



Testimony in Support of House Bill 2001 (-6 amendment)
House Committee on Rules

Speaker of the House Tina Kotek
April 30, 2021

Colleagues, thank you for the opportunity to provide testimony to this committee in support of House Bill 2001 with the -6 amendment.

Oregon is one of 16 states that prioritizes seniority over other factors when making reductions in teaching staff during difficult budget situations. Oregon law also specifies when a reduction in force may occur, i.e., when there is a lack of funds to continue an education program at its anticipated level and an elimination or adjustment of classes due to an administrative decision (ORS 342.934). Policies that prioritize seniority are often referred to as “last in, first out” policies.

The legislature has been working to make progress in diversifying Oregon’s educator workforce, including prioritized funding in the 2019 Student Success Act. In 2020, the legislature provided nearly \$15 million to the Educator Advancement Council to start scholarships for aspiring teachers and to work on a comprehensive plan with school districts and universities to recruit diverse candidates. The state has also invested in recent career pathway models for districts to recruit future educators who are culturally and linguistically diverse (Oregon Minority Educator Pipeline Models Grant). Districts across the state are developing their own “grow your own” policies to encourage professional development of teaching assistants and other staff to expand the classroom educator pipeline.

This past year has been a reality check for many districts. The fear of the pandemic’s effect on district budgets raised the issue of how teachers who have less seniority and yet are critical to supporting the emotional and social learning of students could be retained. For example, we asked one education service district to model a potential 10% reduction. They estimated that diverse educators comprise 7% of their workforce, but a 10% staff reduction scenario would result in these educators accounting for nearly 20% of the laid off staff due to lack of seniority. While Oregon has been fortunate to avoid mass layoffs since 2009, this bill addresses a gap in current statute when a reduction in force does occur.

So, how does House Bill 2001 (with the -6 amendment) work?

First, here’s what does not change from the process in current statute:

- Definitions of seniority, merit, and competence.
- Seniority as the primary factor directing reductions in force.
- The ability of districts to bargain on merit and competence.
- The definition of diverse teachers.

Here's how the current reduction in force (RIF) process would change under the amendment (and there's a flow chart at the end of this document for reference):

- Under the current RIF process, teachers qualified to fill remaining positions in the district are retained by seniority. Competence or merit can be considered, as determined by local collective bargaining agreements. Ties in seniority are then broken by lots.
- Under the -6 amendment, the current process would play out until the district gets to the less-senior teachers. When the less-senior teachers are evaluated, the district must determine whether letting the teacher go will reduce the school district's diversity ratio as calculated over a three-year period. *If* the teacher is qualified to fill remaining positions in district, and *if* laying off the less-senior teacher will negatively impact the district's diversity ratio, *then* the district shall evaluate the teacher's cultural or linguistic expertise to retain a less-senior teacher.
- Under the -6 amendment, if the layoff of a less-senior teacher does not affect the district's diversity ratio, then the bill simply does not apply.

The bill defines a new factor of "cultural or linguistic expertise" to describe one or more of the following:

- Fluency in a non-English, heritage language spoken by 5% or greater of the district's students;
- Participation in statewide, regional, and/or local diversity initiatives or programs, such as scholarship programs or career pathway programs, aimed at retaining diverse educators; or
- The teacher's current work assignment provides for "half time" spent at a school where the student population is 25% diverse or greater or, if assigned to multiple programs and schools within a district, 25% or more of the program enrollees or district's student population is diverse.

For all references to "diverse" we use the term as defined in ORS 342.433, meaning cultural, racial, and language linguistic diversity other than English. An example of language diversity can be found in East Portland, where the growing Slavic community could be served by educators who speak or identify with the culture of that community.

These changes would apply to collective bargaining agreements entered on or after the date of passage. It is my legislative intent for the statutory definitions and processes, after weeks of consideration from labor and administrators, not be further amended in the bargaining process.

The intent of the work assignment criteria is to help retain teachers who might not speak another language or who might not have entered the classroom through a pipeline program, but who do contribute to the social and emotional learning of students. This is not meant to restrict the assignment of teachers in any way. What we know is that many diverse first, second, and third-year teachers work in diverse schools within a district, even if the district is otherwise less diverse.

Colleagues, seniority is an important and long fought for protection for teachers. We also need a tool to ensure that we have a way to sustain public investments to achieve a culturally or linguistically qualified workforce. This is a contingency plan for layoffs, plain and simple, and doesn't solve for the many challenges we face in retaining teachers of color who burn out, who are not supported, and need additional resources to remain in the classroom. We have much more work to do to improve teacher recruitment and retention. House Bill 2001 with the -6 amendment is just one piece of solving this larger challenge.

I urge your support for House Bill 2001 with the -6 amendment. Thank you for your time and consideration.

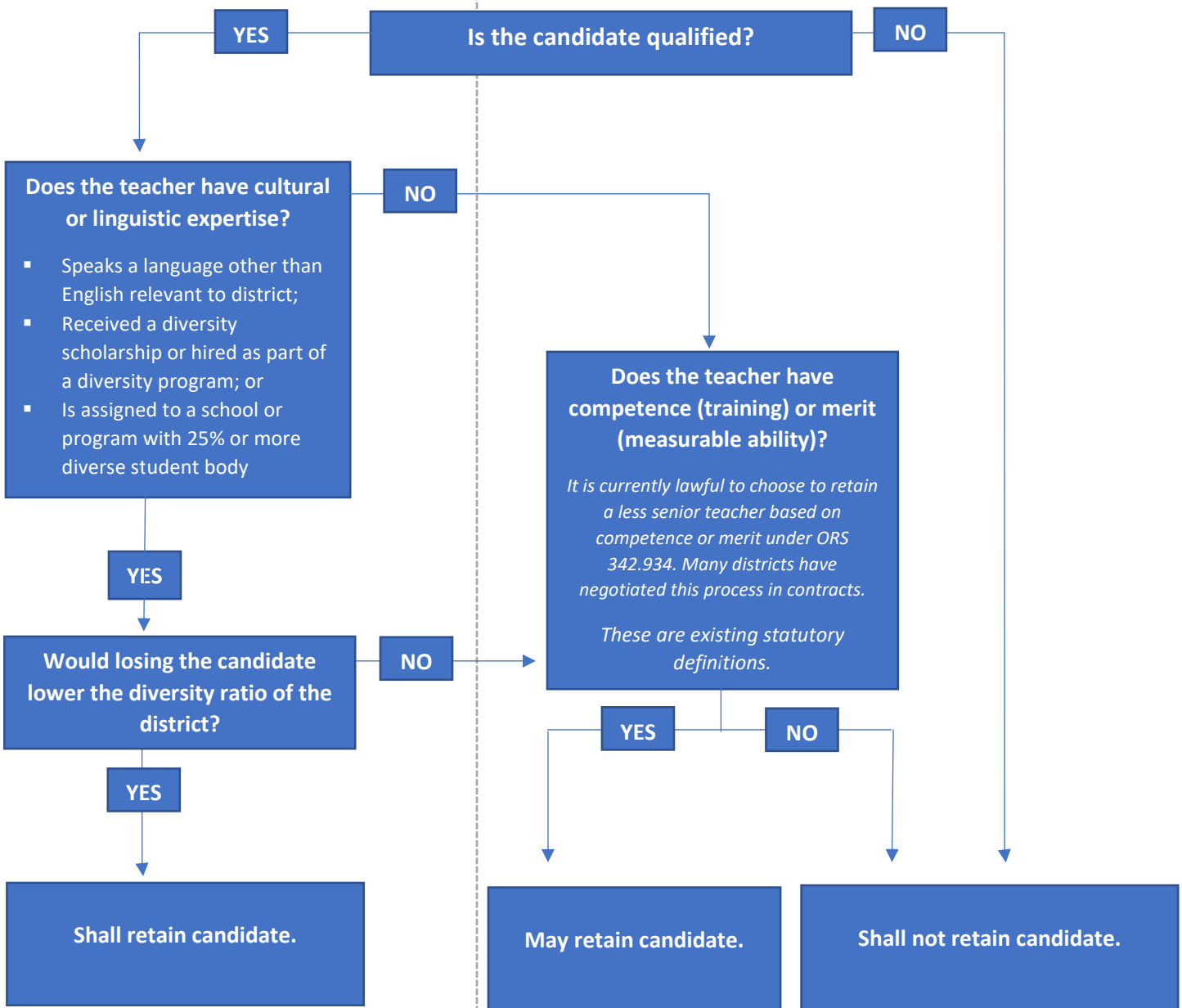
HB2001 -6: When to depart from existing seniority-based RIF to maintain a diverse workforce

Step One (no statutory change):

Retain the most senior teachers who are qualified to fill remaining positions in the district. Consider competence or merit as outlined in collective bargaining agreements. Ties in seniority are broken by lots.

Step Two (-6 amendment):

For the less senior teachers who are qualified to fill remaining positions in the district, determine whether letting the teacher go will reduce the school district's diversity ratio. If laying off a less senior teacher negatively impacts the district's ratio, then the district shall use the cultural or linguistic expertise considerations to retain a less senior teacher.



Does the teacher have cultural or linguistic expertise?

- Speaks a language other than English relevant to district;
- Received a diversity scholarship or hired as part of a diversity program; or
- Is assigned to a school or program with 25% or more diverse student body

Would losing the candidate lower the diversity ratio of the district?

Is the candidate qualified?

Does the teacher have competence (training) or merit (measurable ability)?

It is currently lawful to choose to retain a less senior teacher based on competence or merit under ORS 342.934. Many districts have negotiated this process in contracts.

These are existing statutory definitions.

May retain candidate.

Shall not retain candidate.

Under -6 Amendment

Under Current Law