

RESOLUTION NO. 3, 2022

RESOLUTION OF THE BOARD OF DIRECTORS OF THE McCLOUD COMMUNITY SERVICES DISTRICT APPOINTING HEARING OFFICER TO HEAR AND DECIDE EMPLOYEE TERMINATION APPEAL

The Board of Directors of the McCloud Community Services District resolves as follows.

1. Recitals.

This Resolution is adopted with reference to the following background recitals.

- 1.1. A District employee was proposed for termination from employment by the District General Manager pursuant to an Amended Notice of Proposed Personnel Action dated February 25, 2022.
- 1.2. The employee has appealed the termination to the Board pursuant to District Policy No. 2260.
- 1.3. The Board recognizes its obligation to provide the employee an appeal hearing before a neutral decisionmaker.
- 1.4. The Board is not in a position to hear the employee's appeal as a neutral decisionmaker.
- 1.5. The Board has received proposals from two attorneys with the experience and qualifications necessary to serve as potential hearing officers.

2. Findings and Determination.

Based on these background recitals, the Board of Directors finds and determines as follows.

- 2.1. The Board is unable to provide the employee a neutral decisionmaker free of unalterable beliefs concerning the circumstances raised by the employee appeal.
- 2.2. The Board appoints attorney Collin Bogener to serve as hearing officer for the appeal. If Mr. Bogener is unavailable or unable to serve or not available for a reasonable period of time, then the Board appoints attorney Ronald Scholar to serve as hearing officer. The District's President is authorized to approve and execute a contract with Mr. Bogener's firm (or Mr. Scholar's firm) for hearing officer services.
- 2.3. Mr. Bogener and Mr. Scholar have substantial experience in public agency and employment law matters and no connection to any of the parties or subject of the employee's appeal that would render them unable to serve as neutral decisionmakers in this matter.
- 2.4. The hearing officer shall schedule the hearing date in coordination with the parties. Unless otherwise required, the hearing shall be private and limited to the hearing officer, the parties and their attorneys, and witnesses.

Witnesses shall be excluded from the hearing when not testifying. The hearing shall be audio recorded by the District and video recorded if the hearing is held by audio-video teleconference service.

- 2.5. The Board authorizes the hearing officer to (a) adopt reasonable rules and procedures to govern the appeal hearing, (b) determine whether the hearing should be held in-person or over an audio-video teleconference service, (c) consider and decide prehearing motions, objections, and other matters that may be asserted or raised by either party or its counsel concerning the scope of the appeal hearing, scope of witnesses to testify, relevant evidence, other objections, or other matters. Any such hearing officer rules, procedures, or decisions must be consistent with sections 2260.90 and 2260.100 of District Policy No. 2260 (except that the hearing officer shall serve in the role of the Board under all hearing-related provisions of the Policy), any other applicable provisions of District policy, and applicable due process principles.
- 2.6. After the appeal hearing, the hearing officer shall prepare written findings of fact (based on and supported by the evidence received at the hearing) and a decision. The findings and decision shall be forwarded to the Board. The Board shall confirm the hearing officer's decision and may not reject or modify the hearing officer's decision. Once confirmed by the Board, the hearing officer's decision shall become final and binding, subject to all parties' rights to seek judicial review of the final decision.

Passed and adopted at a meeting of the Board of Directors of McCloud Community Services District on this 11th day of April, 2022, at McCloud, California by the following vote:

AYES: Young, Rorke, Richey, Zanni, Hanson

NOES:

ABSENT:

ABSTAIN:

Chair, Board of Directors
McCloud Community Services District

Attest:

Secretary, Board of Directors
McCloud Community Services District