

***422 – Name Clearing Hearing.** This is a NEW policy with accompanying procedures, sample letter, and forms allowing a former employee to specifically request due process to challenge "stigmatizing" statement(s) affecting the former employee's reputation. This is not a second chance to challenge the employee's termination, but rather an opportunity for the former employee to dispute false/misleading/stigmatizing statements or evidence, which may have been included in the employee's personnel record. Recommendation: All code. Accept as written.

A name-clearing hearing will be provided following the procedure set forth in Policy No. 422P1 to any employee who is involuntarily terminated from employment and alleges 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 a name-clearing hearing is to afford the former employee an opportunity to clear his/her name by responding to the public statements.

DEFINITIONS

“Former employee” means an employee of this School District who worked on a full or part-time basis and who was involuntarily discharged from employment.

“Stigmatizing statement” means a statement involving allegations of dishonesty, immorality, or other conduct which may damage a former employee's reputation among associates and impair his or her ability to obtain other employment. Examples of “stigmatizing statements” include falsifying records, misappropriating School District property or funds, mental instability or statements that the former employee is untruthful, untrustworthy, unethical, or is demonstrative of poor judgment, or has committed a crime or other immoral act.

RIGHT TO A HEARING

Whenever an employee is involuntarily terminated, the employee will be notified in writing that a name-clearing hearing will be arranged if the employee falls within the provisions of this procedure and the employee makes a timely written request.

A name-clearing hearing is not required each time an employee is terminated from employment. A name-clearing hearing is required only in those instances where the former employee alleges statements related to the termination “stigmatized” his/her reputation, and the former employee denies the truth of the statements. A name-clearing hearing will be offered whenever the following three conditions are met:

1. An employee is involuntarily terminated from employment;
2. The former employee contends that stigmatizing statements regarding the termination of employment have been placed in the employee's personnel file or otherwise have been made public by individuals associated with the School District; and
3. The former employee asserts that the statements are untrue.

In the event a former employee filed a grievance pursuant to the Master Agreement as a certificated employee or Policy No. ___ as a classified employee, then those proceedings will function as the name-clearing hearing.

Whenever an employee is involuntarily terminated the School District will provide the employee a copy of this policy and accompanying procedure and notify the employee in writing that a name-clearing hearing may be available.



LEGAL REFERENCE:

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

ADOPTED:

AMENDED