

Explanatory Notes

TASB Localized Policy Manual Update 92

District: Brackett ISD

D (LEGAL) PERSONNEL

The D section table of contents has been revised to reflect the renaming of policy code DEA, now titled Wage and Hour Laws, and the addition of DEAB, Salaries and Wages. Three other new codes have been added in the DFF series that address reduction in force due to financial exigency (DFFA), as a result of program change (DFFB), and for continuing contracts (DFFC).

DEA (LEGAL) COMPENSATION AND BENEFITS
WAGE AND HOUR LAWS

Update 92 includes reorganization of the DEA policy series addressing compensation and benefits. Content on the Fair Labor Standards Act will remain at DEA. General content on salaries and wages has been moved to DEAB, Salaries and Wages.

The reorganization also resulted in the following changes to this policy:

- Deletion of several expired or repealed provisions, including provisions addressing salaries for the 2009–10 and 2010–11 school years.
- Deletion of provisions on the allotment of funds for support staff health-care supplements, since this one-time pay mandate, which is still in law, has been incorporated into pay practices.
- Revision of the margin note addressing breaks for employees to express breast milk to BREAKS FOR NURSING MOTHERS to better reflect the statutory provisions.
- Addition of an existing statutory provision on the PAYDAY LAW EXEMPTION for school districts. See page 5.

DEAB (LEGAL) COMPENSATION AND BENEFITS
SALARIES AND WAGES

DEAB includes several provisions moved from DEA without revision: minimum salary schedule, employees formerly on career ladder, pay increases, designation of compensation for benefits, TRS contributions and surcharges, and the earned income tax credit.

On page 4, new material has been added from a 2009 commissioner of education decision addressing a district's authority for DECREASING PAY of an educator. A reduction is permissible if the district gives formal and specific warning to the educator of the salary reduction when the educator still has the opportunity to unilaterally resign from his or her contract.

New provisions have also been added from SB 8 (First Called Session, 82nd Legislative Session) addressing salary reductions and furloughs. When a district implements WIDESPREAD SALARY REDUCTIONS for teachers based on district financial conditions, the district must also reduce the salaries of administrators or other professional employees in a proportionate amount.

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Districts also now have the option of implementing a FURLOUGH PROGRAM in accordance with the statutory requirements and district policy. The district may reduce the number of days of service required by up to six days if the commissioner certifies that the district will receive less state and local funding for the year than was provided to the district during the 2010–11 school year. The commissioner must certify a decrease in FUNDING LEVELS by July 1 of each year. A new recommended local policy provision at DFFA provides authorization for the district to pursue a furlough. See the explanatory note for DFFA(LOCAL), below. A board's decision to implement a furlough is not subject to appeal.

For either a widespread reduction in salaries or a furlough, the district must also follow a specific process outlined in statute to implement the programs. The SALARY REDUCTION/FURLOUGH PROCESS requires the district to include the involvement of the district's professional staff in development of the program and to give district employees an opportunity to comment at a public meeting. At the PUBLIC MEETING, the district must provide information about:

- The options the district considered for managing the district's financial resources,
- How the program will limit the number of staff who will lose their jobs, and
- The district's local option of providing a residence homestead exemption.

DFF (LEGAL) TERMINATION OF EMPLOYMENT REDUCTION IN FORCE

This new legally referenced policy on reduction in force (RIF) includes existing commissioner of education decisions and statutory provisions, as well as new provisions from SB 8:

- The commissioner's decision in *Stidham v. Anahuac Independent School District* explains that the general BOARD AUTHORITY to govern the district includes making responsible choices in managing the finances and personnel of the district. *Wasserman v. Nederland Independent School District*, another commissioner's decision, clarifies that a district is free to change its organizational structure to increase efficiency.
- The commissioner's decision in *Amerson v. Houston Independent School District* outlines when an employee whose position was eliminated due to a RIF must be given CONSIDERATION FOR OPEN POSITIONS.
- Specific provisions on each type of contract describe when and under what circumstances an employee may be discharged and the board's options for the type of hearing to provide if requested by the employee.
- Repeated from CEA(LEGAL) is the requirement for a board to adopt a resolution declaring a FINANCIAL EXIGENCY. Also at this margin note is a provision explaining that the board can decide whether to use the independent hearing examiner process for terminations based on financial exigency.
- A provision from the federal WARN ACT clarifies that a school district is not subject to the Act's notice requirements for mass layoffs.

DFF (LOCAL) TERMINATION OF EMPLOYMENT REDUCTION IN FORCE

We have revised and moved local policy provisions addressing reduction in force due to financial exigency and program change to DFFA and DFFB, respectively.

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DFFA (LOCAL) REDUCTION IN FORCE
FINANCIAL EXIGENCY

The local policy content addressing the process for a reduction in force (RIF), previously at DFF(LOCAL), has been split into two codes: DFFA(LOCAL), addressing RIFs based on a financial exigency, and DFFB(LOCAL), addressing RIFs based on a program change.

DFFA(LOCAL) focuses on available methods of reducing personnel costs and outlines the process for a RIF based on a financial exigency. Because of the extensive nature of the changes from text previously at DFF(LOCAL), we have included with Update 92 a separate "Update 92 Policy Revisions" document explaining the changes in detail.

DFFB (LOCAL) REDUCTION IN FORCE
PROGRAM CHANGE

DFFB(LOCAL) provides recommended text for a RIF based on a program change. See the "Update 92 Policy Revisions" document included with the update for a detailed explanation of the changes from text previously at DFF(LOCAL).

