

## **THE CONDUCT OF TERMINATION PROCEEDINGS**

### **1. APPLICATION OF THE RULES**

The following rules apply only to employees with written contracts. All other employees are at-will employees, unless otherwise provided in a collective bargaining agreement. At-will employees shall not have an expectancy in continued employment or in a hearing prior to termination. In addition, the following rules do not apply to personnel whose employment is being terminated upon the expiration of their contract.

### **2. NOTICE OF TERMINATION**

Notice of intention to terminate an employee shall be in writing and shall:

- A. state the reason(s) for the termination;
- B. be sent to the employee by certified mail addressed to the employee's last known residence;
- C. specify the address to which any written request for a hearing shall be sent by certified mail; and
- D. be accompanied by a copy of these Rules of Procedure.

### **3. REQUEST FOR A HEARING**

- A. The notified employee may request an opportunity to be heard. Such a request must be in writing and received by the District within ten days after receipt of the written notice of intention to terminate. If the employee fails to provide a timely, written request for a hearing, the notice of intention to terminate is final notice of termination effective ten days after it was received by the employee. The notice shall be deemed to have been received on the third day following the day of mailing by certified mail.
- B. Following receipt of a written request for a hearing, the Executive Secretary of the Board shall set a date for such hearing. The hearing shall be held as soon as practicable after the date of receipt of a written request for a hearing. The employee shall have at least 15 days' notice in writing of the time and place of such hearing.
- C. The employee may specify a public hearing by so stating in the written request for a hearing. In the absence of such a specification the hearing shall be private.

### **4. CONDUCT OF HEARING**

- A. The hearing of oral testimony and receipt of other evidence shall be conducted by a Hearing Officer designated by the Board. The Board shall not participate in the investigation of the charges forming a basis for the termination. The Hearing Officer may be an employee of the District, but shall not have participated in the investigation of the charges forming a basis for the termination.
- B. The Hearing Officer shall have full authority to control the conduct of the hearing, including authority to admit or exclude evidence, and rule upon the motions and objections.
- C. The hearing and testimony shall be limited to the reason(s) set forth in the notice of intention to terminate.
- D. The Parties may be represented by counsel.
- E. The designee of the Superintendent shall first submit any evidence, followed by the response of the employee, if any. Further rebuttal evidence by either party may be permitted, if the Hearing Officer believes such evidence is necessary.

F. The Hearing Officer in conducting the hearing shall not be bound by common-law or statutory rules of evidence or by technical or formal rules of procedure. Irrelevant evidence, and unduly repetitive proof, rebuttal and cross examination, may be excluded.

G. Witnesses shall be sworn and testify under oath.

H. The parties and their counsel may examine and cross examine witnesses.

I. A stenographic record of the hearing shall be taken by a qualified stenographer. A copy of the tape recording or transcript shall be supplied to the employee upon request. A copy of the tape recording or transcript shall be supplied to the Board prior to any Board decision on the matter.

J. The employee may request that witnesses attend the hearing. The District shall use its best efforts to secure the voluntary appearance of such witnesses; provided, however, that the Hearing Officer may excuse such witnesses from appearing upon a determination that the evidence sought does not relate to the matter to be heard, or the witness would offer testimony which would merely be repetitive of other witnesses who will be produced.

K. Grounds for termination have not been established unless one or more of the reasons set forth in the Notice of Intention to Terminate is established by a preponderance of the evidence.

#### 5. HEARING BY THE BOARD

A. Within five days from the conclusion of the hearing, the Hearing Officer shall prepare a written report (the "Report") for the Board. The Report shall summarize the evidence and shall state conclusions of fact and conclusions of law.

B. A majority of the Board shall convene to review the records of the proceedings and, within 15 days of the hearing before the hearing officer, shall submit to the employee its decision in writing.

#### 6. CALCULATIONS OF TIME

In calculating periods of time provided for in the Rules of Procedure, intervening Saturdays, Sundays and legal holidays shall be included, unless the final day of the period falls on either a Saturday, Sunday or legal holiday and in that case the final day shall be the next day which is not a Saturday, Sunday or legal holiday.

APPROVED: 10/26/09

AMENDED: 4/18/11; 12/19/15