

**RULES OF PROCEDURE FOR
CONDUCTING A TEACHER TERMINATION HEARING**

The Board of Education of Milford School District adopts and promulgates the following Rules of Procedure which shall govern all hearings before the Board of Education held for the purpose of considering termination of the professional services of a person who is certified to teach who is employed by the Board as a teacher, as provided for in 14 Delaware Code, Chapter 14.

I. **NOTICE OF HEARING**

A hearing shall be granted on receipt of a written request signed by the teacher who has received notice of the Board's intention to terminate services as specified in 14 Del. C. §1410, provided such written request shall be received within ten (10) AN days after the teacher receives the notice of intent to terminate services, and shall request an opportunity to be heard by the Board. In such cases, the Board shall set a time for such hearing to be held within twenty-one (21) days after the date of receipt of said written request from the teacher, and the Board shall give the teacher at least fifteen (15) days notice, in writing, of the date, time and place of such hearing. The hearing shall be conducted by a majority of the members of the Board and shall be confined to the written reasons for termination as stated in the Board's written notice of the Board's intention to terminate the teacher's services.

The communication or letter containing the notice of the date, time, and place of hearing shall specifically advise the teacher of the following rights:

- A. The teacher shall have the option of indicating whether he or she wishes the hearing to be public, by so stating in the written request for a hearing; otherwise, the hearing shall be private;
- B. The teacher may be represented by counsel. When legal counsel is to be retained by the teacher, notice of such fact should be given to the Board, when the teacher sends the written request for a hearing. Likewise, when legal counsel is to be employed by the Board, the teacher shall be given notice of such fact at the time the Board sends notice giving the date, time and place of the hearing.
- C. The teacher and the Board may subpoena witnesses. If the teacher desires to have the Board subpoena witnesses, the teacher should notify the Board of the names and addresses of any such witnesses at least seven (7) days prior to the hearing.

- D. The teacher and the Board and counsel for each may cross-examine witnesses.
- E. Testimony before the Board shall be under oath.
- F. The testimony to be heard shall be confined to the reasons stated in the written notice of intent to terminate service. Any evidence shall be admissible during the hearing which is adjudged by the Board to be pertinent to the reasons contained in the written notice which the teacher received and which stated the reasons for dismissal.
- G. A stenographic record of the hearing shall be taken and prepared by a qualified court stenographer and paid for by the Board, and shall be supplied to the teacher and the Board within ten (10) days following the conclusion of the hearing.
- H. The decision of the Board shall be submitted in writing to the teacher within fifteen (15) days following the conclusion of the hearing.
- I. If the decision is in favor of the teacher, he or she shall be fully reinstated and shall receive all salary lost as a result of his or her temporary dismissal or suspension.

II. ORDER OF PROCEDURE - PRELIMINARY MATTERS

- A. The President of the Board of Education or his/her designated member or non-member representative shall act as hearing officer, and will announce that the hearing is being conducted under the provisions of the Board Rules governing the conduct of teacher termination hearings. The hearing officer will declare the hearing to be open and will inquire as to whether the Secretary of the Board of Education has met the requirements for giving notice of the hearing as specified in I, above.
- B. The Secretary of the Board of Education shall produce a copy of the notice of hearing letter mailed to the teacher together with the mail receipt showing prior delivery thereof. The Secretary shall also state that the hearing on the termination is being held within twenty-one (21) days after receipt by the Board of the request for hearing. (Any time limits specified in these Rules may be extended only by agreement of the Board and the teacher, in writing, and only by those having the authority to extend such time limits.)

III. ORDER OF PROCEDURE - PRESENTATION OF EVIDENCE

- A. All testimony will be given under oath with the oath to be administered by the Secretary of the Board of Education or by a member of the administration staff designated by the Secretary to administer the oath.

The Board, or its duly designated representative or attorney, may make an opening statement and may offer testimony to substantiate the reasons for termination stated in the written notice of intent to terminate services.

1. Opportunity will be given at the conclusion of testimony of each witness for the Board for cross-examination by the teacher, attorney or duly authorized representative.
- B. The teacher, the teacher's attorney or duly authorized representative, may make an opening statement and may offer testimony in response to the evidence offered by witnesses called for the Board.
1. Opportunity will be given at the conclusion of testimony of each witness for the Board of Education, the duly authorized hearing officer and its attorney, to cross-examine any witness called in behalf of the teacher.
- C. The Board or its attorney or authorized representative will be given an opportunity to present any testimony in rebuttal to that offered by or on behalf of the teacher, including the calling or recalling of witnesses to testify in rebuttal.
1. Opportunity will be given for cross-examination of rebuttal witnesses by or on behalf of the Board.
- D. Closing statements may be offered first by the Board, its attorney or representative and then by the teacher, the teacher's attorney or representative, with the last closing statement to be made by or in behalf of the Board.

IV. GENERAL HEARING PROCEDURES

- A. All evidence is admissible which is relevant, material, reliable and probative, but which is not unduly repetitious or cumulative.
- B. Objections to the admission of evidence shall be brief and shall state the ground for such objections. Rulings or objections shall be made by the hearing officer.
- C. Strict judicial rules of evidence shall not be applicable to hearings conducted under these rules, and in each case, the test of admissibility shall be whether the offered evidence is reasonably relevant to a material factual issue and whether it has substantial probative value with respect to such material issues. The hearing officer may limit or disallow cumulative or repetitious evidence and may curtail redundant questioning and may prohibit argumentative questioning or the badgering of a witness.

- D. All testimony shall be given under oath, with the following form of oath being used: "Do you swear or affirm that the testimony you are about to give is true and correct to the best of your knowledge?"
- E. All parties in the proceeding may be represented by counsel.
- F. The Secretary of the Board of Education shall note in the Minutes of the Board the names of the persons appearing and their counsel if they are represented.
- G. The Board may continue, adjourn, or postpone a hearing for good cause upon application of or on behalf of the teacher or on its own application.
- H. Any person who testifies as a witness shall be subject to the cross-examination by the other parties in the order set forth in III, above, unless otherwise determined by the Board President or his/her designated presiding representative. Any witness is subject to examination by any member of the Board.
- I. Any documents introduced into evidence shall be marked by the Secretary of the Board and shall be made a part of the record of the hearing. Documents introduced by the Board shall be marked as "Board Exhibit" and all documents introduced by the teacher shall be marked as "Teacher Exhibit," with the exhibits for each side bearing consecutive numerical designations, such as Teacher Exhibit 1 or Board Exhibit 1. The Secretary shall prepare a record listing the names of all persons present, their attorneys, the witnesses testifying for each side, and shall list all exhibits introduced during the course of the hearing.
- J. The Board may take administrative notice of its own acts, records, and policies.

V. POST HEARING PROCEDURE

- A. Each decision and order of the Board shall be delivered in writing with copies to all parties. Each decision and order shall set forth the findings of fact made by the Board and the conclusions based thereon, and shall state the decision of the Board on the matter of the teacher termination. The Board shall submit its written decision to the teacher within fifteen (15) days following the conclusion of the hearing.

ADOPTED: 10/20/80