

BOARD OF TRUSTEES
Series 200

Policy Title: HEARINGS

Code: 203.8

The Board of Trustees is empowered to conduct hearings for the purposes of considering the suspension or expulsion of students, the termination of continuing contract teachers, non-continuance of certificated personnel and the discharge of non-certificated personnel.

All hearings shall be in compliance with procedures prescribed by the Idaho Code and The State Board of Education and shall adhere to due process of law.

Certificated Professional Personnel Hearing

Hearings for the purpose of reviewing decisions to suspend, grant leaves of absence, place on probation or discharge certificated professional personnel shall follow Idaho Code 33-513 procedures as listed below:

1. The hearing shall be scheduled to take place not less than six (6) days nor more than twenty-one (21) days after receipt of the notice by the employee. The date may change by mutual consent.
2. The hearing shall be public unless the employee requests in writing that it be in executive session.
3. All testimony at the hearing shall be given under oath or affirmation. Any member of the board, or the clerk of the board, may administer oaths to witnesses or affirmations by witnesses.
4. The employee may be represented by legal counsel and/or by a representative of a local or state teachers association.
5. The chairman of the board or the designee of the chairman shall conduct the hearing.
6. The board shall cause an electronic record of the hearing to be made or shall employ a competent reporter to take stenographic or stenotype notes of all the testimony at the hearing. A transcript of the hearing shall be provided at cost by the board upon request of the employee.
7. At the hearing the superintendent or other duly authorized administrative officer shall present evidence to substantiate the allegations contained in such notice.
8. The employee may produce evidence to refute the allegations. Any witness presented by the superintendent or by the employee shall be subject to cross-examination. The board may also examine witnesses and be represented by counsel.
9. The affected employee may file written briefs and arguments with the board within three (3) days after the close of the hearing or such other time as may be agreed upon by the affected employee and the board.
10. Within fifteen (15) days following the close of the hearing, the board shall determine and, acting through their duly authorized administrative official, shall notify the employee in writing whether the evidence presented at the hearing established the truth of the allegations and whether the employee is to be retained, immediately discharged, or discharged upon termination of the current contract.

Student Suspension Expulsion Hearings

Hearings for the purpose of reviewing a decision to suspend or expel a student shall be scheduled by the board, following the receipt of a Notice of Intent to Challenge from parents or guardians of such student. Procedures for the hearing shall follow procedures provided in Policy 503.8.1 of the Lapwai School District Policy Manual.

Student "Section 504" Hearing

An impartial hearing procedure is available to students and their parents to resolve differences dealing with educational services available under Section 504 of the Rehabilitation Act (hereinafter "Section 504") when such differences cannot be resolved by means of a less formal procedure.

The hearing procedures and procedural safeguards set forth in this policy apply to the identification, evaluation, or educational placement of a student, as set forth in 34 CFR 104.36. A student qualifies for a free appropriate public education, including related services, under Section 504 if he/she has a physical or mental impairment which substantially limits one or more major life activities.

The following definitions shall apply to all related hearing matters:

1. "Days" means calendar days;
2. "Parents" means parents or legal guardians;
3. "Placement" means the program concerning the educational placement of the student.

A Section 504 impartial hearing may be requested by the school district or a parent of an affected student on matters directly related to:

- 204 The identification or eligibility of a student as disabled under Section 504;
- 205 The evaluation procedures utilized with the student; or
- 206 The educational placement and/or services and accommodations recommended for the student.

All requests for a hearing under this policy must be submitted in writing addressed to the Superintendent of Schools. The written request for a hearing must contain:

- 300 The specific nature of the dispute;
- 301 The specific relief or remedy requested; and
- 302 Any other information the school district or parents believe is important to understanding the dispute.

The hearing procedure shall be presided over and decided by an impartial hearing officer. The Superintendent of Schools, or his/her designee, shall select an impartial hearing officer within fifteen (15) days of receipt of the request for a Section 504 hearing. The selected impartial hearing officer shall:

- I. Be qualified to review school district decisions relating to Section 504;
- II. Be impartial and unbiased; and
- III. Not be an employee of the school district.

The selected hearing officer, prior to the hearing, will review the school district's actions and notify the parties in writing of the date of the hearing. The parents and the school district shall be given at least 10 days notice of the date of the hearing. The notice from the appointed hearing officer shall contain:

1. A statement of the time, place, and nature of the hearing;
2. A statement of the legal authority and jurisdiction under which the hearing is being held;
3. A statement of the availability of relevant records for examination;
4. A concise statement of the issues in dispute;
5. A statement setting forth the right of the student's parents or guardians to participate in the hearing procedure; and
6. A statement of the right to be represented by counsel.

All written correspondence shall be provided in English and/or interpreted in the parents' primary language.

Either party to the hearing may request a continuance. The continuance may be granted by the hearing officer upon a showing of good cause. Any continuance(s) granted by the hearing officer shall extend the time for rendering a final hearing decision for a period equal to the length of the continuance(s). The hearing shall be conducted and a written decision shall be mailed by the hearing officer to all parties within forty-five (45) days from the date of the hearing assignment.

The appointed hearing officer shall preside at the hearing and shall conduct the hearing proceedings in a manner that allows all parties the following rights:

- 3) The right to be accompanied and advised by counsel and by individuals with special knowledge or training relating to the problems of disabled children;
- 4) The right to present evidence and oral arguments;
- 5) The right to an electronic verbatim record of the hearing; and
- 6) The right to written findings of fact and a decision on the matter.

Parents involved in the hearing process shall have the right to:

1. Have the student present at the hearing; and
2. Open the hearing to the public.

In cases where there are language differences, an interpreter shall be provided by the school district.

The appointed hearing officer shall review all relevant facts presented at the hearing and shall determine whether the student's rights have been fully observed. The hearing officer shall have the authority to uphold, reverse, or modify the school district's determination with regard to the:

1. Identification of the student as disabled;
2. Evaluation procedures utilized with the student; and
3. Educational placement and/or services and accommodations recommended for the student.

A copy of the hearing officer's findings of fact and decision shall be delivered to the school district and the parents within forty-five (45) days from the date of the assignment of the hearing officer.

The decision of the hearing officer is binding on all parties concerned and may be appealed to a court of competent jurisdiction.

An electronic verbatim recording of the Section 504 hearing shall be on file at the school district administration office and will be available for review upon request by the parents and/or any of the involved parties.

Date of Adoption:
April 20, 1998
Readopted: 7/19/99, 7/19/04

Legal Reference: Idaho Code
Sections 33-513, 33-514, 33-518.
29 USC Chapter 16
34 CFR part 104

Related References:

State Board of Education policy 307.2
Suggested Procedures for Conducting a Hearing by the Board—App. M
Lapwai School District Policy 402.5
Lapwai School District Policy 503.8