after the effective date of a termination pursuant to the provisions of this policy, the Board shall not replace the teacher the staff member whose employment has been terminated without offering the position to the terminated professional staff member first giving due consideration towards the re-employment of the terminated employee. The Board will make the offer by certified mail, return receipt requested, and regular U.S. mail. The Board will notify the professional staff member that he/she must submit written acceptance or rejection within fifteen (15) calendar days of the date of the letter. Failure to make written acceptance 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/or 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 school district will give him/her reasonable assistance in finding other employment.

An employee who has been terminated under this procedure, but who is recalled to employment within two years shall have restored to him/her all of the sick and personal leave accrued but not used on the effective date of termination.

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, non-reappointment, 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 4/25/78; Revised 2/26/02

Legal References:

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