

BOARD POLICIES	METRO TECHNOLOGY CENTERS <b>BOARD HEARINGS</b> (BP-2028)	<b>The on-line version of the policy is official. Therefore, all printed versions are unofficial copies.</b>
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**1.0 POLICY:**

Any change in the Oklahoma State Department of Education procedures for dismissal hearings that contradicts any part of this policy shall amend this policy to comply with such change. The superintendent shall bring such amendment to the attention of the Board.

**Procedures for Conducting Hearings:** These procedures shall apply to all formal hearings before the Board. The president of the Board shall preside at all such hearings and shall rule on all procedural and evidentiary matters.

Copies of all exhibits to be introduced by the appellant and respondent shall be prepared and distributed by each party as follows: One to each board member; to the Board's attorney; to the respondent; to the respondent's representative; and two to the clerk of the Board.

Persons permitted to participate in the hearings are the appellant; the appellant's witnesses and representative; the respondent; the respondent's witnesses and representative; and the Union, if there is an alleged violation of the Negotiated Agreement.

Objections may be raised by the appellant or the respondent as to relevancy of a question, the redundancy of a question, or the manner in which a witness is questioned. All objections shall be directed to the presiding officer, who will rule on the objections after hearing reasons for the objection and the response by the opposing side.

Cross-examination of a witness is limited to matters raised in the direct examination of that witness. Redirect examination of a witness is limited to new matters raised in the cross-examination of the witness.

The agenda shall be as follows:

- A. Opening statement by appellant
- B. Opening statement by respondent
- C. Presentation of witnesses for appellant
  - 1. Direct questioning by appellant
  - 2. Cross-examination by respondent
  - 3. Redirect by appellant
- D. Presentation of witnesses for respondent
  - 1. Direct questioning by respondent
  - 2. Cross-examination by appellant
  - 3. Redirect by respondent
- E. Union statement (if there is an alleged violation of the Negotiated Agreement and the Union is not the representative of the appellant);

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- F. Closing statement by appellant
- G. Closing statement by respondent;
- H. Motion, deliberation (includes questions by the Board), and vote by the Board.

**Employee Discipline Hearings:** The Board president or a board-appointed Hearing Officer shall conduct all employee discipline hearings according to the following agenda; provided, the president or hearing officer can modify said agenda in the interest of due process or an agreement of parties.

- A. Opening statement by administrator
- B. Opening statement by employee
- C. Evidence by administration
  - Direct examination
  - Cross examination
  - Redirect
- D. Evidence by employee
  - Direct examination
  - Cross examination
  - Redirect
- E. Rebuttal by administration
- F. Rebuttal by employee
- G. Closing argument of administration
- H. Closing argument of employee
- I. Questions by Board
- J. Proposed executive session to consider evidence
- K. Return to open session
- L. Vote on Finding of Fact
- M. Vote on discipline of employee
- N. Adjournment

**Procedures for Conducting Board Level Grievance Appeal Hearings:** These procedures shall apply to all formal hearings of Board level grievance appeals.

The procedures for resolving grievances shall be negotiated annually with the appropriate bargaining unit representatives. The procedure shall be a progressive procedure with the

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decision of the Board of Education at the hearing as the final administrative decision.

If an employee is not satisfied with the decision rendered at the superintendent hearing level, he/she may submit a written appeal to the Board within five days after receipt of the hearing officer's opinion.

The Board shall schedule and hold the hearing at the next or the next succeeding board meeting.

Both the grievant and the hearing officer of the superintendent level hearing shall each submit to the Board a narrative summary of the grievance within five (5) days after the written appeal is submitted.

The Union may also submit a written statement if the Union is not the representative of the grievant. This shall be provided to the Board with copies of all minutes, hearing officer opinions, exhibits and other documents presented at lower level hearings. Each party shall furnish the other party copies of all materials furnished to the Board.

The board president shall preside at the hearing.

The agenda shall be as follows:

- A. Opening statement by grievant
- B. Opening statement by hearing officer
- C. Examination of grievant and grievant witnesses by Board of Education
- D. Examination of respondent witnesses by Board of Education
- E. Closing statement by grievant
- F. Closing statement by hearing officer
- G. Deliberation, and proposed executive session if legally permissible
- H. Vote of the members present

The Board shall transmit its decision in writing to the grievant and the respondent within five (5) days.

**Staff Complaints:** At all times, employees have the right to address the Board, in session, under the proper agenda heading. The following procedure will be used to resolve complaints by an employee that there has been a violation, misinterpretation or misapplication of a Board policy or an administrative regulation by staff which has directly and adversely affected that employee.

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If the complaint arises from the action of authority higher than the immediate supervisor, the complainant may present such complaint at Level Two of this procedure.

**A. Informal Resolution (Optional)**

1. An employee shall first discuss the alleged violation individually with the immediate supervisor within 5 days (working days of the employee) of the alleged violation indicating the policy or regulation alleged to have been violated, with the objective of resolving the matter informally. No written record will be made.

**B. Formal Resolution**

**LEVEL ONE**

1. The complainant shall submit a written complaint to the immediate supervisor within five (5) days of an attempt at informal resolution, citing the specific policy or regulation alleged to have been violated and the specific remedy sought.
2. The immediate supervisor shall schedule and hold a meeting within five days after receipt of the written complaint. Persons present at this meeting will be the complainant, and if the complainant so desires, a representative of the employee's own choosing, and the immediate supervisor, and if the immediate supervisor so desires, a person of the supervisor's own choosing.
3. The immediate supervisor shall transmit a written decision with written reason within five days after the Level One meeting to the complainant.

**LEVEL TWO**

1. If the complainant is not satisfied with the Level One decision, the complainant may submit a written appeal of the decision to the superintendent within five (5) days after receipt of the Level One decision. A copy of the original complaint and the Level One response shall be filed with the appeal.
2. The superintendent or designee who shall act as a Hearing Officer shall schedule and hold a hearing within five days after receipt of the appeal. Persons present at this hearing shall be the complainant, a representative of the complainant's own choosing and witnesses; the immediate supervisor who rendered the decision at Level One, a representative of the supervisor's choosing, and witnesses.
  - a. The superintendent or designee shall be free to admit any testimony, evidence or exhibits deemed relevant in order to build as complete a

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record as necessary before rendering a decision.

- b. The superintendent or designee shall limit the decision to the facts as presented by the parties and the impact on, or conflict with, the policy or administrative regulation.
- c. Within five days after the hearing, the superintendent or designee shall transmit the decision in writing with written reasons to the complainant and the complainant's immediate supervisor.

If the complainant is not satisfied with the decision rendered at Level Two a written appeal may be submitted to the Board within five days after receipt of the Level Two decision. The Board shall review the written appeal and render a decision.

Failure at any level of this procedure to communicate the decision on a complaint within a specified time limit shall permit the complainant to submit an appeal to the next level of this procedure.

Any appeal of a decision not filed within the specified time limit shall be deemed resolved by the determination at the previous level.

Any written notice referred to may be given by hand to the person designated to receive such notices or delivered by U.S. Mail Services.

If a notice or decision in the formal procedure is given to the employee by mail, the time within which the employee may give notice of appeal shall be increased by two days.

When hearings are held during work hours, persons proper to be present shall be excused from work without loss of pay or accumulated leave.

In the event that a complaint is initiated close to the end of the employee's work year, effort will be made to resolve the complaint prior to the end of the employee's work year.

Complaints shall not be placed in the personnel files of an employee, nor shall they be used in the promotion process or any recommendation for job placement.

The complainant shall be responsible for the payment of his/her own representatives and witnesses involved in any formal complaint hearing.

The time, date, and place for a meeting or hearing at all levels shall be set within the prescribed time limit by the appropriate administrator.

Necessary forms for filing complaints shall be made available in the Human Resources Department.

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The extent of testimony and evidence presented at any level of the complaint procedure shall be limited to the specific policy or regulation alleged to have been violated, misinterpreted, or misapplied in the original complaint. The complaint shall not be changed once it is filed; provided, the complaint can be filed within an appropriate time, if necessary.

**2.0 LEGAL REFERENCE:** U.S. Const. Amendment XIV; Okla. Const. Art II, § 7; 70 O.S. §§ 6-101.3 et seq., 6-101.40 et seq., House Bill 1767, Sections 8 and 9, effective July 1, 2003

**3.0 CROSS REFERENCE:** N/A

**4.0 REVISION HISTORY:**

<u>Date:</u>	<u>Revision</u>	<u>Description of Revision:</u>
May 8, 1989	A	Adopted
December 11, 1989	B	Revised
January 14, 1991	C	Revised
April 17, 1995	D	Revised
September 22, 2003	E	Reformatted
November 17, 2003	F	Revised
December 15, 2003	G	Legal references reviewed and revised as necessary
November 22, 2004	H	Revised

**5.0 PCF FRAMEWORK #:** 6.5 Redeploy and retire employees; 11.4.7 Resolve disputes and litigations

**\*\*\* End of Policy \*\*\***