

**TEACHER TERMINATION  
PROCEDURES**

In accordance with the policy of the board of education, the following procedures shall be followed in terminating the employment of career and probationary teachers.

Whenever the superintendent recommends to the board of education that a teacher employed within this school district be dismissed or not reemployed, the superintendent's written recommendation shall set forth the basis for the recommendation. The recommendation shall include the specific statutory grounds on which a career teacher should be dismissed or not reemployed, or the cause for which a probationary teacher should be dismissed or not reemployed, and shall include the underlying facts supporting the recommendation.

Whenever the board of education receives a recommendation for the dismissal or nonreemployment of a teacher, the board shall mail, or cause to be mailed, a copy of the recommendation to the teacher, or serve the recommendation and notice of hearing by process server. If mailed, such mailing will be by certified mail, restricted delivery, return receipt requested. The notice must specify the statutory grounds - for career teachers - or the cause - for probationary teachers - upon which the recommendation is based and shall include the teacher's right to a hearing before the board and the date, time, and place set by the board for hearing. Such hearing shall be held within the school district no sooner than twenty days nor later than sixty days following the teacher's receipt of notice unless the teacher advises that no hearing is desired. The board delegates the superintendent, as its agent, to set a time, date, and place for the hearing after consultation with the board president.

Procedures for conducting hearings shall apply for career and probationary teachers. Hearing procedures for probationary teachers shall be as follows:

1. The parties to the hearing are the probationary teacher and the superintendent or designee, and they shall be afforded the following rights at any hearing held pursuant to these regulations:
  - A. The right to be represented.
  - B. The right to present witnesses in person or to present their testimony by interrogatories, affidavits, or depositions. A list of all witnesses shall be furnished to the other party at least five (5) days before the hearing.
  - C. The right to cross-examine witnesses.
  - D. The right to testify in his/her own behalf and present evidence and argument on all issues involved.
  - E. The right to have an orderly hearing.
  - F. The right to have an impartial decision based upon the evidence presented.
2. The board president or, in case of absence, a designee, shall be the presiding officer at the hearing.
3. The hearing shall be convened by the board president who shall state the purpose of the hearing, introduce the parties, and administer the oath to all persons who will testify.

**TEACHER TERMINATION PROCEDURES (Cont.)**

4. Upon the request of either party, the presiding officer may exclude from the hearing room the witnesses not at the time under examination, except that a party to the proceeding and his/her representative shall not be excluded.
5. At the hearing, the burden of proof shall be on the superintendent and the standard of proof shall be by a preponderance of the evidence.
6. While a record of the hearing is not required by law, the State Board of Education strongly suggests that the local board of education maintain such a record (including a tape recording of the hearing and any documents or evidence presented to the board) for two (2) years from the date of the hearing.
7. Informal disposition of any recommendation for dismissal or nonrenewal may be made by written stipulation, agreed settlement, consent order, or default.
8. The order of the procedures shall be:
  - A. Opening statement by the superintendent.
  - B. Opening statement by the teacher.
  - C. Presentation of the superintendent's evidence, followed by cross-examination of witnesses by the teacher.
  - D. Questions by the board members.
  - E. Presentation of the teacher's evidence, followed by cross-examination of witnesses by the superintendent.
  - F. Questions by the board members.
  - G. Presentation of rebuttal and surrebuttal evidence as necessary.
  - H. Closing argument by the superintendent.
  - I. Closing argument by the teacher.
  - J. Deliberation by the board members.
  - K. Vote by the board to accept or reject the superintendent's recommendation and recitation of findings of fact upon which the decision is based.
9. Presentation and consideration of evidence shall abide by the following:
  - A. Only evidence that reasonably relates to the issues before the board, as reflected in the notice to the teacher, should be deemed relevant.

**TEACHER TERMINATION PROCEDURES (Cont.)**

- B. Strict rules of evidence as required by a court of law shall not apply in these hearings.
- C. Rulings on admissibility of evidence will be made by the presiding officer.
- D. Documentary evidence may be received in the form of copies or excerpts.
- E. Documentary evidence presented to the board shall be marked with a distinguishing number or letter such as Teacher's Exhibit #1 or Superintendent's Exhibit #1.
- F. While hearings are open to the public, no questions or statements will be allowed by members of the public attending the hearing except through the parties or their council.

The board of education may convene into executive session to deliberate findings of fact. After due consideration of the evidence and testimony presented at the hearing, the board of education shall vote in open meeting whether or not to dismiss or nonreemploy the probationary teacher. The board's decision shall include a recitation of the basic or underlying facts relied upon by the board in reaching its decision. The teacher shall be notified in writing of the board's decision by certified mail, restricted delivery, return receipt requested, or substitute process as authorized by law.

The career teacher pretermination hearing shall be conducted by the board of education. Initially, the superintendent or designee shall, in person or in writing, specify the statutory ground upon which the recommendation is based. The superintendent or designee will specify the underlying facts upon which the recommendation was based and provide an explanation of the evidence supporting the recommendation for the dismissal or nonreemployment of the career teacher.

The career teacher or designee will then have the opportunity to present reasons, either in person or in writing, why the superintendent's recommendation should not be accepted. The burden of proof shall be upon the superintendent or designee and the standard of proof shall be by preponderance of the evidence.

The board of education may convene into executive session to deliberate findings of fact. After due consideration of the evidence presented, the board will return to open session and decide whether to accept or reject the recommendation of the superintendent. The board's vote shall be made in open session.

Following the board meeting, the board shall notify the career teacher of its decision, including the basis for the decision, by certified mail, restricted delivery, return receipt requested or sub process as provided by law. If the decision is to accept the recommendation of the superintendent, the career teacher's notification shall include the teacher's right to petition for a trial de novo in the district court within ten (10) days of receipt of such notice. If the teacher is a probationary teacher, the board's decision is final. The career teacher shall receive all compensation and benefits to which the teacher is otherwise entitled only until such time as the teacher's case is adjudicated at a trial de novo if the career teacher petitions for a trial de novo.

The board of education must forward hearing information concerning career and probationary teachers to the State Board of Education on a prescribed form available from the administrative office.

**TEACHER TERMINATION PROCEDURES (Cont.)**

Exemption Provision

Southwest Technology Center shall follow state law in the termination of employment of teachers who are, in certain instances, exempt from the provisions of the Teacher Due Process Act of 1990.

The dismissal, suspension, and nonreemployment provisions of the Teacher Due Process Act of 1990 shall not apply to:

1. Substitute teachers
2. Adult education teachers
3. Teachers who are employed on temporary contracts

The dismissal and suspension provisions of the Teacher Due Process Act of 1990 shall apply to teachers who are employed in positions fully funded by federal or private categorical grants, except that such teachers shall be employed for only the duration of the grant.

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