

HEARING PROCEDURES FOR EMPLOYEE DISCIPLINE

La. Rev. Stat. Ann. §17:443, La. Rev. Stat. Ann. §17:444, and La. Rev. Stat. Ann. §17:493 require school districts to utilize Disciplinary Hearing Officers (DHO) when certain disciplinary actions as defined by law are contemplated against tenured teachers, tenured bus operators, and against administrators. This policy shall govern the conduct of such hearings before a DHO within the school district.

1. LIST OF HEARING OFFICERS

A list of persons meeting those qualifications imposed by law to serve as a DHO shall be approved and maintained by the School Board. The minimum number of persons on such list shall be fixed in accordance with law depending upon the number of students enrolled in the school district.

2. SELECTION OF DISCIPLINARY HEARING OFFICERS; CONFLICTS OF INTEREST

When the services of a DHO are required, the Superintendent shall randomly select the name of a DHO from the School Board-approved list in the presence of at least one witness. Such random appointment shall be made by the use of either a random name generator or by the blind drawing of a name from the entire list of School Board-approved DHOs.

Upon such selection, the proposed DHO shall be provided with written notification of appointment and a listing of the parties and potential witnesses. The DHO must complete and return that portion of such notification attesting to both the DHO's continued qualification to serve and the absence of a conflict of interest that would prohibit him/her from serving.

In the event that the DHO selected is an immediate family member of any of the parties or witnesses to testify at the hearing, prohibited from serving due to a conflict of interest prescribed by the Louisiana *Rules of Professional Conduct*, or is otherwise unavailable to conduct the hearing within the time delays provided by law, another name shall be randomly selected.

3. COMPENSATION OF DISCIPLINARY HEARING OFFICERS

Each person selected as a DHO shall be entitled to compensation at the maximum rate provided for attorneys with like experience by the Louisiana Attorney General. The DHO shall submit a detailed, itemized invoice to the Superintendent no later than fifteen (15) days after the conclusion of his duties. The invoice of the DHO shall be paid by this School Board no later than 45 days

after submission. Any expense for which reimbursement is sought must be supported by detailed receipts.

4. DUTIES AND RESPONSIBILITIES OF DISCIPLINARY HEARING OFFICERS

A DHO appointed as provided herein shall have the duty and responsibility to:

- A. confer with the parties and their counsel regarding scheduling;
- B. advise the teacher, bus operator, or administrator that the hearing will be either public or private, at the option of the teacher or administrator;
- C. review whether the interim decision of the Superintendent was arbitrary or capricious and shall either affirm or reverse the action of the Superintendent;
- D. notify the Superintendent and the teacher, bus operator, or administrator of his/her final determination, with written reasons, within ten (10) days of the conclusion of the hearing;
- E. maintain and safeguard all exhibits accepted or proffered into evidence at the hearing; and
- F. such other duties and responsibilities as may be imposed upon him/her by law and/or this policy.

5. POWERS AND AUTHORITY OF DISCIPLINARY HEARING OFFICERS

A DHO appointed as provided herein shall have the powers and authority to:

- A. schedule the date, time and location of the hearing, if the parties cannot agree;
- B. administer oaths and affirmations;
- C. regulate the course of the hearings;
- D. fix the time for filing pre or post-hearing briefs, if requested;
- E. direct the parties to appear and confer to consider simplification of the issues; and
- F. sign and issue subpoenas requiring attendance and giving of testimony by witnesses.

Notwithstanding the foregoing, all parties shall have the right to (1) present evidence on all issues of fact, (2) present argument on all issues of law and policy, and (3) conduct such examination of witnesses as may be required for the development of a complete record.

6. GENERAL RULES CONCERNING HEARINGS

- A. Hearings shall be scheduled in accordance with the timelines established by law and shall be held in private or open session, at the option of the teacher, bus operator, or administrator. Hearings shall be held at the School Board's central office, unless a different location is fixed by the DHO.
- B. Hearings shall be conducted on weekdays during normal business hours, unless the DHO determines that the just and efficient completion of the hearing, compliance with the mandated delays, or the DHO's, counsel's or party's schedule requires a deviation from such times.
- C. The DHO may suspend a hearing, upon both parties' agreement and request, when it appears that a resolution of the disciplinary action at issue has been reached between the parties. Before such hearing is suspended, such resolution shall be entered upon the record of such proceeding and shall have the same preclusive force and effect as a compromise entered and received in open court. Any verbal agreements placed into the record shall be memorialized in writing and signed by all parties within 7 calendar days.
- D. The DHO shall require that the proceedings be conducted with dignity and in an orderly and expeditious manner and shall control the proceedings so that justice is done.
- E. The normal order of the hearing shall be as follows:
 - 1. The opening statements by the Superintendent and the teacher, bus operator, or administrator, in that order;
 - 2. The presentation of the evidence of the Superintendent and of the teacher, bus operator, or administrator, in that order;
 - 3. The presentation of the evidence of the Superintendent in rebuttal; and
 - 4. The argument of the Superintendent, of the teacher, bus operator, or administrator, and of the Superintendent in rebuttal, in that order.

- This order may be varied by the DHO when circumstances so justify.
- F. Before testifying, every witness shall be required to declare that he/she will testify truthfully, by oath or affirmation.
 - G. A witness who is subpoenaed but who fails to appear or a witness who appears but refuses to testify without proper cause shall be considered in contempt, and the DHO may apply to a district judge in the Parish where the hearing is being held for an Order holding the recalcitrant witness in contempt.
 - H. The DHO may order, upon a showing of appropriate safeguards, live testimony of a witness to be presented during the hearing by teleconference, video link, or other visual remote technology, if the witness is beyond the subpoena power of the DHO or when compelling circumstances are shown.
 - I. Formal exceptions to rulings or orders of the DHO are unnecessary. Contemporaneous objections with the reasons stated therefore to such rulings are sufficient.
 - J. In all cases, the DHO shall state the reason for his/her ruling as to the inadmissibility of the evidence.
 - K. When the DHO rules against the admissibility of any evidence, he/she shall either permit the party offering such evidence to make a complete record thereof, or permit the party to make a statement setting forth the nature of the evidence.
 - L. At the request of any party, the DHO may allow any excluded evidence to be proffered, subject to cross-examination on the record during a recess or such other time as the DHO shall designate. When the record is completed during a recess or other designated time, there will be no necessity for the requesting party to make a statement setting forth the nature of the evidence.
 - M. If the DHO permits a party to make a complete record of the evidence held inadmissible, it shall allow any other party the opportunity to make a record in the same manner of any evidence bearing upon the evidence held to be inadmissible or, in case of the unavailability of such evidence or inability to the other party to do, to make a statement setting forth the nature of the evidence.
 - N. The Louisiana Administrative Code is not applicable to hearings conducted before the DHO. In addition, a strict interpretation of the Louisiana Code of Evidence shall not be used to exclude evidence when,

in the opinion of the DHO, the principles underlying the Code of Evidence and attendant circumstances suggest that such evidence is reliable.

- O. Each hearing shall be recorded by a certified court reporter.
- P. Such court report's appearance fee shall be paid by the School Board within forty-five (45) days of the presentation of an invoice.
- Q. Upon the request of any party to the DHO, he/she shall request the court reporter to transcribe the record of the entire hearing and transmit the original transcript of the hearing to the DHO. The requesting party shall be obligated to pay all costs and fees associated with the transcription of the hearing by the certified court reporter and for obtaining a copy thereof. Notice of such request for transcription shall be contemporaneously transmitted to all parties who may obtain a copy of such transcript from the court reporter upon paying for same.
- R. Upon request of any party directed to the DHO, he/she shall cause the original transcript of the hearing and all exhibits accepted or proffered into evidence to be filed with the appropriate district court. The requesting party shall be obligated to pay all costs and fees associated with the filing of the transcript and exhibits directly to the clerk of court at the time of filing.
- S. All exhibits accepted or proffered into evidence shall be maintained and safeguarded by the DHO for a period of not less than one hundred twenty (120) days after transmission of his/her final determination to the Superintendent. After the expiration of such one hundred twenty (120) day period, all evidence shall be sealed and returned to the Superintendent.
- T. The DHO shall not be called as a witness upon review by the District Court, unless there is a dispute as to the formalities required by law for such hearings and only when ordered by the District Court.

New procedures: July 19, 2018
Revised: February, 2025

Ref: La. Rev. Stat. Ann. §§17:81, 17:81.8, 17:443; 17:444, 17:493; Board minutes, 7-19-18.