

**EMPLOYEE GRIEVANCE PROCEDURES**  
(Discipline, Termination and Workplace Safety)

The purpose of this rule is to provide for an internal grievance procedure that is consistent with the requirements of state law and Board policy for resolving grievances concerning employee discipline, employee termination and workplace safety. This rule is intended to serve as the written document, required by statute, that sets forth the process for the grievant and the District to use to process a grievance.

Definitions

1. **Grievance:** A “grievance” is defined as a timely written complaint, submitted according to the procedures identified herein, that concerns employee discipline, employee termination, or workplace safety.
2. **Grievant:** A “grievant” may be any employee or a group of employees.
3. **Days:** Unless expressly identified as “calendar days,” the terms “days” or “workdays” as used in this grievance procedure shall exclude only Saturdays, Sundays, and such holidays and other days on which the main district administrative office is not open for public business.
4. **Receipt of Written Communication:** A grievant is deemed to be in receipt of a written communication from the District regarding a grievance, including a denial of the grievance at any stage of the process, as of the date the communication is either personally delivered to the grievant, sent to the employee’s school district email address, or sent by mail to or left at the employee’s mailing address of record with proof of such delivery.
5. **Grievable Event:**
  - a. A “grievable event” as to employee discipline is the employee’s receipt of verbal or written notice of the imposition of specific discipline by the District; or, if no express notice of discipline is received, the occurrence of the event alleged by the employee to constitute disciplinary action. The initiation and conduct of an investigation into a potential disciplinary matter is not a grievable event.
  - b. A “grievable event” as to employee termination means the employee’s receipt of any written or verbal notice of termination of an individual’s employment with the District. The effective date of the employee’s termination is not a separate or new grievable event.
  - c. A “grievable event” as to a workplace safety issue is the presence of a hazardous condition in the workplace, whether ongoing or reasonably likely to reoccur, that an employee alleges (1) constitutes a violation of a workplace health or safety code, regulation, or standard; or (2) poses a recognized hazard likely to cause death or serious physical harm to the employee and that has not previously been grieved under this grievance procedure and addressed by a decision of a hearing officer or the Board.
6. **Termination, Discipline, and Workplace Safety:** The terms “termination,” “discipline” and “workplace safety” are intended to have only the limited meaning given to them under the

state statutes that require the Board to create a grievance system addressing those issues. For purposes of clarity and as examples of issues that either are, or are not, grievable under this grievance procedure (unless the applicable statutes are so interpreted by a court or tribunal, or amended at a later time), the following shall apply:

- a. The term “discipline” shall not be interpreted to include a supervisor’s performance evaluation of an employee, a performance improvement plan, any verbal or written notice of performance expectations, any verbal or written reprimand, or the placing of an employee on administrative leave with pay pending an investigation.
- b. The term “termination” does not encompass all events that lead to a separation from employment, however, it shall be construed to include instances where the District initiates an involuntary, complete and permanent severance of the employment relationship as a result of some type of affirmative misconduct (e.g., infractions of the rules or policies of the school district), job abandonment, or incompetence. Where separation from employment results from the District’s use of specific statutory procedures for the nonrenewal of a fixed-term employment contract, such separation via nonrenewal is not grievable as a “termination.”
- c. The term “workplace safety” means a hazardous condition in the workplace, whether ongoing or reasonably likely to reoccur, that an employee alleges (1) constitutes a violation of a workplace health or safety code, regulation, or standard; or (2) poses a recognized hazard likely to cause death or serious physical harm to the employee. Further, a grievance over an alleged workplace safety issue under this grievance procedure is appropriate only if:
  - (1) The safety of at least one employee is involved (as opposed to exclusively the safety of students or visitors);
  - (2) The issue concerns the safety of a person (e.g., not the “safety” of one’s vehicle or other personal possessions);
  - (3) The grievance is filed by an employee who is presently affected by the issue, or who might reasonably in the future be affected by the issue (An employee otherwise lacking any interest in the issue may not file a grievance on behalf of another employee.); and
  - (4) The issue presented by the grievance must be under the reasonable control of the school district.

Although a given issue, complaint or concern may not properly qualify as a grievance over a “termination,” “discipline,” or “workplace safety,” employees may still pursue and seek a resolution to such issues, complaints or concerns by raising the matter with their immediate supervisor or by pursuing other internal procedures that may be available.

#### Time Limits

The time limits set forth in this rule shall be considered maximums. The failure of the grievant to file and process a grievance within the time limits set forth in this rule shall be deemed a waiver of the grievance and a waiver of the grievant’s right to access and use this grievance procedure as to the issues that were raised, or that could have been raised, in the grievance.

As described in Step Two of the process, below, the failure of the administration to provide a written response to the grievance by the established deadline for such a response operates as, and shall be treated the same as, a written denial of the grievance.

The time limits specified in this rule may, however, be extended by the mutual consent of the District Administrator and the grievant, or as otherwise expressly provided within this rule.

### Grievance Processing Procedures

Grievances shall be processed in accordance with the following procedures:

#### *Step One – Filing of the Grievance in Writing*

To initiate a grievance, a grievant shall be required to file a written grievance with the District Administrator or designee that is signed and dated by the grievant. A grievance must be filed in writing within thirty (30) calendar days of the occurrence of the grievable event in order for the grievant to have the right to invoke this grievance procedure.

(NOTE TO EMPLOYEES: Although a condition giving rise to a “workplace safety” grievance may be an ongoing condition that could be the basis for a grievance so long as the alleged condition persists, employees should report dangerous conditions of which they have knowledge to a supervisor as soon as reasonably practical, even if they do not wish to pursue a formal grievance.)

If the grievant files a grievance using any written format other than any District-approved grievance form that may be created, the filing shall, at a minimum, be signed and dated; prominently identify the document by using the word “GRIEVANCE;” and specify (1) the date the grievable event occurred; (2) whether the grievance concerns a termination, disciplinary action, or a workplace safety issue; (3) the basic nature of the complaint/allegations and the issue(s) to be resolved; (4) the alleged responsible supervisor(s); (5) any known witnesses to key events; and (6) the relief or remedy that is requested.

#### *Step Two – The District’s Administrative Response*

The District Administrator or designee shall determine the administrator or supervisor who will provide the initial response to the grievance, which shall be in writing and shall be issued within twenty (20) days of the filing of the grievance. If the Administration determines that a factual investigation is needed or is ongoing and should be completed in order to properly respond to the grievance, the District Administrator may extend the time limit for issuing an initial response as reasonable and necessary by giving written notice of such extension to the grievant, generally not to exceed twenty (20) additional days.

If the grievance has not been resolved and has been denied by a written response from the District Administrator, the grievant may continue to pursue the grievance by filing a request for a hearing as provided under Step Three, below.

If the grievance has not been resolved and either (1) has been denied in the form of a written response from a supervisor or administrator other than the District Administrator; or (2) no initial administrative response has been provided by the District by the applicable deadline for an initial administrative response, the grievant may drop the grievance or, to continue the grievance, the grievant must file a request for reconsideration by the District Administrator.

A request for administrative reconsideration by the District Administrator shall be filed in writing with the District Administrator within ten (10) days of the date the employee received the initial administrative denial of the grievance, or, if no initial response was provided, within ten (10) days of the deadline for providing a written response.

The District Administrator shall provide a final administrative response to the grievant in writing within twenty (20) days of the District's receipt of the request for reconsideration. If the grievance has not been resolved and either (1) has been denied in the form of a final administrative response from the District Administrator; or (2) no final administrative response has been provided by the District Administrator by the applicable deadline for such a response, the grievant may continue to pursue the grievance by filing a request for a hearing as provided under Step Three, below.

*Step Three - Appeal to Impartial Hearing Officer and Hearing*

If the grievance has not been resolved at Step Two and the grievant wishes to further pursue the grievance, the grievant must notify the District Administrator in writing that the grievant is requesting a hearing before an impartial hearing officer. A request for a hearing before an impartial hearing officer must be filed by the grievant within ten (10) days after receipt of the District Administrator's response, or, in the event the District Administrator issued no administrative response, within ten (10) days of the deadline for providing a written response. Upon receipt of the request for a hearing, the Administration shall select and assign a qualified impartial hearing officer to the grievance, per the requirements of Board policy.

The hearing officer shall schedule and meet with the parties at a mutually-agreeable date to review the evidence and hear testimony relating to the grievance.

The hearing officer shall have discretion to establish specific procedures for the conduct of the hearing, provided that such procedures are consistent with any applicable statutory and general due process requirements. The hearing officer shall not be required to abide by the rules of evidence that would apply in civil or criminal court cases. For instance, he/she may choose to admit hearsay evidence and accord it such weight as it may be due. The hearing officer is responsible for ensuring that he/she is creating and preserving a record of the proceedings that will enable Board review.

Hearing officers are encouraged to use appropriate means of narrowing the issues in dispute, including seeking and documenting stipulations to which the parties may be able to agree.

The hearing officer shall decide disputed facts based upon a "preponderance of the evidence" standard.

In a case involving a challenge to discipline or termination, unless a different standard applies due to the application of substantive rights or employment protections arising from a source other than this grievance procedure, the District shall have the initial burden to demonstrate a plausible factual basis for the challenged action, which shall be subject to rebuttal by the grievant. The District shall have the ultimate burden of proving that its action was not arbitrary or capricious.

In a grievance over a workplace safety issue, the grievant shall have the burden of proving by a preponderance of the evidence the existence of a condition in the workplace, whether ongoing or reasonably likely to reoccur, that (1) constitutes a violation of a workplace health or safety code, regulation, or standard; or (2) poses a recognized hazard likely to cause death or serious physical harm to the employee; and (3) has an appropriate remedy that is within the reasonable control of the District.

Upon completion of the hearing and a review of the evidence, the hearing officer shall render a written decision to the administration, the grievant, and (if applicable and appropriate) the

grievant's representative. A decision of the hearing officer shall be limited to the subject matter of the grievance and shall be consistent with the role of the hearing officer as established in Board policy. The hearing officer may deny the grievance or conclude that the grievance should be sustained in whole or in part and recommend a remedy, if any. The decision of the hearing examiner and any recommendations contained therein are subject to review by the Board via appeal, as described below.

As a general guideline that may vary, the administration should appoint a hearing officer who indicates that he/she would be available to hear and issue a decision on the grievance within sixty (60) calendar days of the date the District receives the grievant's timely notice of request for a hearing. The hearing officer shall make reasonable efforts to fulfill his/her role within this general guideline, and shall notify the parties in the event that meeting the guideline becomes impractical.

#### *Step Four - Appeal to the School Board*

If the grievance is not resolved to the satisfaction of the grievant or the administration at Step Three, the grievance may be appealed to the School Board within ten (10) days after receipt of the decision at the prior step. Either the Administration or the grievant may appeal an impartial hearing officer's decision to the Board by filing a written notice of appeal, addressed to the Board and delivered to the office of the District Administrator (with a copy provided to the other party). The notice of appeal must clearly identify the issues being raised for a decision by the Board.

Generally, the Board's review of the grievance and the hearing officer's decision will be based upon the record created through the Step Three hearing and the presentation of argument to the Board via letter briefs and/or in person at any meeting that may be scheduled for that purpose. The Board President shall have authority to establish any briefing schedule and coordinate the scheduling of any meeting that may involve the attendance of the parties. If the Board determines more information is necessary, it may either remand the matter to the hearing officer, or allow the parties to present additional information to the Board, observing any legal requirements relating to open meetings, confidentiality or privacy.

On appeal from Step Three, the Board may (1) modify any factual findings of the hearing officer if, after reviewing the record and consulting with the hearing officer to the extent the Board deems necessary, the Board concludes that the most reasonable view of the record calls for modification of one or more of the findings; or (2) remand the case to the hearing officer for further factual development and (if necessary) revised conclusions of law; or (3) call for additional hearing before the Board. In terms of conclusions of law, mixed questions of law and fact, and decisions as to appropriate remedies (if any), the Board shall apply a de novo standard of review, meaning that the decision(s) being appealed shall be accorded no particular deference.

The Board shall render a written decision that affirms, reverses, or modifies the decision of the hearing officer (or, if applicable, of the District Administrator). Such decision shall be rendered in a timely manner, usually within thirty (30) calendar days of the Board meeting at which a decision is made, and a copy of the decision shall be provided to the administration, the grievant, and (if applicable and appropriate) the grievant's representative. The Board's decision is final and is not subject to further appeal via this grievance procedure.

#### Grievant's Right to Elect Representation

Any grievant may choose to be represented at all stages of the grievance procedure by a representative(s) of his/her own choosing. Student records shall not be disclosed to an employee's representative except in compliance with applicable law and Board policy.

#### Consolidation of Grievances

Grievances over the same or closely related issues, or arising from the same factual circumstances, may be consolidated at any point where such consolidation is deemed practical by the administration or Board.

#### Grievances Filed by the District Administrator

In the event a grievance is filed by the District Administrator, it shall be initially filed with the Board President and Board Clerk according to the deadlines established within Step One of this grievance procedure, above, and the Board shall have the role and responsibilities of the District Administrator in Step Two and elsewhere in the process. All other notices provided by the District Administrator acting as a grievant shall similarly be filed with the Board President and Board Clerk.

#### Voluntary Modifications to and Waiver of Procedures

In the interest of achieving the most timely and satisfactory resolution of employee complaints and grievances, a grievant may voluntarily reach an agreement with the District Administrator to modify the process established within this grievance procedure, provided that no such modification eliminates the role of the Board as the final level of appeal that is available in any grievance. For example, a grievant may voluntarily waive specific procedural steps within this process, including the right to waive any hearing before an impartial hearing officer. However, any such voluntarily modification or waiver of any portion of this grievance procedure shall be documented in writing, signed by the District Administrator and the grievant, and added to the record of the grievance.

#### Settlement of Grievances

The District Administrator and the grievant may reach a voluntarily settlement of the grievance at any time under which the grievant agrees to withdraw and drop the grievance. The District Administrator shall notify the Board of all such settlements. The District Administrator shall make any such settlement that results in the payment of financial compensation to the grievant contingent upon Board approval of the settlement, unless separate settlement authority involving financial compensation is provided to the District Administrator in advance of executing the settlement agreement.

Local Ref.: Policy #527.2-Employee Grievances

Policy #527.4-Impartial Hearing Officer Selection Procedures