

<b>Category:</b> <b>7000 PERSONNEL</b>	<b>Policy Number:</b> <b>7130 (Page 1 of 2)</b>
<b>Policy Title: Discharge of Certificated Employees</b>	<b>Effective Date:</b> <b>January 18, 2016</b>

### **DISCHARGE PROCEDURES**

When the board: (1) discharges any certificated employee (renewable or annual contract) for any reason during the current contract period, or (2) does not renew any renewable contract employee at the end of the contract period, the following procedures will be followed:

1. The superintendent or other authorized administrative officer may recommend the discharge of any certificated employee by filing with the board written notice specifying the alleged reasons for discharge.
2. Upon receipt of the notice, the board, acting through its designee, will give the affected employee written notice of the allegations and the recommendation of discharge, along with a written notice of a hearing before the board prior to any determination by the board.
3. The hearing will be scheduled to take place not less than six (6) days nor more than twenty-one (21) days after receipt of the notice by the employee. The date provided for the hearing may be changed by mutual consent.
4. The hearing will be public unless the employee requests in writing that it be in executive session.
5. All testimony at the hearing will be given under oath or affirmation. Any board member, or the clerk of the board, may administer oaths to witnesses or affirmations by witnesses.
6. The employee may be represented by legal counsel and/or by a representative of a local or state teachers association.
7. The chairman of the board or his or her designee will conduct the hearing.
8. The board will cause an electronic record of the hearing to be made, or will employ a competent reporter to take stenographic or steno-type notes of all the testimony at the hearing. A transcript of the hearing will be provided at cost by the board upon request of the employee.
9. At the hearing, the superintendent or duly authorized administrative officer will present evidence to substantiate the allegations contained in the notice received by the board.
10. The employee may produce evidence to refute the allegations. Any witness presented by the superintendent or by the employee will be subject to cross-examination. The board may also examine witnesses and be represented by counsel.
11. The employee may file written briefs and arguments with the board within three (3) days after the close of the hearing or such other time as may be agreed upon by the employee and board.
12. Within fifteen (15) days after the close of the hearing, the board will determine and, acting through an authorized administrator, notify the employee in writing whether the evidence presented at the hearing established the truth of the allegations and whether the employee is to be retained, immediately discharged, or discharged upon termination of the current contract.

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13. If the employee appeals the board’s decision, the district court may affirm the board’s decision or set it aside and remand the matter to the board only upon the following grounds:
  - a. The findings of fact are not base upon any substantial, competent evidence;
  - b. The board acted without jurisdiction or in excess of its authority; or
  - c. The findings by the board, as a matter of law, do not support the decision.
  
14. The board’s determination will be affirmed by the court unless it finds that the action of the board was:
  - a. In violation of the constitutional or statutory provisions;
  - b. In excess of the board’s statutory authority;
  - c. Made upon unlawful procedure; or
  - d. Arbitrary, capricious or an abuse of discretion.

**AUGMENTATION OF THE RECORD ON APPEAL**

If before the date set for any hearing at the district court, application is made to the court for leave to present additional evidence and it is shown to the satisfaction of the court that the additional evidence is material, relates to the validity of the board action, and that there was good cause for failure to present it in the proceeding before the board, then the court may remand the matter to the board with direction that the board receive additional evidence and conduct additional fact-finding. If the board modifies its action by reason of the additional evidence it will file any modifications, new findings, or decisions with the reviewing court.

Any party desiring to augment the transcript or record may file a motion in the same manner and pursuant to the same procedure for augmentation of the record in appeals to the Idaho Supreme Court.



**LEGAL REFERENCE:**

Idaho Code Sections

33-513 – Professional Personnel

33-514 – Issuance of Annual Contracts – Support Programs – Categories of Contracts – Optional Placement

33-514A – Issuance of Limited Contract – Category 1 Contract 33-515 -- Issuance of Renewable Contracts

**ADOPTED: 01/13/2016**

**AMENDED:**