

279.16 Private hearing — decision — record.

1. The participants at the private hearing shall be at least a majority of the members of the board, their legal representatives, if any, the superintendent, the superintendent's designated representatives, if any, the teacher's immediate supervisor, the teacher, the teacher's representatives, if any, and the witnesses for the parties. The evidence at the private hearing shall be limited to the specific reasons stated in the superintendent's notice of recommendation of termination. No participant in the hearing shall be liable for any damages to any person if any statement at the hearing is determined to be erroneous as long as the statement was made in good faith. The superintendent shall present evidence and argument on all issues involved and the teacher may cross-examine, respond and present evidence and argument in the teacher's behalf relevant to all issues involved. Evidence may be by stipulation of the parties and informal settlement may be made by stipulation, consent, or default or by any other method agreed upon by the parties in writing. The board shall employ a certified shorthand reporter to keep a record of the private hearing. The proceedings or any part thereof shall be transcribed at the request of either party with the expense of transcription charged to the requesting party.

2. The presiding officer of the board may administer oaths in the same manner and with like effect and under the same penalties as in the case of magistrates exercising criminal or civil jurisdiction. The board shall cause subpoenas to be issued for such witnesses and the production of such books and papers as either the board or the teacher may designate. The subpoenas shall be signed by the presiding officer of the board.

3. In case a witness is duly subpoenaed and refuses to attend, or in case a witness appears and refuses to testify or to produce required books or papers, the board shall, in writing, report such refusal to the district court of the county in which the administrative office of the school district is located, and the court shall proceed with the person or witness as though the refusal had occurred in a proceeding legally pending before the court.

4. The board shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure, but it shall hold the hearing in such manner as is best suited to ascertain and conserve the substantial rights of the parties. Process and procedure under sections 279.13 to 279.19 shall be as summary as reasonably may be.

5. At the conclusion of the private hearing, the superintendent and the teacher may file written briefs and arguments with the board within three days or such other time as may be agreed upon.

6. If the teacher fails to timely request a private hearing or does not appear at the private hearing, the board may proceed and make a determination upon the superintendent's recommendation. If the teacher fails to timely file a request for a private hearing, the determination shall be not later than May 31. If the teacher fails to appear at the private hearing, the determination shall be not later than five days after the scheduled date for the private hearing. The board shall convene in open session and by roll call vote determine the termination or continuance of the teacher's contract and, if the board votes to continue the teacher's contract, whether to suspend the teacher with or without pay for a period specified by the board.

7. Within five days after the private hearing, the board shall, in executive session, meet to make a final decision upon the recommendation and the evidence as herein provided. The board shall also consider any written brief and arguments submitted by the superintendent and the teacher.

8. The record for a private hearing shall include:

- a. All pleadings, motions and intermediate rulings.
- b. All evidence received or considered and all other submissions.
- c. A statement of all matters officially noticed.
- d. All questions and offers of proof, objections and rulings thereon.
- e. All findings and exceptions.
- f. Any decision, opinion, or conclusion by the board.
- g. Findings of fact shall be based solely on the evidence in the record and on matters officially noticed in the record.

9. The decision of the board shall be in writing and shall include findings of fact and

conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts and supporting the findings. Each conclusion of law shall be supported by cited authority or by reasoned opinion.

10. When the board has reached a decision, opinion, or conclusion, it shall convene in open meeting and by roll call vote determine the continuance or discontinuance of the teacher's contract and, if the board votes to continue the teacher's contract, whether to suspend the teacher with or without pay for a period specified by the board. The record of the private conference and findings of fact and exceptions shall be exempt from the provisions of chapter 22. The secretary of the board shall immediately mail notice of the board's action to the teacher.

[C77, 79, 81, §279.16]

92 Acts, ch 1008, §1; 92 Acts, ch 1227, §19; 2001 Acts, ch 62, §1