



**Advice from Practitioners: A Guide to Implementing
S.B. 10-191 Staffing Provisions**

Prepared in partnership with:



April 2012

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Introduction

This guide represents consensus of a working group of education professionals (“Working Group” or “WG”) that came together with the purpose of identifying best practices to support districts with implementing the staffing provisions (e.g., hiring and dismissal practices and policies) as defined within S.B. 10-191. This resource represents a set of interpretations regarding staffing and mutual consent provisions under S.B. 10-191 developed by districts for districts and is intended for use by district administrators and individuals representing teachers who are familiar with S. B. 10-191. Districts should use this document as a reference guide when making decisions on how best to balance the need to implement effective staffing provisions contained in the law and to address needs unique to the local context.

A few important notes:

- Whenever possible, the WG reached consensus on discussed items.
- Some recommendations have considerations for stakeholders to reflect upon because the WG did not believe that a single best practice existed or could not come to consensus. These items reflect the opportunity for districts to implement S.B. 10-191 in a way that accommodates local circumstances while maintaining fidelity to the overall intent of the statute.
- In a few instances the WG identified a question as important to consider but did not provide further guidance. Readers will notice that these questions tend to be very sensitive issues that will require significant discussion with local stakeholders or further direction from state agencies with authority to provide specific guidance to districts on how to interpret the language of the law.

These ideas reflect the consensus of a group of Colorado educators and are presented for your consideration. *They do not reflect CLF's opinion, legal advice or official interpretation of statute. As in the implementation of any law, consult with your district's legal counsel prior to enactment.*

As previously stated, the WG was asked to provide insight to their fellow professionals on the key elements of the law and its implementation. These ideas are presented for your consideration. As with the implementation of any law, consult with the district's legal counsel prior to enactment.

Background

The Colorado Legacy Foundation (CLF) provides support to school districts in implementing S.B. 10-191, which made sweeping changes to how school districts evaluate educators for effectiveness and use data on educator effectiveness to make key human capital management decisions. CLF has engaged The New Teacher Project (TNTP) to provide resources supporting the implementation of S.B. 10-191 provisions pertaining to teacher hiring and placement. This guide is one in a suite of resources related to staffing schools that are available through the Colorado Legacy Foundation website.

This guide does not stand alone. A complete set of resources related to implementing effective staffing practices is available through the CLF website at <http://colegacy.org/> including:

- ✓ [School District Guidance on Implementing Effective School Staffing Practices](#)
- ✓ [Effective Staffing Practices Interview Handbook](#)
- ✓ [Cultivating High Quality Candidates: A Handbook on Effective Communication Practices](#)
- ✓ [Guide to Effectively Implementing a Priority Hiring Pool](#)

Working Group Selection Process

Recognizing the need to work collaboratively with stakeholders most affected by the staffing provisions in the law was paramount to the successful selection of the Working Group. The result was to bring together Human Resources staff, principals, and teachers for four full day meetings. To effectively manage the process, Jon Numair, a professional facilitator and former federal mediator, agreed to lead the WG through the conversations.

Each district was asked to bring one district administrator, one principal, and two teachers to represent their peers. District leaders asked local teacher association leaders to identify teacher representatives to participate. Several local teacher association leaders asked UniServ Directors to attend. In all, WG participants included a superintendent, Human Resource officers, principals, teachers, local teacher association leaders and UniServ Directors from the Colorado Education Association. The result was a large and very diverse group of more than 20 stakeholders. A complete list of participants is available in Appendix I.

Participating Districts	Number of students served	School District Setting	County
Adams 14	7,549	Denver Metro	Adams
East Grand	1,325	Rural Mountain	Grand
St. Vrain Valley	27,379	Denver Metro	Boulder
Greeley	19,623	Small City	Weld
Ft. Lupton	2,403	Outlying Town	Weld

Creating a Collaborative Problem Solving Process

The collaborative problem solving process used to facilitate the WG work and recommendations allowed for an open dialogue with a focus on finding solutions that are designed to increase student achievement and are screened and approved by all stakeholders. School districts should consider using the process modeled by the WG. Of note, these are not recommendations developed by the WG, but are instead steps of the process used to assist the WG in reaching consensus which may be useful to districts in reaching consensus in terms of developing and implementing new staffing provisions and policies.

Collaborative Problem Solving Process Recommendations

- ✓ **Step one: Get the “right” people in the room**
 - In making decisions related to the staffing provisions in S.B. 10-191, a school district should work with its local teacher association to develop policies for the local school board to adopt. Districts should consider using existing negotiation committees. If no local teacher association exists, the school district should create a committee of four district representatives and four teachers for the purpose of developing policies related to the staffing provisions.
- ✓ **Step two: Become familiar with and use the collaborative problem solving process** (sometimes called Interest Based Problem Solving¹). This method often works best when facilitated by someone trained in the process. Following are key steps of a collaborative problem solving approach:
 1. Identify the **ISSUE** under consideration.
 2. Discuss your **INTERESTS** (or concerns) relative to the issue.
 3. Brainstorm **OPTIONS** that could resolve the issue.

4. Use objective **STANDARDS** (such as feasibility; acceptability by all stakeholders; and guiding questions like ‘does it solve the problem?’) to screen the options.
 5. Determine the **SOLUTION** by selecting the option (or combination of options) that survive the screening process.
- ✓ **Step three: Identify topics to discuss**
 - To ensure that the committee’s time is used wisely, scope out the topics to discuss before delving into conversations on specific items. “What are the key issues we need to decide in order to successfully implement the staffing provisions in S.B. 10-191?”
 - Set aside some time to assess the level of knowledge on S.B. 10-191. Ensure that all committee members have an adequate understanding of the law.
 - ✓ **Step four: Organize the topics to discuss by sequence of events**
 - As an example, it is practical to discuss how faculty members within a school are going to choose teachers to represent them on the interview committee before discussing how principals are going to gather input from members of the interview committee. Review [this process map](#) to get a sense of how to move forward with discussing the topics presented in the remainder of this reference guide.

Practitioner Advice

Using the facilitated process outlined above, the WG tackled an ambitious set of implementation challenges all districts will face in implementing staffing provisions under SB 10-191. Specifically, they developed recommendations regarding the following four actions to aid districts in effectively implementing staffing provision under SB 10-191.

1. Form a committee and define terms.
2. Review policies.
3. Revise and create policies. Specifically,
 - Address displacement of nonprobationary teachers into the priority hiring pool;
 - Establish interview committee and principal authority to make hiring decisions; and
 - Develop processes for placing displaced teachers in limited-term assignments.
4. Implement a Process for Placing Teachers in the Priority Hiring Pool on Unpaid Leave.

Each of these actions is outlined in detail with a clear distinction between requirements under SB 10-191, recommendations from the Working Group, and questions districts may want to consider in implementing these actions steps.

1. **Form a committee and define terms.** This section describes the importance of setting up a committee (for the purpose of developing hiring and displacement policies, etc.) and of defining terms.

1a. Set up a committee. WG participants emphasize the importance of setting up a committee of district staff and teachers to review policies and practices. The committee should be charged with making revisions to policies for consideration by the local school board. With WG participants representing such a diverse group of districts, they did not discuss specifics on how to decide which district staff and teachers should be a part of the committee. Instead, the WG focused on norms and processes districts should consider when establishing a negotiations committee.

Relevant language from S.B. 10-191	Section 11. 22-63-202. (2) (c.5) (II) (B) “A school district shall work with its local teacher association to develop policies for the local school board to adopt. If no teacher association exists in the school district, the school district shall create an eight person committee consisting of four school district members and four teachers, which committee shall develop such policies.”
WG recommendation(s)	In developing a committee, consider the following. <ul style="list-style-type: none"> • District size • Organizational structure • District decision making process • Parameters of the collective bargaining agreement • Communication processes • Inclusion of appropriate stakeholders
Question(s) to consider	<ul style="list-style-type: none"> • Which stakeholder groups will be involved in the implementation process?

Ib. Define terms. Define terms found in S.B. 10-191 to create a clear and common understanding among committee participants.

Relevant section/s from S.B. 10-191	Section 11. 22-63-202 (2)
WG recommendation(s)	<p>Pull out those terms that committee members find ambiguous. Set aside time for committee members to reach a common understanding of those terms before moving on to discussion topics.</p> <p>For example, the WG created definitions for the following terms they found to be ambiguous.</p> <ul style="list-style-type: none"> • Hiring cycle: A process that has a beginning and end and occurs once or repeats itself two or more times within a 12 month period. Districts and local associations should come to a mutually agreeable definition of how many hiring cycles occur within a 12 month period.ⁱⁱ <ul style="list-style-type: none"> ○ Two examples of hiring cycles include the following. <ul style="list-style-type: none"> ○ Hiring Cycle 1: A spring/summer hiring cycle to fill vacancies for the start of an academic year. This hiring cycle begins in the spring of a given academic year (e.g. on or around February 15) and concludes within the first few weeks of the following academic year (e.g., on or around September 1). ○ Hiring Cycle 2: A mid-year hiring cycle for vacancies that occur during the academic year. This hiring cycle begins within the first few weeks of a given academic year (at the conclusion of the spring/summer hiring cycle and on or around September 1), and concludes when the spring/summer hiring cycle for the following academic year begins (e.g., on or around February 15). • Input (as related to teachers on the interview committee providing input to principals): Methods of input may include (but are not limited to) information, ranking, advice, recommendations, etc. from the committee for

the purpose of assisting the principal in making a final decision.

- **Assigned:** According to SB 10-191, “each employment contract executed pursuant to this section shall contain a provision stating that a teacher may be assigned to a particular school only with the consent of the hiring principal and with input from at least two teachers employed at the school.” Therefore, mutual consent applies to the assignment of a teacher to a particular school. The principal or hiring manager has the right to assign a teacher to a particular grade level or content area based on their licensure endorsement or areas for which they are highly qualified. Language regarding the terms of a teacher’s assignment is more clearly defined within the contracts agreed upon by the district and the local teacher association.
- **Placed:** Occurs following a displacement and subsequent hiring cycle where mutual consent assignment has not been obtained between the displaced teacher and hiring principal within the district. A teacher is placed, absent of mutual consent, into an assignment based on the district’s right to place them in a “twelve-month or other limited-term assignment including but not limited to a teaching assignment, substitute assignment, or instructional support role.”
- **Priority hiring pool:** An active nonprobationary teacher who has an effective or better (satisfactory or better until the new evaluation systems are in place) rating on an approved performance evaluation system, and who does not secure a position through school-based hiring, is placed in a priority hiring pool where they are given the first opportunity to interview for a reasonable number of available positions in the school district for which they are qualified.ⁱⁱⁱ

For Consideration

Those placed in the priority hiring pool who do not secure a position through school-based hiring should be provided feedback by the district with the intent to support his/her job seeking skills.

- **Displaced teacher:** A displaced teacher is a nonprobationary teacher with an effective or satisfactory rating who has been displaced from their assignment by result of drop in enrollment; turnaround; phase-out; reduction in program; or reduction in building, including closure, consolidation, or reconstitution.

For Consideration

Probationary and nonprobationary teachers with ineffective evaluations will not receive the benefits of the priority hiring pool.

- **Limited-term assignment of a displaced teacher:** A limited-term assignment includes, but is not limited to; a teaching assignment, substitute assignment, or instructional support role during the period in which the teacher is attempting to secure an assignment through school-based hiring.
- **Unpaid leave:** Leave of absence is a term used to describe a period of time that one is to be away from his or her primary job, while maintaining the

	status of employee.
	<ul style="list-style-type: none"> • Employment contract executed pursuant to this section: Employment contract between a teacher as defined in S.B. 10-191 and the hiring district.
Question(s) to consider	<ul style="list-style-type: none"> • Does the definition of “teacher” in S.B. 10-191 align with your district’s definition of a teacher, especially as it pertains to other licensed personnel?

2. Review Policies

Districts will likely find that between their agreement with the local teacher association and school board and district policies that there are policies that prevent them from implementing the staffing provisions in S.B. 10-191. This process will ensure that as the committee begins making recommendations that all policies align with the intent of the staffing provisions in S.B. 10-191 and are setting up the district to increase student achievement. Committee members will find [School District Guidance on Implementing Effective School Staffing Practices](#) useful in the process of working through issues regarding recommending policy revisions for consideration by their local school board.

Relevant section/s from S.B. 10-191	Section 11. 22-63-202(2)(c.5)(II)(B). Note, this references the establishment of a committee to help a district make decisions, but the law doesn’t explicitly require districts to review existing policies (it is simply implied).
WG recommendations	<ul style="list-style-type: none"> • Committees should review existing board of education policies, district procedures and practices, and Collective Bargaining/Master Agreement (if your district has an agreement with a local teachers association).
Question(s) to consider	<ul style="list-style-type: none"> • How well do the policies align with the requirements described in the staffing provisions in S.B. 10-191? • What policies need revision to bring them in line with the new law? • In order for the mutual consent staffing process to begin, what agreements or processes need to be aligned with S.B. 10-191?

3. Revise and Create Policies

After identifying policies in need of revision, committee members should focus on the process of changing or creating policies that enable their school district to implement effective hiring and staffing practices (note, this will need to be done in collaboration with the local school board when said policies require board approval). WG members surfaced questions and developed answers based on experiences with their own policies. While policies and practices differ from district to district, many of the questions surfaced by the WG had similar themes. Each of the following themes is discussed in much more detail below: displacement of non-probationary teachers into the priority hiring pool; establishing interview committee and principal authority; and limited term assignment and unpaid leave for displaced teachers.

Address Displacement of Non-probationary Teachers into the Priority Hiring Pool.

Committee members should carefully consider how the potential for displacing non-probationary teachers with satisfactory or effective ratings on their teacher evaluation will affect the implementation of their benefits as a member of the priority hiring pool as described in the staffing provisions in S.B. 10-191. It is also important to note that the law stipulated that it is the displaced teacher’s responsibility to check all job vacancies for which they are highly qualified after the initial notification. The WG posed many questions about how the new law affects non-probationary teachers. Committee members should refer to the [Guide to Effectively Implementing a Priority Hiring Pool](#) when considering how to manage displaced teachers as they search for positions through school-based hiring.

Relevant language from S.B. 10-191

Section 11. 22-63-202 (2) (c.5) (II) (A)^{iv} “Any active nonprobationary teacher who during the prior school year, was deemed satisfactory, or deemed effective in a district that has implemented a multi-tiered evaluation system and had identified ratings equivalent to effective, and has not secured a position through school-based hiring shall be a member of a priority hiring pool, which priority hiring pool shall ensure the nonprobationary teacher a first opportunity to interview for available positions for which he or she is qualified in a school district.”

Section 11. 22-63-202(2) (c.5) (II) (B) “When determination is made that a nonprobationary teacher’s services are no longer required for the reasons set forth in subparagraph (VII) of this paragraph (c. 5), the nonprobationary teacher shall be notified of his or her removal from the school.....Upon notice to the nonprobationary teacher, the department of Human Resources for the school district shall immediately provide the nonprobationary teacher with a list of all vacant positions for which he or she is qualified, as well as a list of vacancies in any area identified by the school district to be an area of critical need.”

Section 11. 22-63-202(2) (c.5) (VII) This paragraph (c.5) shall apply to any teacher who is displaced as a result of drop in enrollment; turnaround; phase-out; reduction in program; or reduction in building, including closure, consolidation, or reconstitution.

Section 12. 22-63-202 (3). “**Employment Contracts – contracts to be in writing – damage provision.** A teacher may be suspended temporarily during the contractual period until the date of dismissal as ordered by the board pursuant to section 22-63-302 or may have his or her employment contract cancelled during the contractual period when there is a justifiable decrease in the number of teaching positions. The manner in which the employment contracts will be cancelled when there is a justifiable decrease in the number of teaching positions shall be included in any contract between the board of education of the school district and district employees or in an established policy of the board, which contract or policy shall include the criteria described in section 22-9-106 as significant factors in determining which employment contracts to cancel as a result of the decrease in teaching positions. Effective February 15, 2012, the contract or policy shall include consideration of probationary and nonprobationary status and the number of years a teacher has been teaching in the school district; except that these criteria may be considered only after the consideration of the criteria described in section 22-9-106 and only if the contract or policy is in the best interest of the students enrolled in the school district.”

WG summary of legal requirements

- Develop a clear understanding of how a teacher is displaced and which teachers are eligible to be a part of the priority hiring pool.
 - A displaced teacher is a non-probationary teacher with an effective or satisfactory rating who has been displaced from their assignment by result in drop in enrollment; turnaround; phase-out; reduction in program; or reduction in building, including closure, consolidation, or reconstitution.
- Formalize a process for notifying teachers in the priority hiring pool of

A note for small districts:
Consider how staff learn of vacancies and what methods for notifying displaced teachers makes the most sense for your district.

vacancies. Decide if teachers should be notified for positions for which they are highly qualified or for every position.

- Upon initial notification of displacement, it is the district's responsibility to give the displaced teacher a list of all job vacancies in the district at that time.

For Consideration

Districts should consider providing some type of signed document explaining the implications regarding temporary positions and that displaced teachers also understand that they must be proactive about seeking out new positions for which they are qualified. Follow-up notification of vacancies will occur when positions are posted on the district's system (e.g., website, email, etc.). It is the displaced teacher's responsibility to check all job vacancies for which they are highly qualified after the initial notification.

WG recommendation(s)

- Decide how displacing a teacher is different than implementing Reduction in Force (RIF).
 - Only teachers displaced, as defined by S.B. 10-191 are put into the priority pool. Teachers affected by a true RIF, as defined by the Teacher Employment, Compensation and Dismissal Act, are not considered displaced and are not entitled to/subject to requirements of a priority hiring pool under S.B. 10-191.
 - As the WG understands the TECDA Act, a teacher's seniority determines the order in which contracts are cancelled due to reductions in force (RIF). S.B. 10-191 states that seniority can still be considered, but that educator effectiveness must be considered first when cancelling contracts. The priority hiring pool benefits as described in S.B. 10-191 do not apply to those affected by a true RIF, which is defined by fiscal exigency. Districts will need to add language into their master agreements regarding how teachers affected by a RIF will be considered for potential future openings in the district. This is particularly relevant in the case of recalls, where before most master agreements include provisions where the last teachers to be RIF'd may be the first teachers to be re-hired.
- Conclude if there is an appeals process for teachers in the priority hiring pool who are not selected for positions for which they interviewed. (Adding an appeals process creates another layer in the hiring process which districts may find reduces principals' ability to effectively make hiring decisions.)
 - For teachers in the priority hiring pool, S.B. 10-191 does not provide any direction on appeals. This process would have to be determined locally.

For Consideration

Hiring practices need to comply with Office for Civil Rights regulations. As discussed in the section regarding priority hiring pools, the WG suggests that districts provide teachers in the priority hiring pool feedback on their interviews. Districts can establish procedures where teachers receive feedback. Agreements or policies

may allow for a conflict resolution/grievance process around the hiring process, not the assignment of a teacher. Teacher assignment to a school is defined by the mutual consent process described in Section 11 of S.B. 10-191.

Establish interview committee and principal authority to make hiring decisions. Committee members must carefully think through how to formalize interview practices that are likely already in place. Per feedback from the participating districts on this project, most principals already engage faculty members in the interview process. S.B. 10-191 requires districts to formalize that process to ensure that at least two teachers from each school provide input to principals. The WG devoted a significant amount of time to questions regarding principals’ authority to make hiring decisions and surfaced a number of recommendations related to the selection of interview committee members.

Relevant language from S.B. 10-191

Section 11. 22-63-202. **Employment contracts – contracts to be in writing – duration – damage provision.** (2) (c.5) (I) “For the fair evaluation of a principal based on the demonstrated effectiveness of his or her teachers, the principal needs the ability to select teachers who have demonstrated effectiveness and have demonstrated qualifications and teaching experience that support the instructional practices of his or her school. Therefore, each employment contract executed pursuant to this section shall contain a provision stating that a teacher may be assigned to a particular school only with the consent of the hiring principal and with input from at least two teachers employed at the school and chosen by the faculty of teachers at the school to represent them in the hiring process, and after a review of the teacher’s demonstrated effectiveness and qualifications and teaching experience support the instructional practice of his or her school.”

WG recommendation(s)

- Decide who the “hiring principal(s)” are for the district.
 - According to law, the principal is accountable for the student achievement produced by the teachers they hire, so they cannot be held accountable for teachers they did not hire. Therefore, the hiring principal is the building principal.
- Discuss when mutual consent hiring occurs.
 - According to the WG, mutual consent hiring practices do apply to ALL hires. Mutual consent applies to external, internal, and displaced candidates (licensed teachers).
- Conclude if mutual consent applies to in-building transfers.
 - The WG found that transfers within a building are not subject to the requirements of mutual consent.
- Formalize when the work of the interview committee – which consists of at least two teachers chosen by the faculty members at their school - begins.
 - The WG concluded that the committee’s work should begin no later than the interview process.
- Decide if mutual consent applies in instances when only one position is available for a displaced teacher in their area of endorsement.
 - The WG determined that the requirements of mutual consent would

still apply because the teacher or principal has the right to refuse the assignment and the teacher remains on the district's payroll until the twelve-month or two hiring cycle period ends. However, the teacher can still be placed in the position on a temporary basis following the placement procedures defined under limited-term assignment.

- Determine how evaluations will be used by interview committees and principals while teachers are searching for positions as part of the priority hiring pool.
 - Based on the law, only “non-probationary teachers who, during the prior school year, were deemed satisfactory or were deemed effective in a district that implemented a multi-tiered evaluation system and has identified ratings equivalent to effective, and has not secured a position through school-based hiring shall be a member of a priority hiring pool.” The hiring team will know only that the teacher has been deemed satisfactory or effective in their previous evaluation.

For Consideration

As determined by the law, any teacher in the priority hiring pool has been deemed satisfactory or effective. Based on the local collective bargaining agreement, principals may or may not have the right to share specific information included in the teacher's evaluation with the hiring team. More often than not, the specific information in that evaluation must be kept confidential.

- Determine which competencies to measure during the interview process and determine their weight. Ensure that the weights do not undermine a principal's consent to the hire being a primary decision making factor in hiring.
 - Each hiring committee may determine the weight of each attribute (demonstrated effectiveness, demonstrated qualification, match for building) if necessary. Ultimately, it is the principal's decision to make an offer to a candidate.

For Consideration

Review the [*Effective Staffing Practices Interview Handbook*](#) for guidance on choosing and weighing competencies to look for during the interview process.

- Decide how reference checks (after the committee has finished their work, i.e., CBI background checks) could interfere with the panel's recommendations and what to do in instances when a reference check prevents the hiring of a candidate.
 - The WG thought that this would depend upon individual board policies and district hiring practices. If a potential hire does not pass the reference checks, interview committees can consider reconvening to select the next choice for the position. If the interview committee prioritized/ranked interviewees beforehand, that ranking should be followed to determine the next choice. Another

	alternative is to re-advertise the position.
Question(s) to consider	<ul style="list-style-type: none"> Is the hiring panel the same for the whole year? Per Hiring? What about the summer?
<p>A note for small districts: Consider what to do to ensure that interview committee members are available during the summer months.</p>	<p><i>For Consideration</i> Interview committee members will be selected by the faculty in a school-based process; considerations may include availability, expertise, or other factors. Interview committee members should have a pre-determined term or length of service on the committee. Districts may want to consider providing training for interview processes. The offering of a contract (for a specific school) at a Recruiting Fair must now include input from two teachers selected by the school’s faculty and the principal. The district may choose to offer a letter of intent.</p>
<p>A note for small districts: Consider ways to support displaced teachers when the only available vacancies do not match displaced teachers’ endorsement areas.</p>	<ul style="list-style-type: none"> How mutual is mutual consent if the teacher's only option is to take the job or have no job? <ul style="list-style-type: none"> The language of the law seems to be contradictory as to whether or not a displaced teacher who applies for a position will be automatically placed in that position or if that teacher can decline and go back into the hiring pool. See below. <ul style="list-style-type: none"> Section 11 – 22-63-202 (2) (c.5) (II) (B): “When a principal recommends appointment of a non-probationary teacher application to a vacant position [for which he or she applied], the non-probationary teacher shall be transferred to that position.” Section 11 – 22-63-202 (2) (c.5) VI – “...and will not result in placement other than by mutual consent of the teacher in a school district or public school...” Districts may want to consider that when there are multiple positions or only one position available, the teacher has the option to decline and go back into the priority hiring pool in anticipation of another opening at any point during the hiring season.

Develop processes for placing displaced teachers in limited-term assignments. Committee members will have to make decisions on issues that are new to school districts. For example, S.B. 10-191 allows districts to provide limited-term assignments to teachers in the priority hiring pool. According to S.B 10-191, a limited-term assignment includes, but is not limited to, a teaching assignment, substitute assignment, or instructional support role during the period in which the teacher is attempting to secure an assignment through school-based hiring. While placing a teacher in a position is familiar work for Human Resource Departments, tracking the teacher’s placement and length of time in a limited-term assignment is completely new.

Relevant language from S.B. 10-191	Section 11. 22-63-202. (2) (c.5) (V) “Nothing in this section shall limit the ability of a school district to place a teacher in a twelve-month or other limited-term assignments, including, but not limited to, a teaching assignment, substitute assignment, or instructional support role during the period in which the teacher is attempting to secure an assignment through school-based hiring. Such an assignment shall not constitute an assignment through school-based hiring and
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	<p>shall not be deemed to interrupt the period in which the teacher is required to secure an assignment through school-based hiring before the district shall place the teacher on unpaid leave.”</p>
<p>WG recommendation(s)</p>	<ul style="list-style-type: none"> • Decide the type of position and the appropriate amount of time a teacher in the priority hiring pool can be in a limited-term assignment. <ul style="list-style-type: none"> ○ According to the law, if mutual consent is not reached, the district has a right to place the teacher in a “twelve-month or other limited-term assignment such as a teacher assignment, substitute assignment, or instructional support role.” Also according to the law, teachers in the priority hiring pool have twelve months or two hiring cycles, whichever is longer, to secure a position through mutual consent. The WG interpreted that time period to begin the day the teacher is notified that they are being displaced. Therefore, the district has the right to place a teacher on unpaid leave on the one-year anniversary or the end of the second hiring cycle of the displacement date if a mutual consent assignment has not been made prior to that date. <p><i>For consideration:</i></p> <p>If a teacher will be temporarily placed into a limited-term assignment, the district should try to match the teacher’s endorsement area to the position in which s/he is placed.</p> <p>Upon the reading of the bill, it does not appear that there are any set parameters that indicate the start of the twelve-month or two hiring cycle period of time. The WG feels that this date should be determined by the district and the local teachers association and written into the master agreement, should the district have one. The WG feels that this twelve-month or two hiring cycle period could begin:</p> <ul style="list-style-type: none"> a) The date that the notification is given to the teacher that they are being displaced. Choosing this option could be interpreted as either giving the teacher instant access to the priority hiring pool, and therefore first opportunity to interview for an opening; or, from another angle, teachers may feel that the notification date actually shortens the time that they are protected by the twelve month or two hiring cycle period according to S.B. 10-191. If this choice is not selected to be included in the master agreement, nothing in S.B. 10-191 indicates that the teacher would be given first opportunity to interview or be placed into the priority hiring pool until the date upon which the master agreement indicates. b) The date that the teacher is actually removed from their current assignment. c) The end of the contract year in which the displacement occurs. <p>If a teacher has been placed in a temporary position because no mutual consent hire could be made, the district has the right to terminate that temporary position and place the teacher on unpaid leave upon the one-year anniversary or end of the second hiring cycle, whichever is longer, from their displacement date. The district also has the right to keep the teacher in that temporary position if they so wish.</p> • Decide how to approach the placement of teachers into an instructional

support role. Consider calendar days, exempt vs. non-exempt, contract requirements and what the performance evaluation process will look like.

- If a teacher is placed into a temporary instructional support position during the one year or two hiring cycles, they remain on a teacher contract and are required to work the same number of days as a teacher. They do not change employment status during this temporary period of time. Their salary and benefits also remain the same. They are also covered under all the provisions of the master agreement.

For consideration:

Due to the difference in calendars and work expectations, in most situations, placing a teacher in the sub pool or in a temporary teaching assignment seems to make more sense practically and financially for a district.

The WG feels that evaluations of a teacher in a temporary assignment should be negotiated through the master agreement. A WG subcommittee suggests that for this one twelve-month period of time or two hiring cycles in which a teacher may be assigned to a temporary assignment, they be excluded from a formal evaluation.

- a. An informal evaluation could be considered dependent on the nature of the placement.
- b. Other members of the WG felt very strongly that any evaluation of an employee in a temporary position is inappropriate.

4. Implement a Process for Placing Teachers in the Priority Hiring Pool on Unpaid Leave

Senate Bill 10-191 mandates that school districts shall reinstate the teachers’ salary and benefits at the level they would have been if the teacher had not been placed on unpaid leave. The issue of placing a displaced teacher on unpaid leave after two hiring cycles or 12 months, whichever is longer, is an issue that is completely new for districts. Districts may have policies that discuss the order in which positions are offered to teachers after going through a RIF process. It is very unlikely that any district has a policy on how to place teachers on unpaid leave and then how to reinstate them should they secure a position at a future date. This particular provision caused WG members to ask questions that are not easily answered. In most instances the WG developed considerations for committee members to think about while discussing the issue of unpaid leave.

Relevant language from S.B. 10-191

Section 11. 22-63-202 (2) (c.5) (IV) “If a nonprobationary teacher is unable to secure a mutual consent assignment at a school of the school district after twelve months or two hiring cycles, whichever period is longer, the school district shall place the teacher on unpaid leave until such time as the teacher is able to secure an assignment. If the teacher secures an assignment at a school of the school district while placed on unpaid leave, the school district shall reinstate the teachers’ salary and benefits at the level they would have been if the teacher had not been placed on unpaid leave.”

WG recommendation(s)

- Determine how long to keep records of a teacher on unpaid leave on file.
 - As long as the district maintains employment records.
- Decide the responsibilities of the employee on unpaid leave and those of the district in the reinstatement process.
 - Employee:

	<ul style="list-style-type: none"> • must act as any other applicant and be responsible for all requirements of the applicant process • they are of equal status with all other applicants ○ District: <ul style="list-style-type: none"> • promote and provide a transparent application process that is easily accessible to all applicants • must maintain employment records so employees on unpaid leave are acknowledged and eligible to receive appropriate salary and benefits upon reinstatement.
<p>Question(s) to consider</p>	<ul style="list-style-type: none"> • Is an individual that is on unpaid leave still considered a district employee? <p><i>For Consideration</i></p> <ul style="list-style-type: none"> ▪ The word Leave insinuates that the person has not been terminated. ▪ The district still has a responsibility to the teacher. ▪ What happens to their pool of benefits? ▪ On unpaid leave teachers stop accruing benefits (no sick leave, but they do not lose time already accrued- no PERA contribution). If and when an employee returns to employed status, he/she would again be eligible to accrue benefits. This is an administrative function: turning ON the employee to PERA. • Should an individual returning from unpaid leave re-enter his/her job at the salary/step at which he or she left, or at the level that the individual would be if he/she had not been placed on unpaid leave? <p><i>For Consideration</i></p> <p>The language of the law states that if the teacher secures an assignment at a school of the school district while placed on unpaid leave, the school district shall reinstate the teachers' salary and benefits at the level they would have been if the teacher had not been placed on unpaid leave.</p> <p>The WG also agrees that:</p> <ul style="list-style-type: none"> ▪ The individual who returns from unpaid leave shall be eligible for horizontal advancement (college credits/degrees). ▪ The individual who returns from unpaid leave shall be reinstated as if he/she never was on unpaid leave and receive at least the benefits and salary he or she had on the existing salary at the salary/step. This consideration should be open for bargaining/negotiations.

Conclusion

Thanks to the focus and effort of the Working Group of dedicated education professionals, school district stakeholders across Colorado have a resource to reference while attempting to answer questions related to staffing provisions of S.B. 10-191. The process, recommendations, considerations, and questions laid out in this guide give school districts a unique opportunity to engage stakeholders in a thoughtful conversation and decision making process that has the potential to produce smart policies and practices.

Appendix I: List of working group participants

District	Name	Title
Adams 14	Leon Cerna	Director of Human Resources
	Arienne Burger	Recruitment and Retention Specialist
	Teresa Benallo	Principal
	David Clark	Past President of School District 14 Classroom Teachers' Association
	Bonnie Van Roekel	Teacher/Recording secretary of SD14 CTA
	Gina Autobee	UniServ Director, Central Adams UniServ
East Grand	Nancy Karas	Superintendent
	Todd Bittner	Assistant Principal
	Christine Dubois-Miller	Teacher
	Darcee Kissler	Teacher
Ft. Lupton	John Hoag	Assistant Superintendent of Operations and Human Resources
	Jason McNair	Principal
	Nancy Wendirad	Migrant Education Graduation Advocate
	Rhonda Ricker	Teacher/ Co-president Ft. Lupton Teacher Association Co-president
	Lynne Lang	UniServ Director, Northern Colorado UniServ Unit
Greeley	Colleen O'Neil	Chief Human Resources Officer
	David Delgado	Greeley Education Association President
	Mary Miner	Human Resource Specialist
	Chris Ingram	Principal
	Ron Anderson	UniServ Director, Northern Colorado UniServ Unit
St. Vrain Valley	David Burnison	Assistant Superintendent of Human Resources
	Sean Corey	Principal
	Trip Merklein	St. Vrain Valley Education Association
	Fran Docherty	UniServ Director, St. Vrain Valley Education Association

The Colorado Legacy Foundation is investing in innovation in public schools. We believe that increased student achievement for all Colorado students requires effective leaders in every school, effective educators in every classroom, and healthy and engaged students who come to school ready to learn. If you have feedback, comments or ideas of how to provide better support, please send an email to ababer@colegacy.org.

ⁱ Interest-based problem solving provides a structured process by which participants work to solve problems while simultaneously fulfilling their own needs and attempting to satisfy the needs of others.

ⁱⁱ See examples of hiring cycles, [School District Guidance on Implementing Effective School Staffing Practices](#).

ⁱⁱⁱ See the [School District Guidance on Implementing Effective School Staffing Practices](#).

^{iv} This section will be repealed in 2013, and then section 22-63-202 (2) (c.5) (III) (A) goes into effect, which state the same, minus the clarification that it's for teachers that were rated "satisfactory" or for teachers rated effective in the districts that already use that rating.