

SUGGESTIONS FOR DEVELOPING A REDUCTION IN FORCE POLICY

Ohio District - LCMS

INTRODUCTION

School enrollment in individual congregations may go through periods of dramatic growth and disappointing decline. While it is unwise to add or reduce permanent staff too hastily in response to temporary enrollment aberrations, long-term enrollment trends sometimes do mandate these actions.

During an extended period of declining enrollment, wise and prudent stewardship of congregational resources may require that the congregation reduce its teaching staff by one or more teachers. Natural attrition, i.e., retirement or accepting a call to another congregation, is the least stressful and painful way to reduce staff. Unfortunately, these options are not always present at the time reduction in force is required. For such a time as this, it is essential that the congregation formulate, adopt and follow a reduction in force policy. This policy should be formulated to concur with and support calling and employment policies. Ideally, the policy should be developed before it needs to be implemented. All teachers should be given a copy of the policy and sign in receipt of that policy.

STATUTORY GUIDANCE

Ohio statutes relating to reduction in force in the public schools (O.R.C. 3319.17) relate to the public schools and are not directly binding on parochial schools. Therefore, as a legal matter, a Lutheran school in Ohio may adopt reduction in force policies free from these statutory constraints. It is fair to acknowledge, however, that the statutes contain some useful legal concepts worthy of consideration as background information by congregational boards of education as they develop reduction in force policies. The pertinent statutory references are included at the end of this document.

CONTRACTUAL CONSIDERATIONS

Most Lutheran schools use some form of teacher call document or contract which is renewable from year to year. If written call documents or contracts are in use, those call documents or contracts should be carefully reviewed to make certain that they do not contain any provisions which would conflict with the reduction in force policy. Contracts in use in the public schools generally provide for the automatic renewal of contracts unless notice is given by a certain date. If that is a concept which has been "borrowed" from the public schools, naturally, the school would have to abide by those contractual terms.

Some schools use a system of "tenure." Again, Lutheran schools would not be subject to the statutory system which affects the public schools. Nevertheless, a system of tenure implies that a teacher has contractual rights, either set out in a specific written agreement or perhaps incorporated in school board policy, which assures that a tenured teacher will not lose his or her employment except for specific reasons. Any school which has created a system of tenure through contract, or through written policy, should carefully review the tenure provisions to make sure they do not conflict with the reduction in force policy.

FACTORS WHICH MAY BE CONSIDERED WHEN DETERMINING WHICH INDIVIDUAL(S) WILL BE RELEASED

1. The specific position(s), programs(s), or area(s) of ministry subject to reduction.
2. Length of service to the congregation

3. Call vs. Contract
4. Certification (ministerial and/or professional) and endorsements as reflected in the calling and hiring policies of the congregation
5. Overall ministry needs of the congregation
6. Individual talents and abilities
7. Contribution to the school and church program

Note: If evaluation is to be used to determine relative abilities and contributions, criteria, format and procedure for evaluation should be shared with staff members before they are used. A record of several such evaluations provides more useful information than a single evaluation.

ILLEGAL PRACTICES TO BE AVOIDED

1. Discrimination on the basis of race, national origin, gender, or, age. (Lutheran schools may give preferential treatment in hiring or retention to members of the congregation, of Synod, and to certified Ministers of Religion: Commissioned in keeping with their calling or employment policies.)
2. Discrimination on the basis of age or seniority, i.e., terminating more senior staff members to replace them with less experienced people at lower salaries.
3. Targeting an individual for reduction on the basis of grudge, spite, jealousy, or other personal considerations.

PROCESS

Reduction in force should be a process rather than an event. The process should include, but may not necessarily be limited to, steps such as the following:

1. On the basis of reasonable cause, i.e., declining enrollment, budget constraints, program changes, the School Board prepares a recommendation to present to the congregational Voters Assembly which formally decides that a reduction in school staff is needed at the beginning of the next school year. This decision is communicated to the school staff.

The School Board will first make a "program" decision regarding which programs are to be reduced or eliminated, and then at a separate meeting make the actual staff reduction decision based on the seven retention criteria set forth in the policy.

2. The principal presents to the School Board those programs which could be considered for reduction. In consultation with other affected boards, the School Board determines which specific program reduction(s) are to be recommended. The Board reports its recommendation to the Church Council and Voters Assembly. The Voters Assembly decides which program(s) will be reduced or eliminated.
3. If the recommendation is likely to result in the termination of a teacher:
 - a. The teacher(s) likely to be affected shall be notified immediately in person and in writing.
 - b. Alternatives to termination, i.e. early retirement, reassignment, resignation, placing name(s) on the Synodical call list shall be considered. Reassignments affecting other teachers shall to the extent possible be made by mutual consent. The best interests of the school, the

congregation, and their ministry shall be the overriding concern in the decision process. Final decision regarding reassignments shall be made by the Board after hearing the recommendation of the principal.

4. The final recommendation as to which staff members and/or positions are to be terminated or eliminated shall be made by the School Board, considering the recommendation of the principal. In the case of a called worker this recommendation must be presented to and adopted by the Voters Assembly at a legally convened meeting.
5. If possible given the circumstances, notice of termination should be given to the affected teacher no less than sixty days prior to the end of the school year. Otherwise, such notice should be given as soon as possible so as to provide the teacher with sufficient time to pursue other employment possibilities.
6. A terminated staff member should be entitled to unused vacation pay, Concordia Plans coverage for at least one full quarter beyond the last quarter of employment, and no less than 60 days full pay and 30 days half pay after the end of the school year. (It is suggested that you contact the Ohio District Supt. of Schools for the current recommendations.)
7. The principal and school board should make a good faith effort to help a teacher terminated because of reduction in force to secure another position.
8. To help soften the blow of staff reduction a bit, schools may want to consider adding some recall privileges such as the following to the policy:

REDUCTION IN FORCE; EMPLOYEE; CONTRACT TERMINATED; EFFECT; RECALL; RIGHTS.

Any teacher whose call or contract shall be terminated because of reduction in force shall be considered to have been dismissed with honor and shall upon request be provided a letter to that effect. Such teacher shall be given preferential consideration for reemployment for a period of twenty-four months commencing at the end of the contract year. The teacher may be recalled on the basis of length of service to the school to a position for which he or she is qualified by synodical certification, endorsement, college preparation, or experience to teach. The teacher shall, upon reappointment, retain any benefits which had accrued to said teacher prior to termination, but such leave of absence shall not be considered as a year of teaching experience.

STATUTORY GUIDANCE – OH REVISED CODE – 3319.17

§ 3319.17 Reduction in number of teachers; restoration.

(A) As used in this section, "interdistrict contract" means any contract or agreement entered into by an educational service center governing board and another board or other public entity pursuant to section [3313.17](#), [3313.841](#) [3313.84.1], 3313.842 [3313.84.2], 3313.843 [3313.84.3], 3313.91, or 3323.08 of the Revised Code, including any such contract or agreement for the provision of services funded under division (L) of section [3317.024](#) [3317.02.4] of the Revised Code or provided in any unit approved under section [3317.05](#) of the Revised Code.

(B) When, for any of the following reasons that apply to any city, exempted village, local, or joint vocational school district or any educational service center, the board decides that it will be necessary to reduce the number of teachers it employs, it may make a reasonable reduction:

(1) In the case of any district or service center, return to duty of regular teachers after leaves of absence including leaves provided pursuant to division (B) of section [3314.10](#) of the Revised Code, suspension of schools, or territorial changes affecting the district or center;

(2) In the case of any city, exempted village, local, or joint vocational school district, decreased enrollment of pupils in the district;

(3) In the case of any governing board of a service center providing any particular service directly to pupils pursuant to one or more interdistrict contracts requiring such service, reduction in the total number of pupils the governing board is required to provide with the service under all interdistrict contracts as a result of the termination or nonrenewal of one or more of these interdistrict contracts;

(4) In the case of any governing board providing any particular service that it does not provide directly to pupils pursuant to one or more interdistrict contracts requiring such service, reduction in the total level of the service the governing board is required to provide under all interdistrict contracts as a result of the termination or nonrenewal of one or more of these interdistrict contracts.

(C) In making any such reduction, any city, exempted village, local, or joint vocational school board shall proceed to suspend contracts in accordance with the recommendation of the superintendent of schools who shall, within each teaching field affected, give preference to teachers on continuing contracts and to teachers who have greater seniority. In making any such reduction, any governing board of a service center shall proceed to suspend contracts in accordance with the recommendation of the superintendent who shall, within each teaching field or service area affected, give preference to teachers on continuing contracts and to teachers who have greater seniority.

The teachers whose continuing contracts are suspended by any board pursuant to this section shall have the right of restoration to continuing service status by that board in the order of seniority of service in the district if and when teaching positions become vacant or are created for which any of such teachers are or become qualified.

HISTORY: GC § 4842-13; 120 v 475(544); 123 v 270; Bureau of Code Revision, 10-1-53; 144 v S 159 (Eff 8-7-92); 146 v H 117 (Eff 9-29-95); 147 v H 215 (Eff 6-30-97); 147 v H 412 (Eff 11-21-97); 147 v H 650. Eff 7-1-98.

The effective date is set by section 28 of HB 650.