

**A. Definitions.** As used in this policy:

1. “Certified school employee” or “certified school personnel” means a licensed school employee.
2. “Discharge” means the act of severing the employment relationship with a certified school employee prior to the expiration of the current employment contract.
3. “Exempt Employee” means:
  - (a) a certified school instructor employed to fill the position of a certified school instructor entering military service;
  - (b) a person who is employed as a certified school administrator; or
  - (c) a non-certified school employee employed to perform primarily district wide management functions.

**B. Discharge Procedures**

1. Just Cause. A certified school employee or exempt employee may be discharged only for a reason that is rationally related to the employee's competence or turpitude or the proper performance of duty and that is not in violation of the employee's civil or constitutional rights. The Superintendent shall serve a written notice of intent to recommend discharge on the certified school employee or exempt employee in accordance with the law for service of process in civil actions. The notice shall state the intent to recommend discharge and the cause for the recommendation, and shall advise the employee of the right to a discharge hearing before the school Board. The employee may exercise the right to a hearing by giving the Superintendent written notice of that election within five (5) working days of the receipt of the notice to recommend discharge.
2. Hearing. The Board shall hold a discharge hearing no less than twenty (20) and no more than forty (40) working days after the Superintendent receives the written election from the certified school employee or exempt employee and shall give such employee at least ten days written notice of the date, time and place of the discharge hearing.
  - (a) Each party, the Superintendent and the employee, may be accompanied by a person of his choice.
  - (b) The parties shall complete and respond to discovery by deposition and production of documents prior to the discharge hearing.
  - (c) The Board shall have the authority to issue subpoenas for the attendance of witnesses and to produce books, records, documents and other evidence at the request of either party and shall have the power to administer oaths.

(d) The Superintendent shall have the burden of proving by a preponderance of the evidence that, at the time of the notice of intent to recommend discharge, he had just cause to discharge the certified school employee or exempt employee.

(e) The Superintendent shall present his evidence first, with the certified school employee or exempt employee presenting his evidence thereafter. The Board shall permit either party to call, examine and cross-examine witnesses and to introduce documentary evidence.

(f) An official record shall be made of the hearing. Either party may have one copy of the record at the expense of the local school board or governing authority.

(g) The Board shall render its written decision within twenty (20) working days of the conclusion of the discharge hearing.

Reference: NMSA 1978, §§ 22-10A-26, 22-10A-27, 22-10A-28