

Greater Albany SD 8J
Administrative Regulation

Code: **BDE-AR**
Adopted: 6/9/97
Revised: 3/12/01, 8/13/07
Orig. Code(s): BP 1310

Public Hearings Procedures

A. PERSONNEL HEARINGS

1. **Applicability:** The following procedures shall pertain whenever the Board holds a hearing to consider:
 - a. The non-renewal of a licensed employee;
 - b. The dismissal of any employee (A classified employee must request a hearing within 15 days of the action of dismissal or demotion.);
 - c. The demotion of any classified employee; or
 - d. Any other employment-related matter where the Board is required by law, policy or contract or elects to hold a hearing.

2. **Pre-hearing Procedures:** Whenever it is determined that the Board is required or has elected to hold an employment-related hearing, the following procedures shall be followed prior to the hearing:
 - a. **Option to Appoint a Hearings Officer:** The Board may elect to appoint a hearings officer to hear evidence, develop a record and make a recommendation to the Board. Upon action of the Board, the Board chairperson may appoint the superintendent, one of the members of the Board or a qualified individual not employed by the district to serve as hearings officer.
 - b. **Prior Notification:** The Board chairperson or the hearings officer shall set a date, time and place for the hearing and shall notify in writing all parties in a timely manner. Consideration shall be given to the availability of the parties.
 - c. **Notification of Option for an Open Hearing:** The affected employee shall be notified in a timely manner of the option of a public hearing. If the employee does not request such an open hearing in writing 48 hours prior to the hearing, the hearing shall be closed.
 - d. **Notification of Right to Representation:** The affected employee shall be notified in writing in a timely manner of the right to representation at the hearing by an attorney, another person chosen by the employee or representation by the appropriate bargaining group.
 - e. **Notification of Procedures at the Hearing:** The affected employee shall be sent a copy of this procedure at the time the employee is notified of the date of the hearing.

3. The hearing shall be conducted according to the following procedures:
 - a. The Board chairperson or the hearings officer shall preside and shall decide all questions of procedure not determined by this policy, by law or by contract;
 - b. The presiding officer shall note for the record whether the employee has requested an open hearing; if not, the presiding officer shall exclude from the hearing all except for the employee, the employee's representative(s), witnesses, appropriate district administrators, representatives and/or witnesses;

- c. A representative of the district shall begin the presentation of evidence and argument by giving a brief description of events leading up to the hearing, and decisions, if any, previously made by district staff members concerning the matter;
- d. The employee or representative shall have the opportunity to make an opening statement;
- e. Except in the case where the hearing concerns a dismissal or non-renewal, the employee shall present his/her case first and may call witnesses and present documentary and other evidence;
- f. In the case where the hearing concerns dismissal or non-renewal, the district representative shall present the district's case first and may call witnesses and present documentary and other evidence;
- g. Following the testimony of each witness, that witness may be cross-examined by the other party;
- h. The presiding officer may limit or exclude testimony or other evidence that is repetitive or irrelevant;
- i. Following the presentation of evidence by both parties, the representative of each party may make a closing statement;
- j. Board members and/or hearings officer may question witnesses and representatives at any point during the hearing;
- k. A verbatim written or mechanical record shall be made of the hearing.

4. Post-hearing Procedures: Appeal to the Board from a Hearings Officer's Decision

The following procedures shall be followed after the close of the hearing:

- a. If the matter has been heard by a hearings officer instead of the Board, the hearings officer shall develop and summarize in writing a record of the argument and evidence presented by both parties, proposed findings of fact and a recommendation for action by the Board;
- b. The hearings officer's findings and recommendations shall be furnished to the employee and the district representative. If either party objects to the findings or the recommendations, they may appeal the decision before the entire Board. A request for such an appeal must be made in writing within 10 calendar days of the date when the hearings officer's recommendation was mailed to the party;
- c. Upon receipt of a request to appeal, the Board shall set a date for the appeal. Such presentation shall be scheduled for the next regular Board meeting unless a special meeting is called or another timely date is set. Board members shall be provided either a verbatim transcript or audio recording of the hearing that was held before the hearings officer.
- d. The appeal to the Board shall be confined to the issues presented at the hearing. The objecting party shall be required to state specific objections to the findings of fact or the recommended action. No presentation of additional evidence shall be allowed, unless not available to the objecting party at the time of the hearing. The appeal shall be held under the provisions described in Section 3, except that the chairperson shall have the authority to establish reasonable time limitations for the presentation of oral arguments.

5. **Decision of the Board:** Following the close of a hearing, if the whole Board has heard the matter, or following the receipt of a hearings officer’s findings of fact and recommended action and the completion of any appeal of that recommendation, the Board shall proceed as follows:
 - a. The Board may consider the matter in executive session but any action shall be taken in open session, in accordance with the Open Meetings Law (ORS 192.610 et seq);
 - b. The Board shall adopt, modify or reject the recommendation of a hearings officer;
 - c. Where the entire Board has heard the matter, the Board shall adopt brief findings of fact and shall take any official action found to be warranted;
 - d. The decision of the Board shall be final except as specifically provided in law or other policy.

6. **Post-hearing Procedure: Board Action When No Appeal is Made**

In those instances when the Board is required by statute to conduct a hearing and there is no appeal from the hearings officer’s findings or recommendations, the Board shall review the transcripts or proceedings before the hearings officer and all of the exhibits received by the hearings officer and shall adopt, modify or reject the recommendation of the hearings officer.

B. HEARINGS: STUDENTS, PARENTS or GUARDIANS¹, OTHER

Informal hearings may also be held by the Board for other purposes according to Board policy and for other purposes at the Board’s discretion. Hearings other than for student discipline and personnel matters will be in open session.

C. EXPULSION OF STUDENTS

Formal hearings shall be held by the Board or by the superintendent or designee, if required requested in writing by the student or parents of the student against whom an action has been taken.

The procedure for student expulsions hearings will be as follows:

1. A notice shall be given to the student and the parent or guardian by certified mail and, if not accepted, by regular mail, citing the specific charge or charges. The notice shall state a recommendation of either expulsion or suspension pending investigation for possible expulsion, when a hearing will take place and the student’s right to representation. This written notice citing the specific charge or charges and the specific facts shall be mailed at least five days prior to the hearing;

¹As used in this document, the term parent includes legal guardian or person in a parental relationship. The status and duties of a legal guardian are defined in ORS 125.005 (4) and 125.300 - 125.325. The determination of whether an individual is acting in a parental relationship, for purposes of determining residency, depends on the evaluation of the factors listed in ORS 419B.373. The determination for other purposes depends on evaluation of those factors and a power of attorney executed pursuant to ORS 109.056. For special education students, parent also includes a surrogate parent, an adult student whom rights have transferred and foster parent as defined in OAR 581-015-0005(18).

2. A hearing will be held unless the student and the student’s parents or guardian waive, in writing, the right to a hearing. By waiving the right to a hearing, or non-attendance at the hearing, the student and his/her parent or guardian agree to abide by the lawful findings of the hearings or review officer;
3. The superintendent or designee shall act as the hearings officer and shall conduct the hearing;
4. Students shall be permitted to have a representative present at the hearing to advise and represent them. The representative may be an attorney, parent or guardian;
5. The student shall be afforded the right to answer the charges and to give evidence by way of testimony, witnesses, affidavits or exhibits;
6. Students shall be permitted to hear the evidence presented against them;
7. The hearings officer shall determine the facts of each case on the evidence presented at the hearing. This may include the relevant past history and records of the student. The hearings officer shall submit to the Board the findings of facts, recommended decision on disciplinary action and whether or not the student is guilty of the alleged conduct. The hearings officer may also include the duration of any expulsion of a student. The district may propose alternative programs of instruction or counseling, or both, for the student;
8. Strict rules of evidence shall not apply to the proceedings. However, this provision shall not limit the hearings officer’s control of the hearing;
9. The hearings officer or the accused may make a record of the hearing;
10. Hearings will be held in private unless the student and the parent or guardian requests a public hearing;
11. Expulsion shall not extend beyond the calendar year;
12. The Board shall review the decision of the hearings officer and may affirm, modify or reverse the decision. Final action on student expulsion shall be voted on by the Board in executive session and if the hearing was held in private, the name, issue, discussion and members’ vote shall not be made public.