

TITLE 92 - NEBRASKA DEPARTMENT OF EDUCATION

CHAPTER 28 - PROFESSIONAL PRACTICES INVESTIGATIONS, AND NONPUBLIC CERTIFICATE HEARINGS, AND DETERMINATIONS BY THE STATE BOARD

001 General Information

001.01 Statutory Authority. ~~Neb. Rev. Stat. §§ 79-859 to 79-870 Sections 79-1282 and 79-328(5)(j) of the Revised Statutes of Nebraska (R.R.S.)~~ provide the basis for the State Board of Education (**Board**) to revoke or suspend any teacher, administrator, or special services counseling certificate for just cause. ~~Section 79-1283 R.R.S. authorizes the State Board of Education (Board) to request the Professional Practices Commission (Commission) to conduct hearings and make recommendations concerning violations of standards of professional ethics and practices by holders of public school certificates. Section 79-1283 R.R.S. also authorizes the Board to employ hearing officers to conduct hearings and make recommendations regarding violations of a similar nature by holders of nonpublic school certificates.~~

001.02 Scope and Application of this Chapter. This chapter governs investigations and hearings involving complaints against holders of teaching, administrative, or special services counseling certificates issued pursuant to Title 92, Nebraska Administrative Code (NAC), Chapter 21, for alleged violations of standards of professional ethics and practices applicable to such certificated individuals as contained in 92 NAC 27. This chapter also governs the reinstatement of a certificate after a specified period of revocation. This chapter is not applicable to noncertificated individuals monitoring instruction in exempt schools under 92 NAC 13.

001.03 Related Regulations. ~~Standards of professional practices and ethics for holders of both public and nonpublic certificates are contained in 92 NAC 27. Procedures for review of hearing recommendations under this chapter (for nonpublic school certificate holders) and under 95 NAC 1 (for public school certificate holders), are contained in 92 NAC 29. Regulations for the issuance of public school and nonpublic school certificates are contained in 92 NAC 21. Procedures for the reinstatement of a public school certificate are contained in 95 NAC 2. Procedures for the reinstatement of a nonpublic school certificate are contained in 92 NAC 29.~~

002 Definitions. As used in this chapter:

002.01 Administrator means shall mean any holder of a public or nonpublic certificate for administration or supervision issued pursuant to 92 NAC 21.

002.02 Admonishment means shall mean a private sanction to a certificate holder that further violations of 92 NAC 27 unprofessional or unethical conduct may result in more serious action, including the suspension or revocation of a certificate. This sanction may be imposed by the Commissioner, ~~Commission~~, or the Board.

002.03 Board means shall mean the State Board of Education.

002.04 Certificate means a certificate or permit issued pursuant to 92 NAC 21.

002.05 Certificate holder means ~~002.04 Certificated person~~ shall mean any holder of a certificate issued pursuant to 92 NAC 21.

002.05 Commission shall mean the Nebraska Professional Practices Commission.

002.06 Commissioner means shall mean the Nebraska State Commissioner of Education.

002.07 Complainant means shall mean any individual(s) or organization(s) filing a complaint with the Commissioner.

002.08 Department means shall mean the Nebraska State Department of Education, which is comprised of the Board and the Commissioner.

002.09 Permanent Revocation means a public sanction canceling a certificate holder s certificate for the life of the

certificate holder.

~~002.09~~ Petitioner shall mean the Commissioner.

~~002.10~~ Reinstatement means the approval by the Board to apply for a certificate issued pursuant to 92 NAC 21 after a specified period of revocation.

~~002.11~~ ~~002.10~~ Reprimand means shall mean a public sanction criticizing or rebuking a certificate holder for violations of 92 NAC 27 unprofessional or unethical conduct. This sanction may be imposed by the Commissioner; Commissioner; or the Board.

~~002.12~~ ~~002.11~~ Respondent means shall mean any individual(s) who is shall be charged in a complaint or petition with allegedly violating standards of professional ethics or practices as contained in 92 NAC 27.

~~002.13~~ ~~002.12~~ Revocation means shall mean a public sanction withdrawing or canceling a certificate holder's certificate for a specified certain period of time. At the expiration of the revocation period, the former certificate holder may apply for reinstatement in accordance with this chapter 92 NAC 29. This sanction may be imposed by the Board.

~~002.14~~ ~~002.13~~ Special services counselor or certificate holder means shall mean any person holding a public or nonpublic special services counseling certificate issued pursuant to 92 NAC 21.

~~002.15~~ ~~002.14~~ Suspension means shall mean a public sanction withdrawing the authority of or canceling a certificate holder's certificate for a specified certain period of time. The certificate is automatically reinstated at the expiration of the suspension period if it has not expired during the period of suspension. This sanction may be imposed by the Board.

~~002.16~~ ~~002.15~~ Teacher means shall mean any holder of a public or nonpublic certificate for teaching issued pursuant to 92 NAC 21.

003 Complaints and Investigations for Holders of Public or Nonpublic School Certificates

~~003.01~~ Complaint Procedures. Anyone having an interest in, or information about, an alleged violation of the standards of professional practices standards relating to public or nonpublic certificate holders, as contained in 92 NAC 27, may file a signed, written complaint with the Commissioner. The complainant must shall use the form prescribed by the Board; a sample of which is included as Appendix A.

~~003.02~~ Contents of Complaint. The complaint must shall contain the following information:

~~003.02A~~ The full name and; address, and telephone number of the complainant;

~~003.02B~~ The full name and; address, and telephone number, if known, of the respondent;

~~003.02C~~ A concise statement of the facts which the complainant believes constitute a violation of professional ethics and practices; and

~~003.02D~~ The full names and; addresses, and telephone numbers of any witnesses able to testify as to the facts alleged.

~~003.03~~ Distribution of Complaint. Within fifteen (15) days of the filing of a complaint, the Commissioner must shall serve a copy of the complaint on the certificate holder certificated person by certified mail, return receipt requested, to the last known address of the person. If service cannot be completed in this manner, it may be accomplished in accordance with state law regarding service of summons.

~~003.04~~ Response to Complaint. The certificate holder certificated person may, within fifteen (15) days of receipt of the complaint, request in writing the opportunity to informally present a position or defense with respect to

respecting the allegations in the complaint. This position or defense may be submitted in writing, ~~or~~ but a personal conference with an investigator assigned by the Commissioner may be ~~held~~ had as a matter of right if the written request is made within fifteen (15) days of the receipt of the complaint.

003.05 Evaluation and Investigation. Upon receipt of a complaint, the Commissioner or his or her designee ~~must~~ ~~shall~~ evaluate the complaint to determine if the facts alleged are sufficient to constitute a violation of 92 NAC 27. At his or her discretion, the Commissioner may assign an investigator to evaluate the complaint and may cause an investigation to be made into the circumstances surrounding the complaint.

003.05A ~~It is~~ ~~shall be~~ the obligation and responsibility of the investigator to prepare a report for the consideration of the Commissioner, which report ~~must~~ ~~shall~~ contain ~~the~~ a position or defense of the respondent, if any; ~~identify the basis for~~ discuss jurisdiction; and set forth any legal arguments and authorities that appear applicable to the case. The report ~~must~~ ~~shall~~ include a recommendation as to whether there exists legally sufficient grounds for further proceedings and a recommendation of one of the following: ~~Dismissal~~ dismissal, further inquiry, admonishment, ~~or~~ reprimand, or the filing of a petition.

~~003.05B~~ If the complaint alleges violations of the standards of competent professional performance, then professional reviewers appointed by the Commissioner may review the professional performance of the respondent and form opinions of the quality of professional service rendered. If a petition is later filed with the Commission or the Board, such reviewers may relate such opinions by sworn testimony in any hearing where professional competency is in issue, provided that such reviewers shall qualify as expert witnesses before the hearing officer or Commission. Such testimony shall be based on the standards of competent professional performance as set forth in 92 NAC 27.

003.05B ~~003.05C~~ Exceptions to Report. The respondent ~~must~~ ~~shall~~ be mailed, ~~or sent by electronic mail,~~ a copy of the investigator's report and ~~must~~ ~~shall~~ be given twelve (12) days from the date of the mailing of the report to file exceptions with the investigator. ~~After~~ At the expiration of said ~~this~~ time limit, the investigator ~~must~~ ~~shall~~ file with the Commissioner a report in accordance with the provisions of section 003.05A of this chapter along with the respondent's exceptions, if any.

003.06 Action by the Commissioner. Following the evaluation and investigation, if any, of the complaint, the Commissioner ~~must~~ ~~shall~~ take one of the following actions:

003.06A Dismiss the Complaint Such dismissal may be accompanied by an admonishment or reprimand to the certificate holder, or other action the Commissioner deems appropriate, without a hearing, if the Commissioner determines that:

003.06A1 The alleged violation is not serious enough to warrant suspension or revocation;

003.06A2 No public interest would be served by a formal hearing; and

003.06A3 The certificate holder gives written acceptance of or agreement to the admonishment, reprimand, or other action.

003.06B File a petition pursuant to section 004 ~~of this chapter and 92 NAC 61.~~

~~003.07 Informal Disposition.~~ The Commissioner may enter into a stipulation, settlement agreement, or other agreement to resolve any complaint or petition. All agreements to revoke or suspend a Nebraska school certificate shall be approved by the Board. Any modification of the sanction to be imposed by any approval authority shall void the agreement:

003.07A In public school certificate holder cases, all agreements imposing any revocation or suspension sanction shall be reviewed by the Commission and a recommendation made to the Board, if a petition has been filed with the Commission.

~~003.07B~~ In nonpublic school certificate cases, the Commissioner may enter any agreement imposing sanctions, other than revocation and suspension, without further approval at any time.

~~003.07~~ ~~003.08~~ Voluntary Surrender of Certificate(s). A Nebraska school certificate holder may voluntarily surrender his or her certificate(s) if, in writing, the certificate holder either admits or does not contest the truth of any allegation and waives all proceedings against him or her in connection with holding a certificate. Any such voluntary surrender shall be treated as a permanent an indefinite revocation for purposes of publicity and reinstatement. The voluntary surrender of a person's certificate at any time after a report or complaint has been made shall not prohibit the filing of such complaint or a petition unless:

~~003.08A~~ The certificate holder knowingly admits in writing the truth of such complaint or petition and waives all proceedings against him or her in connection therewith, and

~~003.08B~~ Agrees to stipulated reprimand or other action deemed appropriate.

~~003.08~~ ~~003.09~~ Dismissal. Any dismissal of a complaint in accordance with section 003.06A of this chapter shall be deemed to be a final resolution of the matter and is not subject to appeal to either the Professional Practices Commission or the Board.

~~003.10~~ Notification: The Commissioner shall notify the respondent of the Commissioner's decision.

004 Petitions

~~004.01~~ Petitions by Commissioner: A petition may be filed by the Commissioner if he or she determines, as a result of a complaint, investigation, or as a result of information that he or she receives independent of a complaint or investigation, that:

~~004.01A~~ The Board has jurisdiction over the parties and subject matter; and

~~004.01B~~ Either:

~~004.01B1~~ The alleged violation is serious enough to warrant suspension or revocation of respondent's certificate; or

~~004.01B2~~ ~~004.01C~~ The public interest would be served by a formal hearing; or

~~004.01B3~~ ~~004.01D~~ Respondent does not accept an admonishment or reprimand.

~~004.02~~ Filing of the Petition. Each petition must be filed in accordance with 92 NAC 61, except as otherwise provided in this chapter, and shall be based upon the applicable standards of professional practices as contained in 92 NAC 27 conduct applicable to the type of certificate (public or nonpublic) held at the time of the alleged violation of such standards by the certificate holder. unethical or unprofessional conduct regardless of the type of certificate held at the time of the filing of the petition. The petition shall be filed either with the State Board or Professional Practices Commission, as detailed in ~~004.03~~ and ~~004.04~~, depending upon the type of certificate held at the time of the filing of the petition. The change of a certificate from public to nonpublic or vice versa, at any time after the filing of a petition, shall not affect the jurisdiction of that proceeding.

~~004.03~~ Petitions Against Holders of Public School Certificates: The Commissioner may file a petition against a holder of a Nebraska public school certificate with the Commission.

~~0045.03A~~ The form of the petition shall be in accordance with 95 NAC 1.

~~0045.03B~~ Upon the filing of a petition with the Commission, the procedures, rules, and regulations of 95 NAC 4 shall be followed in all contested cases.

~~004.04~~ Petitions Against Holders of Nonpublic School Certificates: The Commissioner may file a petition against a

holder of a Nebraska nonpublic school certificate with the Board. The form of such petition shall be in writing and shall contain the following information:

~~004.04A~~ The venue shown as: "BEFORE THE STATE BOARD OF EDUCATION";

~~004.04B~~ A heading captioned "(Name), COMMISSIONER OF EDUCATION, Petitioner";

~~004.04C~~ The full name and, address, telephone number, and social security number, if known, of the respondent;

~~004.04D~~ The type, rank, level, endorsements, and expiration dates of certificate(s) held by respondent;

~~004.04E~~ The name of the school or school district, if any, currently employing the respondent;

~~004.04F~~ A concise statement of facts which the Commissioner believes constitute a violation of professional ethics and practices;

~~004.04G~~ The provision(s) of statute or rule which are alleged to have been violated.

~~004.03~~ ~~004.05~~ **Notice to File Answer.** Upon the filing of a petition, the Commissioner ~~must~~ shall send the respondent by certified mail, return receipt requested, a copy of the petition and a notice that the respondent ~~must~~ file has the right to submit an answer within ~~twenty (20)~~ twenty-one (21) days after the receipt of ~~such~~ the notice. Mailing by certified mail of any notice required under this chapter ~~must~~ shall be to respondent's last known address. In the event the respondent fails to respond to the petition by delivering or posting by certified mail an answer within ~~twenty-one (21) days~~, respondent's failure shall be considered as a waiver of his or her right to a hearing and shall be cause for holding respondent in default and a default order may therefore be rendered and a recommendation made to the State Board of Education for determination upon the record without any further notice to respondent.

~~004.04~~ ~~004.06~~ **Answer.** The respondent ~~must~~ may file an answer to the petition ~~that conforms with 92 NAC 61~~. A sample answer is included in Appendix C to this chapter. It shall show the venue as "Before the State Board of Education, State of Nebraska" and shall be captioned "Answer." The answer shall contain the following information:

~~004.06A~~ The name and address of the respondent.

~~004.06B~~ Specific statements regarding any and all allegations in the petition, which shall be in the form of admissions, denials, explanatory remarks, or statements of mitigating circumstances; and any additional facts or information the respondent deems relevant and which may be of assistance in the ultimate determination of the case:

~~004.05~~ **Default.** If no answer is filed pursuant to the requirements of this chapter within ~~twenty (20) days~~, the respondent will be in default and will have waived any right to a hearing.

~~004.05A~~ Upon a default, the Commissioner must file supporting information in the form of affidavits, court records or other documentation regarding the allegations in the petition. Based upon the petition, pleadings, and filed supporting information, the Board must render a final decision without any hearing or further notice to the respondent.

~~004.06~~ **Petitions for Reinstatement.** Upon the expiration of the specified period of a revocation order, a person may petition the Board for reinstatement of his or her certificate under the applicable provisions of this chapter and ~~92 NAC 61~~.

~~004.07~~ **Format for Filings.** All answers, motions, or other pleadings filed in cases arising under this chapter shall be typewritten on 8-1/2 x 11-inch white three-hole-punched paper and shall be accompanied by an original plus two copies. All documents shall contain the title of the proceeding, the case number, the name, address, telephone number, and signature of the person filing the document, and the name of the party on whose behalf the document

is filed:

004.08 Filing Location and Service. All filings with the Board or the Commissioner shall be made with the Office of the Commissioner of Education, Nebraska State Department of Education, 301 Centennial Mall South, 6th Floor, P. O. Box 94933, Lincoln, Nebraska 68509. Whenever any party files a document, they shall simultaneously serve copies on the other party(ies). Any documents filed shall contain a certificate attesting to its service by mail, personal delivery, or otherwise. Service by mail shall be deemed completed upon mailing, except as otherwise provided in this chapter.

004.09 Filing Deadlines. When the filing of a pleading or any act required to be done on or before a given date falls on a Saturday, Sunday, or legal holiday on which the Office of the Commissioner is closed, the pleading or act need not be filed or done until the next succeeding working day that the Office of the Commissioner is open for the transaction of business. All time limits referred to in this chapter shall mean calendar days.

005 Hearings

005.01 Hearing Officer. Upon the filing of an answer by the respondent, a hearing officer will be appointed by the Board President. The hearing officer must conduct a hearing on the petition pursuant to 92 NAC 61.

005.02 Recommendations to the Board . The hearing officer must file recommendations with the Board that include recommended findings of fact, recommended conclusions of law, and a recommended decision. Such recommendations must also include a verbatim transcript of the hearing and a copy of all pleadings and exhibits.

005.03 Rules of Evidence. Notwithstanding any provisions in 92 NAC 61, the hearing will be conducted pursuant to the rules of evidence applicable to the district courts of Nebraska, unless mutually waived by the parties.

006 Board Review and Decision

006.01 Scheduling of Review Hearing. The Board must schedule a hearing for the purpose of reviewing the recommendations received from the hearing officer and notify the parties at least ten (10) days prior to such scheduled hearing.

006.02 Conduct of Review Hearing. The review hearing will be conducted as follows:

006.02A The Board President or any other member designated by the Board to preside will open and close the proceedings, enter the recommendations of the hearing officer into the record, and will rule on all matters, although such rulings may be altered or reversed at the time of such rulings by majority vote of the Board members present for the review hearing.

006.02B The petitioner and respondent will each be given an opportunity to present oral arguments regarding the recommendations. The Board may set time limits for such arguments.

006.02C The Board may not receive additional evidence and will limit case summaries and oral arguments to matters reflected in the record before it.

006.03 Decision and Order. The Board must enter a decision and order as provided in 92 NAC 61.

Outlined in 95 NAC 1-004 are the procedures for hearings before the Commission in cases involving holders of public school certificates. Procedures for hearings on petitions involving nonpublic school certificate holders are as follows:—

005.01 Appointment of Hearing Officer. If the petition meets the procedural requirements of this chapter, the Board shall appoint an independent hearing officer, who shall not be a regular employee of the Department, to conduct the hearing and to submit findings of fact, conclusions of law, and a recommended decision to the Board.—

005.02 Setting of Hearings. The hearing officer shall set the time and place for any hearing, which shall be at least seven days after the deadline for the filing of answers, unless agreement to set an earlier time is stipulated by petitioner and respondent.—

~~005.03 Consolidation.~~ The hearing officer may order two or more petitions that are legally or factually related to be heard together on a consolidated record, unless any party makes a showing, sufficient to satisfy the hearing officer, that it would be prejudiced thereby.

~~005.04 Prehearing Conference.~~ If the respondent in his or her answer requests a prehearing conference, the hearing officer shall hold a prehearing conference with the parties. The prehearing conference may be held in person or by telephone. A telephonic prehearing conference may be used at the discretion of the hearing officer. The conference shall be for the purpose of, but not limited to, the following: simplifying the issues, amending the petition or answer, stipulating to the facts, stipulating to a proposed settlement, submission of witness and exhibit lists, identification of exhibits, application for subpoenas, and requests for discovery orders. The hearing officer may hold a prehearing conference upon request of the petitioner or upon his or her own motion if in his or her discretion he or she determines that a prehearing conference is needed.

~~005.05 Location.~~ The hearing shall be held in Lincoln, Lancaster County, Nebraska, unless, upon joint application and showing by the parties that another location would be more convenient to the parties and witnesses, or upon such independent determination by the hearing officer, the hearing officer may set the hearing outside Lincoln.

~~005.06 Closed Hearing.~~ Upon specific request of the respondent or petitioner to hold a closed hearing, the hearing officer may hold a closed hearing to prevent the needless injury to any individual.

~~005.07 Conduct of Hearings.~~ At the time of hearing:

~~005.07A~~ The hearing officer designated by the Board to preside at a hearing shall open and close the proceedings, and take appearances. The hearing officer shall rule on motions, objections, and matters of evidence.

~~005.07B~~ Reasonable opportunity shall be afforded all parties to present evidence and argument. The hearing officer may set reasonable time limits on presentations and arguments.

~~005.07C~~ Failure of the petitioner or his or her representative, to appear at the time and place set for hearing, unless otherwise allowed by the hearing officer for good cause shown, shall be deemed sufficient grounds for the hearing officer to recommend dismissal of the petition.

~~005.07D~~ Informal procedures governing the conduct of hearings shall be subject to the discretion and the direction of the hearing officer at the time of such hearings, unless otherwise specified in this chapter.

~~005.08 Appearances.~~ Any individual may appear on his or her own behalf before the hearing officer; however, an individual may appear on behalf of another in any proceeding before the hearing officer only if:

~~005.08A~~ He or she is admitted to practice law before the Nebraska Supreme Court, or

~~005.08B~~ He or she is admitted to practice law before the Supreme Court of any state and is accompanied by a person admitted to practice law before the Nebraska Supreme Court.

~~005.09 Briefs.~~ Submission of briefs may be required by the hearing officer. If required, the time in which briefs shall be filed will be fixed by the hearing officer at the close of the hearing.

~~005.10 Record of Proceedings.~~ The hearing officer will ensure that an electronic recording of the hearing shall be made or may have the hearing transcribed by a court reporting service. The cost of obtaining verbatim transcripts from a court reporting service shall be paid directly to such service by the parties requesting the transcripts.

006 Evidence

~~006.01 General Provisions.~~ As provided in Section 84-914 R.R.S., the hearing officer may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men and women in the conduct of their affairs. He or she shall give effect to the rules of privilege recognized by law. He or she may

exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. The hearing shall be conducted pursuant to the rules of evidence applicable to the district courts, unless mutually waived by the parties.

~~006.02 Subpoenas, Discovery, and Witnesses.~~ As provided in Section 84-914 R.R.S., the hearing officer may administer oaths, issue subpoenas, compel the attendance of witnesses, and the production of any papers, books, accounts, documents, and testimony, and cause the depositions of witnesses residing either within or without the state to be taken in the manner prescribed by law for taking depositions in civil actions in the district court.

~~006.02A Subpoenas.~~ The use of subpoenas in proceedings before the hearing officer is governed by statutory procedures for issuance of subpoenas by district courts in Nebraska except as hereinafter provided.

~~006.02A1~~ A subpoena requiring the attendance of a witness may be issued by the hearing officer, upon written application of any party.

~~006.02A2~~ Subpoenas for the production of accounts, books, documents, or papers, will be issued by the hearing officer only upon written application by a party stating specifically which accounts, books, documents, or papers are required and the facts expected to be proved thereby. All parties directed to produce accounts, books, documents, or papers shall furnish and deliver the same at the time and place specified in the subpoena.

~~006.02A3~~ A subpoena issued pursuant to this rule may be served in any manner permitted by law, which shall include service by registered or certified mail, return receipt requested, sent not less than six days prior to hearing.

~~006.02A4~~ In the case of disobedience to a subpoena, the hearing officer may invoke the aid of any court of this state in requiring the attendance and testimony of witnesses and the production of accounts, books, documents, or papers.

~~006.02A5~~ Charges for serving a subpoena by mail are to be paid prior to the issuance of the subpoena by the party at whose instance the subpoena is issued. Arrangements for personal service, if desired by a party, are to be made by the party requesting such service and they shall be responsible for paying any costs for such service prior to the hearing date.

~~006.02B Witness Fee.~~ Any witness who is summoned and who responds thereto is entitled to the same fee as is paid for like service in the district courts of Nebraska. Applications made pursuant to this chapter for the attendance of a witness shall be accompanied by a certified check, payable to the order of the witness, and equal in amount to the witness's statutory traveling fee and a fee for one day's attendance at the hearing. Said certified check shall be tendered to the witness when the subpoena is served upon him or her. Additional fees due the witness, if any, shall be paid at the close of the hearing by the party at whose instance the witness is summoned. In addition, Section 25-1228 R.R.S. shall govern subpoenas issued at the request of any agency of state government.

~~006.02C Discovery.~~ The use of discovery in cases arising under this chapter is governed by the rules promulgated by the Nebraska Supreme Court for discovery in the district courts of Nebraska.

~~006.03 Offer of Evidence.~~ All evidence shall be offered and made a part of the record in the case. No other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference.

~~006.04 Cross-Examination.~~ Every party shall have the right of cross-examination of witnesses who testify and shall have the right to submit rebuttal evidence. The hearing officer may limit cross-examination by multiple parties having similar interests.

~~006.05 Official Notice.~~ The hearing officer may take notice of judicially cognizable fact and in addition may take notice of general, technical, or scientific facts within his or her specialized knowledge. Parties shall be notified either

before or during the hearing, or by reference in preliminary reports or otherwise, of the materials so noticed. They shall be afforded an opportunity to contest the facts so noticed. The hearing officer may utilize his or her experience, technical competence, and specialized knowledge in the evaluation of the evidence presented.

~~006.06 Copies of Evidence.~~ All documentary evidence to be offered at a hearing shall be accompanied by sufficient copies for all parties, unless waived by the hearing officer.

~~006.07 Stipulations.~~ Parties to any proceeding may agree upon any facts, either by written stipulation entered into the record as an exhibit, or by oral agreement stated on the record; provided, that the hearing officer shall not be irrevocably bound by such stipulation.

~~006.08 Filing and Serving Exhibits Prior to Hearing.~~ In any proceeding where detailed or complicated exhibits are to be used, the hearing officer may require any party to file and serve copies of such exhibits or other necessary information within a specified time in advance of the hearing in order to enable the other party and the hearing officer to study same and prepare cross-examination with references thereto.

007 Disposition of Cases

~~007.01 Recommendation to the Board.~~ In the absence of an informal disposition, the hearing officer shall prepare an official record for submission to the Board, which shall include the pleadings, testimony transcript, and exhibits from the hearing. The hearing officer shall also submit his or her recommendation as to the disposition of the case and a recommended set of findings of fact and conclusions of law and provide a copy of the recommendations to the parties.

~~007.02 Final Action by the Board.~~ Procedures for the final review of the case by the Board are contained in 92 NAC 29.

APPENDIX A: Sample Form for Complaint

APPENDIX B: Sample Form for Petition

APPENDIX C: Sample Answer Form