



5.20.083-AD Evaluation – Burden Of Proof

- (1) The probationary employee statute in Oregon states that the board of a district may discharge or remove any probationary employee at any time during a probationary period for any cause deemed sufficient by the Board. In the case of a probationary employee, the act of being an employee does not carry with it the acquisition of permanent status. Therefore, the probationary employee who invokes the grievance policy regarding the adequacy of his/her service has responsibility for the burden of proof. If the employee feels that he/she has been dealt with unfairly in his/her evaluation procedurally, or as to the major facts involved, it is up to the employee to demonstrate a real violation of his/her rights to the extent that the person reviewing that issue may conclude that, indeed, the administration behaved in an arbitrary and capricious manner, or that the administrative action was wholly lacking in support.
- (2) A finding cannot be made for the employee on the basis of the fact that the administration's view of services reflects one kind of judgment and that the employee on probation views his/her services differently. Obviously, difference in evaluation of services is a very natural consequence for anyone who has been evaluated negatively. However, what really needs to be demonstrated by the aggrieved beyond what is in the record is that there has been an arbitrary and capricious exercise of judgment on the part of the administration or that the administrative behavior was wholly lacking in support.
- (3) Therefore, in order for a probationary employee's grievance to be supported, he/she must establish and present for the record evidence demonstrating more than a difference in judgment, but rather a clearly apparent effort by the administration to deal with the employee unfairly.

Policy Implemented:

History: Adpt. 8/74