

**53A-7-102 Appointment of hearing officer -- Hearing process.**

- (1) If a mediator appointed under Section 53A-7-101 is unable to effect settlement of the controversy within 15 working days after his appointment, either party to the mediation may by written notification to the other party and to the state superintendent of public instruction request that their dispute be submitted to a hearing officer who shall make findings of fact and recommend terms of settlement.
- (2) Within five working days after receipt of the request, the state superintendent of public instruction shall appoint a hearing officer who is mutually acceptable to the local school board and the professional organization representing a majority of the certificated employees.
- (3) The hearing officer may not, without consent of both parties, be the same person who served as mediator.
- (4) The hearing officer shall meet with the parties, either jointly or separately, may make inquiries and investigations, and may issue subpoenas for the production of persons or documents relevant to all issues in dispute.
- (5) The State Board of Education and departments, divisions, authorities, bureaus, agencies, and officers of the state, local school boards, and the professional organization shall furnish the hearing officer, on request, all relevant records, documents, and information in their possession.
- (6) If the final positions of the parties are not resolved before the hearing ends, the hearing officer shall prepare a written report containing the agreements of the parties with respect to all resolved negotiated contract issues and the positions that the hearing officer considers appropriate on all unresolved final positions of the parties.
- (7) The hearing officer shall submit the report to the parties privately within 10 working days after the conclusion of the hearing or within the date established for the submission of posthearing briefs, but not later than 20 working days after the hearing officer's appointment.
- (8) Either the hearing officer, the professional organization, or the local board may make the report public if the dispute is not settled within 10 working days after its receipt from the hearing officer.
- (9)
  - (a) The state superintendent of public instruction may determine the majority status of any professional organization which requests assistance under this section.
  - (b) The decision of the superintendent is final unless it is clearly inconsistent with the evidence.

Repealed and Re-enacted by Chapter 108, 1999 General Session