

## 5.20.091-P Non-Renewal Of Probationary Teachers

The following procedures are adopted pursuant to ORS 342.835, as amended by Chapter 727, Oregon Laws 1975 (Senate Bill 645).

- (1) **Board Action on Non-renewal.** Non-renewal of probationary teachers' contracts and employment is made on the authority of the Board. Ordinarily, the Board acts on the recommendation of the superintendent, who, in turn, acts on the recommendations of the Office of Personnel Services. By reason of the legal requirements for notice of intended action by April 1, with respect to contracts and employment for the ensuing school year, the Board at times acts on the basis of such recommendations without making an independent inquiry concerning the recommendation.
- (2) **Notices.** It is the intention of the district to provide the teacher written notice of intent to recommend non-renewal in advance of Board action to the extent it is reasonably practicable to do so. This provision shall not, however, be construed as a hearing procedure on a standard for conduct, and no appeals of decisions arising from this policy may be based thereon. Notices of non-renewal given pursuant to Board action prior to a decision under the hearing procedures therein established shall be effective subject to the affirmative, reversal or modification thereof as a result of any requested hearing conducted, as provided in this policy.
- (3) **Request for Hearing.** A teacher who desires a hearing on the non-renewal of his or her contract or employment in accordance with ORS 342.835 (2) must personally or by an authorized representative file a written request therefore with the Office of Personnel Services together with a request for the reasons for the non-renewal. The request must be formally filed with the Office of Personnel Services by the end of the 10th working day after the Board meeting at which the Board initially determined not to renew.
- (4) **Hearing Procedures.**
  - (a) **Reasons and Issues.** Promptly upon receipt of the request for a hearing under this policy, the superintendent or his designee shall cause a written copy of the reasons for non-renewal to be given to the teacher. Such reason(s) shall establish the basis for the hearing.
  - (b) **Procedures Applicable Generally.**
    - (A) The presiding officer shall consult with the parties involved in establishing the time, place and date of the hearing. This consultation shall occur at least five days prior to the date of the hearing.

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- (B) There need not be a verbatim transcript, but one may be supplied under the cost arrangements provided in the general procedures of the grievance procedure in the Professional Agreement.
  - (C) The Board shall act promptly on the presiding officer's recommendation for non-renewal. The Board's decision shall be written and shall be furnished to the parties forthwith.
  - (D) The Board and its administrators will cooperate with the teacher in the investigation of any matter involved and, further, will furnish the teacher and his/her representative with such necessary and readily available information as is requested for the processing of any hearing.
  - (E) Except as otherwise provided by law, meetings and hearings under this procedure shall not be conducted in public and shall include only such parties in interest and their designated or selected representatives.
  - (F) All documents, communications and records generated by the hearing under this policy shall be filed in a separate file which shall constitute a "personnel file" within the meaning of the confidentiality provisions of ORS 342.850 and shall not be open for inspection by other than the staff of the Office of Personnel Services in the absence of the specific approval of the superintendent or the teacher.
- (c) Presiding Officer. The superintendent or his designee shall preside over a hearing, gather the evidence on the non-renewal, submit the record and recommend promptly to the Board whether the initial determination not to renew should be affirmed, reversed or modified. When the merits of the non-renewal involve the qualifications, conduct or performance of the teacher, the superintendent, in selecting a designee, shall endeavor to designate an administrator of the district who has not previously taken a position regarding such qualifications, conduct or performance. The presiding officer shall make such rulings as appear appropriate regarding the proceedings, the order of proof and the form of testimony and evidence.
- (d) Particular Rules of Evidence. Unless notice of an intention to contest is given, as provided in this paragraph, each entry in a teacher's personnel file may, at the presiding officer's discretion, be received in evidence. If the teacher intends to contest the accuracy, correctness or appropriateness of any entry therein which is pertinent to the issues, within ten working days after receipt of the copy of reasons the teacher shall file with the Office of Personnel

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Services a list which shall state the specific entry to be contested and state the specific respects in which it is inaccurate, incorrect, or inappropriate, in which case the presiding officer shall take the notice of intention to contest into consideration in determining whether additional testimony should be required to justify receipt of the contested entry into evidence. Final determinations previously made in grievance proceedings, including those concerning evaluations conducted pursuant to the Professional Agreement, shall be given full effect.

(5) **Review by the Board.**

- (a) **In General.** The Board shall review the record made at the hearing before making its decision. Unless otherwise directed by the Board, the evidence considered by it will be confined to the record made at the hearing, and any further presentation to the Board on behalf of a teacher will consist only of argument based on the record and presented by either the teacher or the teacher's representative, but not by both.
- (b) **Additional Evidence.** In the event the teacher, or the teacher with the teacher's representative, desires to present additional evidence to the Board which for good cause was not presented at the hearing, written application therefore shall be made prior to the date on which the Board's decision is made. The application shall specify the witnesses and testimony proposed, to be presented include a copy of any exhibits proposed to be offered, and state the specific reasons such evidence was not presented at the hearing.
- (c) **Finality.** The hearing provided under this policy shall constitute the hearing specified in ORS 342.835. The Board's decision shall be final and is not subject to arbitration.

(6) **Effect of Procedural Errors.** In the event a hearing under this policy is determined by the Board or upon appeal beyond the Board to have been inadequate in a material respect, such shall not result in automatic renewal of contract or employment or re-election of an ensuing year but shall entitle the teacher to a rehearing conducted in an adequate manner which may result in affirmation, reversal or modification of the previous recommendation.

(7) **Applicability.** The procedures set forth in this policy shall apply also to the non-renewal of employment of temporary teachers.

(8) **Notices.** Notices and copies to the teacher given under this policy are deemed given and effective when delivered to the teacher or upon mailing

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thereof by certified mail to the last address shown for the teacher on the district's personnel record.

- (9) **Special Procedures for Large-Scale Non-renewals.** Section 4.c. of this policy shall not apply to large-scale non-renewals enacted by the Board when faced with circumstances of possible major staff and budget reductions. The evidentiary hearings with respect to all those requesting a hearing on such actions shall be consolidated into one proceeding and conducted at a Board meeting. In addition, the time for requests for reasons and hearing provided in Section 3 shall, for purposes of such actions only, be changed from the 10th working day after the Board meeting at which the Board initially determined to non-renew to three months after the action.

Legal References: ORS 342.835; ORS 342.850

History: Adpt. 3/11/76; Amd. 3/0/80; Amd. 3/9/81; Amd.2/22/82; Amd. 10/83

