

NOTE: Colorado school districts are required by law to include the manner in which employment contracts will be cancelled when there is a justifiable decrease in the number of teaching positions in either a contract between the Board and teachers or a policy. The law contains some specific direction as to the content or language of the contract or policy. This sample contains the content/language that CASB believes best meets the intent of the law. CASB strongly recommends that the district consult with its own legal counsel to determine appropriate language that meets local circumstances and needs.

Instructional Staff Reduction in Force

A justifiable reduction in the number of teaching positions occurs when the Board determines that a fiscal exigency exists and/or program change is to be made that requires cancellation of one or more teacher contracts. In the event of a potential reduction in force, the following policy and accompanying regulation shall apply and any cancellation of a teacher's employment contract shall be in accordance with this policy and accompanying regulation. This policy and accompanying regulation shall not apply to teacher dismissals, nonrenewals or other personnel actions that do not result in a reduction in the number of teaching positions in the district.

Definitions

For purposes of this policy and accompanying regulation, the following definitions shall apply.

1. "Cancellation of employment" means the cessation of employment of a teacher during the term of the teacher's contract when there is a justifiable reduction in the number of teaching positions in the school district for reason(s) of fiscal exigency and/or program change.
2. "Teacher" means any person who is defined as a teacher under the Teacher Employment, Compensation, and Dismissal Act of 1990, C.R.S. 22-63-101 *et seq.*
3. "Fiscal exigency" means any significant decline in the Board of Education's ability to fund the operations of the district as a result of a decline in student enrollment, restrictions on revenues, increased costs or any other action, event or condition that may cause the district's current or projected budget to be insufficient to adequately meet the district's current or projected needs. A fiscal exigency may exist based solely upon current revenue and expenditure projections.
4. "Program change" means the elimination, curtailment or reorganization of curriculum, programs or operations, or a reorganization or consolidation of two

or more individual schools. A program change may or may not be related to a fiscal exigency.

5. "Day" means each calendar day; provided, however, that if the deadline for any action under this policy or accompanying regulation falls on a Saturday, Sunday or official school holiday, the next following day that is not a Saturday, Sunday or official school holiday shall be the deadline for such action.

Board of Education's preliminary determination and statement

If the Board determines a fiscal exigency exists and/or program change is to be made and such determination may require the cancellation of employment of one or more teachers, it shall adopt a statement that reasonably identifies the fiscal exigency and/or program change and reasons therefor. This statement shall be transmitted to the superintendent and made available to district faculty. The Board shall establish the actual number of teacher contracts to be canceled or the amount of teacher salaries and benefits to be reduced consistent with the Board's authority to establish educational programs within the district.

Superintendent's action

Within 30 days after receiving the Board's statement, the superintendent shall submit to the Board recommendations for the cancellation of employment of particular teachers. In making these recommendations, the superintendent shall not be limited to considering only the teachers in the area(s) or program(s) designated by the Board in its adopted statement.

The superintendent shall consider the following as significant factors in recommending a teacher for cancellation of employment:

1. The needs of the district.
2. Merit, meaning teacher performance as determined by the teacher's performance rating over the previous three year period as assigned pursuant to the school district's performance evaluation system. If the teacher does not have three years of performance ratings from the school district, then the superintendent shall consider only those available performance ratings. Nothing in this policy requires consideration of evaluations conducted in other school districts.

After considering the factors above, the superintendent shall also consider the following factors in recommending a teacher for cancellation of employment:

- 1 Professional experience including experience as an administrator.
2. Education, licensing endorsements and other professional qualifications.
3. Length of service in the school district.
4. Probationary and nonprobationary status.

NOTE: Effective February 15, 2012, SB 191 requires this policy to include consideration of the probationary or nonprobationary status of a teacher and the number of years a teacher has been teaching in the district, as additional factors in determining which employment contracts will be recommended for cancellation as a result of the decrease in teaching positions. Such additional factors may be considered only after the consideration of merit and only if such consideration is in the best interest of the students of the district.

In the event all factors are equal, cancellation of employment shall be accomplished in a manner that best supports the interests of the school district.

Notice and Board action

Notice to individual teachers and any resulting cancellation of employment by the Board shall be in accordance with this policy's accompanying regulation.

Adopted: prior to 1987

Revised: July 1987, April 1991, February 1994, November 1995, June 1998, September 2008, December 2010, December 2011

LEGAL REFS.: C.R.S. 22-60.5-101 *et seq.* (teacher licensure law)
C.R.S. 22-63-101 *et seq.* (Teacher Employment, Compensation, and Dismissal Act of 1990)
C.R.S. 22-63-103(11) (definition of teacher)
C.R.S. 22-63-202 (3) (cancellation of employment contracts-reduction in force)

Dolores School District RE-4A, Dolores, Colorado