

Descriptor Term:
HEARINGS BEFORE THE BOARD

Descriptor Code:
2.5000

Legal References: G.S.115C-45(c); 143-418.11

Cross References:

The board 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 shall 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 shall be open to the public unless a closed session is permitted by law.

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

Grievance appeals typically shall be heard in closed sessions in order to prevent the disclosure of confidential information. Closed sessions shall be conducted in accordance with board policy 2.3200, Compliance with the Open Meetings Law.

The board shall 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 shall ~~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 that a hearing will be held and the nature of the hearing that will be available.

In order to resolve complaints expeditiously, board hearings shall 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 shall provide a copy of this policy and, when possible, specify time limitations on the oral presentation if different from the provisions in Section Five of this policy.

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

Where 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 shall consider requests for group or individual hearings and shall make the final determination.

4. Unless otherwise required by law, the board may designate a panel of three (3) or more board members to hear and act on behalf of the board.

The superintendent shall 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 disciplinary appeals or student grievances.

5. All parties involved in the hearing may submit written position statements and shall 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 shall be given the opportunity to address the board orally 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. Each party shall be offered fifteen (15) minutes to present his/her position to the board unless a different time frame is established in the notice, applicable board policies or at the hearing.

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 two (2) days in advance of the hearing.

The board believes that, in most instances, permitting the parties to speak before the board enables a fair presentation of the parties' position. 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 two (2) days 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 to enable the board and/or superintendent time to secure legal counsel for the hearing.

7. Legal rules of evidence 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 shall determine whether the administrative record as a whole provides sufficient evidence to justify the decision of the superintendent. New evidence shall not be permitted unless necessary to prevent a threat of substantial unfairness.

The board shall review the administrative record, including any administrative proceedings, and shall provide an opportunity for the superintendent and the party contesting the decision to make 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 shall make any record required by law. At a minimum, the board record shall incorporate the administrative record provided to the board for review and any written documents submitted by the parties. The record shall also provide the decision of the board and the basis for the decision if such information is required or specified in law or board policy.