

Section 5000 – Personnel

5540-R Suspension and/or Dismissal of Professional Staff

5540-R

General Procedure for Handling Complaints about a Member of the Professional Staff (Cf. 9450)

Complaints will be investigated fully and fairly, and the employee's rights to due process¹ shall be protected at all times under these rules, applicable law, or in compliance with appropriate collective bargaining agreements.

Whenever a complaint is made directly to the Board as a whole or to a Board member as an individual, it shall be referred to the administration for study and possible solution. The employee involved will be informed and shall be given every opportunity for explanation, comment and presentation of the facts as the employee sees them. The employee shall also be given the opportunity to meet with the person(s) making the complaint if the employee so desires.

The employee involved may request a closed session of the Board for a full study and decision by this body. Statutory provisions for closed sessions of the Board shall be observed.

Generally all parties involved, including the administration, will be asked to attend such a meeting to present additional facts and clarify the issues. Hearsay and rumor shall be disregarded as will any emotional display.

The Board shall conduct such meetings in as fair and just a manner as possible. The Board may request a disinterested third party to act as moderator to help the Board reach a mutually satisfactory solution.

¹ Due process includes both substantive and procedural due process. Substantive due process protects employees from arbitrary, capricious, irrational, or unreasonable action (requires that a rule or a disciplinary decision must be rationally related to a legitimate state interest). Procedural due process includes the concepts of proper notice to the accused and the right to a hearing before a property interest is taken away. The extent of the procedures due depends on the nature of the interest being taken away, i.e., the more that could potentially be taken away, the more procedural protections must be provided. If the maximum penalty that could be imposed is relatively small, only a small amount of procedural due process is required.

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5540-R-2

Hearing Procedure – Complaints Against Employees

The formal hearing provided for in Board policy shall be conducted in accordance with the following procedures and the employee shall have the following rights under the hearing procedure:

- The right of the employee to have counsel of their own choice present and to receive the advice of counsel or other person the employee may select,
- The right of the employee and his/her counsel or advisor to hear or read a full report of testimony of witnesses against the employee,
- The right of the employee and/or his/her counsel to confront and cross-examine witnesses who appear in person at the hearing,
- The right of the employee to present his/her own witnesses,
- The right of the employee to testify in his/her own behalf and give reasons for his/her conduct and address the accusations against him/her,
- The right of the employee to have an orderly hearing, and
- The right of the employee to a fair and impartial decision based on substantial evidence.

In these procedures, “counsel” means any person the employee selects to represent and advise him/her at all proceedings conducted according to these procedures. Pursuant to law, an individual convicted of a listed offense will not be entitled to request a hearing on reinstatement, and the Superintendent of Public Instruction shall not reinstate the individual’s teaching certificate.

Rules Accepted: June 29, 2009