

4.19 REDUCTION IN FORCE POLICY

~~When a reduction in force in the Farmington Schools is necessary, the over-all educational program must be considered as well as professional employment the and experience of the employees.~~

Authority

Pursuant to NMSA 1978 22-5-14 (2003, the Superintendent has the authority to discharge licensed school personnel during the term of their contracts or to terminate licensed school instructors and non-licensed school employees with rights created by NMSA 1978, Section 22-10A-24C (hereafter "tenured employees"), after notice and a hearing when a reduction in such personnel is required as a result of circumstances justifying a reduction in force as specified herein. Reduction-in-force (R.I.F.) is "just cause" for discharge of licensed school personnel and terminations of tenured employees, when established pursuant to this policy. This policy is adopted as the procedure by which reductions in personnel who are covered by the policy may be accomplished, within the context of the District's general personnel policies.

Board Discretion

The Board is vested with the discretion to develop education policies for the District, so long as the state educational standards and statutorily required standards are met. The superintendent, in carrying out the educational policies of the Board and administrating and supervising the District, shall exercise his or her discretion in accordance with this policy in determining when decreased enrollment, financial exigency or other causes justify a reduction in personnel.

4.19.1 Grounds Justifying Reduction in Force

Situations that justify a R.I.F. shall include but are not limited to the following:

- A. decrease in student enrollment or reduced student demand for or participation in programs or activities;
- B. decrease in revenue
 1. because of decrease of student enrollment;
 2. because of loss or reduction of tax revenues;
 3. because of reduction of state, local, or federal financial support; or

4. because of inflation reducing the value of revenues received or significantly increasing costs of operation;
- C. change in the educational program of the district, as determined by the Board, in its good-faith exercise of discretion;
- D. consolidation or de-consolidation involving the district;
- E. court orders;
- F. orders of the Secretary of Education
- G. legislative mandates;
- H. unanticipated financial or programmatic exigencies indentified by the Superintendent that warrants initiation of a R.I.F. process.

4.19.2 Good Faith Determination

The Superintendent shall exercise discretion in good faith and determinations that a R.I.F. is necessary shall be based on bona fide educational considerations.

4.19.3 Timing of Reduction In Force

A R.I.F. may occur at any time during the calendar year when the Superintendent, in his or her discretion, determines that it is justified and the procedures prescribed herein are applicable and are followed. A R.I.F. may be based upon projections of future enrollment, revenues or expenses, and the subsequent receipt of more revenue than expected or a subsequent saving of projected expenses shall not invalidate any actions previously taken in good-faith reliance on such projections, nor shall it require the reemployment of any employees who were released on the basis of such projections.

4.19.4 Determination of Need for Reduction In Force

A. Except as required by legislative mandate or orders of the State Secretary of Education and to the extent that circumstances permit, the Superintendent, with the assistance of the administrative staff, shall report to the Board any circumstances which may ultimately require a R.I.F., in order that notice be given to licensed and classified personnel of the possibility of a R.I.F. and so that consideration be given to means by which a R.I.F. may be avoided.

Preparation of a R.I.F. Plan A plan shall not be necessary if the reductions can be accomplished through (1) attrition or (2) by termination of a sufficient number of non-tenured staff.

When the Superintendent concludes that a R.I.F. is necessary, a plan for R.I.F. shall be developed for presentation to the Board. The R.I.F. plan shall not identify individuals to be discharged or terminated, but rather shall focus upon the total educational program of the district and how it may be modified to reduce costs, programs and personnel while still providing the educational program required of the school district. Where circumstances warrant, a R.I.F. plan may address particular programs, departments, school sites, content areas or activities if the causes for the R.I.F. predominately impact the aspect of the educational program. Such impact shall be described in the R.I.F. plan.

The R.I.F. plan shall include but not limited to, the following:

1. detailed description of the cause or causes requiring a R.I.F.;
2. a description of all adjustments already made by the Administration in an attempt to avoid a R.I.F.
3. a designation of the part or parts of the total educational program or particular program or activity in which the R.I.F. is proposed and the number of positions proposed to be reduced in each program or activity;
4. a designation of non-essential services or activities which are to be retained with a justification for retaining such programs;
5. a discussion of alternatives (if any) considered by the Superintendent with an explanation as to why such alternatives were rejected.

B. Board Considerations

The Board shall consider the recommendations of the Superintendent for the adoption of the R.I.F. plan at a duly called board meeting, the public notice of which

announces that a R.I.F. will be considered. The Board may allow such review, consultation, and comment by employees and members of the public, as the Board, in its discretion, deems appropriate.

If a mid year R.I.F. is proposed which would require the discharge of tenured certified staff, the Superintendent and Board shall adopt a joint determination that as to the projected financial burdens to the District in the future and concluding the District cannot survive financially for the fiscal year already underway, if the R.I.F. is not carried out.

- C. If a R.I.F. plan is adopted, the Board shall not be required to deplete its operational cash balances maintained or carried over as permitted by NMSA 1978 22-8-41C and Section 71, Laws 2003, Ch. 153 in order to avoid the R.I.F., if the Board in its discretion, determines that the cash balance must be maintained at the level determined by the Board, in order to cover other permitted expenditures or as a contingency for unforeseen expenditures or emergencies.

Based upon the R.I.F. plan approved by the Board, the Administration shall perform a study of the school district's personnel to determine which person or persons must be wholly or partially terminated or discharged in order to implement the plan. The primary concern to be applied in making the R.I.F. selections shall be the Board's interest in maintaining a sound and balanced education program.

4.19.5 Criteria for Selection of Employees for R.I.F.

~~4.19.1 Two criteria shall be used on which to base a decision in reduction. One criterion is the length of time an employee has been under continuous contract with the Farmington Schools, with those persons most recently employed being the first to be released. The next step in this standard is that retention shall be according to (1) seniority in a department or building, and where applicable, (2) seniority in a grade level, department or program in a given building.~~

The criterion used to base a decision in reduction shall

be competency in service, which includes:

- 1) licensure in the subject area or training in an area (highly qualified),
- 2) experience in teaching in the subject area or experience in the area,
- 3) service in district,
- 4) endorsements held by the teacher making them highly qualified in numerous areas,
- 5) extracurricular or co-curricular licensing requiring specialized knowledge, training, expertise or significant time commitment,
- 6) The amount of education based on degree and additional hours,
- 7) Past contributions to the educational program of the district and 3- 8) quality of instruction as identified in recent evaluations by the principal or quality of performance as identified in recent evaluations by the supervisor.

When two (2) or more staff members are in the same seniority situation, the determination will be made in the descending order of:

- A. Years of verifiable experience within the district,
- B. Number of semester hours of post-secondary education in the prospective area placed; type of training/license/certificate.
- C. Principal or supervisor's recommendations.

~~4.19.3 At any time that a reduction in force is imminent, the normal rate of attrition may possibly equal the number needed in reduction. In such event, all licensed personnel holding appropriate licensure shall be retained.— (SEE ABOVE)~~

4.19.6 Transfers/Reassignment

- ~~4.19.4~~ A. All staff are subject to reassignment based on the needs of the district.
- B. If a vacancy becomes available during the implementation of the R.I.F. plan, an employee that has been terminated/discharged and is licensed and qualified for the position may request to be considered for a transfer or reassignment. (See

transfer/reassignment policy 4.16)

~~4.19.4—Paraprofessionals are placed in assignments at the need and discretion of supervisors of the departments or programs. It is common practice to move paraprofessionals where the needed assistance is warranted.~~

4.19.7 Classified Personnel

Seniority shall be the primary criterion in determining which classified personnel shall be recommended for complete or partial termination in order to implement the R.I.F. Plan. More senior classified personnel ordinarily shall be retained in preference to less senior classified personnel within the same job category (educational assistants, maintenance, custodial, grounds, etc.). However, where multiple positions and programs are affected by the R.I.F., the school administration may look at the following criteria in making the selection:

1. Specialized Qualifications/Licenses
2. Extra Curricular Licensing/Assignments/Experience
3. Service in District
4. Performance

Each classified employee terminated pursuant to this policy shall be entitled to the procedural rights provided under the applicable New Mexico statutes and regulations governing the termination of non-licensed personnel. The written decision of the board, to the extent required by statute and regulation, shall clearly specify that the termination resulted from a R.I.F. and not from any cause personal to the person released.

4.19.8 Appeal

Appeals to an independent arbitrator from termination or discharge pursuant to this policy are governed by the provisions of NMSA 1978, Section 22-10A-25, NMSA 1978 22-10A-28, respectively, and any applicable regulations of the State Secretary of Education.

4.19.9 Recall of Released Staff

For a period of one year after the effective date of the discharge or termination of any employee pursuant to this policy, the Superintendent shall offer to such person any position(s) which becomes available for which such person is licensed and qualified, provided that such person has complied with the requirements specified below.

Every person discharged or terminated under this policy who wishes to be considered for recall, in the event that an opening occurs, must file with the Superintendent, within thirty (30) days after the effective date of the discharge or termination, a written statement indicating a desire to be considered for recall and providing an address at which the person may be contacted. Such person must notify the Superintendent of any change in address within ten (10) days after changing residences in order to insure proper notification in the event of a recall.

- 4.19.10 In the event legislation is passed which requires the Superintendent to reduce licensed school personnel, for any reason, the Superintendent shall follow the legislative procedures, if any, in lieu of this policy.

In the event State Secretary of Education orders are entered which have the effect of revising the district's boundaries to exclude school facilities previously operated by the district, reducing the district's enrollment, or reassigning licensed school personnel to another district or other state board orders resulting from exercise of its legislative powers, then the procedures described in the State Secretary's order for transfer of school facilities, students, and personnel shall be followed in lieu of this policy. Unless a different procedure is mandated by law, the termination or discharge of school employees in compliance with a State Secretary order shall be governed by NMSA 1978, Statutes 22-10A-24, 22-10A-25, 22-10A-27, and 22-10A-28, if applicable.