

I. AUTHORITY

Pursuant to NMSA 1978 § 22-5-14 (2003), the Superintendent has the authority to discharge professional school personnel during the term of their contracts or to terminate professional school personnel and classified school employees with rights created by NMSA 1978, Section 22-10A-24(C) (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 professional 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.

II. BOARD DISCRETION

The Board is vested with the discretion to develop educational 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 administering 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.

III. 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;**
- 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 identified by the Superintendent which warrant initiation of a RIF process.

IV. GOOD FAITH DETERMINATION

The Superintendent shall exercise discretion in good faith, and determination that a R.I.F. is necessary shall be based on bona fide educational considerations, and shall not be a subterfuge for discharging or terminating personnel without just cause or for impermissible reasons.

V. 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.

VI. DETERMINATION OF NEED FOR REDUCTION IN FORCE

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 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 shall not be necessary if the reductions can be accomplished through attrition (i.e. resignations, retirements, etc.), or by termination of a sufficient number of nontenured staff.

A. Preparation of R.I.F. Plan

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 school districts and the particular educational

needs of the 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 that aspect of the educational program. Such impact shall be described in the R.I.F. plan. The R.I.F. plan shall include, but need not be limited to, the following:

1. a 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., if any (e.g. reduction by attrition, abolition of non-essential services or activities such as extra-curricular programs, etc.);
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; and

The Superintendent shall include in the R.I.F. plan a listing of all extra-curricular, co-curricular and athletic programs or activities which may be considered for rating points in the proposed R.I.F. rating sheet and the proposed weight to be given each category of such programs or activities for discussion at the public meeting at which the R.I.F. plan is considered.

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 discussion and action on the plan shall be in open session; however, nothing herein shall restrict the Board from holding portions of those discussions in closed session, if such discussion would be proper under the New Mexico Open Meetings Act. The Board may allow such review, consultation, and comment by employees and members of the public, as the Board, in its discretion, deems appropriate. The Board may propose modifications to the plan recommended by the Superintendent as it deems appropriate, provided that the

Superintendent shall be the final decision-maker on the content and scope of the plan after giving due consideration to the Board's proposals.

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 as to the projected financial burdens to the District in the future and

concluding that the District cannot survive financially for the fiscal year already underway if the R.I.F. is not carried out.

Any final plan for a R.I.F. shall be made available to all staff, by providing copies thereof in the office of each building principal and at the Superintendent's office, within two (2) work days after the final plan has been approved by the Superintendent.

C. Adopted Plan

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 approved R.I.F. plan, the Administration shall perform a study of the 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 District's interest in maintaining a sound and balanced educational program which is accredited and meets state and federal or regulatory requirements or standards, as well as the educational and extra-curricular program established for the District. In performing the study, the School Administration shall prepare a rating sheet and apply a point scale using the criteria applicable to the affected personnel specified in the following section.

VII. CRITERIA FOR SELECTION OF EMPLOYEES FOR R.I.F.

A. Professional Personnel

1. Licensing as Qualification/Substandard Licenses

Substandard licensure is inferior to full licensure, and a person who is fully licensed to teach within the presently assigned content area shall be retained in preference to a person holding a substandard license.

- a. A person holding a "teaching waiver" of licensure requirements approved by the Public Education Department (per NMSA 1978 Section 22-10A-14B) shall be treated as having substandard licensure for the purpose of this policy, and shall receive zero (0) points for licensure in the survey and on the rating sheet.

- b. A professional person working in the affected content area pursuant to an “assignment waiver” (per NMSA 1978 Section 22-10A-14C), but possessing full licensing in another content area not affected by the RIF shall be allocated five (5) points on the rating sheet.
- c. A person who is fully licensed and teaching in the affected content area shall be allocated ten (10) points on the rating sheet.

2. Endorsements

Professional personnel possessing teaching endorsements recognized by the Public Education Department beyond those requested or required as qualifications for the individual’s current assignment or content area shall receive an additional two (2) points per current valid endorsement, up to a maximum of six (6) points.

3. Extracurricular Licensing/Experience/Assignment.

Licensing, experience and current assignment in the extra-curricular or co-curricular activities which are to be retained as an integral part of the district's overall program for its students may be considered as a qualification requirement, in addition to licensure status, in making selection of personnel to be released under this policy. Head coaches or trainers possessing current licensing as a coach or trainer who are also professional employees of the district may be allocated two (2) points for each head coaching or training assignment up to a maximum of six (6) points for all current assignments. Licensed assistant coaches who are also professional employees of the district may be allocated one (1) point for each assistant coaching assignment up to a maximum of three (3) points for all current assistant coaching assignments.

The Superintendent shall also possess the discretion to grant up to, but no more than, three (3) points for current extra-curricular or co-curricular assignments, requiring specialized knowledge, training, expertise, or significant time commitment, but for which licensing is not available, in programs or activities which the District has determined to retain as an integral part of its overall program.

No employee may receive in excess of ten (10) total points on the rating sheet for extracurricular, athletic or co-curricular assignments. The Administration shall include in the proposed R.I.F. Plan a listing of all extracurricular, athletic and co-curricular programs or activities which may be considered for rating points in the proposed R.I.F. rating sheet and the proposed weight to be given to each category of such programs or

activities for discussion at the Board meeting at which the R.I.F. Plan is considered.

4. Service in District

Where cumulative scores on the rating sheet are equal between two or more school instructors being considered for termination or discharge, tenured school instructors shall be retained in preference to school instructors who have been employed by the district for less than three consecutive school years of service.

- a. Each individual considered for termination or discharge shall be awarded one (1) point for each year of full-time service during the most recent period of uninterrupted service with the district, prior to the current year, excluding approved extended leaves of absence, up to a maximum of twenty (20) points.

5. Education

The amount of credit for education shall be determined based on degree and additional hours:

(1)	B.A.	1 point
(2)	B.A. + 15	2 points
(3)	B.A. + 45 or M.A.	4 points
(4)	M.A. + 15	6 points
(5)	M.A. + 45 and higher	8 points

- 6. Performance [Optional - The School Superintendent shall determine whether this criterion shall be used at the time the R.I.F. Plan is approved.]

The current supervisor of each school instructor considered for termination or each person considered for discharge shall rate the relative performance of each such person on a rating form to be prepared by the Superintendent, or under his/her direction. Such rating form may be based on the district's standard evaluation form(s) rating teacher competencies but may include additional competencies identified by the Superintendent which reflect his or her judgment as to the attributes necessary for success in the particular program(s) affected by a R.I.F. The rating form shall include not more than a total of ten standard and specific competency areas, shall specify the score for each performance category or attribute, and shall allow for a maximum score of twenty (20) points. The supervisor(s) may consult with the Superintendent concerning the implementation of the evaluation. The supervisor(s) shall complete the rating forms and return them to the Superintendent within the time specified for completion of the evaluations.

If different individuals considered for a R.I.F. have different supervisors, the supervisors may consult with each other and/or with the Superintendent to insure that the rating system is applied uniformly. There shall be no requirement of observation of performance by a supervisor specifically for the purpose of completing the rating form; however, each supervisor shall review prior evaluations of the individuals considered for a R.I.F. for a period of the three (3) years immediately prior to the R.I.F, if available. Where a supervisor lacks familiarity with an individual's performance (e.g., a new supervisor), the Superintendent may assign the evaluation to a present or past district administrator or supervisor who has greater familiarity with the individual's performance. The Superintendent may devise such other measures as he or she deems necessary to address with situations where implementation of the performance rating cannot occur in the normal manner, so long as such measures are rationally designed to award points to professional personnel based on the employee's performance.

B. Selection Based on Scores

The Superintendent shall total the points allocated based on the criteria specified above. The person with the lowest score shall be the person who is released by termination or discharge unless such action would have a serious and detrimental effect on the total educational program. In such event, the Superintendent may select a higher scoring person for termination or discharge but shall prepare a written justification for such action in the best interests of the district, along with the rating sheets for such positions. The computations of the Superintendent, plus the rating forms on the persons considered for release, shall be available for review by the person released.

C. Transfers/Reassignment

If, as a result of the application of the selection criteria, a person is selected to be released from the affected program, but such person ("the affected person") is also licensed and qualified for another program(s) within the district, the person shall be considered for transfer or reassignment to such program(s). The fact that there are one or more other licensed employees within the program affected by the R.I.F. who scored higher than the affected person, and that such person(s) may be licensed and qualified to teach or administer in other programs in the district, shall not require that the higher scoring persons be transferred or reassigned to the other program or programs, even if there is a vacancy in the other program or programs. The transfer/ reassignment obligation shall not arise until after the selection of the person or persons to be released from program affected by the R.I.F. and shall only apply to the person or persons selected for release. Consideration of transfer or

reassignment of the affected person shall be governed by the following criteria:

1. **Existing Vacancy** – If, upon the effective date of the termination or discharge due to a R.I.F., there is an existing vacancy in another program for which the affected person is licensed and qualified, he or she shall be transferred or reassigned to that vacant position. There shall be no obligation to create a vacancy to accommodate such person.
2. **No Existing Vacancy** – Where the affected person is licensed and qualified for another program or programs in the district, but all such positions are currently filled, the selection criteria described above, subject to the modifications described below, shall be applied to determine whether the affected person will be transferred or reassigned to another program and another person, currently employed in the other program, shall be released.
 - a. If the person is fully licensed for a position in another program or an administrative position but has not actually taught in such program or held such an administrative position during any part of the preceding five (5) school years, such person shall not be considered qualified for transfer or reassignment to the other position.
 - b. If neither the Superintendent nor the current supervisor of the program has observed the person being considered for transfer or reassignment performing the duties of the other program, it is impractical for the relative performance of the person being considered for transfer or reassignment and the person or persons currently teaching or administering in the program to be rated based on direct observation. Under such circumstances, the Superintendent or his/her designee shall make a judgment as to the likely performance of the person being considered for transfer or reassignment and assign the performance score which may be used in the selection process in comparison to the person or persons currently employed in the other program. The Superintendent or designee shall consider the affected person's performance in other programs and his/her knowledge of all persons in the program in question in making the judgment, and may consult with other knowledgeable persons in making this determination.

Each licensed instructor or administrator discharged and each tenured employee terminated pursuant to this policy shall be entitled to the procedural rights provided under the applicable statutes and regulations of the State Secretary of Education governing discharge of professional school personnel or the termination of tenured employees. The written decision of the Superintendent, to the extent required by statute and

regulation, shall clearly specify that the termination or discharge resulted from a R.I.F. and not from any cause personal to the person released.

D. 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. However, where multiple positions and programs are potentially affected by the R.I.F., the School Administration may prepare a rating sheet which includes the following criteria in making the selection:

1. **Specialized Qualifications/Licenses** - Specialized training/certification or licensing directly related to the current job duties of the classified employee (e.g. electrician's license held by maintenance employee) may be allocated up to, but no more than, five (5) points. This factor excludes credit for extra-curricular licensing.
2. **Service in District** - Each classified employee rated shall be awarded one (1) point for each complete school year of full-time service during the most recent period of uninterrupted service with the District, up to a maximum of twenty (20) points. Periods of extended leave of absence without pay shall not be included. Where cumulative scores are equal, tenured classified individuals (those who have completed three full consecutive years of service in the District) shall be retained over nontenured classified individuals.
3. **Performance** - [Optional - To be used only if directed by School Superintendent] If two or more individuals have equal ratings on the above criteria, the current supervisor of each person classified as support staff who is considered for termination shall rate the relative performance of such person on a rating form to be prepared by the Superintendent. Such rating form will be designed based on the District's performance evaluation form for classified employees. The rating form will allow for a maximum score of twenty (20) points. The forms will be returned to the Superintendent for tabulation.

If different individuals considered for a R.I.F. have different supervisors, the supervisors may consult with each other and/or with the Superintendent to insure that the rating system is applied uniformly. Each supervisor shall review prior evaluations of the individuals considered for a R.I.F. for a period of the three (3) years immediately prior to the R.I.F, if available. Where a supervisor lacks familiarity with an individual's performance (e.g.,

- a new supervisor), the Superintendent may assign the evaluation to a present or past district administrator or supervisor who has greater familiarity with the individual's performance. The Superintendent may devise such other measures as he or she deems necessary to address with situations where implementation of the performance rating cannot occur in the normal manner, so long as such measures are rationally designed to award points to professional personnel based on the employee's performance.
4. **Selection Based on Scores** – The Superintendent shall total the points for service and performance. The person with the lowest score shall be the person who is released. The computations of the Superintendent, plus the rating forms on the persons considered for release, shall be available for review by the person released.
 5. **Transfer/Reassignments** – If, as a result of the application of the selection criteria, a person is selected to be released from the affected program, but such person is tenured and qualified for another program within the District in which a vacancy exists, that person shall be considered for transfer or reassignment to the other program.
 6. **Termination** – 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 classified personnel. The written decision of the Superintendent, 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.

E. 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.

F. 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.

1. 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.
2. In the event that more than one interested person who was discharged or terminated within the calendar year prior to recall is qualified for the position by experience, training, and/or licensure to which a person will be recalled, the selection criteria of this policy will be applied to determine which person is to be recalled. The points accrued for "Service in District" and "Performance" shall be the same as when the persons were discharged or terminated, but additional points for any additional education earned after the discharge or termination which is directly related to the recalled individual's assignment shall be credited and considered.
3. Any person selected for recall hereunder shall receive written notification of the recall, by certified mail, at the address provided. The recalled person must accept the position offered through recall in writing. Such acceptance must be received in the Superintendent's office within fifteen (15) calendar days after mailing of the recall notice to the person. Rejection of the offer, in writing or by failure to timely respond, shall result in forfeiture by the recalled person of any further recall rights under this policy. Thereafter, an offer of recall will be made to the next person qualified to be recalled, or if there is none, the position will be filled by another qualified applicant.
4. Any person recalled pursuant to this policy shall have all accrued but unused sick leave restored and be given credit for all years of previously-credited service for salary purposes.
5. After the one-year recall period has expired, any person discharged or terminated under this policy shall no longer have any right to be recalled. Such persons who wish to be reemployed thereafter shall file applications for employment and will be treated as would any other applicant for a vacant position.

In the event legislation is passed which requires the Superintendent to reduce professional 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 professional school personnel to another district, or other state-level orders resulting from the exercise of governmental 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.