

## **CONTESTED HEARINGS**

The Board may be required to assume a judicial role to ensure adherence to district policy. All contested matters will be heard in a fair and impartial manner, and the Board will resolve all disputes. All contested hearings shall adhere to the procedures outlined in this policy.

### **HEARING**

- Hearings involving personnel and students are closed to the public.
- Requests for hearings to be conducted in open session will be considered by the Board.
- A verbatim record of the hearing will be made.
- Closed hearing records will be sealed pending a determination of the board.

### **CONDUCT OF THE HEARING**

- The Board shall appoint a school board member or a person who is not an employee of the school district as the hearing officer.
- Each party may be represented by an attorney.
- Each party may make an opening statement.
- The complainant or petitioner shall present its case first.

### **WITNESSES**

- All witnesses must take an oath or affirmation of truth.
- Witnesses may be present only when testifying.
- Each party may present, examine and cross-examine witnesses.
- The hearing officer may ask questions of witnesses and may allow other school board members to question witnesses.

### **EVIDENCE**

- Each party may introduce evidence.
- All relevant evidence must be admitted.
- Unproductive or repetitious evidence may be limited by the hearing officer.
- Each party may raise objections. The basis for the objection must be stated.
- Each party may make a closing statement.

### **DELIBERATION**

- After the hearing, the school board shall continue to meet in executive session for deliberation.
- No one other than the hearing officer may meet with the school board during deliberation.
- The school board may seek advice during deliberation from its legal counsel.
- Consultation with any other person during deliberation may occur only if representatives of the parties are present.

## **DECISION**

- The decision of the Board must be based solely on the evidence presented at the hearing and must be effected by a motion made in open session.
- For closed hearings the motion must omit the names of the parties.
- The Board shall notify the parties in writing of its decision.

### **Legal References:**

ARSD 24:07 (Student due process)  
SDCL 1-25-2 (Executive or closed meetings)  
SDCL 1-26-18 (Rights of parties at hearings on contested cases)  
SDCL 1-26-26 (Ex parte consultations by agency personnel)  
SDCL 13-10 (School district employees)  
SDCL 13-32 (Supervision of students and conduct of school)  
SDCL 13-43 (Employment of teachers)

1<sup>st</sup> Reading-10/20/2015

2<sup>nd</sup> Reading-11/17/2015

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