ARTICLE I: GENERAL PROVISIONS

I. Authority

These rules are adopted as authorized by the Wyoming Administrative Procedures Act [W.S. 16-3-101 through 16-3-115], and under the provisions of [W.S. 21-18-304], as amended.

II. Effective Upon Compliance

These rules shall be effective upon compliance with all pre-requisites set forth in the Wyoming Administrative Procedures Act [W.S. 16-3-102 through 16-3-106], or any statute amending, recodifying or superseding the same.

III. Previous Rules Superseded

From and after the effective date of these rules, any previously filed rules and regulations of Northwest Community College District, State of Wyoming (hereinafter "Northwest College") shall be superseded and shall be of no further force or effect. The previously filed rules as they relate to hearings and contested cases are amended as provided for herein. Other rules and regulations which have been superseded and repealed may, at the discretion of the Board of Trustees, be incorporated in general policies.

IV. Promulgation, Amendment or Repeal of Rules

Any amendments to these rules shall become effective as provided by the Wyoming Administrative Procedures Act.

ARTICLE II: DEFINITIONS AND APPLICABILITY - HEARINGS AND CONTESTED CASES

I. Definitions

As used in these rules:

A. "Board" means the Board of Trustees of Northwest College.

B. "President" means the President of the Board of Trustees of Northwest College.

C. "Vice President/Secretary" means the Vice President/Secretary of the Board of Trustees of Northwest College.

D. "Treasurer" means the Treasurer of the Board of Trustees of Northwest College.

E. "Hearing" includes all contested cases.

F. "Party" means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party.

G. "Person" means any individual, partnership, corporation, association, municipality, governmental subdivision or public or private organization of any character other than an agency.

H. "College" means Northwest Community College District, State of Wyoming.

II. Applicability of Rules

A. These rules shall apply to all hearings required by law to be held before the Board and to any other matters wherein a

contested case as defined by law is presented, or any other matter wherein a hearing is required by law, rule or regulation.

B. Hearings not in compliance with these rules may only be held by the Board upon express written agreement by all parties.

C. All petitions filed with the Board in the form of appeals from decisions of College employees, administrators, or other staff shall be handled under these rules to the extent they are applicable unless other procedures have been specifically approved by the Board.

ARTICLE III: HEARINGS BEFORE THE BOARD

I. Generally

Any person whose legally-recognized rights have been or will be affected by any decision, order, ruling, or other action taken has a right to a hearing before the Board.

II. Petition

Any person desiring to come before the Board for a hearing must file with the Board, in the office of the Executive Secretary to the Board at Powell, Wyoming, a petition setting forth:

A. A concise statement of the facts on which the petitioner relies.

B. A statement in ordinary language, setting forth the action or decision desired by the petitioner.

C. The name, address and telephone number of the petitioner and of the attorney for the petitioner, if any.

D. The signature of the petitioner and attorney for the petitioner, if any.

E. The legal authority, if any, or known at the time of the filing of the petition, upon which the petitioner relies.

III. Board As Petitioner

In any matter in which the College is required to hold a hearing before the Board in which it has the burden of proof; the College shall be deemed the petitioner for purposes of these rules. Any notices or writings required by law for said hearing shall be deemed to be the petition for the College. Any objection by the other party to the petition of the College shall be served in writing at least ten (10) working days before any scheduled hearing.

IV. Notice of Hearing

For any hearing which is to be held before the Board, the Secretary shall cause written notice of any hearing held under these rules to be served upon each party as much time in advance of the date set for hearing as is reasonably practicable. Such notice shall include a statement of:

A. The time, place and nature of the hearing.

B. The legal authority and jurisdiction under which the hearing is to be held.

C. The particular sections of the statutes, rules, or court decisions involved.

D. A short and plain statement of the matters asserted. If the Secretary 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, and thereafter upon application a more definite and detailed statement shall be furnished.

V. Hearing Examiner

A. Whenever it shall appear, from statements of any party or other sources, including applicable Federal or State case law, that a dispute exists wherein a hearing is authorized or required to be held before the Board, the Board, at its option, may delay further proceedings until all factual disputes are heard and recommendations made by a hearing examiner as provided in this section.

B. The hearing examiner shall be the presiding officer at the hearing and shall conduct all proceedings in an impartial manner.

C. The hearing examiner shall be a qualified member of the bar of Wyoming.

D. The hearing examiner shall make recommended findings of fact and conclusions of law to the Board in writing.

E. The hearing examiner shall be hired by the Board and shall be entitled to a reasonable fee for his/her services and reimbursement for reasonable expenses incurred in connection therewith, but shall not be considered an employee of the College, but rather, an independent contractor.

F. The hearing examiner shall accord the parties the same hearing procedural rights as are available to them in a hearing before the Board as herein set forth.

G. The impartial hearing examiner shall not be an employee of the Board or a person with a personal or professional interest in the case at hearing, nor be biased or prejudiced against any party to the hearing.

VI. Adoption of Findings of Fact and Conclusions

A. The recommended Findings of Fact and Conclusions of Law certified by the hearing examiner under Section V., D. of Article III of these rules shall be mailed to all parties and members of the Board.

B. Any party objecting to the recommended Findings of Fact and Conclusions of Law shall present any objections at the next meeting of the Board occurring at least forty-eight (48) hours after mailing of the recommended Findings of Fact and Conclusions of Law to all parties or within fourteen (14) days after mailing.

C. The recommended Findings of Fact and Conclusions of Law shall be adopted by the Board unless a majority of the members of the Board object to the recommended Findings of Fact and Conclusions of Law. No member of the Board may object to the recommendations unless he/she shall have been present at the hearing or has read the transcript of the proceedings or heard or examined the official record of the hearing. The decision of the Board to either adopt or reject the recommended Findings of Fact and Conclusions of Law shall be issued in writing within twenty (20) days of receipt of the recommended Findings of Fact and Conclusions of Law.

VII. Duties of Presiding Officer

The presiding officer at any hearing before the Board shall be the Board President, or any member of the Board authorized to act in the absence of the Board President, or the hearing examiner as provided in Section V. B. of Article III of these rules. The

presiding officer shall have authority and power to:

A. Assign to each proceeding instituted by the filing of a petition, a docket number which shall include the year and a different number for each separate petition filed that year. There shall be established a separate file for each docketed case in which shall be systematically placed all papers, pleadings, documents, transcripts and evidence pertaining thereto, and all such items shall have noted thereon the docket number assigned and the date of filing;

B. Administer oaths and affirmations;

C. Issue subpoenas;

D. Rule upon offers of proof and receive relevant evidence;

E. Take or cause depositions to be taken in accordance with the provisions of the Wyoming Administrative Procedures Act and rules of the Board;

F. Regulate the course of the hearing;

G. Hold conferences for the settlement or simplification of the issues;

H. Dispose of procedural requests or similar matters;

I. Cause Findings of Fact and Conclusions of Law to be finalized and filed with the Clerk and delivered to all parties;

J. May recess the hearing or grant continuances for good cause;

K. May require written briefs from any party clarifying its legal or factual position;

L. May declare that any matter is being taken under advisement and that a decision will be announced at a later time, not to exceed sixty (60) days after conclusion of the hearing;

M. Punish contempt by permanent removal from the hearing location by any person so offending;

N. See that a recording of the hearing is made by either an electronic recording device or certified shorthand or machine reporter or other person authorized to administer oaths;

O. Take any other action authorized by law, consistent with these rules, or required to fulfill any of his/her duties.

VIII. Order of Procedure at Hearing

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

A. The petitioner may briefly state his/her case and the evidence by which he/she expects to sustain it.

B. The adverse party may then briefly state his/her defense and the evidence he/she expects to offer in support of it.

C. The petitioner shall first produce his/her evidence; the adverse party shall then produce his evidence.

D. The parties shall then be confined to rebutting evidence unless the presiding officer permits them to offer evidence in their original case.

E. The presiding officer may, in his/her discretion, allow evidence to be offered out of the order as herein prescribed.

F. Closing statements shall be made in the following sequence:

1. Petitioner
2. Adverse Party
3. Petitioner in Rebuttal

IX. Witnesses at Hearings to be Sworn

All persons testifying at any hearing shall stand and be administered the following oath by the presiding officer: "Do you swear (or affirm) to tell the truth, the whole truth and nothing but the truth in the matter now before the Board?", unless the hearing officer waives said oath on a showing that the person understands the meaning of telling the truth and that he/she may be charged and convicted of the crime of falsifying his/her testimony.

X. Disposition 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 or stipulation accordingly shall be entered in the case record.

XI. Applicable Rules of Civil Procedure to Apply

The rules of practice and procedure contained in the Wyoming Rules of Civil Procedure (WRCP), insofar as the same may be applicable, and not inconsistent with the laws of the State of Wyoming, or these rules shall apply at all hearings under these rules. Service of the petition and notice of hearing may be by certified or registered mail to the last known address of the employee or student involved or by personal service by any adult, provided that service upon an employee or student by an employee of the College shall be witnessed unless an acknowledgment of service is signed by the employee or student. All other notices and service of papers shall be made in accordance with Rule 5 WRCP.

XII. Attorneys

The filing of a petition or other similar representation by an attorney constitutes his/her appearance for the party for whom the representation is made. The Board or hearing examiner must be notified in writing of any withdrawal from the case. Any person appearing 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. These rules shall not be construed to prohibit any person from representing himself/herself in any hearing under these rules.

XIII. College Attorney Present

In all matters before the Board, or under these rules, the Board President shall request the College attorney to be present, to assist and advise the Board and to represent the College. If there is a conflict in the Board attorney acting as advisor for the Board, the Board shall authorize the employment of Special Counsel to act either as attorney for the Board or attorney for the College.

XIV. Taking of Testimony - Reporter

Where oral testimony of witnesses is taken in a hearing under these rules, the testimony shall be reported either by an electronic recording device or by a certified shorthand machine reporter or other person authorized to administer oaths whose compensation for taking such testimony shall be at the expense of the College. A transcription of the proceedings or

any part thereof shall be at the cost and expense of any party requesting the same, except when a decision is appealed to State District Court, in which case the party appealing shall secure and file a transcript of the testimony and other evidence offered at the hearing, which transcript must be verified by oath of the reporter who took the testimony as a true and correct transcript of the testimony and other evidence in the case. The cost of making such transcript shall be paid by the party prosecuting such appeal.

XV. Decision and Order

The Board shall make a written decision and order in all cases, which order and decision shall be filed by the Secretary in the file of the matter. The vote of the Board shall be shown in its decision. A copy shall be provided to each party and when it involves a College employee, it shall be placed in the College records pertaining to the employee.

XVI. Appeals

Any decision of the Board is subject to appeal to the District Court and the Supreme Court of Wyoming as provided by law.

XVII. Application of Wyoming Administrative Procedures Act

Whether or not herein set forth, the provisions of the Wyoming Administrative Procedures Act [W.S. 16-3-101 through 16-3-115], as amended and the Wyoming Education Code (21-3-101 et. seq.), shall govern all procedures before this Board except in all statutory proceedings before this Board should a conflict arise between the statutes and these rules, the statutes shall govern and control.

XVIII. Severability

If any provision of these rules of practice or the application thereof to any matter is held invalid, the invalidity shall not affect the other provisions or applications of these rules which can be given effect without the invalid provision or application, and for this purpose the provisions of these rules are severable.

XIX. Amendment of Rules

Any amendment to these rules shall become effective as provided by [W.S. 16-3-103 through 16-3-104], as amended.

July 2004
Amended 01/2007
Amended 09/2007
Amended 07/2009
Amended 05/2014
Amended 08/2014
Amended 04/13/2015
Amended 04/10/2017
Amended 05/08/2017