

## **Part 6 Complaints and Hearings**

### **53A-6-601 Definition.**

As used in this part "hearing" means a proceeding held in accordance with generally accepted principles of due process and administrative law in which definite issues of fact or of law are tried before a hearing body, and in which proceeding evidence is presented and witnesses heard, and in which the party against whom the proceedings are held has a right to:

- (1) appear with or without counsel to present evidence, confront and cross-examine witnesses, or subpoena witnesses; and
- (2) obtain a decision based solely upon evidence presented to the hearing body in the presence of both parties or representatives of both parties, recognizing that presence is satisfied if a party has been given a reasonable opportunity to attend, even if the party fails to do so.

Enacted by Chapter 108, 1999 General Session

### **53A-6-602 Designation of hearing officer or panel -- Review of findings.**

- (1) UPPAC or a state or local school board charged with responsibility for conducting a hearing may conduct the hearing itself or appoint a hearing officer or panel to conduct the hearing and make recommendations concerning findings.
- (2) UPPAC or the school board shall review the record of the hearing and the recommendations, and may obtain and review, in the presence of the parties or their representatives, additional relevant information, prior to issuing official findings.
- (3) UPPAC shall provide a panel of its members to serve as fact finders in a hearing at the request of the educator who is the subject of the hearing.

Enacted by Chapter 108, 1999 General Session

### **53A-6-603 Administering of oaths -- Issuance of subpoenas.**

- (1) UPPAC or a state or local school board charged with responsibility for conducting an investigation or a hearing under this chapter may administer oaths and issue subpoenas in connection with the investigation or hearing.
- (2) If a hearing is before a hearing officer or panel, the hearing officer or panel may administer oaths, and the appointing body may issue subpoenas upon the request of the hearing officer or panel.
- (3) Subpoenas shall be enforced upon the petition of the issuing body by the district court in the jurisdiction where the subpoena was issued, in the same manner as subpoenas issued by the court.

Enacted by Chapter 108, 1999 General Session

### **53A-6-604 Rules for conducting hearings -- Standard of proof.**

- (1) The board and each local school board shall adopt rules for the conduct of hearings to ensure that requirements of due process are met.
- (2) An accused party shall be provided not less than 15 days before a hearing with:
  - (a) notice of the hearing;
  - (b) the law, rule, or policy alleged to have been violated;

- (c) sufficient information about the allegations and the evidence to be presented in support of the allegations to permit the accused party to prepare a meaningful defense; and
  - (d) a copy of the rules under which the hearing will be conducted.
- (3) If an accused party fails to request a hearing within 30 days after written notice is sent to the party's address as shown on the records of the local board, for actions taken under the auspices of a local board, or on the records of the board, for actions taken under the auspices of the board, then the accused party shall be considered to have waived the right to a hearing and the action may proceed without further delay.
- (4) Hearing fact finders shall use the preponderance of evidence standard in deciding all questions unless a higher standard is required by law.
- (5) Unless otherwise provided in this title, the decisions of state and local boards are final determinations under this section, appealable to the appropriate court for review.

Amended by Chapter 311, 2015 General Session