

# **COUNCILS AND STAFFING CUTS**

## *PART ONE: LEGAL BASICS FROM THE KENTUCKY ASSOCIATION OF SCHOOL COUNCILS*

### **Q1. WHO DECIDES A COUNCIL'S STAFF FUNDING?**

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District officials do, using a policy set by your local board. Each council is notified of the dollar amount on March 1, with an update allowed on September 15 to deal with enrollment changes and other issues.

### **Q2. WHO DECIDES WHAT STAFF POSITIONS A SCHOOL WILL HAVE?**

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The council does, within the funding allocated to the school. KRS 160.345(2)(f) is the part of the SBDM law that says:

After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals.

This means that you decide the number of counselors, aides, secretaries, custodians, various kinds of teachers, and other staff your school will have. Two limits are that you need a principal and you must have a library media specialist, though the specialist can be part-time or shared with another school.

### **Q3. IF A COUNCIL CUTS POSITIONS, WHAT HAPPENS TO PEOPLE IN THOSE POSITIONS?**

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The superintendent works that out. Sometimes, one of the people in an area being cut is already planning to retire or take a new job. Other times, a person in the cut area can also do the work of another position the school has open. For example, a person might be double certified for math and science, and move to science teaching after a math cut. Still other times, a person without tenure may have to be notified of nonrenewal.

### **Q4. WHAT HAPPENS IF A POSITION CANNOT BE CUT WITHOUT AFFECTING TENURED PEOPLE?**

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That person has full tenure rights to continued, appropriate employment in the district. The superintendent will look for the following transfer options:

1. A position that does not involve SBDM hiring, like a central office slot.
2. A vacancy that would usually involve SBDM hiring. (Example: School A cuts a language arts teacher and School B has a language arts vacancy. If necessary, the superintendent can transfer School A's teacher to School B without the usual SBDM process of council consultation and principal selection.)
3. A slot held by a person without tenure (which will mean notifying the non-tenured person that he or she will not be renewed).
4. A slot held by a tenured person with less seniority (which will mean a new search for a slot for that less senior person).

If no appropriate jobs can be found in any of those ways, the tenured person will be laid off, with a legal right to the first appropriate position that becomes available.

### **Q5. CAN THE COUNCIL MAKE RECOMMENDATIONS ON WHO LEAVES THE SCHOOL?**

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No. KRS 160.345(2)(f) includes a sentence that says "The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals." Given that language:

1. The council must decide on position cuts without even considering which people will be affected.
2. The council must never suggest which people should be moved. The council must not comment even if the superintendent asks for that advice. (Note: acting as an administrator, the principal can give such comments.)

We've heard two good ways to summarize this issue: One says you decide on how many chairs, but not who will sit in them. An even shorter version says you deal with the spaces, not the faces.

### **Q6. HOW MUCH TIME DO WE HAVE TO MAKE OUR DECISION?**

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Not a lot. By April 30, your district must notify each employee of whether he or she will be employed next year. Before that, your district officials must work out all the transfers required by all the staff decisions of all the councils in your districts. That means they need your answer quickly. The law does not set a specific date, but most districts ask for final council decisions by April 1, and we recommend that councils do their best to meet that deadline.

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**Q7. WHAT COUNCIL POLICY APPLIES TO THIS PROCESS?**

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The SBDM Law does not require councils to have a policy on how they will decide on "the number of persons to be employed in each job classification."

Some councils voluntarily have written policy on the issue anyway, which could have different titles from one school to the next. Some common places to address the topic would be a policy on:

1. "Number of persons employed" or "Staffing" or "Staff numbers," matching the specific statute section.
2. "Budget" if the council has put all the spending decisions into one policy
3. "Vacancies" or "Consultation" if the council decided to use one policy for the whole sequence of receiving personnel dollars, deciding how to use them for positions, and then selecting particular people for those positions.
4. "Planning" if your council has made a complete commitment to use its resources to support its Consolidated Plan.

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**Q8. WOULD "STAFF TIME ASSIGNMENT POLICY" ADDRESS STAFF CUTS?**

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That is very unlikely. A policy on "assignment of instructional and noninstructional staff time" is required by KRS 160.345(2)(i)2. That policy will set rules for the principal deciding how each person on your staff will spend his or her work time. It should not deal with decisions about how many staff members you will have.

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**Q9. WHAT IF WE DO NOT HAVE ANY POLICY ON THIS ISSUE?**

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Legally, that's completely acceptable, because the SBDM law does not require a policy.

Practically, you will probably wish you had written an optional policy, because that could help you with a basic process to use for these tough decisions.

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**Q10. CAN WE GO INTO CLOSED SESSION TO WORK ON THIS DECISION?**

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No. This is open session all the way. Remember, the council does not decide which individuals will be dismissed. You are only dealing with positions, so there is no confidentiality issue about individuals. That means that the entire public is entitled to be present throughout your discussions on these issues.

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**Q11. CAN WE HOLD SPECIAL MEETINGS TO WORK ON THIS DECISION?**

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Yes. If you are facing staff cuts, you probably will need more than one meeting during March to make good choices. Remember to use the right process for this, including:

1. Putting date, time, place, and agenda in the notice.
2. Delivering the notice to every council member on time (minimum of 24 hours before the meeting) by fax, hand-delivery or US mail (sorry, but the law does not allow e-mail or phone calls).
3. Posting the notice publicly at the school as soon as possible (again with a 24-hour minimum).
4. Delivering the notice to any media that have asked for special meeting notices. (Here, the 24 hour minimum probably will not let the notice be published, but it will let the media send reporters if they wish. If you want the public to know about the meeting in advance, you may want to send the notice several days earlier and ask the editor to run it as a public announcement.)
5. Sticking to the notice agenda when you get to the meeting. (Technically, you can delete items, but you cannot add.)

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**Q12. WHERE CAN WE ASK OUR FOLLOW-UP QUESTIONS?**

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If your council belongs to KASC, please don't hesitate to send your e-mail enquiries to [kasc@kasc.net](mailto:kasc@kasc.net).

## **COUNCILS AND STAFFING CUTS**

### *PART 2: PRACTICAL SUGGESTIONS FROM THE KENTUCKY ASSOCIATION OF SCHOOL COUNCILS*

These are KASC's suggestions about how to handle tough decisions on staffing cuts. Your council is free to use a different method if you think that will work better.

#### **PLAN AT LEAST THREE MEETINGS**

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Find dates for three meetings between now and the date you need to finalize a decision. You'll use one for an open discussion, the second to draft a decision, and the third to make a final decision after allowing your community to comment. One of the three can be your regular meeting for the month of March.

#### **GATHER KEY INFORMATION**

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Here's a list of information you may want to have at the start of your work:

1. The size of the cut. You should have specific dollar figures provided by your superintendent on March 1. Those numbers can only be changed to head off a new financial crisis or to deal with changes in your enrollment, district salaries, and the like.
2. Staff that doesn't come from this money. You'll want to know about:
  - a. Any itinerant positions shared with other schools and not included in allocations.
  - b. Special education positions that are not included in allocations. (Note: if the position is not allocated, it only means the council cannot change how the money is used. The SBDM process for choosing people to fill these jobs still applies to special education positions unless the person will be itinerant.)
  - c. Categorical positions paid for out of money that isn't in this allocation, such as Title 1 slots and staff paid by other grants. (Again, the SBDM hiring process applies unless the person will be itinerant.)
3. Program of Studies requirements on topics and the grades for them to be taught. Your council can change which grade teaches a topic, but any change must ensure that all the topics are still taught.
4. The required library media specialist. A 2000 legal change means you can't cut this position back to zero, though you could drop to just one person, or to a part-time person, or to a person shared with another school.
5. The weight each Core Content subject receives on state assessments.
6. Your enrollment in each grade.
7. Your Comprehensive School Improvement Plan, so that you have a clear picture of the priority challenges facing your school.
8. Your school's current staffing by each type of position.
9. Average cost for each type of position.

For a high school add:

10. High School graduation requirements, so that you offer enough sections of required courses, and enough electives to allow students to get diplomas.
11. College requirements. For example, foreign languages are a college prerequisite. If you do not offer them, or you cut back, be sure you understand the effect on your students' future options.
12. College-level course offerings. A 2002 legal change requires every council to offer a core curriculum of such classes through Advanced Placement, Virtual High School, or other arrangements.

#### **SHARE THAT INFORMATION**

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Share it as widely as possible and as soon as possible. Definitely hand out a summary at the council meeting. Before that, post copies on the SBDM bulletin board and in the staff lounge. If possible, make it accessible on a school website as well.

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## **START YOUR COUNCIL MEETING WITH BASIC GROUND RULES**

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1. **DUTY:** We must decide on staff positions that will fit within our money.
2. **METHOD:** We will learn ideas and concerns from one another. The council will listen to all ideas and the entire discussion will be polite and thoughtful. This is hard, sad work, but we want to do it in a way that shows the respect we have for one another and our shared goal of doing what's best for our kids.
3. **FOCUS:** The council will make a final decision about positions based on the best way to move all our students to proficiency.
4. **LIMITS:** The council will not decide on individuals who will leave the school. The superintendent will work that out, looking at the whole district, individual tenure rights, and other legal issues. The council will not even consider issues about specific people's strengths and weaknesses, because that would be illegal. We decide "the spaces, not the faces."

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## **BRAINSTORM FOR OPTIONS**

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Remember that brainstorming means you try to develop a long list of possibilities, without pausing to argue for or against them. Do take ideas from the audience as well.

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## **DISCUSS CRITERIA FOR A GOOD DECISION**

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As a council, talk through what features you want in a good decision. For example, one goal should be "Keep us on track to reach our accountability goals." You'll also want to make sure you're thinking about long-term issues, trying to make cuts that you could stand to leave in place for a number of years. There are likely to be others that matter to your school community as well. If you don't understand or agree with a goal someone else proposes, ask them to explain their concerns before you explain your different thoughts.

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## **COMPARE CRITERIA AND OPTIONS**

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Talk about the options you brainstormed and how they compare to the criteria you developed. This is a way to sort through the issues without immediately arguing over the plusses and minuses of a single proposal.

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## **IDENTIFY ADDITIONAL INFORMATION COUNCIL MEMBERS NEED**

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Make a list of these questions, and decide who will gather each answer before your next meeting.

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## **NON-BINDING PROPOSALS**

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Ask each council member to share a current thought about what should be done, bearing in mind that each person may change his or her mind several times before you reach a final decision. Ask for each council member to share a view without any other member commenting. You may want to let the newest members go first and the principal last, to encourage everyone to share ideas even if they don't match what others think.

Discuss those ideas without making a decision.

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## **SECOND MEETING TENTATIVE DECISION**

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At your second meeting, allow council members and others to make as many proposals as they like. Then discuss as a council, including going back to the criteria you discussed at the first meeting. Talk your way through to a tentative decision. Then make plans to share that decision with your whole community for input.

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## **THIRD MEETING ACTION**

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At your third meeting, hear input from your community, and share any thoughts individual council members have heard outside the council meetings. Discuss what to do, and move to a final decision if possible, or schedule another meeting if not.

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## **FOLLOW-UP QUESTIONS?**

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