

SPECIAL PROCEDURES FOR CONDUCTING HEARINGS

CHAPTER I: GENERAL PROVISIONS

Section I. Authority: These rules of practice are adopted as authorized by the Wyoming Administrative Procedure Act, Chapter 108, Session Laws of Wyoming 1965 (Sections 9-276.19 through 9276.33, Wyoming Statutes 1957 as amended); Sections 151 through 164, Chapter 111, Session Laws of Wyoming 1969 (Sections 21.1-151 through 21.6 -164 Wyoming Statutes 1957 as amended); and Section 67, Chapter 111, Session Laws of Wyoming 1969 (Section 21.1 -61, Wyoming Statutes 1957 as amended).

Section 2. Definitions: As used in these rules:

- a. "Board" means the Board of Trustees of Sweetwater County School District Number One, State of Wyoming.
- b. "Chairman" means the chairman of the Board or in his absence the vice-chairman or other member of the Board designated by the Board to preside at a hearing.
- c. "Superintendent" means the chief administrative officer of the school district.
- d. "Clerk" means the clerk of the Board.
- e. "Contestant" means any teacher, pupil, or other person whose legal rights, duties, or privileges are required to be determined by the Board in a hearing before the Board.
- f. "Teacher" means any person employed under contract by the Board as a certified professional employee.
- g. "Initial Contact Teacher" means a teacher who has not been employed by a school district for a length of time sufficient to achieve continuing contract status.
- h. "Continuing Contract Teacher" means:
 - (1) Any initial contract teacher who has been employed by the same school district in the State of Wyoming for a period of three consecutive school years and who has had his or her contract renewed for a fourth consecutive year; or
 - (2) A teacher who has achieved continuing contract status in one school district and who has taught two consecutive school years and has his or her contract renewed for a third consecutive year by the employing school district.
- i. "Dismissal" means the cancellation of a contract of employment by the Board of Trustees of a teacher while said contract is in effect. In the case of a continuing contract teacher, dismissal shall mean cancellation of his or her contract at any time other than at the end of a school year where proper notice has been given.
- j. "Suspension" relating to teachers, means the removal of a teacher from his or her classroom during the school year without termination of salary.
- k. "Termination" means the failure of the Board of Trustees to reemploy a teacher at the end of the school year in any given year.

- l. "Pupil" means any person duly enrolled for instruction in the public elementary or secondary schools of this district.
- m. "Suspension or expulsion" in reference to pupils means the removal from school of a pupil for disciplinary reasons on the grounds enumerated in Section 62, Chapter 111, Session Laws of Wyoming 1969

Section 3. Promulgation Amendment or Repeal of Rules: Any amendments to these rules shall become effective as provided by Chapter 108, Session Laws of Wyoming, 1965 (Sections 9-276.19 through 9-276.33, Wyoming Statutes, 1957, as amended.)

Section 4. Applicability of Rules:

- a. These rules shall apply to all hearings required by law to be held with respect to termination, dismissal, and suspension of teachers under the Wyoming Teachers Employment Law, and to all hearings required by law to be held with respect to the suspension or expulsion of any pupil from the public schools.
- b. These rules may in the discretion of the Board apply to any other hearing which may be held by the Board.
- c. Informal or investigative hearings may be held by the Board without compliance with these rules.

CHAPTER 11: TERMINATION, SUSPENSION OR DISMISSAL OF TEACHERS AND PUPILS

Section 5. Termination of Initial Contract Teachers: The contract of an initial contract teacher may be terminated by the Board upon notification in writing of such termination by registered or certified mail to the last known address of such initial contract teacher no later than April 15 of each year. Proof of such written notice together with the proof of mailing, shall be kept and retained in the records of the school district. An initial contract teacher shall not be entitled to a hearing or the reasons for such termination .

Section 6. Termination of Continuing Contract Teachers: The contract of a continuing contract teacher may be terminated by the Board in the following manner:

- a. Written notice of a recommendation of termination together with written reasons therefore shall be submitted by either registered or certified mail to the last known address of any such continuing contract teacher on or before April 15 of any year. Proof of such written notice together with the proof of mailing, shall be kept and retained in the records of the school district.
- b. Any continuing contract teacher shall be entitled to a hearing before the Board within thirty (30) days after receipt of notice or recommendation of termination pursuant to the preceding subsection, provided that a written request for such hearing is made by the teacher to the chairman or clerk of the Board within ten (10) days of receipt of said notice. Said hearing shall be conducted as provided in these rules.

Section 7. Dismissal and Suspension of Teachers: The suspension or dismissal of any teacher may be initiated by the superintendent or any member of the Board submitting to the teacher by registered or certified mail to the last known address of such teacher, a written notice of such dismissal or suspension, together with the written reasons therefore. Any teacher who shall receive such notice shall be entitled to a hearing before the Board within a period of thirty (30) days from and after receipt of such notice. Notice of time and place of such hearing shall be given in the same manner as the notice of dismissal or suspension within ten (10) days after receipt of the notice of suspension or dismissal. Said hearing may be waived in writing by the teacher. Proof of any notice required by this section together with the proof of mailing, shall be kept and retained in the records of the school district.

Section 8. Suspension and Expulsion of Pupils:

- a. No pupil may be suspended or expelled from the schools of the district unless oral notice is given immediately, if possible, and written notice is given either personally or by certified or registered mail within a period of twenty-four (24) hours to the parents of the child affected stating the reason for the suspension or expulsion.
- b. When the Board has determined to expel any pupil from school or to suspend any pupil for more than ten (10) days, the pupil shall be entitled to a hearing before the Board within a period of thirty (30) days from and after receipt of such written notice if the pupil through his parents, guardian or custodian requests such hearing in writing within ten (10) days after receipt of written notice of suspension or expulsion, together with the reasons therefore.

CHAPTER III: RULES OF PRACTICE GOVERNING HEARINGS

Section 9. Notice of Hearing: The Board shall cause written notice of any hearing held under these rules to be served upon each contestant at least ten (10) days prior to the date set for the hearing. Such notice shall include a statement of:

- a. The time, place and nature of the hearing.
- b. The legal authority and jurisdiction under which the hearing is to be held.
- c. Such other matters as may be required by the Wyoming Administrative Procedures Act.

Section 10 . Service of Notice: Service may be made either personally or by certified or registered mail as follows:

- a. Personally: Said service, if made by sheriff, or other official, shall be made in the manner prescribed by the Wyoming Rules of Civil Procedure. Said service may be made by any person, not an officer, who is of lawful age, and not a party in interest. The return of said service shall be made by the certification of the officer who made such service, or if made by a person other than an officer, by his affidavit. Such return of service must be filed with the Board prior to the commencement of the hearing.
- b. By certified or registered mail to the last known address of contestant.

Section 11 . Motions: The Board may at any time after three (3) days notice to all parties hear orally, or otherwise, any motion filed in connection with hearings under these rules.

Section 12. Docket: When a contestant is entitled to a hearing under these rules, a copy of the written notice of termination, suspension, dismissal, or expulsion shall be filed with the clerk of the Board who shall then assign it a docket number and enter the proceeding with the date of its filing on a separate page of a docket provided for such purpose. The clerk shall establish a separate file for each docketed case in which shall be systematically placed all papers, pleadings, documents, transcripts and evidence pertaining thereto, and all such items shall have noted thereon the docket number assigned and the date of filing.

Section 13 . Form of Pleadings: The form of pleadings or other papers filed in each docketed case shall be substantially as follows:

BEFORE THE BOARD OF TRUSTEES
OF
_____ SCHOOL DISTRICT
IN THE COUNTY OF _____ AND STATE OF WYOMING
IN THE MATTER OF
_____ Docket No. _____
Contestant

(Body of Pleading or Motion)

(Signature)
Name (typed or printed)
Title

(Signature)

Name (typed or printed) _____

Address _____

Attorney _____

Section 14 . Settlements: Unless precluded by law informal disposition may be made of any hearing by stipulation, agreed settlement, consent, order or default.

Section 15. Continuances: For good cause shown, continuances and extensions of time may be granted or denied in the discretion of the Board, provided that except where both parties agree, no continuance shall be granted which shall extend the time for hearing beyond the time in which such hearing must be held as provided as law.

Section 16. Pre-Hearing Conference: At a time on or before the day of the hearing, the Board may direct the attorneys for the parties to appear before the Board to consider:

- a. The simplification of the issues.
- b. The necessity or desirability of amending the pleadings.
- c. The possibility of obtaining admissions of fact and or documents which will avoid unnecessary proof.
- d. Such other matters as may aid in the disposition of the case.

Such conferences shall be conducted informally. A memorandum will be prepared which recites the actions taken at the conference, amendments allowed, agreements of the parties and limitation of the issues to those undisposed of by admissions or agreements of counsel and the parties. The pre-hearing memorandum will control the course of the hearing unless modified by the Board to prevent manifest injustice.

Section 17. Subpoenas: The chairman or clerk of the Board, upon written application of any party of his attorney, shall issue a subpoena requiring the appearance of witnesses for the purpose of taking evidence or requiring the production of any books, papers or other documents relevant or material to the inquiry, all subject to the provisions of Section 7, Chapter 108, Session Laws of Wyoming, 1965 (Sec. 9-276.25, Wyoming Statutes, 1957).

Section 18. Order of Procedure at Hearing: As nearly as may be, hearings shall be conducted in accordance with the following order of procedure:

- a. The chairman shall announce that the Board is open to transact business and call by docket number and title the case to be heard.
- b. The district will be allowed an opening statement to briefly explain its position to the Board and outline the evidence it proposes to offer, together with the purpose thereof.
- c. The contestant will be allowed an opening statement.
- d. Any additional parties will be allowed an opening statement.
- e. The district's evidence will be heard. Witnesses may be cross examined by the contestant or his attorney and by members of the Board and legal counsel for the Board. The district's offered exhibits will be marked by letters of the alphabet, beginning with
- f. The chairman may introduce any evidence necessary on behalf of the Board, and exhibits of the Board will be marked with double letters of the alphabet, beginning with "AA." Members of the Board may examine witnesses. Witnesses may be cross-examined by the contestant and the attorney for the superintendent.
- g. The evidence of the contestant will be heard, and exhibits of such contestant will be marked with numbers, beginning with "I." each member of the Board, the superintendent, and the attorney for the Board, shall have the right to cross-examine all witnesses presented on behalf of the contestant.

- h. The district may offer rebuttal evidence.
- i. The Board may, in its discretion, allow evidence to be offered out of order, as herein prescribed.

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- j. Closing statements will be made in the following sequence:
 - (1) District
 - (2) Contestant
 - (3) District in rebuttal.

The time for oral argument may be limited by the chairman.

- k. The chairman may recess the hearing as required.
- l. After all interested parties have been offered an opportunity to be heard, the chairman shall declare the evidence closed and excuse all witnesses. The evidence of the case may be reopened at a later date, for good cause shown, by order of the Board upon motion of any party to the proceeding, the chairman, or the Board itself.
- m. Parties may tender briefs, or the Board may call for such briefs as may be desirable.
- n. The chairman may declare that the matter is taken under advisement and that the decision and order of the Board will be announced at a later date.

Section 19 . Witnesses at Hearings to be Sworn: All persons testifying at any hearing before the Board shall stand and be administered the following oath or affirmation by a member of the Board:

"Do you swear (or affirm) to tell the truth, the whole truth, and nothing but the truth in the matter now before the Board, so help you, God?"

No testimony will be received from a witness except under such oath or affirmation.

Section 20. Applicable Rules of Civil Procedure: The rules of practice and procedure contained in the Rules of Civil Procedure of the State of Wyoming, insofar as the same may be applicable and not inconsistent with the laws of the State of Wyoming, shall apply in all hearings before the Board. For the application of such rules, the clerk is designated to be in the same relationship to the Board as a clerk of court to a court.

Section 21 . Attorneys: The filing of a pleading or other appearance by an attorney constitutes his appearance for the party for whom made. The Board must be notified in writing of his withdrawal from any matter. Any person appearing before the Board at a hearing in a representative capacity shall be precluded from examining or cross examining any witness, unless such person shall be an attorney licensed to practice law in the State of Wyoming, or a non-resident attorney associated with a Wyoming attorney. This rule shall be construed to prohibit any person from representing himself before the Board.

Section 22. Attorney for the Board: In all hearings before the Board, the chairman shall request the attorney for the Board, if there be a, to be present to assist and advise the Board.

Section 23. Taking of Testimony-Reporter: In all hearings, the proceedings, including all testimony, shall be reported verbatim, stenographically, or by any other appropriate means determined by the Board of the officer presiding at the hearing.

Section 24. Decisions. Findings of Fact Conclusions of Law Orders: The Board, following a full and complete hearing shall make and enter a written decision and order containing findings of fact, and conclusions of law based upon the evidence, both testimonial and documentary, introduced and admitted during the course of the hearing. In addition, all matters which have been officially noticed by the Board will be taken into consideration as a basis for making findings of fact and conclusions of law, separately stated. Such decisions, findings of fact, conclusions of law and order shall be filed with the clerk and will, without further action, become the decision findings of fact, conclusions of law and order based upon the hearing. The clerk shall, upon receipt of any decision and order, send a copy to contestant and interested parties involved by certified mail, postage prepaid.

Section 25. Members of Board Present: No member of the Board shall vote upon a decision of the Board unless he shall have been present at the hearing or has read the transcript of the proceedings. The vote of the Board shall be shown in its decision, i.e., 6-0; 4-2; 3-0, _____ not participating, etc.

Section 26. Appeals to District Court: Appeals to the District Court from decisions of the Board may be taken in the manner prescribed by the Wyoming Administrative Procedures Act.

Section 27. Transcripts: Oral proceedings or any part thereof shall be transcribed on request of any party upon payment of the cost thereof. In case of an appeal to the District Court, the party appealing shall secure and file a transcript of the testimony and other evidence offered at the hearing with the Board, which transcript shall be verified by the oath of the reporter or transcribed as a true and correct transcript of the testimony and other evidence in the hearing. The cost of making the transcript shall be paid by the party prosecuting such appeal. The complete record on appeal, including the transcript of testimony, shall be verified by the clerk.

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