

**Tennessee Department of Education
Tennessee School Boards Association
Tennessee Organization of School Superintendents**

Teacher Placement
Guiding Principles & Model Practices

GOAL: **Establish a framework whereby all teacher placement decisions are based on the needs of students and the effectiveness of the teacher.**

GUIDING PRINCIPLES:

1. Use evaluations and student achievement data to drive teacher placement
 2. Base reductions in force and recall on effectiveness of teachers
 3. Avoid seniority as a determining factor in personnel decisions
 4. Strive for placements that have the buy-in of the principal and the teacher
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ITEM 1: REDUCTIONS IN FORCE

I. Statutory requirements

When it becomes necessary to reduce the number of teaching positions or nonlicensed positions in the system because of a decrease in enrollment or for other good reasons, the board shall be empowered to dismiss such teachers or nonlicensed employees ~~as may be necessary~~. The board shall give the teacher or nonlicensed employee written notice of dismissal explaining fully the circumstances or conditions making the dismissal necessary. [T.C.A. § 49-5-511(b)(1)&(2)]

Evaluations (the annual evaluation of all teachers and principals employed by LEAs) shall be a factor in employment decisions, including, but not necessarily limited to, promotion, retention, termination, compensation and the attainment of tenure status. [T.C.A. § 49-1-302(d)(2) – “*First to the Top Act of 2010*”]

II. Example of negotiated contract language to avoid incorporating in policy and/or procedures

When certified employee reductions are necessary, systemwide seniority and certification will be considered. If the requirements of certification are fulfilled, systemwide seniority shall be the controlling factor and teachers with the least amount of seniority shall be laid off first. In the event no vacancy exists for which the teacher affected by staff reduction is certified, the teacher may exercise his/her seniority to “bump” the teacher with the least amount of seniority that is in a position for which the senior teacher is certified.

Comments:

The above language ignores teacher performance and fails to consider the negative impact of treating teachers as interchangeable parts. The newest teachers affected by the necessary reduction in force could very well be the most effective. In fact, studies reveal that only 13 to 16 percent of the teachers laid off in a seniority-based system would also have been cut under an effectiveness-based system.¹ In addition, the language is inconsistent with the mandates of the “First to the Top Act of 2010” to the extent it prohibits evaluations from being factored into reductions in force decisions.

III. Model base policy language

The director of schools shall develop procedures regarding the dismissal of certified employees as required in the best interests of the students or as necessary for the efficient operation of the schools. No single criterion, such as seniority, shall be used as the basis of any such dismissal.

IV. Additional model language/procedures to consider

- The certified employees’ most recent evaluations, as adopted by the state board of education, shall be a primary factor in the director’s dismissal of such employees due to reductions in force.
- Seniority shall not be a determining factor in the dismissal of certified employees dismissed due to reductions in force and shall be considered only if factors pertinent to the teachers’ performance evaluations are equal.
- When certified employees are dismissed due to a reduction in force, the director shall take into consideration the principal’s recommendations relative to his or her evaluation of the teacher’s performance and ability to improve student achievement.

ITEM 2: RECALL

I. Statutory requirements

A tenured teacher who has been dismissed because of abolition of position shall be placed on a preferred list for reemployment in the first vacancy the teacher is qualified by training and experience to fill. Nothing shall deprive the director of the power to determine the filling of such vacancy on the basis of the director’s evaluation of the teacher’s competence, compatibility and suitability to properly discharge duties required for the vacant position considered in the light of the best interests of the students in the school where the vacancy exists. The teacher’s most recent evaluation may be a factor in such determination. [T.C.A. § 49-5-511(b)(3)]

Evaluations (the annual evaluation of all teachers and principals employed by LEAs) shall be a factor in employment decisions, including, but not necessarily limited to, promotion, retention, termination, compensation and the attainment of tenure status. [T.C.A. § 49-1-302(d)(2) – “First to the Top Act of 2010”]

¹ The Case Against Quality-Blind Teacher Layoffs. The New Teacher Project. February 2011.

Comments:

While the statutory provisions above require the director to consider a teacher placed on the preferred list for reemployment for vacancies within the district, the law does not mandate that these teachers be placed in such positions if placement is not in the best interests of the students. In addition, with 2011's reform to the state's teacher tenure law, it is clear teacher evaluations may be a factor in determining whether a teacher on the preferred list is the appropriate choice for a particular position. The noted "First to the Top Act" provision goes even further requiring evaluations to factor into a recall decision.

II. Example of negotiated contract language to avoid incorporating in policy and/or procedures

All certified employees dismissed due to reductions in force shall be re-employed in order of system seniority within their area of certification. No individuals may be hired for vacant positions while employees within the area of certification are on the system's recall list unless the remaining eligible employees have refused the available position.

Comments:

As with the example reduction in force language, this clause removes the ability of the school system to consider the effectiveness of the teacher when determining the filling of a vacancy and thus violates the "First to the Top Act," which requires evaluations to factor into these types of employment decisions. Instead, it restricts the director's authority to examine all relevant factors and limits consideration to only certification and individuals on the recall list.

III. Model base policy language

The director of schools shall develop procedures regarding the recall of certified employees affected by reductions in force. All such reemployment decisions shall be made in the best interests of students and the efficient operation of the schools within the district. No single criterion, such as seniority, shall be used as the basis of any re-employment decision.

IV. Additional model language/procedures to consider

- The certified employees' most recent evaluations, as adopted by the state board of education, shall be a primary factor in the director's placement of a teacher affected by a reduction in force.
- Nothing shall prohibit the director from filling a vacancy with a certified employee not included on the preferred list for reemployment provided the director has considered teachers on the preferred list pursuant to state law and found the employment of such teachers to be contrary to the best interests of the students in the school where the vacancy exists.
- A teacher may be recalled to a vacant position within a school only if the principal interviews the teacher and consents to the hire.²

² We recognize individual circumstances may place constraints on the ability of a system to implement principal consent in every recall scenario. However, every effort should be made to include the principal in the decision-making process.

ITEM 3: TRANSFERS & ASSIGNMENTS

I. Statutory requirements

It is the duty of the board of education to assign to its director of schools the duty to:

- ✓ Assign teachers and educational assistants to the several schools. [T.C.A. § 49-2-301(b)(1)(L)]
- ✓ Within the approved budget and consistent with existing state laws and board policies, employ, transfer, suspend, non-renew and dismiss all personnel, licensed or otherwise, except as provided in § 49-2-203(a)(1) and in Chapter 5, Part 5 of this title. [T.C.A. § 49-2-301(b)(1)(EE)]

The director of schools, when necessary to the efficient of operation of the school system, may transfer a teacher from one location to another within the school system, or from one type of work to another for which the teacher is qualified and licensed; provided, that transfers shall be acted upon in accordance with board policy. [T.C.A. § 49-5-510]

Evaluations (the annual evaluation of all teachers and principals employed by LEAs) shall be a factor in employment decisions, including, but not necessarily limited to, promotion, retention, termination, compensation and the attainment of tenure status. [T.C.A. § 49-1-302(d)(2) – “*First to the Top Act of 2010*”]

II. Examples of negotiated contract language to avoid incorporating in policy and/or procedures

In the event of a vacancy, the principal or individual designated by the director of schools shall interview and select from the five most senior employees who apply for and meet the certification criteria for the position.

If no certified employees apply for the vacancy, the position may be filled at the director’s discretion; provided, however, in the event of an involuntary transfer of a certified employee to the vacant position, the vacancy shall be filled by the teacher with the least amount of seniority who meets the certification criteria.

Comments:

This language greatly limits the ability of the district to select the most qualified teacher for the particular vacant position. While the most senior applicant may be the best fit for the position, there are numerous other factors that should be considered outside of length of service and certification, most notably the teachers’ performance evaluations as well as the qualifications demonstrated during the selection process. In addition, if there are volunteers for a transfer, this language prohibits the district from hiring a new teacher or one from outside the system even if such teacher is the most qualified.

In terms of involuntary transfers, the language bases placement on seniority and creates a potential cycle of additional vacancies that must be filled using factors that do not include the effectiveness of the teacher or the needs of the students.

In the case of a transfer to fill a vacancy, volunteers certified in the affected area will be sought by the principal. If no one volunteers for the position, the principal will implement an involuntary transfer with seniority as the determining factor. However, exceptions to seniority may be made if necessitated by any of the following criteria:

1. *Certification*
2. *Diversity*
3. *Instructional program needs*
4. *Extracurricular assignments*

Comments:

While the language above permits certain exceptions to seniority-based transfers, it is not clear whether evaluations or effectiveness could be used within the exception of “instructional program needs.” The vagueness of the language opens the door to challenges to transfers based on teacher effectiveness and could limit the district’s ability to make decisions in the best interests of students.

III. Model base policy language

The director of schools shall develop procedures regarding the transfer of employees. All such transfer decisions shall be made in the best interests of students or as necessary for the efficient operation of the schools within the district. No single criterion, such as seniority, shall be used as the basis of any transfer decision.

IV. Additional model language/procedures to consider

- The certified employees’ most recent evaluations, as adopted by the state board of education, shall be a primary factor in the director’s decision to transfer a teacher.
- Individual student performance on relevant assessments shall be a factor in determining appropriate transfer decisions.
- A teacher may be transferred to a school only if the principal interviews the teacher and consents to the transfer.³

³ As with recall decisions, we recognize individual circumstances may place constraints on the ability of a system to implement principal consent in every transfer situation. However, every effort should be made to include the principal in the decision-making process.