



NEBO SCHOOL DISTRICT BOARD OF EDUCATION POLICIES AND PROCEDURES

SECTION: B – Board Governance and Operations
POLICY TITLE: Board Hearings
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1. PURPOSE AND PHILOSOPHY

- 1.1. Under certain policies of Nebo School District, students, employees, and patrons may request Hearings before the Board of Education to dispute, contest, grieve, or appeal decisions made by the District Administration. Any person seeking such a Hearing before the Board must follow the procedures and requirements outlined in the policy authorizing the Hearing.
- 1.2. This policy outlines general procedures applicable to all Hearings before the Board of Education. It is the intention of the Board that each party in such a Hearing have a fair opportunity to be heard.

2. DEFINITION

- 2.1 **“Hearing”** means a proceeding of the Board of Education held in accordance with generally accepted principles of due process and administrative law in which definite issues of fact or of law are tried in order to resolve grievances, appeals, or disputes. Parties in Hearings have a right to present evidence, examine witnesses, and obtain a decision based upon evidence presented in conjunction with the Hearing. As used in this policy, a “Hearing” should not be confused with a public hearing held under Nebo School District Policy BD, *Board of Education Meetings*.

3. PRE-HEARING PROCEDURES

- 3.1 Request for Hearing. All requests for Hearings authorized by law or policy must be made in accordance with the law or policy that authorizes the Hearing. The Board of Education will not grant a Hearing that is not so authorized.
- 3.2 Board Hearing or Appointment of Hearing Officer/Panel. In its sole and absolute discretion, the Board will either conduct the Hearing itself or appoint a hearing officer or panel to conduct the Hearing in its place. Hearing officers and panels issue recommendations but do not issue final decisions. A recommendation by a hearing officer or panel is not binding upon the Board or the parties involved. The Board will take into consideration the recommendations provided by the hearing officer/panel and shall render the final decision.

- 3.3 Scheduling. After receiving a request for a Hearing, District Legal Counsel shall communicate with the parties and/or their representatives to determine the date of the Hearing, discovery cutoff dates, pre-hearing brief submissions, and other scheduling matters related to the Hearing.
- 3.4 Notice of Hearing. Written notice of the Hearing shall be sent by District Legal Counsel to all named parties not less than fifteen (15) days prior to the Hearing. Such notice shall state the charges and/or issues as well as the date, time, and place of the Hearing. The notice shall also include the discovery cutoff dates, pre-hearing brief submission date, Hearing time limits, and other rules and procedures under which the Hearing will be conducted.
- 3.5 Discovery. Any documents or witnesses not properly disclosed by the discovery cutoff date shall not be introduced at the Hearing.
- 3.6 Subpoenas. Subpoenas may be issued and oaths administered in connection with the Hearing. Subpoenas shall be enforced upon the petition of the Board by the Fourth Judicial District Court in the same manner as subpoenas issued by the court.
- 3.7 Pre-Hearing Briefs. District Legal Counsel may request the parties to submit pre-hearing briefs concerning the issues of fact and law involved in the Hearing in such form and within the page limitations as designated. The pre-hearing briefs shall be submitted on or before the submission deadline.

4. HEARING PROCEDURES

- 4.1 All parties should conduct themselves and present their case in a respectful, courteous, and professional manner.
- 4.2 Except when the Board appoints a hearing officer or panel to conduct a Hearing in its place, each Hearing shall be held before not less than a quorum of the Board. The President, or in his/her absence the Vice President, and in the absence of both, a member designated by the President, shall be the presiding officer and shall have charge of the Hearing, with authority to permit the examination of witnesses, admit evidence, rule on the admissibility of evidence, and adjourn or recess the Hearing.
- 4.3 District Legal Counsel will participate in any Hearing as counsel for the Board.
- 4.4 All parties shall have the right to be accompanied, represented, and advised by a person of their choosing, including legal counsel.
- 4.5 The order in which the parties shall present their case shall be determined by the presiding officer except in cases of appeals as follows:
 - 4.5.1 In an appeal on the termination of an employee, the District Administration shall proceed first.
 - 4.5.2 In all other appeals, the appellant shall proceed first.
- 4.6 Examination of witnesses and introduction of evidence:
 - 4.6.1 Parties or their counsel may submit evidence, examine and cross examine witnesses, and file objections and exceptions.

- 4.6.2 Strict judicial rules of procedure and evidence are not enforced. Accordingly, legal technicalities and objections by the parties are discouraged and should only be raised when absolutely necessary. It is the intention of the Board that each party has a fair opportunity to be heard without undue disruption.
 - 4.6.3 The test of admissibility of evidence shall be whether the evidence is reasonably relevant to a material issue and whether it has substantial probative value with respect to such material issue.
 - 4.6.4 Documents may not be submitted to the Board or hearing officer/panel unless they are first submitted to all other parties.
 - 4.6.5 The presiding officer may limit or refuse to admit cumulative or repetitive evidence. The parties, where possible, should make proffers and stipulations in place of cumulative evidence.
 - 4.6.6 As appropriate, witnesses may be sequestered prior to testifying. All witnesses will be placed under oath. Witnesses will be questioned first by the party calling the witness, following which the other party may cross-examine. The party calling the witness may then re-examine the witness.
 - 4.6.7 The presiding officer or designee may call as a witness any person whose testimony may be relevant. Any Board member may examine or cross examine any witness.
- 4.7 The Board or its appointed hearing officer or panel shall use the preponderance of evidence standard in deciding all questions unless a higher standard is required by law.

5. POST-HEARING PROCEDURES

- 5.1 All hearings shall be recorded at the District's expense. However, no written transcript will be created. Parties may obtain a copy of the recording.
- 5.2 Each decision and order of the Board shall be delivered in writing with copies provided to all parties. Each decision and order shall be accompanied by findings of fact, conclusions of law, and specific disposition of the case. Board decisions constitute the final decision of Nebo School District.
- 5.3 Any final action or order of the Board on a hearing under [UTAH CODE ANN. § 53G-11-515](#) may be appealed to the Utah Court of Appeals for review in accordance with [Utah Rules of Appellate Procedure, Rule 4](#). A review by the Court of Appeals is limited to the record of the Board and shall be for the purpose of determining whether the Board exceeded the Board's discretion or authority. The Court of Appeals has appellate jurisdiction over a hearing before the Board.

EXHIBITS

None

REFERENCES

Nebo School District Certified Employee Handbook
Nebo School District Classified Employee Handbook
Nebo School District Management Team Handbook
[UTAH CODE ANN. § 53E-6-801, et seq.](#)
[UTAH CODE ANN. § 53G-11-515](#)
[UTAH CODE ANN. § 78A-4-103](#)

FORMS

None

HISTORY

Revised 11 August 2021 – Amended to reflect changes made by HB 182 (2021); hearings shall be recorded and appellate jurisdiction was added.

Repealed and Reenacted 10 April 2013.

Adopted pre-1978.
