

GRIEVANCE PROCEDURE FOR EMPLOYEES

It is the policy of the Board, in keeping with the ultimate goal of serving the educational welfare of children, to develop and practice reasonable and effective methods of resolving difficulties that may arise among employees. The intent is to reduce potential areas of grievances and to establish and maintain recognized channels of communications between staff and administration. The purpose of this procedure is to secure, at the lowest possible level, equitable solutions to the problems which arise from time to time and affect employees.

A. INFORMAL RESOLUTION

A complaint should be received and addressed first at the level closest to which the complaint originated. For example, a complaint regarding another employee should be addressed first by the principal or other supervisor. If the complaint concerns actions or decisions of the principal or supervisor, the employee and the principal/supervisor shall first attempt to resolve problems through free and informal communication. In those circumstances where these informal procedures fail to resolve the complaint or are inappropriate for the type of complaint involved and the complaint meets the definition of grievance set forth below, the complaint will be processed as a formal grievance.

B. FORMAL RESOLUTION

Employees filing a formal grievance shall use the procedures set out below; provided that the complaint meets the definition of Grievance used in this policy. When a formal written complaint is filed, the employee shall include information regarding their efforts to informally resolve the complaint.

This formal grievance procedure does not apply to any matter:

- i. for which the method of review is otherwise prescribed by law;

(examples include dismissal, demotion or suspension proceedings under 115C-325 and policy 7930, Professional Employees: Demotion and Dismissal, or the nonrenewal of probationary teachers under 115C-325 and policy 7950, Probationary Teachers: Nonrenewal)

- ii. for which there is a more specific Board policy providing a process for addressing the concern; or

(examples include policy 7410, Career Status, policy 7425, School Administrator Contracts and Positions, policy 7920, Licensed Personnel Reduction in Force, or policy 7940, Classified Personnel: Suspension and Dismissal)

- (iii) upon which the Board of Education is without authority to act.

When an employee may have cause to believe that his or her situation does not meet the above definition of a grievance, he or she may submit a written request to the Assistant Superintendent for Human Resources or his or her designee for review to determine whether the complaint rises to the level of a grievance.

I. DEFINITIONS

Days: the working days, exclusive of Saturdays, Sundays, vacation days or holidays, as set forth in the aggrieved employee's employment calendar. In counting days, the first day will be the first full working day following receipt of the grievance.

Employee: any person employed in a full-time or part time capacity by ACS. The definition of employee in this policy does not include substitute teachers and other temporary employees.

Final Administrative Decision: a final administrative decision or action of a school employee from which no further appeal to a school administrator is available. Recommendations for final administrative decisions are not grievable.

Grievance: a formal written complaint by an Employee regarding specific decision(s) made by another employee and alleging that:

- a. there has been a violation, misapplication, or misinterpretation of a specified state or federal law or regulation, State Board of Education policy, school board policy or administrative procedure that has adversely affected the employee (except that claims of discrimination, harassment or bullying in violation of Policy 1710 or claims of discrimination on the basis of a disability in violation of Policy 1730 must be processed under Policy 1720, Discrimination, Harassment and Bullying Complaint Procedure);
- b. there has been a violation of the employee's terms or conditions of employment or employment status;
- c. the decision does not involve a matter covered by subsections a. or b. above, but a state statute specifically provides for a right or appeal to the Board and there is no other statutory appeal procedure; or
- d. there exists a physical condition that jeopardizes the employee's health or safety or that interferes with an employee's ability to discharge his or her responsibilities properly and effectively.

Unless one of the conditions set forth above applies, an employee does not have a right to appeal decisions within the discretionary authority of ACS or school

administrators, including decisions regarding the following:

1. An employee's evaluation or other personnel actions for which a rebuttal may be filed;
2. An employee's assignment to teach or assist in teaching a particular class, course or grade level;
3. An employee's assignment or transfer to a particular school or work location; or
4. An employee's assignment to or removal from an extra duty assignment.

Grievant: The Employee(s) making the claim.

Official: The person hearing and responding to the grievance.

Parties in Interest: The grievant and the person against whom the grievance is filed.

2. TIMELINESS OF PROCESS

Time is of the essence in filing and processing a grievance. No grievance shall be heard unless it has been filed in writing within thirty (30) calendar days after the act or condition giving rise to the grievance and states with particularity the basis for the grievance and the remedy sought. All parties are expected to comply with time limits contained in this policy; however, the following rules shall apply to time limits:

1. They may be extended by mutual agreement of the parties; or
2. They may be extended if an emergency situation or other compelling reason requires immediate attention of any party in interest or decision maker.

In order to process grievances as expeditiously as possible, every effort should be made to handle each step in the specified time period. Failure by the official at any step to communicate a decision within the specified time limit will permit the grievant to appeal the grievance to the next step unless the official has notified the grievant of the delay and the reason for the delay, such as the complexity of the investigation or report. There shall be no other consequences or remedies for failure of the school district to meet the time periods outlined in this policy. The official will make reasonable efforts to keep the grievant apprised of progress being made during any period of delay. Delays may not impermissibly interfere with the exercise of any legal rights of the grievant.

Failure by the grievant at any step to appeal a grievance to the next step within the specified time limit will be considered acceptance of the decision at that step and the grievance will be considered resolved, unless the grievant has notified the

official of a delay and the reason for the delay, and the official has consented in writing to the delay.

3. GENERAL REQUIREMENTS

- a. All parties in interest and their representatives in any grievance filed pursuant to this policy will conduct themselves in a professional manner at all times during the investigation and hearing of the grievance.
- b. No reprisals of any kind will be taken by the Board or by an employee of the school district against any party in interest or other employee on account of his or her participation in a grievance filed and decided pursuant to this policy.
- c. Each decision will be in writing, setting forth the decision and reasons therefore, and will be transmitted promptly to all parties in interest.
- d. All meetings and hearings conducted pursuant to this policy will be private.
- e. When a grievance is filed by a group of grievants, the Assistant Superintendent for Human Resources shall determine whether the grievance raises an issue common to all grievants or whether it is a compilation of individual grievances. If it is determined that the grievance raises a common issue, the grievants shall be required to designate no more than one of the grieving employees as the representative of the group to participate in the proceedings under this policy on behalf of and in the place of all the grievants. If it is determined that the grievance is a compilation of individual grievances, the grieving employees will be treated as having filed separate individual grievances.
- f. The Board and administration will cooperate with the employee(s) and his or her representative in the investigation of any grievance and will furnish the employee or his or her representative information in their possession relevant to the grievance, except confidential or privileged information or otherwise prescribed by law, without cost to the grievant employee or the employee against whom the grievance is filed.
- g. The employee may have a representative, including an attorney, at any stage of the grievance. However, if the grievant intends to be represented by legal counsel, he or she must notify the appropriate school official in advance so that school personnel also will have the opportunity to be represented by legal counsel.
- h. Should, in the judgment of the Superintendent or designee, the investigation or processing of any grievance require the absence of the grievant and/or representative from regular work assignments, such absences will be excused without loss of pay or benefits; however, the grievant shall not be entitled to extra pay when meetings are held at a time other than during regular working hours.

The filing of a grievance does not give the employee the right to miss or neglect work or refuse to perform job duties or tasks assigned, even if the grievance is related to such work, work duties or tasks assigned. Failure to attend work or complete job duties or tasks assigned while a grievance is pending will be grounds for disciplinary action, including termination.

- i. A grievance may be voluntarily withdrawn at any time and, once withdrawn, cannot be reopened.

4. PROCESS FOR GRIEVANCE

a. Filing a Grievance

- (i) A grievance must be filed as soon as possible but no later than 30 days after disclosure or discovery of the facts giving rise to the grievance. For a grievance submitted after 30 days which claims a violation, misapplication or misinterpretation of state or federal law, the Superintendent or designee will determine whether the grievance will be investigated after considering factors such as the reason for the delay; the extent of the delay, the effect of the delay on the ability of the school district to investigate and respond to the complaint, and whether the investigation of the complaint is necessary to meet any legal obligations. However, employees should recognize that delays in filing a grievance may significantly impair the ability of the school district to investigate and respond effectively to such complaints.
- (ii) All grievances must be in writing and the written statement of grievance will remain the same throughout all steps of the grievance procedure. The written grievance must include the following information: (1) the name of the school district employee or other individual whose decision or action is at issue; (2) the specific decision(s), action(s) or physical condition at issue; (3) any local board policy, state or federal law, state or federal regulation or State Board of Education policy or procedure that the grievant believes has been misapplied, misinterpreted or violated; and (4) the specific resolution desired. If there is not a specific decision, action or physical condition at issue or no concern that federal or state law, federal or state regulation, State Board of Education policy or procedure or board policy or procedure has been misapplied, misinterpreted or violated, then the procedure established in Policy 1742, Responding to Complaints, is appropriate, and the Principal or immediate supervisor shall address the concern following that policy.
- (iii) The employee(s) will present the grievance in writing to his or her immediate supervisor or the supervisor's designee, unless the grievance alleges that a state or federal law has been misapplied, misinterpreted or violated, in which case the grievance may be presented instead to the

Assistant Superintendent for Human Resources (or to the Superintendent if the grievant's supervisor is the Assistant Superintendent for Human Resources). The person receiving the grievance hereinafter will be referred to as "official".

b. Response by Official

(i) The official will arrange for a grievance file number to be assigned by the Human Resource office.

(ii) In the event the official determines at the outset that review by the official is inappropriate, the official shall forward the formal grievance to the Superintendent who will investigate and respond as provided below in subsection E.3.

(iii) A meeting will take place at a mutually agreed-upon time within ten (10) days after receipt of the grievance.

(iv). The official will conduct any investigation of the facts necessary before rendering a decision.

(v). The official will provide the aggrieved employee(s) with a written response to the grievance within ten (10) days after the meeting.

c. Response by Superintendent

(i) If the grievant is dissatisfied with the official's response, the grievant may appeal the decision in writing to the Superintendent for review by the Superintendent or designee within five (5) days of receipt of the official's response.

(ii) The Superintendent or designee will arrange for a meeting with the employee(s) to take place within ten (10) days of the receipt of the appeal.

(iii) The Superintendent or designee will conduct any investigation necessary before arriving at a decision. The Superintendent or designee will make every reasonable effort to provide the aggrieved employee(s) with a written decision within fifteen (15) days after the meeting.

d. Appeal to the Board

If the grievance concerns matters set out in subsections a., b., or c. of the definition of Grievance and is not otherwise excluded from the definition, the grievant will have the right to appeal a Final Administrative Decision to the Board of Education (see subsection (i), Mandatory Appeals, below). If the grievance does not concern such matters, the grievant may request a board hearing, which

the Board may grant or deny at its discretion (see subsection (ii), Discretionary Appeals, below). This policy does not grant employees the right to appeal decisions made by the Board itself.

i. Mandatory Appeals

- 1) If the grievant is dissatisfied with the Superintendent's response to his or her grievance and has alleged violations under subsections a., b., or c. of the definition of Grievance, the grievant may appeal the decision to the Board within five (5) days of receiving the Superintendent's response.
- 2) A hearing will be conducted pursuant to policy 2500, Hearings Before the Board and the Board will determine whether the administrative record as a whole provides sufficient evidence to justify the decision.
- 3) The Board will provide a final written decision within 30 days of receiving the appeal unless further investigation is necessary or the hearing necessitates that more time be taken to respond.

ii. Discretionary Appeals

- 1) If the grievant is dissatisfied with the Superintendent's response to his or her grievance but has not alleged violations under subsections a., b., or c. of the definition of Grievance, then within five (5) days of receiving the Superintendent's response, the grievant may submit to the Superintendent a written request for a hearing before the Board of Education.
- 2) If the full Board of Education will be meeting within two weeks of the request for a hearing, the Board will decide at that time whether to grant a hearing. Otherwise, the Board Chairperson and the Board Vice Chairperson will review the request and determine if a hearing should be granted or will appoint a three-person panel to review the request and determine if a hearing should be granted. The Board chairperson or the panel will report the decision to the Board. The Board may modify the decision of the Chairperson or the panel upon majority vote at a board meeting.
- 3) If the Board decides to grant a hearing, the hearing will be conducted pursuant to policy 2500 and the Board will determine whether the administrative record as a whole provides sufficient evidence to justify the decision. Notwithstanding the provisions of policy 2500, the Board may choose to review discretionary appeals on the record only, without allowing oral presentations.
- 4) The Board will provide a final written decision within 30 days of the decision to grant a hearing, unless further investigation is necessary or the

hearing necessitates that more time be taken to respond.

5. DEFINITIONS

Appropriate records shall be maintained in accordance with state and federal law. All documents, affidavits and written records of the grievance shall be filed separately and apart from an employee's personnel file, unless the final decision specifically states that a record of the grievance shall be placed in the employee's personnel file.

Legal References: G.S. 115C-45(c); 126-16

Cross References: Prohibition Against Discrimination; Harassment and Bullying (policy 1710); Discrimination, Harassment and Bullying Complaint Procedure (policy 1720); Nondiscrimination on the Basis of Disabilities (policy 1730); Responding to Complaints (policy 1742); Hearings Before the Board (policy 2500)

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