

REGULATION

MONTGOMERY COUNTY PUBLIC SCHOOLS

Related Entries: GFA, GFB, GFB-RA, GFB-RB, GHA-RA, GKA-RA

Office: Executive Assistant
Department of Personnel Services

Establishment and Abolishment of Positions

I. PURPOSE

To outline procedures for establishing or abolishing a position and terminating or reassigning employees assigned to positions which have been abolished

II. DEFINITIONS

A. *Agreement Between the Board of Education and the Montgomery County Council of Supporting Services Employees (1984-87)*

1. Permanent Position

A permanent position is one which has been established by the Board with the anticipation that it will be necessary to maintain the existence of such position indefinitely on a continuous year-round or school-year basis. (Article 3, Section B.1.)

2. Conditional Position

A conditional position is one established by the Board for the period of time that monies are available in whole or in part from the United States Government, a private organization, a foundation, a revenue-producing source, or an individual for use in special research or other long-term projects. This position shall be automatically abolished when no longer needed or when funds are no longer made available. (Article 3, Section B.2.)

3. Temporary Position

A temporary position is one not continuous in nature and established for a period normally not to exceed six (6) months. (Article 3, Section C.1.)

B. *Agreement Between the Board of Education and the Montgomery County Education Association (1984-87)*

The Board of Education of Montgomery County retains the right to reduce its force, and its decision on such reduction is not subject to the grievance procedure. However, any action taken under Sections B., C., and D. of this article shall be grievable.

Reduction of professional staff shall mean that the termination of a unit member(s) will occur because of one or more of the following reasons:

1. Decrease in student enrollment
2. Changes in curriculum
3. Decline in subject or grade level enrollment
4. Budget limitations (Article 30, Section A.)

III. **PROCEDURES**

A. Establishing a Position

1. Permanent or Conditional Position
 - a) During the development of the annual operating budget or at other times during the fiscal year to implement program and organizational changes, the program manager submits a request and justification for the establishment of a new position to the responsible associate superintendent.
 - b) The associate superintendent is responsible for approving or disapproving the request for further consideration by the superintendent. If the request is approved, the program manager completes MCPS Form 460-17: *Request for Classification of a Proposed New Position*, for each new position requested, except the following basic classifications.

Supporting Services Positions

- (1) School Secretary
- (2) School-based Building Services Worker
- (3) School Lunch Personnel
- (4) Media Assistant
- (5) Bus Operator and Attendant
- (6) Special Education Instructional Assistant
- (7) Teacher Assistant
- (8) English Composition Assistant
- (9) Safety and Security Assistant
- (10) Career Information Assistant
- (11) Instructional Assistant

Professional Positions

- (1) Teacher (classroom, media specialist, counselor)
- (2) Principal
- (3) Assistant Principal
- (4) Pupil Personnel Worker
- (5) Psychologist
- (6) Systems Analyst
- (7) Social Worker

The completed form is forwarded to the Department of Personnel Services.

- c) In accordance with MCPS Regulation GHA-RA: *Maintenance of the Position Classification Plan*, the Department of Personnel Services determines the appropriate classification (position title and pay grade).
- d) With the approval of the superintendent, the request for the establishment of a new position is included in the proposed operating budget or submitted to the Board of Education as an agenda item for appropriate action.

2. Temporary Position

- a) The program manager submits a request for the establishment of a temporary position to the responsible associate superintendent for approval or disapproval. The request includes the following:
 - (1) Work to be accomplished
 - (2) Skills required or desirable
 - (3) Time anticipated to complete the work assignment
 - (4) Source of funds

- b) With the approval of the associate superintendent, requests for temporary positions for up to six months duration are forwarded to the Department of Personnel Services. Requests for establishment or extension of positions for more than six months require the approval of the deputy superintendent.
 - (1) Professional Position--A professional position which has been extended beyond one year should be considered for establishment as a permanent or conditional position.
 - (2) Supporting Services Position--A temporary position which has been extended or reestablished more than one time for periods totaling twelve (12) months within a consecutive thirty (30) month period will be included in the superintendent's yearly budget as a permanent position. *Agreement between the Board of Education and MCCSSE (1984-87), Article 3, Section C.2.*
- c) In accordance with MCPS Regulation GHA-RA: *Maintenance of the Position Classification Plan*, the director of the Department of Personnel Services determines an appropriate classification. When there is not an established classification appropriate for the proposed new temporary position, the director of the Division of Salary Administration, Certification, and Records recommends the amount of compensation and minimum qualifications to the director of the Department of Personnel Services for approval or disapproval.

B. Abolishing a Position

1. Permanent Position

A permanent position may be abolished:

- a) By the Board of Education upon the recommendation of the superintendent
- b) In the review and adoption of the annual operating budget by the Board of Education

2. Conditional Position

A conditional position may be abolished:

- a) By the Board of Education upon the recommendation of the superintendent
- b) In the review and adoption of the annual operating budget by the Board of Education
- c) Automatically upon expiration of funds

3. Temporary Position

A temporary position is abolished automatically upon completion of the work assignment or at the end of the period for which the position is established, whichever occurs first, unless the time is extended by the deputy superintendent.

C. Notification of the Abolishment of a Position

When a position is abolished which will require the termination, transfer, or reassignment of an employee, the employee is notified, in writing, by the director of the Department of Personnel Services.

1. Professional Personnel

Notification is made at least 15 days prior to the effective date for the abolishment of a position.

2. Supporting Services Personnel

No reduction in force shall be implemented without fifteen (15) duty days notice to the employee and twenty-five (25) duty days notice to MCCSSE, during which MCPS shall consult with MCCSSE on the reduction in force. *Agreement between the Board of Education and MCCSSE (1984-87) Article 15, Section B.*

D. Employee Placements or Terminations Because of Abolishment of Positions

1. General

- a) When the Board of Education abolishes a specific position, effort will be made to place the incumbent employee in another position for which he or she is qualified. Termination of the employee will occur only when efforts to place the employee in a new assignment have failed.

- b) When the Board of Education eliminates some positions within a large group or class, the specific positions to be abolished will be identified by the deputy superintendent, in consultation with associate superintendents or department or division directors.
- c) When the determinations in a) and b) above have been made, the director of the Department of Personnel Services will be notified in writing at least 25 duty days prior to the projected effective date.
- d) The director of the Department of Personnel Services will notify the director of the Department of Association Relations who, in turn, will immediately notify the appropriate employee organization.
- e) The director of the Department of Personnel Services will notify in writing each affected employee if the whole group or job class has been eliminated at least 15 duty days prior to the projected effective date. A representative from the Department of Personnel Services will meet, upon request, with the affected employee to explain the basis upon which the employee was selected for this personnel action.
- f) Following the conference with the director of the Department of Personnel Services, any employee whose placement or termination is pending may initiate an appeal through the Administrative Complaint Procedure, beginning at Level III. (See MCPS Regulation GKA-RA: *Administrative Complaint.*)
- g) When comparable or lower grade level vacant positions exist for which the employee, whose position is being abolished, is qualified in the judgment of the director of the Department of Personnel Services, the employee will be placed in the position in accordance with Section E. of this regulation.

2. Teacher, Administrative, and Supervisory Positions

- a) When the abolishment of positions is necessary, the appropriate associate superintendent will notify the director of the Department of Personnel Services which positions will be eliminated. If the positions to be eliminated are within a large group or job class, the final determination as to which employee(s) will be reassigned or terminated will be made by the deputy superintendent, the director of the Department of Personnel Services, and the executive assistant to the superintendent, using the following criteria:

- (1) Program needs of the school, department, or division
 - (2) Quality of job performance
 - (3) Areas of competence
 - (4) Length of time in position being abolished
 - (5) Length of MCPS service
 - (6) Major and minor fields of study
 - (7) Qualifications relevant to the available position
- b) When attempting to place an employee whose position is abolished in another position, the criteria in 2a) above will be considered.
- c) *Agreement Between the Board of Education and the Montgomery County Education Association (1984-87)*

If any reduction in personnel is necessary within any given field of instruction, the determination of those who are to be released will be in the following order:

- (1) Unit members holding Class II certificates
- (2) Nontenured unit members holding provisional certificates
- (3) Nontenured unit members holding regular certificates
- (4) Tenured unit members

When a reduction in professional staff is necessary, a unit member's length of service in MCPS and quality of job performance will receive equal consideration in determining those individuals who will be terminated. Among additional factors to be considered will be the competency of the teacher as related to the program needs of the school.

For the duration of this contract, seniority will be given additional weight for unit members with six (6) or more years of service with MCPS, unless individuals with demonstrably superior qualifications are available for the positions. (Article 30, Section B.)

- (a) Any unit member who is terminated due to a reduction in force may be placed on leave without pay for the six (6) months immediately following the end of duty and may choose to continue membership in the health benefit plans offered by the Board of Education by paying the full cost of membership in these plans during those six (6) months. (Article 30, Section D)
- (b) The director of the Department of Personnel Services will notify each affected employee in writing at least 15 days prior to the effective date of his or her placement or termination.

d) *Agreement Between the Board of Education and the Montgomery County Association of Administrators and Supervisory Personnel (1985-88)*

When a reduction in force within any given job classification is made MCPS will determine which unit members will be released in the following order:

- (1) Unit members holding Class II certificates
- (2) Unit members holding provisional certificates
- (3) All other unit members not in a) or b) above.

For unit members in b) or c) above, such unit member's length of service in MCPS and quality of job performance will receive consideration. Among additional factors to be considered by MCPS will be the competency of the unit member as related to the needs of the Montgomery County Public School System. (Article 28, Section C)

3. Supporting Services Personnel

- a) When the abolishment of positions is necessary, the appropriate associate superintendent will notify the director of the Department of Personnel Services which positions will be eliminated. If the positions to be eliminated are within a large group or job class, the final determination as to which employee(s) will be reassigned or terminated will be made by the deputy superintendent, the director of the Department of Personnel Services, and the executive assistant to the superintendent, using the following criteria:
- (1) Program needs of the school, department, or division
 - (2) Quality of job performance
 - (3) Areas of competence
 - (4) Length of time in the position being abolished
 - (5) Length of MCPS service
 - (6) Major and minor fields of study, if appropriate
 - (7) Qualifications relevant to the available position
- b) When attempting to place an employee whose position is abolished in another position, the criteria in 3.a) above will be considered.
- c) *Agreement Between the Board of Education and the Montgomery County Council of Supporting Services Employees (1984-87)*

Procedure for Reduction--When a reduction in staff within a given classification occurs, the determination of those who are to be released will be in the following order:

- (1) Probationary employees to be laid off first.
- (2) If further reductions are needed, those unit members with less than four years' service whose two most recent performance evaluations have been unacceptable and/or below average will be laid off next.

- (3) If still further reductions are required, seniority (as defined below) will govern, with the least senior unit member to be laid off first.

The foregoing procedure will be applied on a system-wide basis and seniority is defined as length of continuous service with the Montgomery County Public Schools. (Article 15, Section D)

E. Placement and Salary Placement

1. Every employee whose job is abolished will be considered for placement in an equivalent or lower level position for which he or she is qualified. Qualifications will be determined by the director of the Department of Personnel Services. Normally, employees will be placed in positions in the same or a similar job class. In the event that several displaced employees must be considered for a single vacant position, the procedures in Section D., 2.b) or 3.d) will be used to determine which person shall be selected to fill the vacant position.
2. An employee who is placed in a lower job class because the employee's position was abolished will be paid as follows:
 - a) If the employee's hourly rate of pay on the last day of service in the abolished position is higher than the last step of the new position, the employee's salary will be "frozen"; and the employee will not be entitled to further salary increases, including longevity, if appropriate, until the rate of pay for the employee's new position exceeds the rate at which the employee's salary was "frozen."
 - b) If the employee's hourly rate of pay on the last day of service in the abolished position is within the pay range of the new position, the employee will be placed on the step in the new position which equals the hourly rate had the employee remained in the abolished position.
3. An employee, who must be reassigned because positions have been abolished and who is placed in another position assumes the work schedule established for the new assignment; e.g., a twelve-month employee placed in a ten-month position assumes ten-month status.

4. Job and salary placements of employees who are reassigned because their positions were abolished may be appealed through the Administrative Complaint Procedure, beginning at Level III. (See MCPS Regulation GKA-RA: *Administrative Complaint*.)

F. Recall

1. *Agreement Between the Board of Education and the Montgomery County Association of Administrative and Supervisory Personnel (1985-88) and the Agreement Between the Board of Education and the Montgomery County Education Association (1984-87)*
 - a) Any unit member whose service has been terminated because of a reduction in force shall for a period of two (2) years receive priority consideration for reemployment if appropriate vacancies for which the unit member is deemed qualified by MCPS develop. (Article 28, Section D.1.)
 - b) In the event that a unit member does not desire at the time of termination to be placed on the list for priority consideration for reemployment, he/she shall receive full payment for all earned unused leave. For those terminated unit members with tenure, they will receive, in addition, one (1) month's salary for each year of creditable MCPS service up to a limit of six (6) month's salary. (Article 30, Section C.2.)
2. *Agreement Between the Board of Education and the Montgomery County Council of Supporting Services Employees (1984-87)*
 - a) Unit members whose services have been terminated because of a reduction in staff shall for a period of two years receive priority consideration for reemployment if they so desire and when Montgomery County Public Schools decides to fill vacancies. The recall will be in the inverse order of force reduction. If a unit member is notified of recall to a reasonably approximate position for which the unit member qualifies and refuses the assignment, the unit member will lose the right to further recall. (Article 15, Section E.1.)
 - b) In the event that a unit member does not desire at the time of termination to be placed on the list for priority consideration he/she shall receive full payment for all earned unused sick leave and will lose the right to recall. For those terminated unit members having two (2) full years of service but

less than six (6) years of service, they will receive, in addition, one-half month's salary for each year of creditable Montgomery County Public Schools' service. For those terminated unit members having six (6) or more years of service, they will receive, in addition, one month's salary for each year of creditable Montgomery County Public School's service up to a limit of ten months' salary. (Article 15, Section E.2.)

Administrative History: Formerly Regulation No. 445-2, February 1982, revised February 1986, amended by the Agreements Between the Board of Education and MCEA (1984-87) and MCCSSE (1984-87), and MCAASP (1985-88)