OSBA Model ESD Sample Policy

Code: CPA-AR
Revised/Reviewed:

Layoff and Recall for Administrators

General

This administrative regulation applies to all licensed administrators below the rank of assistant superintendent who are not considered teachers under ORS 342.934.[1]

The Board retains the right to determine when a layoff is necessary. Layoffs shall be by position. A reduction in hours does not constitute a layoff.

The superintendent or designee shall offer recommendations to the Board regarding transfers, both voluntary and involuntary, and the position(s) which will be eliminated. The primary factors considered in the layoff process will be license, seniority, qualifications, merit and/or competence.

The Board desires/expects the administration to retain, consistent with state law, the most capable and productive of the licensed and qualified employees needed to carry out the approved programs and services of the ESD.

When the ESD determines that a layoff of licensed administrators is necessary, the superintendent or designee will use the procedures described in Section II of this regulation. The superintendent or designee will make every reasonable effort to transfer a licensed and qualified administrator who will be laid off to a vacant administrative position for which the administrator is licensed and qualified, in accordance with the procedures described in Section III. The superintendent or designee may combine remaining positions, if it meets ESD curriculum needs, so that administrators continue to be licensed and qualified to perform available jobs.

Section I - Definitions

1. "Competence" means the ability to perform the essential functions of a job or assignment based on recent experience, additional training or educational attainments, but not based solely on type of license and endorsements of an employee. The superintendent or designee may interpret "recent experience" as having performed the essential functions of the job or assignment within the last five school years.

2. "Merit" means the measurement of one administrator's ability and effectiveness against the ability and effectiveness of another administrator.

3. "Seniority" is calculated from the first day of actual service as an administrator in the ESD inclusive of approved leaves of absence. If necessary, ties in length of service shall be broken by drawing lots.

[1] Prior to laying off any administrators, the district will work with legal counsel to determine if the procedures in ORS 339.934, including cultural or linguistic expertise criteria, apply to any impacted employees.

4. "License" means a document or documents issued by Teacher Standards and Practices Commission permitting an individual to perform certain duties within a public school district or ESD.

5. "Qualifications" mean training, experience, skill and other attributes in addition to the individual's license.

Section II - Layoff Procedures

1. Administrative positions will be grouped by positions or assignments which the superintendent or designee determines are sufficiently comparable to use in the layoff process.

2. If a new administrative position is created, it will be placed in one of the existing job groupings or in a new job grouping, as determined by the superintendent or designee.

3. Upon recommendation by the superintendent or designee, the Board may eliminate one or more administrative positions within a job group or groups.

4. The superintendent or designee may recommend layoffs within job groups based on license, seniority, qualifications, merit and/or competence.

5. After identification of the administrator(s) to be laid off from a particular job group, the superintendent or designee will reassign the remaining administrators in that group to the remaining positions as necessary.

6. The superintendent or designee will determine whether the administrators identified for layoff will be transferred to a vacant administrative position under the procedures of Section III below or as provided for in state law given the option of another assignment provided the administrator is licensed and determined by the ESD to be qualified based on merit and/or competence for the assignment.

Section III - Reassignments and Transfers

1. The superintendent or designee will review an administrator's personnel file, and from consultation with the administrator's supervisors, shall determine if an administrator who will be laid off under Section II can be transferred to a vacant administrative position. Each transfer may be based on license, seniority, qualifications, merit and/or competence.

2. An administrator may voluntarily accept a classroom teaching assignment in lieu of a layoff.

    a. The administrator may accept a classroom teaching assignment which is currently vacant.
    b. If the administrator previously taught and was a contracted teacher in the ESD, the administrator may displace ("bump") a probationary or contract teacher with less seniority.
    c. If the administrator never taught in the ESD, the administrator may displace ("bump") a probationary teacher with less seniority.

3. While an administrator retains rights to recall to a vacant administrative position in accordance with Section IV below, an administrator who voluntarily accepts a classroom teacher assignment will also be covered by the layoff/recall and other provisions of the collective bargaining agreement governing regularly employed teachers for purposes of their rights as teachers.

Section IV - Recall

1. An administrator who is laid off under this procedure shall be placed in a recall pool. An administrator who resigns rather than accept layoff or reassignment under this procedure forfeits rights to be placed in the recall pool.

2. An administrator will be maintained in the recall pool for a period of not more than 27 calendar months from the effective date of layoff.

3. A laid-off administrator who rejects recall to a position offered by the ESD for which the administrator is licensed and qualified to perform and which is similar to the workday or work year of the person's previous position, thereby waives any further recall rights, and the administrator's employment terminates effective the date of rejection of the job offer.

4. Licensed and qualified administrators will be considered for recall based on proper licensure and qualifications to perform the essential functions of the job. The ESD retains the right to recall a less senior administrator to the position if that individual has more merit and/or competence.

5. Administrators will be recalled based on license, seniority, qualifications, merit and/or competence and other relevant factors.

6. Notification of recall will be delivered in person or deposited as certified mail, postage prepaid and addressed to the last known address of the laid-off employee. It is the responsibility of the administrator to ensure up-to-date mailing information is provided to the ESD. The individual shall be allowed **[7]** calendar days from the date of personal delivery or postmark to accept the position in writing. If the individual declines the recall or fails to accept within the **[7]** day period or fails to report for duty on the date specified in the recall notice, the individual's name will be removed from the recall pool. The individual will be considered to have resigned employment with the ESD and waived any further right of recall.

7. An administrator who wishes to remain eligible for recall to a position requiring a license must maintain a valid license.

8. Individuals who wish to waive recall rights prior to 27 months subsequent to the effective date of a layoff may do so by written notification to the ESD. Such notice will be considered a voluntary resignation and the individuals shall forfeit all employment rights with the ESD.

9. Employees returning from layoff shall be credited with all seniority and sick leave the employee earned prior to the effective date of the layoff, but the employee shall not accrue leave, benefits or seniority during the period of the layoff. If applicable, the ESD will apply any sick leave accrued from another district employment during the recall time as allowed by state law.

10. An employee who has been laid off has the option of continuing the employee's health insurance program at the employee's expense for up to 18 months, subject to the approval and rules of the insurance carrier(s).

11. [**An employee must have completed at least 135 contract days during one school year in order to be eligible for one vertical step advancement for the succeeding school year. If, because of layoff, an employee does not complete at least 135 contract days that school year, the employee will be placed on the same salary schedule step as the employee was on prior to layoff.]**

12. Nothing in this regulation shall be construed to interfere with the ESD's right to dismiss an administrator, not extend the contract of an administrator or dismiss or nonrenew the contract of a probationary administrator pursuant to state law.

Section V - Announcements of Decisions

Public announcements of layoff decisions should occur only after prior notice to affected administrators. Certain circumstances may, in some cases, prevent prior notice and employees will be notified as soon as is practical.

Section VI - Appeal Procedure

An appeal from a layoff decision shall be by arbitration pursuant to the employee's individual employment contract, administrator group contract ("employment agreements or meet and confer agreements") or rules of the Employment Relations Board.

Section VII - Future Changes in Procedure

The ESD reserves the right to amend, revise or repeal all or any part of this procedure at any future time and no employee shall have any vested right in the continuation of this procedure or any amendment thereof, provided, however, that no amendment or repeal of this procedure shall prejudice the reinstatement rights of any individual who is in the "recall pool" at the time these procedures are amended, revised or repealed. The ESD will also consult with employees covered by this regulation prior to making any decisions regarding changes to this procedure.