



**HOWELL PUBLIC SCHOOLS
ADMINISTRATIVE GUIDELINE**

3131 -STAFF REDUCTION / RECALLS¹

This procedure applies to all personnel who are teachers as defined in the Teachers' Tenure Act² and personnel decisions involving the following:

- a staffing or program reduction or any other personnel determination resulting in the elimination of a position,
- a recall from a staffing or program reduction or any other personnel determination resulting in the elimination of a position, or
- a hiring after a staffing or program reduction or any other personnel determination resulting in the elimination of a position.

In compliance with MCL 380.1248 and MCL 380.1249, in the event of a layoff, the District shall retain and recall teachers according to their effectiveness, as measured by the District's teacher evaluation tool (which incorporates factors identified in MCL 380.1248). The District reserves the right to amend, revise or repeal all or any part of the procedure at any future time; no employee shall have a vested right in the continuation of this procedure or any amendment thereof.

Teachers who are willing to accept voluntary layoff status shall notify the District of their intentions in writing (to the Superintendent or Executive Director of Labor Relations and Personnel) no later than May 30th. Teachers who accept a voluntary layoff must understand that they shall be denied unemployment compensation benefits under current Michigan law.

DEFINITIONS

Unless indicated otherwise, the following definitions apply:

Effectiveness: Effectiveness is measured based on the most recent year-end evaluation. The evaluation shall include the rating of highly effective, effective, minimally effective, or ineffective. The effectiveness of teachers is measured based on the most recent evaluation at the time the layoff or recall decision is made.

Individual Performance: The majority factor in layoff / recall decisions and defined in the District's evaluation system includes but is not limited to the following:

- A. Evidence of student growth.

¹ Updated May 9, 2014

²1937 PA 4, MCL 38.71

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- B. Demonstrated pedagogical skills (including a determination concerning the teacher's knowledge of his or her subject area and the ability to impart that knowledge through planning, delivering rigorous content; checking for and building higher-level understanding, differentiating, and managing a classroom).
- C. Consistent preparation to maximize instructional time.
- D. Management of the classroom, manner and efficacy of disciplining pupils, rapport with parents and other teachers, and ability to perform the essential functions of teaching.
- E. Attendance record (excluding excused absences or absences taken under the Family and Medical Leave Act or "as reasonable accommodations" pursuant to the Americans with Disabilities Act).
- F. Disciplinary record.

Layoff: When the Board determines District finances, curtailment of curriculum or education programs, or other factors require a reduction of staff, teachers shall be laid off in accordance with the provisions of this Article.

Recall: Written notice to return to work sent by the District to a teacher who:

- (1) has been laid off under this procedure,
- (2) is certified and qualified as defined by the District's job descriptions, and
- (3) retains employment rights under this procedure.

The teacher shall have seven (7) business days to return to work after the date the recall notice is mailed. [If the recall notice is mailed during the District summer break, the teacher shall have seven (7) business days to notify the District in writing of his or her intention to return to work].

Relevant special training: A factor in making layoff and recall decisions; means completing relevant training *other than the professional development or continuing education that is required by the District or by State law and integration of that training into instruction* and as defined in the District's evaluation system.

Seniority: Defined within Article XIX of the HEA Agreement.

Significant, relevant accomplishments and contributions: A factor in making layoff/recall decisions that means contributing to the overall performance of the school by making clear, significant, relevant contributions above the normal expectations for an individual in his or her peer group and having demonstrated a record of exceptional performance.

Student Growth: Measured by National, State, or local assessments, and other objective criteria, as defined in Appendix II of the District's evaluation tool.

Termination: Means severance from employment for reasons such as absence without leave, resignation, dismissal, or nonrenewal, but does not include District approved leaves of absence.

ASSIGNMENT SELECTION

The Superintendent shall identify teaching positions to be eliminated per the budget approved by the Board. The Personnel Office shall create a District wide teacher list; there shall be three (3) sections - 1) teachers that received the rating of Highly Effective or Effective on the most recent year-end evaluation, 2) teachers that received the rating of Minimally Effective on the most recent year-end evaluation, and 3) teachers that received the rating of Ineffective on the most recent year-end evaluation. Each of the above referenced sections shall be listed in order of seniority. The District shall rely upon the documentation placed within a teacher's personnel file as of the date that the decision to staff is made by the District.

Teachers in the positions affected shall be selected for layoff after consideration of the effectiveness rating of each teacher subject to this procedure. Generally, teachers with the rating of highly effective or effective shall be retained. It is recognized that there may be circumstances where Highly Effective and Effective teachers with unique qualifications may be laid off due to economic reasons or if the affected teacher is not certified / qualified for another teaching assignment. A teacher who has been rated as Ineffective under the District's evaluation system shall not be retained over a teacher who was evaluated as minimally effective, effective, or highly effective. In addition, a probationary teacher who was rated as effective or highly effective on his/ her most recent year-end evaluation is not subject to being displaced by a teacher on continuing tenure *solely* because the teacher has continuing tenure.

Teachers shall inform the Executive Director of Labor Relations and Personnel, in writing, of any changes (or contemplated changes) in certification / qualification no later than May 30th of each school year. Changes in a teacher's certification / qualifications after May 30th may not entitle the teacher to be assigned to a position for which the teacher is newly certified or qualified, unless there is a vacancy. It is the teacher's responsibility to maintain certification and HQ status while on layoff and to promptly notify the District in writing of any changes, which may affect the teacher's eligibility for recall. Teachers on a leave of absence are responsible for adhering to the same deadlines as teachers that are currently working.

LAYOFF PRIORITY

Generally, layoffs within the positions to be eliminated shall be made in the following order of priority, provided that the teachers remaining are certified and highly qualified to teach in the grades or subject areas being reduced:

- A. **First** - Probationary teachers rated Ineffective on their most recent year-end evaluation.
- B. **Second** - Tenured teachers rated Ineffective on their most recent year-end evaluation.
- C. **Third** - Probationary teachers rated Minimally Effective on their most recent year-end evaluation.
- D. **Fourth** - Tenured teachers rated Minimally Effective on their most recent year-end evaluation.
- E. **Fifth** - Probationary teachers rated Effective or Highly effective on their most recent year-end evaluation.
- F. **Sixth** - Tenured teachers rated Effective or Highly Effective on their most recent year-end performance evaluation.

If the layoff decision involves two (2) or more teachers and all other effectiveness factors distinguishing those teachers from each other are equal, then length of service (or tenure) may be the tiebreaker. Teachers shall be placed considering certification and instructional needs of the position while taking into consideration the teacher's preferences as indicated on the School Year Plans form (located on the HR webpage) and the Administration's goal of building the strongest team of educators. Teachers are not guaranteed assignments based on preferences indicated on the School Year Plans form.

NOTIFICATION OF LAYOFF

Pursuant to the necessary reduction in personnel, no teacher shall be laid off or reduced in assignment, unless the teacher is mailed (via certified mail) notice at least thirty (30) calendar days prior to the start of the school year or thirty (30) calendar days prior to the start of the second semester. In the event of a substantial and unforeseen decline in student enrollment or state aid, the above notification timeframe shall be at least twenty (20) calendar days before the effective date of the layoff. Further, the District (via the Superintendent or Superintendent's designee) shall provide notice to the affected teachers that the Teachers' Tenure Act allows them the opportunity to appeal the Board of Education's layoff decision to the Tenure Commission within twenty (20) days of receipt of the layoff notice.

The Board (via the Superintendent or Superintendent's designee) shall provide notice to the Association of the reduction of teachers and afford the Association's representatives with an opportunity to discuss it with District representatives.

TERMINATION

In the event that a teacher is laid off, the teacher's individual contract of employment shall terminate and the District's obligation to pay salary or fringe benefits shall terminate, after receipt of all amounts or benefits earned on a prorated basis equal to time worked. Teachers who are laid off during a contract year shall be considered as having completed the contract year for placement on the salary scale, if employed for one (1) semester or more of the school year. Any layoff shall suspend for the duration of the layoff period, the District's obligation to pay salary or fringe benefits under any teacher's (tenure or non-tenured) individual employment contract.

RECALL

The District shall include a laid off teacher on a recall list for two (2) years following the effective date of layoff by the District. However, recall is based on teacher effectiveness as defined within this procedure. After the above referenced time, the teacher's name shall be removed from the recall list and the teacher shall be notified via certified mail.

A. Identification of Vacancies and Positions

The Board of Education has the sole discretion to determine:

- (1) whether a vacancy exists and
- (2) the certification area and position in which the vacancy exists.

The Building Principal shall use their right of assignment (within their building) to fill vacancies that occur after staffing, before the first day of the upcoming school year. The Building Principal shall have seven (7) business days from the date of written notice of the anticipated vacancy or vacancy (whichever is sooner), to exercise the right of assignment and inform the teacher and Executive Director of Labor Relations and Personnel. The vacated position shall be posted after the seventh day unless there is a teacher on the recall list who is certified and qualified for the vacant position. During the school year, an anticipated vacancy or vacancy shall be posted and filled as soon as possible.

B. Recall Criteria

The Board has the sole discretion to determine whether a vacancy exists. If a vacancy exists, the Board has sole discretion (as outlined in this procedure) to determine the appropriate assignment of a recalled teacher.

A teacher is eligible for recall to a vacant position if the teacher is certified and qualified to fill the position as determined and defined by the District's respective job description(s). It is the teacher's responsibility to maintain his or her certification and to promptly provide documentation of the certification and qualification status to the District.

When the District has identified the position(s) in which a vacancy exists, the Superintendent (or Superintendent's designee) shall issue notice of recall to the vacant position after consideration of the effectiveness of each teacher on the recall list who is certified and qualified for the vacant position. Teachers with a rating of highly effective or effective will be recalled first, provided they are certified and qualified for the vacant position.

Teachers shall be recalled in inverse order of layoff, as specified above. Length of service or tenure status shall not be a factor in considering the effectiveness of each teacher. However, if the recall decision involves two (2) or more teachers and all other effectiveness factors distinguishing those teachers from each other are equal, then length of service or tenure status may be the tie-breaker.

C. Notice of Recall

Notice of recall shall be by certified mail to the last address provided in writing by the teacher to the District. The notice will include the deadline for acceptance, the date the employee must return to work, and the position and work location to which the teacher is to report.

It shall be the responsibility of each teacher to notify the District in writing of any change of address.

D. Acceptance of Recall

1. The teacher must deliver to the District written notice (i.e. electronic mail or mail) of acceptance of recall by the date specified in the notice. The deadline for acceptance may not be greater than 7 business days after the notice of recall is mailed.

2. The teacher must report for work by the date specified in the notice.

E. Termination of Recall Rights

Termination of recall rights may be expressed or implied. Termination may result from, but is not limited to, failure to provide timely notice of acceptance of recall, failure to report from layoff to an assigned position in a timely fashion, failure to annually notify the District of the intent to return or rejection of recall.

Teachers under contract with other public school districts may refuse recall and remain on the recall list as provided above; proof of hire date must be provided to the Personnel Department. Except as stated herein, teachers who decline recall for a reason other than being under contract with another public school district shall lose their recall rights and be removed from the recall list. Teachers who were employed full-time as of the effective date of layoff may decline recall to a less than full-time assignment and preserve recall rights. Similarly, teachers who were employed part-time as of the effective date of layoff may decline recall to a longer assignment and preserve recall rights.

APPEAL DISPUTE RESOLUTION PROCEDURE

An appeal from a decision on reduction in staff or recall made under this procedure shall be as follows:

The teacher shall file a written request for a meeting with the Superintendent within seven (7) business days of the knowledge of the facts upon which the appeal is based. The Superintendent shall make a written decision on the appeal within seven (7) business days of the meeting. The teacher may appeal to the Board within (7) business days of the decision. The Board's decision shall be final.

RESIGNATION OR LEAVE OF ABSENCE; NOTICE REQUIRED.

Pursuant to the Teacher Tenure Act, no teacher on continuing tenure shall discontinue his services (via resignation or leave of absence) with the District, without giving a written notice to said Board (via the Superintendent or Superintendent's designee) at least sixty (60) days before September first of the ensuing school year unless there is mutual consent to do so. Any teacher discontinuing his or her services in any other manner than as provided in this section shall forfeit his or her rights to continuing tenure previously acquired under the Teacher Tenure Act.