

## 5.20.132-P Pretermination Hearing Procedures For Contract Teachers

- (1) **Applicability**. The following procedures will apply at a hearing before the Board, which is requested by a contract teacher after the superintendent has recommended termination of the teacher's employment.
- (2) **Hearing Procedures**.
  - (a) **Hearing**. The hearing will occur before a presiding officer designated by the Board. Board members may elect to attend the hearing in person or to review the record of the hearing. A tape recording or other verbatim transcript will be made for the sole use of Board members in reaching their decision.
  - (b) **Presiding Office**. The presiding officer will be a Board member or other person designated by the Board. The presiding officer shall gather the information necessary for the Board to make a decision regarding termination of the teacher's employment. At the hearing, the teacher will be given the opportunity to provide any information that the teacher believes is relevant for the Board to consider.
  - (c) **Presiding Officer's Report**. Unless the full Board attends the hearing, the presiding officer will submit a report and recommendation to the Board after close of the hearing.
  - (d) **Decision**. After the hearing and any report from the presiding officer, the Board will decide whether the superintendent's recommendation of dismissal should be affirmed, reversed or modified.
  - (e) **Reasons and Issues**. The written reasons for the superintendent's recommendation, which have been provided to the teacher, will establish the basis and issues for the hearing. Those reasons may be amended before completion of the Board's review, but the presiding officer would then afford the teacher the opportunity to provide information on the amended reasons.
  - (f) **Conduct of the Hearing**.
    - (A) The presiding officer will inform the teacher of the date, time and place of the hearing.
    - (B) The hearing will not be open to the public unless the teacher requests a public meeting. Unless a public hearing is held, the only tape recording or verbatim transcript will be that created for the use by Board members.

## 5.20.132-P Pretermination Hearing Procedures For Contract Teachers

- (C) Unless the hearing is in public, any witnesses other than the teacher, supervisors and superintendent may attend the hearing only when they are testifying.
- (D) All documents, communications and records generated by the hearing are to be filed in a separate file, which will constitute a "personnel file" within the meaning of the confidentiality provisions of ORS 342.850 and will not be open for inspection by other than the superintendent's office, in the absence of the specific approval of the superintendent or the teacher.
- (E) The presiding officer shall make such rulings as appear appropriate regarding the proceedings, the order of proof, and the form of testimony and evidence. The following general procedure, however, will apply:
  - (i) The presiding officer will open the hearing. If a quorum of the Board is present, the presiding officer will announce the basis for the executive session (unless the hearing is public by the teacher's request). The presiding officer will also state the issue(s);
  - (ii) The district and the teacher may be represented by counsel;
  - (iii) The district will present its position first;
  - (iv) The teacher will next present his or her position;
  - (v) The positions of the district and teacher may be presented in narrative format, in writing, through witnesses and/or through documents;
  - (vi) One hour will be allowed for the presentation by each party. This time can be extended by the presiding officer at his or her discretion;
  - (vii) Failure by the teacher to attend the hearing will be deemed a withdrawal of the request for a hearing and a waiver of the right to such a hearing;
  - (viii) Formal rules of evidence do not apply. The presiding officer will allow the presentation of all evidence that he or she deems to be relevant to the resolution of the issues presented. The presiding officer, however, may disallow evidence that he or she determines is unnecessarily repetitive, irrelevant, unreliable or defamatory;

## 5.20.132-P Pretermination Hearing Procedures For Contract Teachers

- (ix) All decisions regarding the conduct of the hearing will be made by the presiding officer;
  - (x) The presiding officer may ask questions of the parties and of any witnesses. With permission of the presiding officer, Board members in attendance may also pose questions;
  - (xi) The parties will not be allowed to cross-examine each other or any witnesses presented by another party. The parties may, however, ask the presiding officer to pose specific questions to another party or witness.
- (3) **Decision of the Board.**
- (a) **In General.** The Board's decision will be written and will be furnished to the parties promptly after close of the hearing and receipt of any report of the presiding officer, allowing time if necessary for the review of any hearing record by Board members. Unless otherwise directed by the Board, the evidence considered by it will be confined to the record made at the hearing. Any further presentation to the Board on behalf of a teacher will consist only of argument based on the record and presented by either the teacher or the teacher's representative, but not by both.
  - (b) **Deliberations.** The Board may deliberate privately after conclusion of the party's representation. The district's attorney and superintendent may be present during the deliberations, at the request of the Board chair or designee, for assistance with procedural matters. No additional evidence will be heard during the Board's deliberations.
  - (c) **Additional Evidence.** If the teacher or the superintendent wishes to present additional evidence to the Board that for good cause was not presented at the initial hearing, written application must be made prior to the date on which the Board's decision is made. The application must: (a) specify the information, documents, witnesses or testimony proposed to be presented; (b) include a copy of any exhibits proposed to be offered; and (c) state the specific reasons that the evidence was not presented at the hearing.
- (4) **Effect of Procedural Errors.** If a hearing under this procedure is determined by the Board or on appeal beyond the Board to have been inadequate in a material respect, the defect will not result in automatic employment or reemployment for the teacher, but will entitle the teacher to a rehearing conducted in an adequate manner, which may result in affirmation, reversal or modification of the previous decision.

## 5.20.132-P Pretermination Hearing Procedures For Contract Teachers

- (5) **Notices.** Notices and copies to the teacher given under this policy will be deemed given and effective when delivered to the teacher or upon mailing thereof by certified mail to the last address shown for the teacher on the district's personnel records.

Legal Reference: ORS 342.805 - 342.937

History: Adpt. 12/11/97

