

# NEW HAMPSHIRE SCHOOL BOARDS ASSOCIATION presents Teacher Dismissal and Nonrenomination At Your Fingertips

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## V. HEARING PROCEDURE FOR TEACHER NON-RENOMINATION: NH Code of Admin. Rules, Section Ed 204.02

- This rule provides detailed procedures to follow for non-renomination hearings. (See NHDOE website for details.) School Boards should also check their local policies and/or CBAs for additional procedures.

## VI. BURDEN OF PROOF: RSA 189:14-a, IV

- The Superintendent must prove “by a preponderance of the evidence” that he/she has: (1) met the notice requirements of this statute; and (2) in nonrenewals based on unsatisfactory performance, that the teacher was given a reasonable opportunity to correct his/her deficiencies.
- “Preponderance of the evidence” means the Superintendent has the stronger evidence, however slight the edge.

## VII. APPEALS PROCESS: RSA 189:14-b

- A teacher aggrieved by the decision of the local school board may either petition the state board of education for review thereof or request arbitration under the terms of a collective bargaining agreement, if applicable, but may not do both. Such petition must be in writing and filed with the state board within 10 days after the issuance of the decision to be reviewed.
- The state board of education shall uphold a decision of a local school board to non-renew a teacher's contract unless the local school board's decision is clearly erroneous.

## VIII. UNIQUE SITUATIONS YOUR SCHOOL BOARD SHOULD AVOID:

- **Teacher Not Renominated, But Offered Lesser Position.** If a teacher is being offered different employment at a lesser position, he/she is still entitled to a hearing and reasons of nonrenomination, consistent with the provisions outlined above. Petition of Gorham School Board, 121 N.H. 878 (1981).
- **School Board Bias.** A school board may conduct a non-renewal hearing, absent a showing of actual bias or prejudice. A show of “actual bias” must be present in order to overturn a local school board's non-renomination decision. Considerations of actual bias include personal animosity towards a particular teacher or having a personal stake in the teacher's employment or non-renomination. Appeal of Hopkinton School District, 151 N.H. 478 (2004).

## IX. PRACTICE POINTERS:

- Advise teachers of their rights by providing a copy of RSA 189:14-a when issuing the non-renomination letter.
- Superintendents must have adequate documentation of unsatisfactory performance, to uphold the nonrenomination. There should also be documented evidence of the teacher's failure to remedy the unsatisfactory performance.
- School board members should refrain from viewing teacher personnel files until presented with them as evidence at the nonrenomination hearing.
- School board members should not make public comments regarding a teacher's performance until the board has issued its written decisions.
- All collective bargaining agreements and applicable board policies should be reviewed in dismissal or non-renewal situations to determine if they provide requirements beyond what is contained in state law or administrative rules.

For more information, call Attorney Barrett M. Christina at 603-228-2061  
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