Education Employment Procedures Law of 2001

Adams and Reese LLP
§37-9-101

• To provide accountability
• To provide mechanism for nonrenewal
• To provide employee opportunity for a hearing
• To require nonrenewal decisions to be based upon valid educational reasons or noncompliance with school district personnel policies
Employee includes any teacher, principal, superintendent or other professional personnel, required to have a license issued by the SDE

- employed by local school district for a continuous period of two years with that district, or

- who has completed a continuous period of two years of employment in a Mississippi public school district and one full year with the district of current employment.
§37-9-103

- Designated Licensed School Business Administrator now included under the EEPL per State Board of Education Policy 6901, eff. July 1, 2012.
- District may designate only one individual to hold this position.
- Must hold the School Business Administrator license issued by the MDE.
- If School Business Administrator does not meet licensure requirements, must complete training requirements to come under the EEPL.
§37-9-103

- Districts may have a School Business Administrator or Officer who is not licensed and District will still meet accreditation requirements.
- The employee will not be a licensed employee under the EEPL
§37-9-103

- Use of the word “Days” in statute
  - means calendar days
The EEPL does not apply to any category of employee after the Governor declares a state of emergency under § 37-17-6(11).

The EEPL is not applicable in any school district for the full period of time the conditions in § 37-17-6(11) exist.
§37-9-104

- Board makes a preliminary determination not to offer a superintendent a renewal contract
- Written notice before February 1
- Time line does not apply if recommendation from interim conservator(§37-17-6(14)(a)) or financial advisor(§37-9-18)
§37-9-105

- Recommendation of nonrenewal by school district

- Written notice stating the reasons for proposed nonreemployment given by superintendent without further board action:
  - principal-on or before March 1
  - teacher, administrator or other professional educator-on or before April 15 or within 10 calendar days after the Governor approves the appropriation bill(s) comprising the state’s education budget for funding K-12, whichever date is later.
§37-9-105

• Interim conservator or school board acting on recommendation of district financial advisor not required to comply with time limitations
§37-9-109

- Upon written request within 10 days of receipt of notice, employee entitled to:
  - written notice of the specific reasons, summary of the factual basis, a list of witnesses and a copy of documentary evidence substantiating reasons to be presented at hearing
  - notice at least 14 days before hearing
  - failure to provide results in recommendation being null and void-1 year contract issued
§37-9-109

• Opportunity for a hearing before the board or a hearing officer (superintendent is not entitled to a non-renewal hearing)
• Be represented by legal counsel
• No less than 5 days before the hearing, the employee shall provide the district a response to the specific reasons for nonreemployment, a list of witnesses and a copy of documentary evidence in support of the response
§37-9-109

- If employee fails to provide information, recommendation is final without a hearing.
- If employee does not request a hearing, the recommendation regarding nonreemployment is final (note: there has been no board decision at this point).
§37-9-111

- School board or its designee can set date of hearing
- Not sooner than 5 days nor later than 30 days from the date of the request
- Before board or hearing officer
- HO cannot be person who made initial recommendation
§37-9-111

- HO cannot have interest in outcome of hearing, cannot be related to board member, administrator making recommendation or employee
- No ex parte communication regarding substantive provisions of the hearing
- Hearing is held in executive session, unless employee elects to have a public hearing
§37-9-111

• Board or HO may order any part of hearing to be held in executive session if testimony deals with matters involving reputation or character of another person

• If hearing is public, testimony by minors must be held in executive session and must be considered confidential public records and confidential student records, subject to an expectation of reasonable privacy and confidentiality
§37-9-111

• Public disclosure of minor’s testimony by court order only
• District presents evidence in support of its recommendation
• Employee given opportunity to present matters at the hearing relevant to the reasons given for nonreemployment
• Stenographic notes made of the proceedings
§37-9-111

• The board shall review the matters presented before it, or if conducted by a hearing officer, the hearing officer’s report and the record of the proceedings

• Board must determine if the employment decision was based upon a valid educational reason or noncompliance with school district personnel policies and was based solely upon evidence presented at hearing
§37-9-111

• Employee notified within 30 days of conclusion of hearing conducted by hearing officer
  – employee has right to present a statement to board prior to final decision by the board

• Employee notified within 10 days of conclusion of hearing conducted by board
§37-9-111

• Hearsay is allowed but cannot be sole basis for determination of facts by board or hearing officer

• Board or hearing officer can issue subpoenas to compel the attendance of witnesses

• This section does not apply to superintendents who have been non-renewed or terminated pursuant to § 37-9-59
§37-9-113

- Appeal is to chancery court
- Must file a bond payable to school board with sufficient sureties, in the penalty of not less than $200.00, conditioned upon the payment of all of the costs of appeal, within 20 days of receipt of the board’s final decision
§37-9-113

- Scope of review is limited to the record of the hearing to determine if the action of the school board is unlawful for the reason that it was:
  - not supported by any substantial evidence;
  - arbitrary or capricious; or
  - in violation of some statutory or constitutional right of the employee
§37-9-113

• No relief shall be granted based upon a court’s finding of harmless error by the board in complying with the procedural requirements of the EEPL.

• In the event of a finding of prejudicial error, the case shall be remanded for a rehearing consistent with the findings of the court.