

## RULES OF PRACTICE GOVERNING HEARINGS

The Board shall adopt Rules of Practice Governing Hearings.

See following pages for procedure.

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## RULES OF PRACTICE GOVERNING HEARINGS

### Authority

These rules are promulgated as authorized by Article VII of the Wyoming Constitution and provisions of the Wyoming Administrative Procedure Act, Chapter 108, Session Laws of Wyoming, 1965, and the Wyoming Community College Code of 1967, Chapter 217, Sessions Laws of Wyoming, 1967.

### Definitions

The following definitions shall prevail in these rules:

- (a) "Board" shall mean the Board of Western Wyoming Community College District, State of Wyoming.
- (b) "District" shall mean the Western Wyoming Community College District, State of Wyoming.
- (c) "President" shall mean the President of the Board of Trustees of the Western Wyoming Community College District, State of Wyoming, or in his/her absence the Vice President or other member of the Board designated by the Board to preside at any hearing.
- (d) "President of the College" shall mean the chief administrative officer of Western Wyoming College.
- (e) "Secretary" shall mean the secretary of the Board of Trustees of Western Wyoming Community College District.
- (f) "Contestant" shall mean any person whose legal rights, duties or privileges are required to be determined by the Board in a hearing before the Board.

### Contests

A contest may be initiated by any person, herein referred to as the contestant, seeking any decision, order, ruling, or any other appropriate action, to be taken by the Board, when such action, if taken by the Board, would affect the

rights of the contestant or any other person. A contest is initiated by the filing of a written request for a hearing, with the Secretary of the Board.

### Request for Hearing

Any contestant desiring a hearing must file with the Secretary of the Board a written request, setting forth the following:

- (a) The name of the contestant and the name of the Board or person adversely claiming.
- (b) A statement in ordinary, concise language of the facts on which the request is based, including reference to particular laws or rules involved.
- (c) A request for a hearing.
- (d) The address of the contestant, and the name and address of his/her attorney, if any.

### Notice of Hearing

The Board shall cause written notice of any hearing held under these rules to be served upon each contestant at least ten (10) days prior to the date set for the hearing. Such notice shall include a statement of:

- (a) A time, place and nature of the hearing.
- (b) The legal authority and jurisdiction under which the hearing is to be held.
- (c) Such other matters as may be required by the Wyoming Administrative procedures Act.

### Service of Notice

Service may be made either personally or by certified or registered mail as follows:

- (a) Personally: Said service, if made by Sheriff, or other official, shall be made in the manner prescribed by the Wyoming Rules of Civil Procedure. Said service may be made by any person, not an officer, who is of lawful age, and not a party in interest. The return of said service shall be made by the certification of the officer, by

his/her affidavit. Such return of service must be filed with the Board prior to the commencement of the hearing.

- (b) By certified or registered mail to the last known address of contestant.

Motions

The Board may at any time after three (3) days notice to all parties hear orally, or otherwise, any motion filed in connection with hearings under these rules.

Docket

When a proceeding is instituted by the filing of a petition, the Secretary shall assign it a number and enter the proceedings, with the date of its filing, on a separate page of the docket provided for such purpose. The Secretary shall establish a separate file for each docketed case, in which shall be systematically placed, all paper, pleadings, documents, transcripts and evidence pertaining thereto and all such items shall have noted thereon, the docket number assigned, and the date of filing.

Form of Pleadings

The form of pleadings or other papers filed in each docketed case shall be substantially as follows:

BEFORE THE BOARD OF TRUSTEES

OF

WESTERN WYOMING COMMUNITY COLLEGE DISTRICT

STATE OF WYOMING

***IN THE MATTER OF***

\_\_\_\_\_ Docket No. \_\_\_\_\_  
Contestant

PETITION  
(Request for Hearing, Motion, Answer, Etc.)

(Body of Pleading or Motion)

(Signature)  
Name (Typed or Printed)

Title

(Signature)  
Name (Typed or Printed)  
Address  
Attorney

Dispositions of Case by Stipulation

Any case may be finally disposed of by stipulation, agreed settlement, consent, order or default of the parties, approved by the Board. An appropriate order accordingly shall be entered in the case record.

Continuances

For good cause shown, continuances and extensions of time may be granted or denied in the discretion of the Board, provided that except where both parties agree, no continuances shall be granted which shall extend the time for hearing beyond the time in which such hearing must be held as provided by law.

**Pre-Hearing Conference**

At a time on or before the day of the hearing, the Board may direct the attorneys for the parties to appear before the Board to consider:

- (a) The simplification of the issues.
- (b) The necessity or desirability of amending the pleadings.
- (c) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof.
- (d) Such other matter as may aid in the disposition of the case.

Such conferences shall be conducted informally. A memorandum will be prepared which recites the actions taken at the conference, amendments

allowed, agreements of the parties and limitation of the issues to those undisposed of by admissions or agreements of counsel and the parties. The pre-hearing memorandum will control the course of the hearing unless modified by the Board to prevent manifest injustice.

### Subpoenas

The President or Secretary of the Board, upon written application of any party or his/her attorney, shall issue a subpoena requiring the appearance of witnesses for the purpose of taking evidence or documents relevant or material to the inquiry, all subject to the provision of Section 7, Chapter 108, Session Laws of Wyoming, 1965 (Sec. 9-276.25, Wyoming Statutes, 1957).

### Order of Procedure at Hearing

As nearly as may be, hearings shall be conducted in accordance with the following order of procedure.

- (a) The President shall announce that the Board is open to transact business and call by docket number and title the case to be heard.
- (b) The district will be allowed an opening statement to briefly explain its position to the Board and outline the evidence it proposes to offer, together with the purpose thereof.
- (c) The contestant will be allowed an opening statement.
- (d) Any additional parties will be allowed an opening statement.
- (e) The district's evidence will be heard. Witnesses may be cross-examined by the contestant or his/her attorney and by members of the Board and legal counsel of the Board. The district's offered exhibits will be marked by letters of the alphabet, beginning with "A".
- (f) The President may introduce any evidence necessary on behalf of the Board, and exhibits of the board will be marked with double letters of the alphabet, beginning with "AA". Members of the Board may examine witnesses. Witnesses may be cross-examined by the contestant and the attorney for the other party.
- (g) The evidence of the contestant will be heard. And exhibits of such contestant will be marked with numbers beginning with "1". Each member of the Board, the attorney for any other party, and the attorney for the Board, shall have the right to cross-examine all witnesses presented on behalf of the contestant.
- (h) The district may offer rebuttal evidence.
- (i) The Board may, in its discretion, allow evidence to be offered out of order, as herein prescribed.

(j) Closing statements will be made in the following sequence:

- (1) District
- (2) Contestant
- (3) District in rebuttal

The time for oral argument may be limited by the President.

- (k) The President may recess the hearing as required.
- (l) After all interested parties have been offered an opportunity to be heard, the President shall declare the evidence closed and excuse all witnesses. The evidence of the case may be re-opened at a later date, for good cause shown, by order of the Board upon motion of any party to the proceedings, the President, or the Board itself.
- (m) Parties may tender briefs, or the board may call for such briefs as may be desirable.
- (n) The President may declare that the matter is taken under advisement and that the decision and order of the Board will be announced at a later date.

#### Witnesses at Hearings to be Sworn

All persons testifying at any hearing before the Board shall stand and be administered the following oath or affirmation by a member of the Board:

“Do you swear (or affirm) to tell the truth, the whole truth, and nothing but the truth in the matter now before the Board, so help you, God?”

No testimony will be received from a witness except under such oath or affirmation.

#### Applicable Rules of Civil Procedure

The rules of practice and procedure contained in the Rules of Civil Procedure of the State of Wyoming, insofar as the same may be applicable and not inconsistent with the laws of the State of Wyoming, shall apply in all hearings before the Board. For the application of such rules, the Secretary is designated to be in the same relationship to the Board as a clerk of court to a court.

#### Attorneys

The filing of a pleading or other appearance by an attorney constitutes his/her appearance for the party for whom made. The Board must be notified in writing of his/her withdrawal from any matter. Any person appearing before the Board at a hearing in a representative capacity shall be precluded from examining or cross-examining any witness, unless such person shall be an attorney licensed to practice in the State of Wyoming, or a non-resident attorney associated with a Wyoming attorney. This rule shall not be construed to prohibit any person from presenting himself before the Board.

#### Attorneys for the Board

In all hearings before the Board, the President shall request the attorney for the Board to be present to assist and advise the Board.

#### Taking of Testimony – Reporter

In all hearings, the proceedings, including all testimony, shall be reported verbatim, stenographically or by any other appropriate means determined by the Board or the officer presiding at the hearing.

#### Decisions, Findings of Fact, Conclusions of Law, Orders

The Board, following a full and complete hearing, shall make and enter a written decision and order containing findings of fact and conclusions of law based upon the evidence, both testimonial and documentary, introduced and admitted during the course of the hearing. In addition, all matters which have been officially noticed by the Board will be taken into consideration as a basis for making findings of fact and conclusions of law, and order shall be filed with the Secretary and will, without further action become the decision, findings of fact, conclusions of law and order based upon the hearing. The Secretary shall, upon receipt of any decision and order, send a copy to contestant and interested parties involved by certified mail, postage paid.

#### Members of the Board Present

No member of the Board shall vote upon a decision of the Board unless he shall have been present at the hearing or has read the transcript of the proceedings. The vote of the Board shall be shown in its decision, i.e., 7-0, 4-1, 3-0, \_\_\_\_\_ not participating, etc.

### Appeals to District Court

Appeals to the District Court from decisions of the Board may be taken in the manner prescribed by the Wyoming Administrative Procedures Act.

### Transcripts

Oral proceedings or any part thereof shall be transcribed on request of any party upon payment of the cost thereof. In case of an appeal to the District Court, the party appealing shall secure and file a transcript of the testimony and other evidence offered at the hearing with the Board, which transcript shall be verified by the oath of the reporter or transcribed as a true and correct transcript of the testimony and other evidence in the hearing. The cost of making the transcript shall be paid by the party prosecuting such appeal. The complete record on appeal, including the transcript of testimony, shall be verified by the Secretary.

### Standard of Conduct

Contemptuous conduct by any person appearing at a hearing shall be grounds for his/her exclusion from the hearing by the presiding officer.

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