



South Valley Preparatory School

"Home of the Aztecs"



REDUCTION IN FORCE POLICY

Pursuant to State Council of Education Regulation 80-1, the Governing Council (hereinafter "Council") has the authority to discharge certified school personnel during the term of their contracts or to terminate certified school instructors and non-certified school employees with rights created by state statute, (hereafter "tenured employees"), after notice and a hearing when a reduction in such personnel is required as a result of decreased enrollment or a decrease or revision of educational programs or as a result of a decrease in operational revenues appropriated or authorized to the School by the state or federal government or other causes to justify a reduction in personnel.

Reduction-in-force (R.I.F.) is "just cause" for discharges of certified school personnel and terminations of tenured employees, when established pursuant to this policy. This policy is adopted as the procedure by which reductions in the personnel who are covered by the policy may be accomplished, within the context of the School's general personnel policies.

The Council is vested with the discretion to determine the educational program of the School, so long as the state Council of education's educational standards and statutorily required standards are met. The Council, in its discretion, may revise the educational program or decrease the number of employees of the School at any time and is solely vested with the discretion to determine when decreased enrollment, financial exigency, or other causes justify a reduction in personnel.

Situations that justify a R.I.F. shall include, but are not limited to, the following:

A. decrease in student enrollment;

B. decrease in revenue:

1. because of decrease of student enrollment;
2. because of loss or reduction of tax revenues;
3. because of reduction of state, local, or federal financial support; or
4. because of inflation reducing the value of revenues received;

C. change in the educational program of the School, as determined by the Council in its good-faith exercise of discretion;

D. consolidation or de-consolidation involving the School;

E. court orders;

F. orders of the state district of education;

G. legislative mandates.

The Council shall exercise its discretion in good faith, and determinations that a R.I.F. is necessary shall be based on bona fide educational considerations and not be a subterfuge for discharging or terminating certified personnel without good or just cause or for impermissible reasons.

A R.I.F. may occur at any time during the calendar year when the Council, in its discretion, determines that it is justified and the procedures prescribed herein are applicable and are followed. A R.I.F. may be based upon projections of future enrollment, revenues or expenses, and the subsequent receipt of more revenue than expected or a subsequent saving of projected expenses shall not invalidate any actions previously taken in good-faith reliance on such projections or require the reemployment of any employees who were released on the basis of such projections.

Except as required by legislative mandate or orders of the state board of education and to the extent that circumstances permit, the superintendent, with the assistance of the administrative staff, shall report to the Council any circumstances which may ultimately require a R.I.F., in order that notice be given to certified personnel of the possibility of a R.I.F. and so that consideration be given to means by which a R.I.F. may be avoided.

When the superintendent concludes that a R.I.F. is necessary, a plan for R.I.F. shall be developed for presentation to and consideration by the Council. The R.I.F. plan shall not identify individuals to be discharged or terminated, but rather shall focus upon the total educational program of the School and how it may be modified to reduce the number of certified personnel while still providing the educational program required of school Schools and the particular educational needs of the School. The R.I.F. plan shall include, but need not be limited to, the following:

- A. a detailed description of the cause or causes requiring a R.I.F.;
- B. a description of all adjustments already made by the administration in an attempt to avoid a R.I.F., if any (e.g. reduction by attrition, cuts in non-certified staff, abolition of extra-curricular activities, etc.);
- C. a designation of the part or parts of the total educational program in which the R.I.F. is proposed and the number of positions to be reduced in each program;
- D. a designation of extra-curricular activities which are to be retained, with a justification for retaining such programs;
- E. and a discussion of alternatives (if any) considered by the superintendent with an explanation as to why such alternatives were rejected.

The Council shall consider the recommendations of the superintendent for the adoption of the R.I.F. plan at a duly-called Council meeting, the public notice of which announces that a R.I.F. will be considered. The discussion and action on the plan shall be in open session; however, nothing herein shall restrict the Council from holding portions of those discussions in closed session, if such discussion would be proper under the New Mexico Open Meetings Act. The Council may allow such review, consultation, and comment by employees and members of the public, prior to taking final action on the plan, as the Council, in its discretion, deems appropriate. The Council may accept, reject, or modify the plan recommended by the superintendent as it deems appropriate.

Any plan for a R.I.F. adopted by the Council shall be made available to all staff, by providing copies thereof in the office of each building principal and at the superintendent's office, within two (2) work days after adoption by the Council.

Based upon the R.I.F. plan approved by the Council, the administration shall perform a study of the school personnel to determine which person or persons must be wholly or partially terminated or discharged in order to implement the plan.

CERTIFIED PERSONNEL

The proper certification or licensure and qualification of certified staff to maintain a sound and balanced educational program which is accredited and meets statutory requirements and the State Council of Education's program requirements, as well as the Council's educational and extra-curricular program for the School, shall be the primary concern and the initial criterion to be applied in making the R.I.F. selections.

Substandard certification or licensure is inferior to full certification or licensure, and a person who is fully certified or licensed for the available position(s) shall be retained in preference to a person holding a substandard certificate or license. A person having a "waiver" of certification or licensure requirements shall be treated as having substandard certification or licensure for the purpose of this policy.

Training and experience in the extra-curricular activities which are to be retained as part of the School's overall program for its students may be considered as a qualification requirement, in addition to certification or licensure status, in making selection of personnel to be released under this policy.

Where certification-licensure/qualification status is equal between two or more certified school instructors being considered for termination or discharge, tenured certified school instructors shall be retained in preference to certified school instructors who have been employed by the School for less than three consecutive school years. If two or more certified-licensed individuals are equal or equivalent in certification-licensure and qualification and tenure status (if any) and it is necessary to decide which shall be discharged or terminated, the following selection criteria shall be applied:

1. Each certified-licensed individual considered for termination or discharge shall be awarded one (1) point for each year of full-time service during the most recent period of uninterrupted service with the School, prior to the current year, excluding approved leaves, up to a maximum of fifteen (15) points.
 2. The amount of credit for education shall be determined based on degree and additional hours:
 - a. B.A. = 1 point
 - b. B.A. + 15 = 2 points
 - c. B.A. + 45 or M.A. = 4 points
 - d. M.A. + 15 = 6 points
 - e. Post M.A. and M.A. + 15 = 8 points
 - f. Ed.D. and Ph.D. = 10 points
 3. The current supervisor of each certified school instructor considered for termination or each certified person considered for discharge shall rate the relative performance of each such person on a rating form to be prepared by the superintendent, or under his/her direction. Such rating form may be based on the School's standard evaluation form(s) or may be specially
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designed by the superintendent to reflect his or her judgment as to the attributes necessary for success in the particular program(s) affected by a R.I.F., shall specify the score for each performance category or attribute, and shall allow for a maximum score of seventy-five (75) points. The supervisor(s) may consult with the superintendent concerning the implementation of the evaluation. The supervisor(s) shall complete the rating forms and return them to the superintendent within the time specified for completion of the evaluations.

If different individuals considered for a R.I.F. have different supervisors, the supervisors may consult with each other and/or with the superintendent to insure that the rating system is applied uniformly. There shall be no requirement of observation of performance by a supervisor specifically for the purpose of completing the rating form; however, each supervisor shall review prior evaluations of the individuals considered for a R.I.F. for a period of the three (3) years immediately prior to the R.I.F., if available. Where a supervisor lacks familiarity with an individual's performance (e.g., a new supervisor), the superintendent may assign the valuation to a present or past School administrator or supervisor who has greater familiarity with the individual's performance.

4. The superintendent may devise such other measures as he or she sees fit to deal with situations where implementation of the performance rating cannot occur in the normal manner, so long as such measures are rationally designed to select the best certified personnel for retention. The superintendent shall total the points for service, education, and performance. The person with the lowest score shall be the person who is released. The computations of the superintendent, plus the rating forms on the persons considered for release, shall be available for review by the person released.

If, as a result of the application of the selection criteria, a person is selected to be released from the program, but such person ("the affected person") is also certified or licensed and qualified for another program(s) within the School, the person shall be considered for transfer or reassignment to such program(s). The fact that there are one or more other certified or licensed employees within the program affected by the R.I.F. who scored higher than the affected person, and that such person(s) may be certified or licensed and qualified to teach or administer in other programs in the School, shall not require that the higher scoring persons be transferred or reassigned to the other program or programs, even if there is a vacancy in the other program or programs. The transfer/reassignment obligation shall not arise until after the selection of the person or persons to be released from the program affected by the R.I.F. and shall only apply to the person or persons selected for release. Consideration of transfer or reassignment of the affected person shall be governed by the following criteria:

A. Existing Vacancy.

If, upon the effective date of the termination or discharge due to a R.I.F., there is an existing vacancy in another program for which the affected person is certified or licensed and qualified, he or she shall be transferred or reassigned to that vacant position. There shall be no obligation to create a vacancy to accommodate such person.

B. No Existing Vacancy.

Where the affected person is certified or licensed and qualified for another program or programs in the School, but all such positions are currently filled, the selection criteria described above, subject to the modifications described below, shall be applied to determine whether the affected person will be transferred or reassigned to another program and another person, currently employed in the other program, shall be released.

1. If the person is fully certified or licensed for a position in another program or an administrative position but has not actually taught in such program or held such an administrative position during any part of the preceding five (5) school years, such person shall not be considered qualified for transfer or reassignment to the other position.

2. If neither the superintendent nor the current supervisor of the program has observed the person being considered for transfer or reassignment performing the duties of the other program, it is impossible for the relative performance of the person being considered for transfer or reassignment and the person or persons currently teaching or administering in the program to be rated based on direct observation. Under such circumstances, the superintendent or his/her designee shall make judgment as to the likely performance of the person being considered for transfer or reassignment and assign the performance score which will be used in the selection process in comparison to the person or persons currently employed in the other program. The superintendent or designee shall consider the affected person's performance in other programs and his/her knowledge of all persons in the program in question in making the judgment, and may consult with other knowledgeable persons in making this determination.

Each certified instructor or administrator discharged and each tenured teacher terminated pursuant to this policy shall be entitled to the procedural rights provided under the applicable statutes and regulations of the State Council of Education governing discharge of certified school personnel or the termination of tenured teachers. The written decision of the Council, to the extent required by statute and regulation, shall clearly specify that the termination or discharge resulted from a R.I.F. and not from any cause personal to the person released.

NON-CERTIFIED PERSONNEL

Where two or more non-certified employees are being considered for termination, the employee(s) with three or more consecutive years of service shall be given preference to employees who have been employed by the School for less than three consecutive years.

If two or more non-certified employees have been employed by the School for at least three consecutive years and it is necessary to decide which shall be terminated, the following selection criteria shall be applied:

1. Each employee shall be awarded one (1) point for each year of full-time service during the most recent period of uninterrupted service with the School, prior to the current year, up to a maximum of fifteen points.
2. The current supervisor of each non-certified employee considered for termination shall rate the relative performance of each such person on a rating form to be prepared by Schools standard evaluation forms(s) or may be specifically designed to reflect the superintendents judgment as to the attributes necessary for success in the particular programs(s) affected by the R.I.F., shall specify the score for each performance category or attribute, and shall allow for a maximum score of fifty points. The supervisor(s) may consult with the superintendent concerning the implementation of the evaluation. The rating forms shall be completed and returned to the superintendent within the time specified for evaluations.

If different individuals considered for a R.I.F. have different supervisors, the supervisors may consult with each other and/or the superintendent to insure that the rating system is applied uniformly. There shall be no requirement of observation of performance by a supervisor specifically for the purpose of completing the rating form; however, each supervisor shall

review prior to evaluations of the individuals for a period of three years immediately prior to the R.I.F., if available. Where a supervisor lacks familiarity with an individual's performance (e.g. a new supervisor), the superintendent may assign the evaluation to a present or past supervisor who has a greater familiarity with the individual's performance. The superintendent may devise such other measures as he or she sees fit to deal in situations where implementation of the performance rating cannot occur in the normal manner, so long as such measures are rationally designed to select the best non-certified employee for retention.

3. The superintendent shall total the points for service and performance. The person with the lowest score shall be the person who is released. The computations of the superintendent, plus the rating forms on the persons considered for release, shall be available for review by the person released.

Each non-certified employee terminated pursuant to this policy shall be entitled to the procedural rights provided under the applicable New Mexico statutes and regulations governing the termination of non-certified personnel. The written decision of the Council, to the extent required by statute and regulation, shall clearly specify the termination resulted from an R.I.F., and not from any cause personal to the person released.

APPEAL

Appeals to an independent arbitrator from termination or discharge pursuant to this policy are governed by the provisions of state statute, respectively and any applicable regulations of the State Board of Education.

RECALL OF RELEASED STAFF

For a period of one year after the effective date of the discharge or termination of any employee pursuant to this policy, the Council shall offer to such person any position(s) which becomes available for which such person is certified or licensed and qualified, provided that such person has complied with the requirements specified below.

Every person discharged or terminated under this policy who wishes to be considered for recall, in the event that an opening occurs, must file with the superintendent, within thirty (30) days after the effective date of the discharge or termination, a written statement indicating a desire to be considered for recall and providing an address at which the person may be contacted.

Such person must notify the superintendent of any change in address within ten (10) days after changing residences in order to insure proper notification in the event of a recall.

In the event that more than one interested person who was discharged or terminated within the calendar year prior to recall is qualified for the position by experience, training, and/or certification-licensure to which a person will be recalled, the selection criteria of this policy will be applied to determine which person is to be recalled. The points accrued for "Service in School" and "Performance" shall be the same as when the persons were discharged or terminated, but additional points for any additional education earned after the discharge or termination shall be credited and considered.

Any person selected for recall hereunder shall receive written notification of the recall, by certified mail, at the address provided. The recalled person must accept the position offered through recall in writing. Such acceptance must be received in the superintendent's office within fifteen (15) calendar

days after mailing of the recall notice to the person. Rejection of the offer, in writing or by failure to timely respond, shall result in forfeiture by the recalled person of any further recall rights under this policy. Thereafter, an offer of recall will be made to the next person qualified to be recalled, or if there is none, the position will be filled by another applicant.

Any person recalled pursuant to this policy shall have all accrued but unused sick leave restored and be given credit for all years of actual service in the School for salary purposes.

After the one-year recall period has expired, any person discharged or terminated under this policy shall no longer have any right to be recalled. Such persons who wish to be reemployed thereafter shall file applications for employment and will be treated as would any other applicant for a vacant position.

In the event legislation is passed which requires the Council to reduce certified school personnel, for any reason, the Council shall follow the legislative procedures, if any, in lieu of this policy.

In the event State Board Orders are entered which have the effect of revising the School's boundaries to exclude school facilities previously operated by the School, reducing the School's enrollment, or reassigning certified school personnel to another School, then the procedures described in the State Council's order for transfer of school facilities, students, and personnel shall be followed in lieu of this policy. Notwithstanding the foregoing, the termination or discharge of school employees in compliance with a state Council order shall be governed by state statutes.

SOUTH VALLEY PREPARATORY SCHOOL	SUBJECT: Reduction in Force
Adopted Date: 8.22.10	Revised:
Distribution: ALL	Kind: Board