

## Article 9.0 – Grievance

**9.1 Purpose** – The purpose of this procedure is to provide a means for the orderly and expeditious adjustment of grievances of the Association and of individual employees of the District.

**9.2 Definitions** – As used in this article:

“**Grievance**” means a claim that an existing contract term, school district regulation, rule, or policy has been misinterpreted, misapplied, violated, or applied inequitably as to a grievant. As to an individual employee grievant, a grievance may also mean a claim in an area not covered by the foregoing, that the grievant is being, or has been, treated unfairly, arbitrarily, or capriciously by the District.

“**Grievant**” means the Association or an employee having a grievance.

“**Superintendent**” means the District’s chief administrative officer.

“**Grievance Review Request Form**” means a printed form utilized in the process of adjusting grievances under this article.

**9.3 General Conditions**

**9.3.1 Mediation** – The parties may mutually agree to depart from the grievance process at any time in order to resolve the dispute through mediation. In the event agreement is not reached through mediation, the grievance process shall resume without prejudice to either party.

**9.3.2 Time Limits** – The adjustment of grievances shall be accomplished as rapidly as is possible. To that end, the number of days within which each step is prescribed to be accomplished shall be considered as maximum and every effort shall be made to expedite the process. Under unusual circumstances, the time limits prescribed in this statement may be extended by mutual consent of the grievant and the person or persons by whom his grievance is being considered. To the extent that time limits are expressed in days, the days shall consist of school days, except that after June 1 they shall consist of all week days so that the grievance may be adjusted before the close of the school year or as soon thereafter as possible. A grievance must be filed within twenty (20) days of when the employee became aware, or reasonably should have become aware, of the alleged violation. Where the Association is the grievant, the grievance must be filed within the earliest of: 1) twenty (20) school days after the Association becomes aware, or should have become aware, of the alleged violation, or 2) forty-five (45) calendar days after the affected employee became aware, or should have become aware, of the alleged violation.

**9.3.3 Representation** – At each formal step in the procedure, the grievant may be represented by a representative of the Association; however, the Association shall not be obligated to represent any grievant at any step of the procedure and whether it does shall lie within its sole discretion. Any grievant shall have the right at any time to present grievances and to utilize each step of this procedure with counsel of his own choice so long as the resulting adjustment does not conflict with the terms of any agreement between the District and the Association, or with existing district policy. Provided that the Association has been given an opportunity to have its representative present at all meetings, hearings, and other proceedings giving rise to the adjustment unless the grievant specifically requests that no Association representative attend such meeting.

**9.3.4 Confidentiality** – All matters pertaining to specific grievances shall be confidential information and shall not be unnecessarily or indiscriminately related, disclosed, or divulged by any employee or director of the District. All documents, communications, and

records dealing with grievances and their adjustment shall be filed separately from the grievant's personnel file and two (2) years after the adjustment of his grievances, shall be destroyed to the extent allowable under State record retention schedules and other applicable law. If the grievant so requests, in writing, a record of the final adjustment of his grievance may be placed in his/her personnel file.

- 9.3.5 Freedom from Reprisal** – Individuals involved in grievance adjustment proceedings, whether as a grievant, a witness, a representative of the recognized employee organization, or otherwise, shall not suffer any restraint, interference, discrimination, coercion, or reprisal on account of their participation in the grievance adjustment process.
- 9.3.6 Assistance in Investigations** – During the course of any investigation by the Association, either to determine whether it will represent a grievant or to enable it to represent the grievant effectively, the District shall cooperate with the Association and furnish, at Association expense, such information germane to the grievance as the Association organization may reasonably request.
- 9.3.7 Release from Duty** – If the attendance at meetings, hearings, appeals, or other proceedings relating to the grievance adjustment process, as set forth in Article 4.0, whether as a grievant, a witness, a representative of the Association, or otherwise, requires an employee's absence from his regular duty assignment, he shall be released from such duty assignment without loss of pay or other penalty.

#### **9.4 Procedures**

- 9.4.1 Step 1** – Every effort shall be made to resolve grievances or potential grievances through free and informal communications between the grievant and his immediate administrative supervisor. However, if such informal processes fail to provide an acceptable adjustment of the grievance, the grievant may proceed to Step 2.
- 9.4.2 Step 2** – The grievant or, at his request, the Association on his behalf, may submit an executed Grievance Review Request Form (Appendix 4) to the grievant's immediate administrative supervisor who shall arrange for a meeting to take place within four (4) days after receipt of the form. The grievant, his immediate supervisor, and a representative of the Association, unless the Association waives its right to have its representative present, shall attend the meeting. In addition, both the supervisor and the grievant may have present, others who might contribute to a better understanding of the facts and issues or otherwise contribute to an acceptable adjustment of the grievance. The supervisor shall provide the grievant and recognized employee organization with a written response (Appendix 5) to the Grievance Review Request Form within four (4) days after the meeting.
- 9.4.3 Step 3** – If the grievance is not adjusted at Step 2 to the satisfaction of the grievant, then the grievant, or the Association acting on his behalf, may refer the grievance to the Superintendent no later than eight (8) days after the meeting prescribed in Step 2 is held. The Superintendent shall arrange to meet with the grievant and with representatives of the Association, unless the Association or the employee waives its right to have representatives attend the meeting, within ten (10) days after the grievance has been referred to him. Both the Superintendent and the grievant may have others present who might contribute to an acceptable adjustment of the grievance. The Superintendent shall provide his written decision (Appendix 6) concerning the grievance and any adjustment of it to the grievant and the recognized employee organization within ten (10) days after the meeting.
- 9.4.4 Step 4** – If the grievant is not satisfied with the disposition of his grievance at Step 3 or if the Superintendent has not provided a written decision within the time prescribed in Step

3, then the grievant, or the Association acting on his behalf, may request a meeting with the Board. Upon mutual agreement of both parties, Step 4 would occur. If a request for a meeting with the Board is not delivered to the Superintendent with thirty (30) days after the meeting prescribed in Step 3 is held, the grievance shall be deemed withdrawn. The Board shall meet within ten (10) days after mutual agreement for a meeting with the grievant and/or with representatives of the Association, unless the Association waives its right to have representatives attend such meetings: and within twenty (20) days after such meetings, the board shall render a written decision respecting the grievance.

**9.4.5 Step 5** – If a decision is not satisfactory to the grievant and the Association, the Association may advance the grievance to arbitration, within twenty (20) days after a decision is given to the Association.

**9.5 Arbitration** – Grievances advanced to arbitration shall be submitted under and in accordance with the rules of the American Arbitration Association (AAA). Other agencies or organizations, including the Federation Mediation and Conciliation Service (FMCS) may be chosen to provide arbitration services by consent of both parties. In the event the parties are unable to agree on an arbitrator, the arbitrator will be chosen in accordance with the arbitration rules as established by the selected arbitration service. The arbitrator's decision will be rendered within twenty (20) days from either the date of the close of the hearing or receipt of briefs filed by the parties. The arbitrator's decision will be in writing and will set forth his/her findings of fact, reasoning, and conclusion on the issues submitted. Any question of arbitrability shall be decided by the arbitrator.

The decision of the arbitrator shall be final and binding on both parties in disputes concerning application or interpretation of a contract. Arbitration on all other matters shall be advisory rather than binding.

**9.6 Deviations from Procedure** – By agreement of the grievant and the grievant's immediate supervisor, Step 2 of this procedure may be bypassed and the grievance initiated at the next step level provided that the Superintendent or designee may remand the matter back for resolution by the grievant and immediate supervisor. Step 3 may be bypassed by agreement of the grievant and the Superintendent's designee. Grievances involving the Association and an administrator above the level of Building Principal may be initiated at Step 3 at the sole option of the grievant.

**9.7 Exclusion of Certain Matters** – Matters for which another method of review is required as the sole method of review shall be excluded from this grievance procedure. Nothing contained herein shall be construed to prevent the District or employees from complying with notices or time limits otherwise required by law.