

**RULES
OF
THE STATE BOARD OF EDUCATION**

**CHAPTER 0520—4—2
REDUCTIONS IN FORCE - STATE SPECIAL SCHOOLS**

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0520—4—2—.01 POLICY.

If for any reason it is determined that it is necessary to reduce the number of employees in the state special schools (i.e., the schools operated by the State Board of Education, or the State Department of Education acting under delegated authority from the board), the following are the approved policies and procedures for accomplishing such reduction in force:

- (1) If the reduction in force is due to budgetary requirements the priority for selecting positions to be discontinued will be as follows:
 - (a) Administrative personnel
 - (b) Non-teaching professionals
 - (c) Clerical and support personnel
 - (d) Teaching faculty
- (2) If the reduction in force is due to declining enrollment, the selection of positions to be discontinued shall cut across the total spectrum of employees with emphasis on the programs or services where the decline is the greatest.
- (3) If the reduction in force is the result of a reorganization or curtailment of educational program motivated by a desire to provide a more efficient and effective school program, then the program(s) affected or eliminated will bear the reduction.
- (4) In any case of a reduction in force, the selection of positions to be discontinued shall also be based on the following:
 - (a) Positions would be discontinued which would cause the least damage to the ongoing operation of the school.
 - (b) Positions would be discontinued based on the ability of the remaining staff to assume part or all of the duties of the discontinued positions.
 - (c) Priority of consideration would be given to the institution's ability to serve the maximum number of students with the best possible services to these students.
 - (d) Normally, a teacher with tenure will be retained in preference to a teacher without tenure except where such would seriously compromise an educational program or where certification and other considerations are controlling.
- (5) Any person whose position is discontinued because of a reduction in force shall be given preference for any position in the state special schools that is to be filled during the

(Rule 0520-4-2-.01, continued)

current school year or the school year immediately following the termination, if such person meets the minimum requirements of the position.

- (6) A teacher whose position is discontinued because of a reduction in force cannot claim or be transferred into a position currently being filled by a tenured teacher even though the teacher whose position is being discontinued meets the minimum qualifications of the position the teacher might desire to claim or into which the teacher might be transferred.

Authority: T.C.A. §§ 49—112, 49—1423, 49—1424, 49—1425, 49-2610, 49—1—302, 49—5—515, and 49—50—1001. **Administrative History:** Original rule filed September 30, 1980; effective November 14, 1980. Amendment filed August 20, 1984; effective November 13, 1984. Repeal and new rule filed October 18, 1988; effective January 29, 1989.

0520—4—2—.02 PROCEDURES.

Using the criteria established under Board policy on this subject, the procedures for selecting the positions to be discontinued in a reduction in force of a school are as follows:

- (1) The administrative staff of the affected school will review the positions under the areas of management and recommend to the superintendent of the school positions in each administrative area that might be discontinued.
- (2) The superintendent of the school will review with each administrative staff member making such recommendation the effect the recommendation would have on that administrator's area of management.
- (3) The superintendent and the top administrative staff of the school will collectively review the total listing in order to develop the school's recommended list of positions to be discontinued.
- (4) The superintendent of the school will review the school's recommended list with the appropriate member of the staff of the State Board of Education, or the State Department of Education acting under delegated authority from the board, in order to develop a final list of positions to be recommended to the board for discontinuance.
- (5) As required under the tenure policies of the board, this final list shall be immediately reported to the board through its executive director. If the schools are being operated by the State Department of Education under delegated authority from the board, the Commissioner of Education shall forward the report to the executive director of the board for transmittal to the members of the board.

Authority: T.C.A. §§ 49—112, 49—1423, 49—1424, 49—1425, 49-2610, 49—1—302, 49—5—515, and 49—50—1001. **Administrative History:** Original rule filed September 30, 1980; effective November 14, 1980. Amendment filed August 20, 1984; effective November 13, 1984. Repeal and new rule filed October 18, 1988; effective January 29, 1989.

0520—4—2—.03 NOTIFICATION – RIGHT TO HEARING.

Every employee terminated under this policy shall be given written notification by the school's Superintendent of release without fault. Every teacher released under this policy shall be furnished a written statement of the reasons for the reduction in force, the manner in which the termination decision was reached, and the information upon which the termination decision was based. Upon request, any such teacher shall be granted a hearing before the State Board of Education, except that the Chairman of the State Board of Education may direct that the hearing be held by a hearing officer appointed pursuant to the Uniform Administrative Procedures Act. For purposes of this section, the word "teacher" shall be as defined as found in T.C.A. 49-5-515(f), except that non-tenured teachers who are not being retained are not entitled to the notice, reasons, and hearing provisions of this section.

Authority: T.C.A. §§ 49—112, 49—1423, 49—1424, 49—1425, 49-2610, 49—1—302, 49—5—511, 49—5—515, and 49—50—1001. **Administrative History:** Original rule filed September 30, 1980; effective November 14, 1980.

(Rule 0520-4-2-.03, continued)

Amendment filed August 20, 1984; effective November 13, 1984. Repeal and new rule filed October 18, 1988; effective January 29, 1989.

0520—4—2—.04 CONDUCT OF HEARINGS.

Any hearing conducted on a reduction in force shall be considered a contested case under the Uniform Administrative Procedures Act, except that the following conditions shall prevail. The request for a hearing shall be in writing and addressed to the Chairman of the State Board of Education and shall be made within ten days of the teacher's receipt of the notice required by this policy. The teacher shall specify the grounds which will support the contention that the decision was contrary to this policy or otherwise unlawful, and shall include a plain statement of facts that supports the contention. Opinions about the comparative wisdom of one course of action or another, judgements about personalities, and considerations as to which areas within a school should suffer reduction are not grounds to contest a decision, nor shall they be considered in any subsequent hearing under this section. At the hearing, the school shall first establish its need to effect a reduction in force, which shall not be subject to cross examination by the teacher. Thereupon, the teacher shall present listed contentions, limited to those grounds specified in the request for hearing and supported by such proof offered in support of the contention as establishes the contention unless it is rebutted. If it is determined by the State Board of Education or the hearing officer that the contention has not been so established, then the hearing shall be concluded at this point. If the hearing continues, the school shall present proof in rebuttal of the teacher's contention or in general support of the decision to terminate. Upon completion of all the proof, the State Board of Education (or the hearing officer) shall arrive at a decision (a recommended decision) based upon the evidence presented at the hearing. The burden shall be upon the teacher to prove by a preponderance of the evidence that the termination was contrary to this policy or otherwise unlawful. The decision (or recommended decision) shall be to sustain the termination or reinstate the teacher, and shall include findings of fact and conclusions of law; and the final decision shall be entered upon the minutes of the board. Reinstatement under this policy shall not preclude the subsequent transfer of the teacher pursuant to board policy, nor shall it preclude a further reduction in force affecting the teacher pursuant to this policy.

Authority: T.C.A. §§ 49—112, 49—1423, 49—1424, 49—1425, 49-2610, 49—1—302, 49—5—512, 49—5—515, and 49—50—1001. *Administrative History:* Original rule filed September 30, 1980; effective November 14, 1980. Amendment filed January 19, 1983; effective April 18, 1983. Amendment filed August 20, 1984; effective November 13, 1984. Repeal and new rule filed October 18, 1988; effective January 29, 1989.