

TEXAS SCHOOL FOR THE DEAF

TERMINATION OF EMPLOYMENT REDUCTION IN FORCE

DFF

As determined by the Superintendent, a necessary reduction in personnel may include the reduction of personnel employed pursuant to employment arrangements not covered by this policy. For the termination at any time of at-will employment, see DCD; for the termination of a probationary contract, see DFAA and DFAB; and for the termination at the end of the contract period of a contract not governed by Chapter 21 of the Education Code, see DCE.

APPLICABILITY

This policy shall apply only when a reduction in force requires:

1. The nonrenewal or termination of a term contract; or
2. The termination of a contract not governed by Chapter 21 of the Education Code during the contract period.

DEFINITIONS

Definitions used in this policy are as follows:

1. "Financial exigency" shall mean any event or occurrence that creates a need for the School to reduce financial expenditures. Examples, by way of explanation but not limited to, include: a decline in the School's financial resources, a decline in enrollment, a reduction in funding, an unanticipated capital need, an ordered budget reduction by the State, or an increase in expenses.
2. "Program change" shall mean any elimination, curtailment, or reorganization of a curriculum offering, program, or school operation. Examples, by way of explanation but not limited to, include: a change in curriculum objectives, a modification or reorganization of staffing patterns, a redirection of financial resources to meet the educational needs of the students, a lack of student response to particular course offerings, or legislative revisions to programs.
3. "Discharge" shall mean termination of a contract during the contract period.
4. "Nonrenewal" shall mean the termination of a term contract at the end of the contract period.

GENERAL GROUNDS

A reduction in force may take place when the Superintendent recommends and the Board determines that a financial exigency, a program change or a reorganization requires the discharge or nonrenewal of one or more employees. A determination of financial exigency constitutes sufficient cause for discharge or sufficient reason for nonrenewal. A determination of a program change constitutes sufficient reason for nonrenewal.

Education Code 21.211(a)(2); *Stidham v. Anahuac Indep. Sch. Dist. Tex Comm'r of Educ.* Decision No 205-R2-687 (1990); *Wasserman v. Nederland Indep. Sch. Dist., Tex. Comm'r of Edu.* Decision No. 171-R1-784 (1988)

SCOPE OF REDUCTION

When a reduction in force is to be implemented, the Superintendent may assist the Board by making recommendations to the Board regarding the employment areas to be affected. In determining affected employment areas, the Board may combine or coordinate employment areas, as defined below. The board may, after declaring a financial exigency, direct the Superintendent to take such action or actions, as it deems necessary in its sole and absolute discretion, to implement this policy.

EMPLOYMENT AREAS

A reduction in force may be implemented in one, several, or all employment areas.

CRITERIA FOR DECISIONS

The Superintendent to the extent possible shall use in any order, at their sole and absolute discretion, the following criteria, to recommend employees within the

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affected employment area(s) for discharge or nonrenewal, in order to best serve the needs of the Texas School for the Deaf (TSD).

1. Qualifications, or lack thereof, for Current or Projected Assignment: Certification, multiple or composite certifications, licensure, endorsement, highly qualified status, bilingual or multilingual capabilities, and/or specialized or advanced content-specific training or skills for the current or projected assignment.
2. Performance: Effectiveness as reflected by written evaluative information.
3. Seniority: Length of service at the School (this criterion does not require that the service be continuous).
4. Professional Background: Professional education and work experience related to the current or projected assignment.
5. TSD's programmatic needs (for example, student demand and external requirements related to overall program areas).
6. Extra Duties: Currently performing an extra-duty assignment, such as department chair, athletic coach, or activity sponsor.
7. Such other criteria as the Superintendent shall deem reasonable and appropriate.

CONSIDERATION FOR AVAILABLE POSITIONS

After the Superintendent has identified the appropriate employees in the affected area(s), those employees shall be considered for other available positions for which they are qualified up to the date of the end of the business day of their actual departure from employment with TSD. An employee is responsible for reviewing posted vacancies, submitting an application, and otherwise complying with TSD procedures to be considered for a particular vacancy.

Amerson v. Houston Indep. Sch. Dist., Tex. Comm'r of Educ. Decision No. 022-R2-1202 (2003)

NOTICE AND HEARING

After considering the Superintendent's recommendation, and if no vacancies exist for which the identified employees are qualified, the Board shall approve the list of the employees to be proposed for discharge or nonrenewal, as appropriate.

Reduction in Force – Financial Exigency: The Superintendent shall provide each employee written notice of the proposed action, including a statement of the reason(s) requiring such action. The independent hearing examiner process does not apply to reductions in force due to a financial exigency.

Reduction in Force – Change in Organization or Program: The Superintendent shall provide each employee written notice of the proposed action, including a statement of the reason(s) requiring such action and notice that the employee is entitled to a hearing.

HEARING REQUEST

An employee receiving a notice of proposed nonrenewal due to a reduction in force based on a change in organization or program may request a hearing in accordance with TSD Board Policy DFBB.

An employee receiving notice of proposed discharge during the period of a contract governed by Chapter 21 of the Education Code due to a reduction in force based on a change in organization or program may request a hearing in accordance with TSD Board Policy DFD.

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An employee receiving notice of proposed discharge during the period of an employment contract not governed by Chapter 21 of the Education Code due to a reduction in force based on a change in organization or program may request a hearing before the Board or its designee in accordance with TSD Board Policy DCE.

Education Code 44.011; Education Code 21.251

Adopted: 04-12-19