

HEARINGS BEFORE THE BOARD

The Avery County Board of Education is guided by generally accepted standards of fairness in establishing processes for hearings before the Board. Given the Board's considerable responsibilities for overseeing the educational program and operations of the schools, the Board also strives to be efficient in carrying out its various functions, including conducting hearings.

Unless other hearing processes are required by law or Board policy, the following procedures will apply in Board hearings. The Board reserves the right to modify the procedures described in this policy as necessary in any particular hearing in order to be fair, efficient, meet legal requirements or for any other reason the Board deems sufficient.

1. A hearing will be open to the public unless a closed session is permitted by law.

It is the express policy of the State and this Board to make hearings open to the public except for certain purposes specified in the Open Meetings Law.

Grievance appeals pursuant to Board policies (Student and Parent Grievance Procedures, policy 1740/4010 and Grievance Procedure for Employees, policy 1750/7220 typically will be heard in closed sessions in order to present the disclosure of confidential information. Closed sessions will be conducted in accordance with Board policy 2320, Compliance with the Open Meetings Law.

The Board will consider requests made by a parent, student or employee to conduct a hearing in open session that is permitted by law to be held in closed session. However, the Board will make the final determination of whether a hearing will be held in open or closed session.

2. The superintendent is responsible for providing sufficient notice of the time and place a hearing will be held and the nature of the hearing that will be available.

In order to resolve complaints expeditiously, board hearings will be scheduled as promptly as possible and notice given to the parties. The superintendent should provide as much notice as is feasible given the particular circumstances. The superintendent will provide a copy of this policy and, when possible, specify time limitations on the oral presentation if different from what is provided in section five of this policy.

3. Individual hearings will be held unless the Board determines that a group hearing would be a more effective process for hearing and addressing the matter.

When two or more individuals share the same or similar concern or are involved in the same matter to be heard by the Board, the Board may consider whether to conduct a group hearing. The Board may consider factors such as generally accepted standards of fairness, the need for efficiency and the ability to prevent the disclosure of confidential information. The Board will consider requests for group or individual hearings and will make the final determination.

4. Unless otherwise required by law, the Board may designate a panel of two or more Board members to hear and act on behalf of the Board.

The superintendent will confer with the chairperson of the Board to determine whether the full Board or a panel of the Board will conduct a hearing. The Board also may establish a panel to hear certain types of appeals, such as student grievances.

5. All parties involved in the hearing may submit written position statements and will be given the opportunity for a limited oral presentation.

Written statements may be submitted at the hearing or in advance of the hearing unless otherwise specified. All parties will be given the opportunity to orally address the Board as well. The Board may establish time limitations for oral presentations for different types of hearings or may set the time limitation for a particular hearing. Unless a different time frame is established in the notice, applicable Board policies or at the hearing, each party will be offered 15 minutes to present his or her position to the Board.

6. The Board may limit oral presentation to be made by the parties themselves; other witnesses may be excluded. Any individual intending to be represented by legal counsel must notify the superintendent in advance of the hearing.

The Board believes that in most instances, the position of the parties can be presented fairly by permitting the parties to speak before the Board. The Board may designate types of hearings in which parties may or may not be represented by legal counsel. Any individual intending to be represented by legal counsel must notify the superintendent in advance of the hearing so that there will be an opportunity to clarify whether legal counsel may be used and to provide the superintendent and Board the opportunity to be represented by legal counsel. If necessary, the meeting may be rescheduled so that the Board and/or superintendent can secure legal counsel for the hearing.

7. Legal evidentiary rules do not apply to information considered by the Board.

The Board may consider any information that a reasonably prudent person would consider in conducting the serious affairs of a business.

8. In reviewing any appeal of a decision of school personnel, the Board will determine whether the administrative record as a whole provides sufficient

evidence to justify the decision of the superintendent. New evidence will not be permitted unless necessary to prevent a threat of substantial unfairness.

The Board will review the administrative record, including any administrative proceedings, and will provide an opportunity for the superintendent and the party contesting the decision to a limited oral presentation of their positions. The submission of documentary evidence and presentation of additional witnesses will be allowed at the discretion of the Board.

9. The superintendent is responsible for making a record of the hearing.

The superintendent will make any record required by law. At a minimum, the Board record will incorporate the administrative record provided to the Board for review and any written documents submitted by the parties. The record also will provide the decision of the Board and the basis for the decision when such information is required or specified in law or Board policy.

Legal Reference: G.S. 115C-45(c); 143-318.11

Cross Reference: Student and Parent Grievance Procedure (policy 1740/4010), Sexual Harassment Complaint Procedure for Students (policy 1745), Grievance Procedure for Employees (policy 1750/7220), Sexual Harassment Complaint Procedure for Employees (policy 1755)

Adopted: 6/5/00

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