

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 and their legal representatives, if any, and the witnesses for the parties. The superintendent, the superintendent's designated representatives, if any, the teacher's immediate supervisor, the teacher, and the teacher's representatives, if any, may participate in the hearing as well. The evidence at the private hearing shall be limited to the specific reasons stated in the superintendent's notice of recommendation of termination. A participant in the hearing shall not 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 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.

3. 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.

4. 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. 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 or issue the teacher a one-year, nonrenewable contract.

5. 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.

6. a. The record for a private hearing shall include:

- (1) All pleadings, motions, and intermediate rulings.
- (2) All evidence received or considered and all other submissions.
- (3) A statement of all matters officially noticed.
- (4) All questions and offers of proof, objections, and rulings thereon.
- (5) All findings and exceptions.
- (6) Any decision, opinion, or conclusion by the board.

b. The decision of the board shall be based solely on the evidence in the record and on matters officially noticed in the record.

7. The decision of the board shall be in writing.

8. 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 or issue the teacher a one-year, nonrenewable contract. The record of the private hearing and written decision of the board 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](#); [2017 Acts, ch 2, §32, 33, 48, 49](#)

Referred to in [§260C.39](#), [§262.9](#), [§272.15](#), [§273.22](#), [§275.33](#), [§279.13](#), [§279.14](#), [§279.19](#), [§279.19B](#), [§279.27](#)

For provisions relating to applicability of 2017 amendments to employment contracts of school employees under this chapter and collective bargaining agreements and procedures under chapter 20 before, on, or after February 17, 2017, see 2017 Acts, ch 2, §48, 49 Subsections 1 and 2 amended

Subsection 3 stricken and subsection 4 renumbered as 3

Subsection 5 stricken and subsections 6 – 10 amended and renumbered as 4 – 8