

AG 3131
LAYOFF AND RECALL

1. Introduction

This layoff and recall procedure applies to personnel decisions involving (1) a staffing or program reduction or any other personnel determination resulting in the elimination of a position, (2) a recall from a staffing or program reduction or any other personnel determination resulting in the elimination of a position, or (3) a hiring after a staffing or program reduction or any other personnel determination resulting in the elimination of a position. Further, this procedure applies to all personnel who are teachers, as defined in Section 1 of Article I of the Teachers' Tenure Act, 1937 PA 4, MCL 38.71.

In the event of a layoff of teachers covered by this procedure, the District will, in compliance with MCL 380.1248 and MCL 380.1249, retain and recall teachers according to their effectiveness, as measured by the District's performance evaluation system and based on the effectiveness factors identified in MCL 380.1248 and in this procedure.

The Board may consider accepting volunteers for a layoff. Teachers who would accept voluntary layoff status shall notify the Board of their intentions in writing to the Superintendent, with a copy to the Association President, within five (5) calendar days of the notice of staff reductions.

2. Definitions

Unless indicated otherwise, the following definitions apply to the layoff and recall of teachers.

Effectiveness: Means the composite rating of a teacher's individual performance based on the descriptors in a framework for effectiveness rubric and other criteria prescribed by law or Board Policy/Guidelines. Effectiveness is typically measured based on the District's most recent year-end performance evaluations of a teacher and other relevant records or data. Where teachers are deemed relatively equal, the District may review evaluation ratings from the most recent two (2) years of ratings.

Individual Performance: The majority factor in layoff and recall decisions and defined in the District's performance evaluation system and consisting of, but not limited to, all of the following:

- (a) Evidence of student growth, when available (Must be the predominant factor in assessing a teacher's individual performance).
- (b) The teacher's demonstrated pedagogical skills, which includes:
 - a special 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 and consistent preparation to maximize instructional time.

- (d) The teacher's 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; and
- (e) The teacher's attendance record, exclusive of any absences taken under the Family and Medical Leave Act or "as reasonable accommodations" pursuant to the Americans with Disabilities Act and the teacher's disciplinary record, if any.

Layoff: When the Board determines District finances, enrollment, curtailment of curriculum or education programs, teachers returning from leaves of absence, or other factors require a reduction of staff, teachers may be laid off in accordance with the provisions of this Guideline.

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 currently certified and qualified as defined by the District's job descriptions, and (3) retains employment rights under this procedure.

Relevant special training: A factor in making layoff and recall decisions that 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 in a meaningful way, and as specifically defined in the District's performance evaluation system.

Seniority: Length of continuous service with the District.

Significant, relevant accomplishments and contributions: A factor in making layoff and 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 the District's performance evaluation system.

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

3. Selection Priorities

The Superintendent will identify the teaching positions to be eliminated. Teachers in the positions affected will be selected for layoff by the Board of Education as recommended by the Superintendent after consideration of the effectiveness rating of each teacher subject to this procedure and other selection criteria identified in these guidelines. Generally, teachers with the highest effectiveness rating will be retained and the teachers with the lowest rating will be laid off. It is recognized that there may be circumstances where Highly Effective teachers with unique qualifications may be laid off for economic reasons, if the affected teacher is not currently certified or qualified for another teaching assignment.

It is the teacher's responsibility to maintain certification while on layoff and to promptly notify the District of any changes, which may affect the teacher's eligibility for recall, such as certificate renewals, additional endorsements, etc. Teachers must also provide to the District an up to date address and email address while on layoff.

4. Selection Criteria

Individual performance shall be the majority factor in making the layoff decisions, along with the other factors of significant, relevant accomplishments and contributions and relevant special training.

A teacher who has been rated as Ineffective under the District's performance evaluation system shall not be retained over a teacher who was evaluated as minimally effective, effective, or highly effective. Further, a probationary teacher who was rated as effective or highly effective on his or her most recent year-end performance evaluation is not subject to being displaced by a teacher on continuing tenure solely because the teacher has continuing tenure.

5. 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 currently certified and qualified to teach in the grades or subject areas being reduced:

- (a) Teachers rated Ineffective on their most recent year-end evaluation.
- (b) Teachers rated Minimally Effective on their most recent year-end performance evaluation.
- (c) Teachers rated Effective on their most recent year-end performance evaluation, who received a ME or IE in any area of the year-end performance evaluation may be considered for layoff, depending upon the progress (or lack thereof) they have demonstrated in such areas.
- (d) Teachers rated Effective.
- (e) Teachers rated Highly Effective on their most recent year-end evaluation.
- (f) In order to retain the most effective teachers in the grades, classes or subject areas being reduced, within each of the above categories, the individual performance factors (a)-(e) above, relevant special training and significant, relevant accomplishments and contributions shall be considered to determine the order of layoffs.
- (g) In the event two or more teachers are considered to be equal in all above factors, the District may elect to retain a teacher with certifications, endorsements or specialized skills in certain areas over a teacher with fewer or no certifications, endorsements or specialized skills.

Length of service or tenure status shall not be factors in considering the effectiveness of each teacher. However, if the layoff decision involves two 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 considered as a tiebreaker.

6. Notification of Layoff

Pursuant to the necessary reduction in personnel, no teacher shall be laid off or reduced in assignment, unless said teacher shall have been notified of said layoff by certified letter, hand-delivered letter, or by electronic mail as determined by the District, by the Board or its agents.

7. Cessation of Salary and Fringe Benefits

In the event a teacher is laid off, the teacher's individual contract of employment shall terminate and the Board'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 Board's obligation to pay salary or fringe benefits under any teacher's (tenure or non-tenured) individual employment contract or applicable collective bargaining agreement.

8. Recall

The District will include a laid off tenure teacher on a recall list for up to three years following the effective date of layoff by the District. The District will include a laid off probationary teacher on a recall list for up to one year following the effective date of layoff by the District. However, recall is based upon teacher effectiveness as defined herein. After that time, the teacher's name will be removed from the recall list.

(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.

(b) Recall Criteria

A teacher is eligible for recall to a vacant position if the teacher is currently certified and qualified to fill the position as determined and defined by the District's respective job descriptions. 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. Failure to maintain current certification and qualification status, as well as to provide the District current and updated contact information, may negatively impact the recall of an eligible teacher under this policy.

When the Board of Education has identified the position(s) in which a vacancy exists, the Superintendent will 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 the highest effectiveness rating will be recalled first, provided that they are currently certified and qualified for the vacant position. Individual performance shall be the majority factor (51 percent) in making recall decisions, along with the other factors of significant, relevant accomplishments and contributions and relevant special training.

Teachers shall generally be recalled in inverse order of layoff, as specified within section 5. 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 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 considered as a tiebreaker. A teacher who was rated as Ineffective under the District's performance evaluation system shall not be recalled. The Board shall retain sole authority to determine if any laid off teacher's performance level is high enough to recall.

If more than one vacancy exists when a recall is effected, the District has sole discretion to determine the appropriate assignment(s) of recalled teachers.

The District may also post the vacancy and consider all applicants if the Superintendent determines (i) that the District's educational interests would not be furthered by recalling the laid-off teacher with the highest effectiveness score on his/her most recent year-end evaluation; or (ii) that no teacher on layoff meets the certification and qualification requirements for the position as otherwise stated herein.

(c) Notice of Recall

Notice of recall will be by hand delivery, certified mail or electronic mail to the last address provided in writing by the teacher to the District or by delivery in person. It shall be the responsibility of each teacher to notify the District of any change of address. Teachers must also provide to the District an up-to-date email address while on layoff.

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.

(d) Acceptance of Recall

(1) The teacher must deliver to the District written notice (i.e. electronic mail) of acceptance of recall by the date specified in the notice. In times when the hiring timeframe becomes critical, the District reserves the right to limit the deadline for acceptance to two (2) District business days after the notice of recall is mailed, emailed, or delivered in person.

(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 to remain on the recall list or by rejection of recall.

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.

9. Future Changes in Procedure

The District 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.

Source: MCL §380.1248; MCL §423.215(3)(k).

Adopted May 14, 2020