

**RESCIND BOARD REPORT 03-0423-PO02
AND ADOPT A NEW POLICY ON THE LAYOFF, INTERIM ASSIGNMENT AND
REAPPOINTMENT OF EDUCATIONAL SUPPORT PERSONNEL EMPLOYEES**

THE CHIEF EXECUTIVE OFFICER RECOMMENDS:

That the Board rescind Board Report 03-0423-PO02 and adopt a new policy on the Layoff, Interim Assignment and Reappointment of Educational Support Personnel Employees Policy.

PURPOSE: The purpose of this policy is to establish the requirements by which the Chief Executive Officer or designee may exercise their delegated authority over layoff of personnel as set out in Board Rules 4-1(a)(14) and (16).

POLICY TEXT:

I. LAYOFF, RE-STAFFING, AND REAPPOINTMENT OF BARGAINING UNIT ESP

The provisions of Section I of this policy govern the CEO's or designee's decisions to layoff Board employees in educational support personnel classifications or job titles in bargaining units certified for the purposes of collective bargaining ("bargaining unit ESP employees").

A. Reasons for Reductions in Force of Bargaining Unit ESP Employees: The CEO or designee may conduct reductions in force, layoff or dismiss bargaining unit ESP employees for the following reasons:

- (1) lack of work or funds,
- (2) decline in student enrollment,
- (3) change in subject requirements,
- (4) closing of an attendance center, department or unit,
- (5) privatization contracts with third parties,
- (6) abolition of positions because of changes in duties associated with them,
- (7) change in organizational structure,
- (8) reconstitution of attendance centers pursuant to section 34-8.3 of the Illinois School Code,
- (9) intervention in an attendance center under section 34-8.4 of the Illinois School Code, or
- (10) any other reason, which in the exercise of the CEO or designee's discretion, make a reduction in force necessary or prudent.

B. Notice of Layoff. When the CEO or designee decides to conduct a reduction in the work force which results in the layoff of bargaining unit ESP employees, the CEO or designee will give fourteen (14) calendar days advance written notice to affected bargaining unit ESP employees or, if notice is given during the bargaining unit ESP employees' regular work year, fourteen (14) calendar days pay in lieu of advance notice. The CEO or designee will enclose with the notice of layoff: (1) a list of ESP vacancies then existing; (2) instructions about how to learn about future ESP vacancies; (3) instructions on how to apply for bargaining unit vacancies posted on the Human Resources Department's on-line job bulletin in accordance with Section I.E.1 of this policy; and (4) instructions on how to change address and contact information with the Department of Human Resources.

C. Criteria for Determining Bargaining Unit ESP Employees to Be Laid Off. Except in cases where an attendance center or unit is closed under the Board's Closing of Schools Policy, reconstituted or closed pursuant to Section 34-8.3 of the Illinois School Code or subject to intervention pursuant to Section 34-8.4 of the Illinois School Code, the CEO or designee will consider one or more of the following factors in determining which employees shall be laid off:

- (1) job classification,
- (2) department or attendance center where assigned,
- (3) seniority,
- (4) recent performance ratings or evaluations, certifications or other qualifications,
- (5) where applicable, whether the employee is highly qualified under the No Child Left Behind Act and applicable Board policies, and state and federal regulations, and/or
- (6) any other factors related to job performance.

The weight to be accorded to each factor considered shall be left to the CEO's or designee's discretion.

For the purposes of this policy only, "seniority" with regard to layoff and reappointment shall mean the length of full-time accumulated service in any career service/ESP position, with such seniority accruing from the date of initial appointment to a career service/ESP position with the Board. This definition of "seniority" shall apply only to those ESP employees who are represented by a bargaining unit at the time of their layoff.

D. Re-staffing of a Bargaining Unit ESP Position in the Laid Off ESP Employee's Classification or Job Title at the School or Unit During the 10 school months following Layoff of Bargaining Unit ESP Employees. Except as provided in Section I.F of this policy (concerning layoffs under the Board's Closing of Schools Policy or Sections 34-8.3 or 34-8.4 of the Illinois School Code), if a school or unit opens a bargaining unit position in the same job title from which one or more ESP employees at that school or unit was laid off within ten (10) school months of the effective date of the affected laid off bargaining unit ESP employee(s)' layoff(s), the CEO or designee shall offer to re-staff laid off bargaining unit ESP employees to the position in order of seniority, provided that the laid off bargaining unit ESP employee meets all of the qualifications for the position, including, where applicable, being highly qualified for the position in accordance with applicable Board policies and state and federal rules and regulations. The CEO or designee shall make the offer to re-staff to an eligible laid off bargaining unit ESP irrespective of whether or not a laid off bargaining unit ESP has accepted an interim assignment under the provisions of Section I.E of this Policy or a permanent appointment in another position or at another school. A laid off bargaining unit ESP employee offered re-staffing under this provision must demonstrate highly qualified status for the position to the Department of Human Resources in accordance with existing staffing procedures. Failure to do so will result in revocation of the offer to re-staff.

E. Eligibility Pool for Consideration for and Interim Assignment to Certain Bargaining Unit Positions. The CEO or designee shall maintain a list of laid off bargaining unit ESP employees by job title who are seeking re-employment with the Board for a period of ten (10) school months after the effective date of their layoff. The list will constitute the eligibility pool. Laid off bargaining unit ESP employees in the eligibility pool will be eligible for interviews for appointment to Board-funded positions for which they apply in accordance with this Policy and for an interim assignment to a vacant position in the title from which they were laid off and for which they meet the minimum qualifications as follows:

(1) *Eligibility for Interviews for Bargaining Unit ESP Vacancies Posted on the Human Resources Department's On-line Job Bulletin.* A laid off bargaining unit ESP employee in the eligibility pool may apply for Board-funded bargaining unit vacancies in his/her former job title at schools or units other than that from which he/she was laid off that are posted on the Human Resources Department's on-line job bulletin for which they qualify by submitting a timely application to the Department of Human Resources in accordance with instructions in their notice of layoff and in accordance with the posting. If a laid off bargaining unit ESP employee applies for a Board-funded vacant bargaining unit ESP position and meets the minimum qualifications for the position as advertised including being highly qualified in accordance with Board Policy and state and federal regulations, the principal or unit head shall interview and give the laid off bargaining unit ESP consideration for appointment to the position on the same terms as other qualified applicants. In order to qualify for an interview, the laid off bargaining unit ESP employee must submit a timely application to the Department of Human Resources and must demonstrate to the Department of Human Resources in his/her application or resume that he/she meets the minimum qualifications of the position including, where applicable, being highly qualified for the position in accordance with applicable state and federal rules and regulations.

(2) *Eligibility for Interim (Temporary) Assignment at another School or Unit to a Vacancy in the Laid Off Employee's Former Title.* If a position in a laid off bargaining unit ESP employee's former job title at a School or Unit other than that from which the bargaining unit ESP employee was laid off remains vacant for a period of forty-five (45) calendar days after it was created or became vacant and no offer of employment to a candidate is pending the CEO or designee will offer to assign and, if the offer is accepted, assign a laid off bargaining unit ESP employee who is in the eligibility pool to the vacant bargaining unit ESP position on an interim (temporary) basis provided the laid off bargaining unit ESP employee:

- a. meets the minimum qualifications of the position, including, where applicable, being highly qualified for the position in accordance with applicable state and federal rules and regulations;
- b. has a minimum efficiency rating of 70% in his/her previous position; and,
- c. did not have disciplinary action pending at the time of his/her layoff; and,
- d. has not received a disciplinary suspension in the ten (10) school months immediately preceding his/her layoff.

If there is more than one laid off bargaining unit ESP eligible for an interim assignment, the CEO or designee shall offer interim assignments to eligible and qualified laid off bargaining unit ESP employees in order of seniority. If a laid off bargaining unit ESP rejects an offer of an interim assignment, the laid off ESP employee will forfeit his/her place in the eligibility pool.

An interim assignment shall be for a maximum of sixty school (60) calendar days. At any point during the interim assignment, the principal or unit or department head may remove or replace the laid off bargaining unit ESP employee by appointing another employee or applicant to the position. If the laid off bargaining unit ESP who was given an interim assignment is not removed or replaced during the sixty (60) calendar day interim period, the CEO or designee shall appoint him/her to the position. If the laid off bargaining unit ESP is appointed to the position, the CEO or designee shall remove him/her from the eligibility pool. If a laid off bargaining unit ESP is removed from the interim position, the CEO shall return him or her to the eligibility pool, provided however that the interim assignment shall not extend his/her maximum period of ten (10) school months in the eligibility pool.

F. ESP Layoffs Due to School or Unit Closing or In Connection with Board Remedial Actions Under Section 34-8.3 or Section 34-8.4 (Intervention). In cases in which the CEO or designee conducts a reduction in force or layoff due to School or Unit closings, or in connection with Board remedial action under Section 34-8.3 or Section 34-8.4 of the Illinois School Code, Section I.D of this Policy shall not apply to those ESPs.

G. Effect of Layoff/Appointment after Layoff. A layoff of bargaining unit ESP employees shall result in the severance of the bargaining unit ESP employees' employment. The CEO or designee shall pay out to the laid off bargaining unit employee his/her final wages and transmit to him/her applicable benefit notices in accordance with applicable law. In the event a laid off bargaining unit ESP employee is appointed to any position within ten (10) school months of the effective date of his/her layoff, the CEO or designee shall appoint the laid off bargaining unit ESP employee to the position without loss of seniority and shall restore his/her sick and personal leave benefit day balances existing on the effective date of layoff. If the laid off bargaining unit ESP employee is appointed to a position more than ten (10) school months after the effective date of his/her layoff, the CEO or designee shall appoint the laid off bargaining unit ESP employee to the position as a new employee with a new seniority date and shall not restore sick and personal benefit day balances existing at the time of his/her layoff.

II. LAYOFF OF ESPS NOT IN UNITS ORGANIZED FOR COLLECTIVE BARGAINING

The provisions of Section II of this policy govern the CEO or designee's decisions to layoff Board employees in educational support personnel classifications or job titles that are not in bargaining units recognized for the purposes of collective bargaining ("non-bargaining unit ESP employees").

A. Reasons for Reductions in Force of Non-Bargaining Unit Employees: The Chief Executive Officer (CEO) or designee may conduct reductions in force or layoff non-bargaining unit ESP employees for the following reasons:

- (1) lack of work or funds,
- (2) decline in student enrollment,
- (3) change in subject requirements,
- (4) closing of an attendance center, department or unit,
- (5) privatization contracts with third parties,
- (6) abolition of positions because of changes in duties associated with them,
- (7) change in organizational structure,
- (8) reconstitution of attendance centers pursuant to section 34-8.3 of the Illinois School Code,
- (9) intervention in an attendance center under section 34-8.4 of the Illinois School Code, or
- (10) any other reason, which in the exercise of the CEO or designee's discretion, make a reduction in force necessary or prudent.

B. Notice of Layoff. When the CEO or designee decides to conduct a reduction in the work force which results in the layoff of non-bargaining unit ESP employees, the CEO or designee will give fourteen (14) calendar days advance written notice to affected bargaining unit ESP employees or, if notice is given during the non-bargaining unit ESP employees' regular work year, fourteen (14) calendar days pay in lieu of advance notice. The CEO or designee will enclose with the notice of layoff: (1) a list of ESP vacancies then existing; (2) instructions about how to learn about future ESP vacancies; (3) instructions on how to apply for bargaining unit vacancies posted on the Human Resources Department's on-line job bulletin in accordance with Section I.E.1 of this policy; and (4) instructions on how to change address and contact information with the Department of Human Resources.

C. Criteria For Determining ESPs To Be Laid Off. Except in cases where an attendance center or unit is closed under the Board's Closing of Schools Policy, reconstituted or closed pursuant to Section 34-8.3 of the Illinois School Code or subject to intervention pursuant to Section 34-8.4 of the Illinois School Code, the CEO or designee will consider one or more of the following factors in determining which ESP employees shall be laid off:

- (1) job classification,
- (2) department or attendance center where assigned,
- (3) recent performance ratings or evaluations, certifications or other qualifications,
- (4) experience and seniority,
- (5) where applicable, whether the employee is highly qualified under the No Child Left Behind Act and applicable Board policies, and state and federal regulations, and/or
- (6) any other factors related to job performance.

The weight to be accorded to each factor considered shall be left to the CEO's or designee's discretion.

D. Effect of Layoff/Appointment after Layoff. A layoff of ESP employees shall result in the severance of the non-bargaining unit ESP employees' employment. The CEO or designee shall pay out to the laid off ESP his/her final wages and transmit to him/her applicable benefit notices in accordance with applicable law. In the event a laid off ESP employee is appointed to any position within ten (10) school months of the effective date of his/her layoff, the CEO or designee shall appoint the laid off non-bargaining unit ESP employee to the position without loss of seniority and shall restore his/her sick and personal leave benefit day balances existing on the effective date of layoff. If the laid off ESP is appointed to a position more than ten (10) school months after the effective date of his/her layoff, the CEO or designee shall appoint the laid off bargaining unit employee to the position as a new employee with a new seniority date and shall not restore sick and personal benefit day balances existing at the time of his/her layoff.

III. NOTICES AND COMMUNICATIONS WITH LAID OFF EMPLOYEES/ADDRESSES AND TELEPHONE NUMBERS

Laid off bargaining unit or non-bargaining unit ESP employees shall bear the burden of ensuring that the Department of Human Resources has their current telephone number, home address, and, where available, home or other electronic mail address. Laid off bargaining unit or non-bargaining unit ESP employees shall be responsible for submitting changes of address and contact information with the Department of Human Resources in accordance with its procedures. Except for the Notice of Layoff and post-layoff benefit notices, which the CEO or designee shall transmit to the laid off bargaining unit or non-bargaining unit ESP employee by regular or certified mail to their last home address that is on file at the Board's Department of Human Resources, the CEO or designee may communicate offers of re-staffing, interim assignment, and interviews for positions telephonically, via regular mail or via electronic mail as the CEO or designee deems appropriate under the circumstances. If laid off bargaining unit or non-bargaining unit ESP employees cannot be reached at the telephone number, address or electronic mail address then on file with the Department of Human Resources within three (3) business days of the CEO or designee's attempt to reach them, the CEO's or designee's obligation, if any, to offer to re-staff, assign on an interim basis or interview set forth in this policy, will be deemed satisfied and discharged.

IV. CEO'S REPORT TO THE BOARD OF ALL ESP EMPLOYEES LAID OFF

The CEO shall report the number of ESP employees laid off to the Board in the CEO's quarterly report of personnel transactions as provided in Board Rule 4-1(b).

V. EFFECTIVE DATE

This policy is effective prospectively only with respect to ESPs who receive a notice of removal on or after September 26, 2007. Any ESP employee given a notice of removal prior to September 26, 2007 will be subject to the provisions of the predecessor to this policy, Board Report 03-0423-PO02, which was adopted on April 23, 2003.

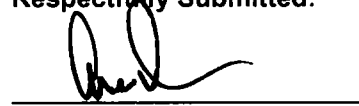
Reviewed for Consideration:


Barbara Eason-Watkins
Chief Education Officer

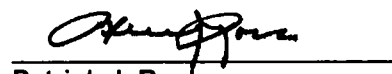
Noted:


Pedro Martinez
Chief Financial Officer

Respectfully Submitted:


Arne Duncan
Chief Executive Officer

Approved as to Legal Form: 


Patrick J. Rocks
General Counsel