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1 **R7-2-201. Advisory Committees**

- 2 **A.** The State Board of Education (“Board”) may create an advisory committee for the purpose of providing
3 advice and recommendations as assigned by the Board. In this rule, unless the context otherwise
4 requires, the following definitions shall apply:
- 5 1. “Ad Hoc Advisory Committee” means a committee, established by the Board, for a limited time
6 and scope, for the purpose of providing advice and recommendations to the Board.
 - 7 2. “Executive Committee” means a committee, whose members consist of the President and Vice-
8 President of the Board, established for the purpose of appointing ad hoc advisory committee
9 members.
 - 10 3. “Standing Advisory Committee” means the Certification Advisory Committee, ~~the Certification~~
11 ~~Appeals Advisory Committee, and~~ the Professional Practices Advisory Committee, or any other
12 designated permanent committee, established by the Board, for the specific purpose of providing
13 ongoing advice and recommendations as assigned by the Board.
- 14 **B.** Any advisory committee or similar body that has been created by either the Board or statute shall be
15 appointed and conduct its business in accordance with this rule except as otherwise required by law.
- 16 **C.** The Board shall determine the structure, membership, and tasks of any standing advisory committee
17 the Board has created.
- 18 **D.** The Board’s Appointments Subcommittee, whose members are appointed by the President of the
19 Board, shall review nominations submitted by the Board members for appointment to a standing
20 advisory committee and shall provide a recommendation to the Board for consideration. A vacancy on
21 a standing advisory committee shall be filled in the manner described in this Section.
- 22 **E.** The Board shall determine the structure and task of an ad hoc advisory committee it has created and
23 may make suggestions as to members. The Executive Committee shall appoint the members of an ad
24 hoc advisory committee. An ad hoc advisory committee shall exist for the time necessary to accomplish
25 its assigned task or for one year from the date it is created, whichever is less. An ad hoc advisory
26 committee may continue to function beyond a one-year period only with the express approval of the
27 Executive Committee. A vacancy on an ad hoc advisory committee shall be filled in the manner
28 prescribed by the Executive Committee.
- 29 **F.** The Board may in its discretion remove any member from and dissolve any standing advisory
30 committee that the Board has created. The Executive Committee may in its discretion remove any
31 member from and dissolve any ad hoc advisory committee that the Executive Committee has created.
- 32 **G.** An advisory committee shall not conduct a meeting of its members without prior acknowledgment from
33 the Executive Director of the Board that the notice and agenda for the meeting have been approved by
34 the President of the Board and posted and that there are sufficient funds to meet all expenses that would
35 be incurred in connection with such meeting. An advisory committee member shall not obligate the
36 payment of Board funds.
- 37 **H.** The meetings of a committee shall be held at the offices of the Board or any other facility for which no
38 charges would be incurred for use of the facility.
- 39 **I.** Activities of an advisory committee are limited to preparation of advice and recommendations to be
40 presented to the Board for issues which relate directly to the task assigned by the Board.
- 41 **J.** Advisory committees are not authorized the use of Board letterhead stationery without the express
42 approval of the President of the Board and are not authorized the use of Department of Education
43 letterhead stationery without the express approval of the Superintendent of Public Instruction.
- 44 **K.** An advisory committee shall:
- 45 1. Annually select from its members a chair and vice chair;
 - 46 2. Request information, assistance, or opinions from the Department of Education necessary to
47 accomplish its task. An advisory committee shall convey any such request through the Department
48 liaison designated pursuant to this rule.
- 49 **L.** A quorum of an advisory committee shall be a majority of the voting members of the advisory
50 committee. Voting members shall be only those members specifically appointed by the Board or

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1 Executive Committee. A quorum of an advisory committee is necessary to conduct its business. An
2 affirmative vote of the majority of voting members present is necessary for an advisory committee to
3 take action.

4 M. The Superintendent shall designate an employee of the Department of Education to serve as a liaison
5 to each advisory committee. The President of the Board may appoint a member of the Board to serve
6 as an additional liaison to each advisory committee as the President deems appropriate.

7
8 **R7-2-206. Certification Denial Appeals Process for Applications for Certification that Do Not**
9 **Involve Allegations of Immoral or Unprofessional Conduct**

10 ~~A. The Certification Appeals Advisory Committee (“Committee” or “CAAC”) shall act in an advisory~~
11 ~~capacity to the State Board of Education (“Board”) and shall serve as the hearing body for the Board in~~
12 ~~regard to appeals of certification denials pursuant to A.R.S. § 15-534.01 that do not involve allegations~~
13 ~~of immoral or unprofessional conduct. Applications for certification that involve allegations of immoral~~
14 ~~or unprofessional conduct shall be reviewed by the Professional Practices Advisory Committee as~~
15 ~~established by R7-2-205.~~

16 ~~B. The Committee shall be appointed by the Board and shall consist of five members comprised of the~~
17 ~~following:~~

- 18 ~~1. One certificated elementary classroom teacher,~~
- 19 ~~2. One certificated secondary classroom teacher,~~
- 20 ~~3. One certificated administrator,~~
- 21 ~~4. One lay member, and~~
- 22 ~~5. One local Governing Board member.~~

23 ~~C. Terms of the members~~

- 24 ~~1. All regular terms shall be for two years except as set forth in subsection (D).~~
- 25 ~~2. A member may be reappointed with Board approval.~~

26 ~~D. The Board may remove any member from the Committee. All vacancies shall be filled in a timely~~
27 ~~fashion and those persons appointed to fill vacancies shall serve to complete the term of the person~~
28 ~~replaced.~~

29 ~~E. The Committee shall:~~

- 30 ~~1. Select from its members a Chairman and Vice Chairman.~~
- 31 ~~2. A quorum shall be a majority of members of the Committee. A quorum is necessary to conduct~~
32 ~~business. An affirmative vote of the majority of the members present is needed to take action.~~
- 33 ~~3. Hold meetings once a month or as often as necessary to conduct hearings or other Committee~~
34 ~~business.~~
- 35 ~~4. Recommend the removal of any member who is absent from three consecutive meetings.~~
- 36 ~~5. Conduct appeals pursuant to A.R.S. Title 41, Chapter 6, Article 6 and this Section.~~

37 ~~F. A.~~ Request for hearing. A person who has had an application for certification denied by the ~~Board or~~
38 ~~the~~ Department of Education pursuant to A.R.S. § 15-534.01(B) may file a written request for a hearing
39 with the Board within 15 days after ~~receiving the notice of denial~~ being served notice of the denial
40 pursuant to subsection C of this section. Intermediate Saturdays, Sundays and legal holidays shall be
41 included in the computation of the 15 days. If the final day of the 15 day deadline falls on a Saturday,
42 Sunday or legal holiday, the next business day is the final day of the deadline. Applications for
43 certification that involve allegations of immoral or unprofessional conduct shall be reviewed by the
44 Professional Practices Advisory Committee pursuant to R7-2-205.

45 ~~G. B.~~ Notice of hearing

- 46 1. If an applicant requests a hearing to appeal the denial of an application for certification, a notice of
47 hearing shall be given at least 20 days prior to the date set for the hearing.
- 48 2. The notice shall include:
 - 49 a. A statement of the time, place and nature of the hearing.
 - 50 b. A statement of the legal authority and jurisdiction under which the hearing is to be held.

- c. A reference to the particular sections of the statutes and rules involved.
- d. A short and plain statement of the matters asserted. If a party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon application a more definite and detailed statement shall be furnished.

- ~~3.—Opportunity shall be afforded all parties to respond and present evidence and argument on the issues involved.~~
- ~~4.—The Board may dispose of any certification appeal by decision or approved stipulation, agreed settlement, consent agreement or by default.~~
- ~~5.—A hearing before the hearing body or any part thereof shall be recorded manually or by a recording device and shall be transcribed on request of any party, unless otherwise provided by law. The cost of such transcript shall be paid by the party making the request, unless otherwise provided by law or unless assessment of the cost is waived by the Board.~~
- ~~6.—The hearing body may reschedule the hearing, maintaining due regard for the interests of justice and the orderly and prompt conduct of the proceedings.~~
- ~~7.—The record in an appeal of a certification denial shall include:
 - a.—All pleadings, motions and interlocutory rulings.
 - b.—Evidence received or considered.
 - c.—A statement of matters officially noticed.
 - d.—Objections and offers of proof and rulings thereon.
 - e.—Proposed findings of fact and conclusions of law and exceptions thereto.
 - f.—Any decision, opinion, recommendation or report of the hearing body.
 - g.—All staff memoranda, other than privileged communications, or data submitted to the hearing body in connection with its consideration of the case.~~
- ~~8.—Findings of fact shall be based exclusively on the evidence and on matters officially noticed.~~

H. C. Service of documents; change of address notice requirement

1. Every notice or decision issued by the Board or the Department pertaining to the denial of an application for initial certification or renewal of a certificate shall be served by personal delivery, first class mail or certified mail, return receipt requested, to the applicant or certificated person's last address of record with the Department of Education or by any other method that is reasonably calculated to give actual notice to the applicant or the certificated person. A document is filed with the Board on the date it is received by the Board, as established by the Board's date stamp on the face of the document. A document issued by the Board or the Department pursuant to this section is served on a party as follows:
 - a. On the date it is personally served.
 - b. Five days after it is mailed by first class mail.
 - c. On the date of the return receipt if it is mailed by certified mail.
2. Each applicant or certificated person shall inform the Department of Education and the Board of any change of address within 30 days of the change of address.

I. D. Hearing process

1. All hearings shall be conducted before the Board or a hearing officer pursuant to A.R.S. Title 41, Chapter 6, Article 6 and this section.
- ~~1-2.~~ Parties may participate in the hearing in person or through an attorney.
- ~~2-3.~~ Upon request of either party, the presiding hearing officer may schedule a prehearing conference. The purpose of a prehearing conference shall be to narrow issues, attempt settlement, address evidentiary issues or for any other purpose deemed necessary by the presiding hearing officer.
4. Opportunity shall be afforded all parties to respond and present evidence and argument on the issues involved.
5. The Board may dispose of any certification appeal by decision or approved stipulation, agreed settlement, consent agreement or by default.

- 1 6. A hearing shall be recorded manually or by a recording device and shall be transcribed on request
- 2 of any party, unless otherwise provided by law. The cost of such transcript shall be paid by the
- 3 party making the request, unless otherwise provided by law or unless assessment of the cost is
- 4 waived by the Board.
- 5 7. The hearing may be rescheduled, maintaining due regard for the interests of justice and the orderly
- 6 and prompt conduct of the proceedings.
- 7 8. The record in an appeal of a certification denial shall include:
- 8 a. All pleadings, motions and interlocutory rulings.
- 9 b. Evidence received or considered.
- 10 c. A statement of matters officially noticed.
- 11 d. Objections and offers of proof and rulings thereon.
- 12 e. Proposed findings of fact and conclusions of law and exceptions thereto.
- 13 f. Any decision, opinion, recommendation or report of the hearing officer.
- 14 g. All staff memoranda, other than privileged communications, or data submitted to the hearing
- 15 officer in connection with its consideration of the case.
- 16 9. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

17 ~~3.~~ 10. A hearing may be conducted in an informal manner and without adherence to the rules of
18 evidence required in judicial proceedings. Neither the manner of conducting the hearing nor the
19 failure to adhere to the rules of evidence required in judicial proceedings shall be grounds for
20 reversing any administrative decision or order, providing the evidence supporting such decision or
21 order is substantial, reliable, and probative. Irrelevant, immaterial or unduly repetitious evidence
22 shall be excluded. Every person who is a party to such proceedings shall have the right to be
23 represented by counsel, to submit evidence in open hearing and shall have the right of cross-
24 examination. Unless otherwise provided by law, hearings may be held at any place determined by
25 the ~~Committee~~ Board. At such hearing such applicant shall be the moving party and have the burden
26 of proof.

27 ~~4.~~ 11. Copies of documentary evidence may be received in the discretion of the ~~presiding~~ hearing
28 officer. Upon request, the parties shall be given an opportunity to compare the copy with the
29 original.

30 ~~5.~~ 12. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally
31 recognized technical or scientific facts within the specialized knowledge of the hearing ~~body~~
32 officer. Parties shall be notified either before or during the hearing or by reference in preliminary
33 reports or otherwise of the material noticed including any staff memoranda or data and they shall
34 be afforded an opportunity to contest the material so noticed. The hearing ~~body's~~ officer's
35 experience, technical competence and specialized knowledge may be utilized in the evaluation of
36 the evidence.

37 ~~J. E.~~ Subpoenas

- 38 1. The ~~Department of Education~~ hearing officer may issue subpoenas for the attendance of witnesses
- 39 and for the production of books, records, documents and other evidence on ~~it's~~ the hearing officer's
- 40 own volition or at the request of a party.
- 41 2. A request for a hearing subpoena shall be in writing and served on each party at least seven days
- 42 prior to the date set for hearing and shall state:
 - 43 a. The name of the ~~contested~~ case, the case number, and the date, time and place where the witness
 - 44 is expected to appear and testify;
 - 45 b. The name and address of the witness subpoenaed; ~~and~~
 - 46 c. The documents, if any, sought to be provided; ~~and~~
 - 47 d. A brief statement of the relevance of the testimony or documents.
- 48 3. On application of a party or the agency and for use as evidence, the hearing ~~body~~ officer may permit
- 49 a deposition to be taken, in the manner and upon the terms designated by the hearing ~~body~~ officer,
- 50 of a witness who cannot be subpoenaed or is unable to attend the hearing.

1 4. The individual to whom a subpoena is directed shall comply with its provisions unless, prior to the
2 date set for appearance, the hearing ~~body officer~~ grants a written request to quash or modify the
3 subpoena. The request shall state the reasons why it should be granted. The hearing ~~body officer~~
4 shall grant or deny such request by order.

5 5. The hearing officer shall quash or modify the subpoena if:

6 a. It is unreasonable or oppressive; or

7 b. The desired testimony or evidence may be obtained by an alternative method.

8 ~~5.6.~~ The party requesting the subpoena shall prepare it and cause it to be served upon the individual
9 to whom it is directed in the same manner as provided for service of subpoenas in civil matters
10 before the superior court. The return of service shall be filed with the ~~hearing body~~ Board.

11 ~~K. F.~~ Conduct of hearing

12 1. The ~~presiding hearing~~ officer may conduct all or part of the hearing by telephone, ~~television,~~ or
13 other electronic means, as long as each party has an opportunity to participate in the entire
14 proceeding as it takes place.

15 2. Except for those hearings which may involve presentation of evidence protected by law as
16 confidential, or which are otherwise closed pursuant to an express provision of law, all hearings
17 are open to public observation.

18 3. Conduct at any hearing that is disruptive or shows contempt for the proceedings shall be grounds
19 for exclusion from further participation or observation.

20 ~~L. G.~~ Evidence

21 1. All witnesses shall testify under oath or affirmation.

22 2. The hearing ~~body officer~~ shall have the power to administer oaths and affirmations.

23 3. All parties shall have the right to present such oral or documentary evidence and to conduct such
24 cross-examination as may be required for a full and fair disclosure of the facts.

25 4. The hearing ~~body officer~~ shall receive evidence, rule upon offers of proof, and exclude evidence
26 the hearing ~~body officer~~ has determined to be irrelevant, immaterial, or unduly repetitious.

27 5. Unless otherwise ordered by the hearing ~~body officer~~, documentary evidence shall be limited in
28 size when folded to 8 1/2 by 11 inches. The submitting party shall identify documentary exhibits
29 by number or letter and party and furnish a copy of each exhibit to each party present. One
30 additional copy shall be furnished to the hearing ~~body officer~~ unless the hearing ~~body officer~~
31 otherwise directs. When evidence offered by any party appears in a larger work, containing other
32 information, the party shall plainly designate the portion offered. If the evidence offered is so
33 voluminous as would unnecessarily encumber the record, the book, paper, or document shall not
34 be received in evidence but may be marked for identification and, if properly authenticated, the
35 designated portion may be read into or photocopied for the record. All documentary evidence
36 offered shall be subject to appropriate and timely objection.

37 ~~M. H.~~ Stipulations. Parties to an appeal of a certification denial may stipulate, in writing, agreement upon
38 any matter involved in the proceeding. If approved by the ~~presiding hearing~~ officer, agreement on
39 matters of procedure shall be binding upon the parties to the stipulation. The hearing ~~body officer~~ may
40 require presentation of evidence for proof of stipulated facts for the hearing ~~body officer's~~
41 consideration. No substantive matter agreed to by the parties shall be binding upon the Board unless
42 incorporated into the decision of the Board.

43 ~~N. I.~~ Recommendations

44 1. A recommended decision shall be prepared for the Board by the ~~CAAC hearing officer and shall~~
45 include findings of fact and conclusions of law, separately stated.

46 2. Parties shall be notified either personally or by mail to their last known address of any decision or
47 order.

48 ~~2.3.~~ A recommended decision shall be delivered to the Board within 30 days after the close of the
49 hearing unless the Board extends the period for good cause.

50 ~~O. J.~~ Decisions and orders

51 1. Any final decision or order adverse to a party shall be in writing or stated in the record.

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- 1 2. When the Board is the hearing body, the decision shall be rendered within 60 days following the
2 final day of the hearing.
- 3 3. Within 30 days after receipt of any recommended decision from the ~~CAAC~~ [hearing officer](#), the
4 Board shall render a decision to affirm, reverse, adopt, modify, supplement, amend or reject the
5 recommendation and may remand the matter to the hearing ~~body~~ [officer](#) with instructions, or may
6 convene itself as the hearing body.

7 **P. K.** Rehearing and review of decisions

- 8 1. After a hearing is held, a party in an appeal of a certification denial who is aggrieved by a decision
9 rendered by the Board may file with the Board, not later than 30 days after such decision has been
10 made, a written motion for rehearing specifying the particular grounds therefor. A motion for
11 rehearing under this Section may be amended at any time before it is ruled upon by the Board. A
12 response may be filed within 15 days after service of such motion by any other party. The Board
13 may require the filing of written briefs on the issues raised in the motion or response and may
14 provide for oral argument.
- 15 2. A rehearing of a decision by the Board may be granted for any of the following causes materially
16 affecting the moving party's rights:
 - 17 a. Irregularity in the administrative proceedings of the hearing body, or abuse of discretion,
18 whereby the moving party was deprived of a fair hearing.
 - 19 b. Misconduct of the hearing body or the prevailing party.
 - 20 c. Accident or surprise which could not have been prevented by ordinary prudence.
 - 21 d. Newly discovered material evidence which could not with reasonable diligence have been
22 discovered and produced at the hearing.
 - 23 e. Excessive or insufficient penalties.
 - 24 f. Error in the admission or rejection of evidence or other errors of law occurring at the
25 administrative hearing.
 - 26 g. That the decision is not justified by the evidence or is contrary to the law.
- 27 3. The Board may affirm or modify the decision or grant a rehearing to all or any of the parties, on all
28 or part of the issues, for any of the reasons set forth in ~~subsection (B) herein~~ [paragraph 2 of this](#)
29 [subsection](#). An order granting a rehearing shall specify with particularity the ground or grounds on
30 which the rehearing is granted, and the rehearing shall cover only those matters so specified.
- 31 4. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the
32 Board may grant a motion for rehearing for a reason not stated in the motion. The order granting
33 such a rehearing shall specify the grounds therefor.
- 34 5. Not later than 20 days after a decision is rendered, the Board may, on its own initiative, order a
35 rehearing of its decision for any reasons for which it might have granted a rehearing on motion of
36 a party. The order granting such a rehearing shall specify the grounds therefor.
- 37 6. When a motion for rehearing is based upon affidavits they shall be served with the motion. An
38 opposing party may, within 10 days after service of such motion, serve opposing affidavits and this
39 period may be extended for an additional period not exceeding 20 days, by the Board for good
40 cause shown or by written stipulation of the parties. Reply affidavits may be permitted.
- 41 7. After a hearing has been held and a final administrative decision has been entered, a party is not
42 required to file a motion for rehearing or review of the decision in order to exhaust the party's
43 administrative remedies.
- 44 8. Any party in an appeal of a certification denial who is aggrieved by a decision rendered by the
45 Board may file with the Board, not later than 20 days after such decision has been made, a written
46 request for review of the decision. If a review of the decision is granted, the Board may affirm or
47 modify the previous decision.