

422P1 – Name Clearing Hearing Procedure. This policy sets forth the recommended procedure to follow if an employee requests to challenge "stigmatizing" evidence during the former employee's due process hearing.

The following procedure will be followed whenever an employee of the School District, working on a full or part-time basis, is involuntarily discharged from employment and the former employee contends that, in relation to the termination, stigmatizing false statements that are damaging to the former employee's reputation have been made public. The purpose of the name-clearing hearing procedures is to afford the former employee an opportunity to clear his or her name by responding to the public statements.

This procedure will not serve as a grievance or appeal of any disciplinary action, nor may it be used to gain reinstatement. Issues involving job performance, or employee attitude, without allegations of stigmatizing statements are not proper subjects of this procedure and will not be heard.

REQUEST FOR A HEARING

Former employees must submit a written request for a name-clearing hearing within *fourteen (14) calendar days* from the effective date of the involuntary termination of employment. The request must be provided to *the superintendent or designee* and must identify the following:

1. The specific statements that he/she contends are false;
2. The manner in which the alleged statements were made public; and
3. The basis upon which the former employee asserts that the statements were stigmatizing.

The failure of the former employee to timely request a name-clearing hearing, or to submit a timely request that complies with the requirements is a waiver of the former employee's right to any name-clearing process.

HEARING PROCEDURE

An employee alleging a "stigmatizing statement" will meet with the Board of Trustees or its designee. The sole purpose of the name-clearing hearing is to provide an opportunity for a former employee to clear his/her name. The following procedure will be used:

1. *A hearing date and time will be set. The former employee may determine whether the hearing will be open to the public or closed to the public.*
2. *The former employee has the burden of proof.*
3. *An audio recording of the hearing will be made and maintained as part of the personnel record.*

4. *The employee’s supervisor may provide a brief written statement at least twenty-four (24) hours prior to the hearing in response to the written allegations provided by the former employee.*
5. *The hearing will be informal.*
6. *The Board may require the former employee’s supervisor or other appropriate personnel to participate in the hearing.*
7. *The former employee will be provided an opportunity to present evidence upon which the claims are based.*
8. *The Board of Trustees may ask questions during this process.*
9. *The former employee may question participants during this process.*
10. *The hearing will not exceed one (1) hour in duration.*
11. *The hearing will follow the principles of fundamental fairness. Neither the Idaho Rules of Evidence nor the Idaho Administrative Procedures Act shall apply to a name-clearing hearing.*

After the name-clearing hearing, the Board of Trustees or designee will consider the information submitted, to arrive at a decision concerning the former employee’s allegations. A written decision will be provided within *forty-five (45) calendar days* from the date of the hearing. The decision will set forth in writing the reasons for the Board’s determination. A copy of the decision will be placed in the former employee’s personnel file.

The Board’s or designee’s decision will not have any bearing or effect on the former employee’s status with the School District.



LEGAL REFERENCE:

Board of Regents of State Colleges v. Roth, 408 U.S. 573 (1971)

ADOPTED:

AMENDED:

ATTACHMENTS:

**Language in text set forth in italics is optional.*

Has no bearing on employee employment status....simply clears name.