

**GOVERNING BOARD AGENDA ITEM
AMPHITHEATER UNIFIED SCHOOL DISTRICT NO. 10**

DATE OF MEETING: May 11, 2010

TITLE: Repeal of Current Governing Board Policies GCQA and GDQA Pertaining to Reductions in Force, Pending Meet and Confer Process for Development of New Policies; Declaration of Need for Emergency Repeal Pending Meet and Confer Process

BACKGROUND: Last November, the Arizona legislature passed, and the Governor signed into law, House Bill 2011. This bill changed many long-standing provisions of Arizona law concerning the employment rights of teachers traditionally arising out of seniority, as well as due process protections for teachers, and teacher association privileges.

Among other things, the changes made include prohibition of school district policies that give employment retention priority to teachers based on tenure or seniority in situations where the workforce must be reduced. Also prohibited by the changes in law were policies that give preferred rights of rehire (recall) in order of seniority to teachers who have been laid off or reduced in force. Current Governing Board Policy GCQA contains these types of provisions.

As the Board is aware, the validity of HB 2011 has been challenged; a lawsuit filed by the Arizona Education Association has been filed. While the result of that litigation will not be known for some time but could invalidate the provisions of HB 2011, a new law (HB 2227) containing the same provisions was passed and signed into law during this year's legislative sessions. Those new provisions will become law in August, but are then retroactive to November 2009.

In this year's meet and confer process for policy matters, work was underway to develop new policies that would comply with HB 2011. As the budget and contract issues became more pressing, however, the focus of meet and confer had to shift to compensation – in part because of some of the constraints imposed by current policy and the previous laws. As a result, new policies that comply with HB 2011 and/or HB 2227 have yet to be developed and approved by the Board.

The meet and confer process for policy matters is resuming, but the District also needs to issue contracts to employees for next fiscal year. Those contracts must presently comply with HB 2011 – which remains valid until and unless a court determines otherwise. And, of course, the District must in any event ensure compliance with HB 2227.

There is a legal axiom that terms of contract which are imputed by policy are determined by the policy in effect at the time the contract is entered into. Thus, as the District prepares to issue contracts for next fiscal year, it is necessary to ensure compliance with the law to be in effect for next year.


To ensure compliance with either or both laws (as the future will determine), it is recommended that current policies GCQA and GDQA be repealed pending their replacement with new provisions that will comply with law. Without doing so, the District, at best, would be issuing contracts with uncertain and confusing terms and, at worst, would be issuing contracts in violation of law.

Revocation of the policies does not remove employee rights beyond those already prohibited by the changes in law.

Normally, Board Policy BGB calls for the Board to review changes to policy on two board meeting occasions – first by initial study, then followed by adoption in the second meeting. Because contracts for next fiscal year need to be issued at this time and the meet and confer process has yet to resolve this crucial legal compliance, it is recommended that the Board declare an emergency need to revoke the current policies in just one meeting, as Policy BGB also permits.

Current policies GCQA and GDQA are attached for reference.

RECOMMENDATION: The Administration recommends declaration of an emergency necessitating review and approval of this action in one Board meeting and also recommends repeal of current Governing Board Policies GCQA and GDQA.

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| INITIATOR: |  | Todd A. Jaeger Associate to the Supt. | 5/5/2010 |
| | Signature | Name/Title | Date |

ASSOCIATE SUPERINTENDENT SIGNATURE:

SUPERINTENDENT SIGNATURE:



G-5800 GCQA
PROFESSIONAL STAFF REDUCTION IN FORCE

If it is necessary to reduce the continuing certificated staff of the school system because of a reduction in District enrollment, a decline in course registration, or for other reasons as determined by the Governing Board, it shall be the policy of the District to make such reductions based upon longevity within the District. Reduction shall be based on longevity with the District except where certification and/or endorsements as determined by North Central Accreditation standards are required.

At no time will the Governing Board release a continuing-status teacher and retain a noncontinuing-status teacher who holds a similar position and possesses the same certification and qualifications as determined by North Central Accreditation standards.

Reduction shall be accomplished in the following order:

- ♦ Short-term noncontinuing teachers.
- ♦ Noncontinuing teachers.
- ♦ Continuing teachers.

If all factors are equal, reduction will occur by lottery.

In the event of an increase in the number of teachers or the reestablishment of services within a three-year period, reappointment of persons qualified for open positions will occur first, by longevity with the District second, and by lottery if longevity is equal.

If it is necessary to hold a lottery for the purposes of staffing reductions or reappointments, the lottery will be jointly conducted by the administration and the authorized employee association.

Adopted: date of manual adoption

Revised: April 10, 2007

LEGAL REF.: A.R.S. 15-502
 15-544
 A.G.O. 178-286

G-9150 GDQA
SUPPORT STAFF REDUCTION IN FORCE

If it is necessary to reduce the support staff staff of the school system because of a reduction in District enrollment, a decline in course registration, or for other reasons, as determined by the Governing Board, it shall be the policy of the District to first consider attrition and call for volunteers to leave their positions before a reduction in force (RIF) is implemented. Then, further reductions will be based first upon longevity within the District. If longevity is equal, then the reduction would be based next on the District's performance evaluation system. If these factors are deemed equal, reduction will occur by lottery. A reduction in force may be District-wide or limited to particular departments, as determined by the Governing Board.

If it is necessary to hold a lottery for the purposes of staffing reductions or reappointments, the lottery will be jointly conducted by the administration and representatives of the support staff staff.

Prior notification to employees affected by a reduction in force will be made at the earliest practicable time.

In the event of an increase in required services or the reestablishment of services within a three-year period, reappointment of persons qualified for open positions will occur in inverse order to the layoffs accomplished pursuant to the factors set forth above.

Should a laid-off support staff employee be assigned to such a position for which the employee is qualified and refuse it, or fail to timely accept it, the Governing Board is not required to offer any other position, and the employee shall be deemed to have resigned.

Adopted: date of manual adoption

Revised: January 15, 2008