Due Process and the Termination of a Teacher’s Contract

As a school district superintendent, I have always believed it was important to provide as much information as possible to the public. It is especially important in today’s world of instant communication because rumors can run rampant. The best way to stop the rumors is to get the information out there as quickly as possible. However, there are times when we are prohibited from releasing specific information. The Freedom of Information Act was passed in order that the public could have access to information. However, there are some restrictions that apply in the termination of an employee’s contract. Specifically, any records created by the employer that detail the performance or lack of performance of an employee are releasable only if the following three conditions are met.

1. There must be a final resolution of any suspension or termination proceeding.
2. The information or record must have been used to form a basis for the decision made in the proceeding to suspend or terminate the employee; and
3. There must be a compelling public interest in the disclosure of the records.

I believe the public sometimes misinterprets the school district’s effort to comply with the law as an attempt to conceal information. Personally, I believe an attempt to conceal information can be much more harmful to the public perception of the school district than releasing the facts regardless of the situation. Therefore, we will always release as much information as allowed by law. It is not difficult to prove that the public has a compelling interest in what goes on at school. The school is funded with public funds. What some people do not understand is that when it comes to the termination of an employee’s contract, that employee must be afforded Due Process. Until that has been done, the school must be very careful not to violate the rights of the employee. For the purpose of this column, I am going to address specifically the termination of a teacher’s contract, although the process for terminating any school employee is almost identical.

In order to fully understand what takes place in the termination of a teacher’s contract, one has to become familiar with the Arkansas Teacher Fair Dismissal Act. Schools must comply with both the Freedom of Information Act and the Arkansas Teacher Fair Dismissal Act. They sometimes seem to conflict, and at the very least, complying with both laws can mislead the public in to thinking that the school is trying to withhold information. A teacher’s contract may be terminated during the term of any contract for incompetent performance, conduct which materially interferes with the continued performance of the teacher’s duties, repeated or material neglect of duty, or other just and reasonable cause. Depending on the situation, the superintendent may place the teacher on administrative leave with pay until the completion of an investigation. If the superintendent determines that the evidence exists, and the
circumstances warrant the termination of the contract, he/she must send written notification to the teacher stating the reasons for the recommendation to terminate the contract. The teacher has 30 days from the time of notification to request a hearing before the Board of Education. If the teacher does not request a hearing, the contract will be terminated at the end of the 30 day period. If the teacher requests a hearing, it must be scheduled no sooner than 10 days and no later than 20 days. This gives the teacher time to prepare a defense. As you can tell, it could take as long as 50 days to complete the process. During this period, we are limited as to what information we can provide. People often criticize when a staff member is placed on paid administrative leave. But you must remember that just as in the regular court system, the teacher is considered innocent until proven guilty. If we are recommending termination, then it stands to reason that we can’t have the staff member at school even though we are required to pay them. At the hearing, the superintendent presents his case to the Board and the teacher is the defendant. The Board is the judge and jury and has the final decision. They may uphold the recommendation of the superintendent, reduce the charges and punishment, or find the teacher innocent of the charges. At the conclusion of this hearing, Due Process is completed and all pertinent information can and will be released.

I feel it is very important that the taxpayers understand how the process works because I do not want our patrons believing that we are purposely withholding information. Feel free to contact me if you have questions or concerns regarding any school issues. I can be reached at 870-335-5463 or at jerry.noble@gctsd.k12.ar.us.