

MEMOS TO THE BOARD OF EDUCATION - FORMAT AND CONTENT

To: The RSD17 Board of Education

Date: 2/8/24

Submitted for Board meeting dated: 2/13/24

Re: *Board Approval to appoint hearing officers to conduct expulsion hearings*

Purpose of memo: *Board Action*

Executive Summary:

Boards of education can appoint impartial hearing officers to conduct expulsion hearings. Section 10-233d(b) of the Connecticut General Statutes expressly provides that "any local or regional board of education or any two or more of such boards in cooperation may establish an impartial hearing board of one or more persons" to conduct expulsion hearings.

An impartial hearing officer must thoroughly know the procedures required to conduct an expulsion hearing per applicable law. Compliance with procedural requirements is critical to avoid legal challenges to expulsion proceedings. The Board may appoint an impartial hearing officer to handle all expulsion hearings or only certain hearings. Region 17 Board Policy 5131 permits appointing an impartial hearing officer in Section VIII, B.

The impartial hearing officer acts in lieu of the Board, and the impartial hearing officer's findings and decisions are not subject to approval or other action by the Board. While any such decisions will bind the board, the board could consider whether it wishes to continue to delegate this responsibility.

Board Action: *A motion for the Board of Education to appoint Elisa Bartlett, Steve Sedor, Kyle McClain, and Michael Mackniak as impartial hearing officers for the purpose of conducting expulsion hearings.*

CC:

Board Administrator

Enclosures:

[Memo Regarding Hearing Officer for Expulsion Matters from Attorney Santiago](#)



MEMORANDUM

To:	Region 17 Board of Education Members, Jeffrey Wihbey, Superintendent of Schools
FROM:	Rebecca R. Santiago, Shipman & Goodwin LLP
DATE:	February 8, 2024
RE:	Hearing Officer for Expulsion Matters

You have asked for legal advice to assist the Board in considering whether to appoint an impartial hearing officer to conduct one or more expulsion hearings in Region #17. Specifically, you have asked: 1) Does the Board have the authority to appoint an impartial hearing officer to conduct expulsion hearings? 2) If so, what authority would the hearing officer hold and would the Board maintain any oversight over such hearings? I will address each of these issues below.

Authority to Appoint Impartial Hearing Officers

Connecticut law allows boards of education to appoint impartial hearing officers for the purposes of conducting expulsion hearings. Section 10-233d(b) of the Connecticut General Statutes expressly provides that "any local or regional board of education or any two or more of such boards in cooperation may establish an impartial hearing board of one or more persons" for the purpose of conducting expulsion hearings. The statute provides further that "no member of any such board or boards shall be a member of the hearing board."

An impartial hearing officer would need to have a thorough working knowledge of the procedures required in order to conduct an expulsion hearing in accordance with applicable law. Compliance with such procedural requirements is critical in expulsion hearings, in order to avoid legal challenges to expulsion proceedings. The Board may appoint an impartial hearing officer to handle all expulsion hearings or only certain hearings. For instance, some boards of education retain jurisdiction and have board members conduct one in four hearings, on a rotating basis.

Region 17 Board Policy 5131 permits the appointment of an impartial hearing officer. Section VIII, B of the policy reads, in pertinent part:

B. Hearing Panel:

- 1. Expulsion hearings conducted by the Board will be heard by any three or more Board members. A decision to expel a student must be supported by a majority of the Board members present, provided that no less than three (3) affirmative votes to expel are cast.*
- 2. Alternatively, the Board may appoint an impartial hearing board composed of one (1) or more persons to hear and decide the expulsion matter, provided that no member of the Board may serve on such panel.*

Authority of Impartial Hearing Officers

Under the statute, an impartial hearing officer or panel has the final authority regarding expulsion decisions. The statute provides that the “hearing board shall have the authority to conduct the expulsion hearing and render a final decision” regarding the expulsion. The impartial hearing officer acts in lieu of the Board, and the impartial hearing officer’s findings and decision are not subject to approval or other action by the Board. However, given the board’s oversight responsibility, if the board of education wished, it could receive and consider hearing officer decisions. While the board will be bound by any such decisions, the board could thereby gauge whether it wishes to continue to delegate this responsibility in the future.

Appointment of an Impartial Hearing Officers

If the Board wishes to appoint a hearing officer, the Board would need to do so by action on a motion to appoint one or more specific individuals as impartial hearing officers for the purpose of conducting expulsion hearings.

It would also be permissible for the Board to provide greater clarity as to the scope of the hearing officer appointment in the Board’s motion. For instance, the Board could move to appoint one or more specific individuals to serve as an impartial hearing officer for expulsion hearings in instances where: (1) an insufficient number of Board members are available to attend the hearing, (2) concerns exist related to impartiality of a Board member(s) or (3) after discussion between the Board Chair and the Superintendent, it is determined that use of a hearing officer best meets the needs of the district.

If the Board wishes to move forward with the use of a hearing officer, I would be glad to provide the Board with the names of individuals who serve as impartial hearing officers in other districts.

I hope this information is helpful to you and the Board. If there are additional questions, I would be happy to discuss this issue further with the Board.