
Rescinds Policy Number: GAE

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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 which 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**

It is desirable for an employee and his or her immediate supervisor to resolve problems through free and informal communication. In those circumstances where informal procedures fail or are inappropriate or where the employee requests formal procedures, a grievance will be processed pursuant to the steps set forth below.

B. **DEFINITIONS**

1. Days means 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. When a grievance is submitted on or after May 1, time limits will consist of all weekdays (Monday - Friday) so that the matter may be resolved before the close of the school term or as soon thereafter as possible.
2. Final Administrative Decision means a decision of a school employee from which no further appeal to a school administrator is available.
3. Grievance means a formal written claim by an employee regarding specific decision(s) made by another employee and alleging that such decision(s) have adversely affected the person making the claim. A grievance may include, but is not limited to, the following allegations:
 - a. that there has been a violation, misapplication, or misinterpretation of state or federal law or regulation, school board policy or administrative procedure;
 - b. that an employee has been subject to discrimination on the basis of race, religion, sex, national origin, age or disability; or
 - c. that an employee's employment status or the terms or conditions of his/her employment have been adversely affected; or
 - d. that there exists a physical condition which jeopardizes an employee's health or safety, or which interferes with an employee's ability to discharge his or her responsibilities properly and effectively.

The term "grievance" does not apply to any matter for which the method of review is prescribed by law, for which there is a more specific board policy providing a process for addressing the concern, or upon which the board of education is without authority to act.

4. Grievant means the employee(s) making the claim.
5. Official means the person hearing and responding to the grievant.
6. Parties in Interest mean the grievant and the person against whom the grievance is filed.

C. TIMELINESS OF PROCESS

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. 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.

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

D. GENERAL REQUIREMENTS

1. 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.
2. 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.
3. Each decision will be in writing, setting forth the decision and reasons therefore, and will be transmitted promptly to all parties in interest.
4. All meetings and hearings conducted pursuant to this policy will be private.
5. The board and school district will consider requests to hear grievances from a group of grievants, but the board and officials have the discretion to respond to individual grievants.
6. 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 pertinent to the grievance without cost to the grievant employee or the employee against whom the grievance is filed.
7. The employee may have a representative, including an attorney, at any stage of the grievance. However, any grievant intending to be represented by legal counsel must notify the appropriate school official in advance so that school personnel also will have the opportunity to be represented by legal counsel.
8. 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.

E. PROCESS FOR GRIEVANCE

1. Reporting a Grievance

- a. A grievance must be filed as soon as possible but no longer 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, including discrimination, 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 reporting may significantly impair the ability of the school district to investigate and respond effectively to such complaints.
- b. All grievances will 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 procedures that the grievant believes has been misapplied, misinterpreted or violated; and (4) the specific resolution desired. If there is not a specific decision at issue or no concern that state or federal law or regulation, State Board of Education policy or procedure or local board policy or procedure has been misapplied, misinterpreted or violated, then the procedure established in board policy 1742/5060, Responding to Complaints, is appropriate and the principal or immediate supervisor will address the concern following that board policy.
- c. The employee(s) will present the grievance in writing to his or her immediate supervisor or the supervisor's designee (hereinafter "official"), unless the grievance alleges unlawful discrimination in which case the grievance may be presented instead to the associate superintendent.

2. Response by Official

- a. The official will arrange for a grievance file number to be assigned by the personnel office.
- b. In the event the official determines at the outset that review by the official is inappropriate, the formal grievance will be investigated and a response given at the first stage of appeal provided below.
- c. A meeting will take place at a mutually agreed-upon time within five days after receipt of the grievance.
- d. The official will conduct any investigation of the facts necessary before rendering a decision.
- e. The immediate supervisor or his or her designee will provide the aggrieved employee(s) with a written response to the grievance within ten days after the meeting.

EMPLOYEE COMPLAINTS AND GRIEVANCES

3. Response by Superintendent

- a. If the grievant is dissatisfied with the official's response, the grievant may appeal in writing the decision to the superintendent for review by the superintendent or designee within five days of receipt of the official's response.
- b. The superintendent or designee will arrange for a meeting with the employee(s) to take place within five days of the receipt of the appeal.
- c. The superintendent or designee will conduct any investigation necessary before arriving at a decision. The superintendent or designee will provide the aggrieved employee(s) with a written decision within ten days after the meeting.

4. Appeal to the Board

1. If the grievant has alleged a violation of a specified federal or state law, federal or state regulation, State Board of Education policy or procedure or Orange County Schools board policy or procedure or has alleged that a specific decision of a school official adversely affects the grievant's employment status or the terms or conditions of his/her employment, the grievant shall have a right to appeal a final administrative decision to the board of education (see Mandatory Appeals below). If the grievant has not alleged such specific violations, he/she may request a hearing before the board, which the board may grant at its discretion (see Discretionary Appeals below).

a. Mandatory Appeals

- 1) If the grievant is not satisfied with the superintendent's response and has alleged a violation of a specified federal or state law, federal or state regulation, State Board of Education policy or procedure or local board policy or procedure or has alleged that a specific decision of a school official adversely affects the grievant's employment status or the terms or conditions of his/her employment, the grievant may appeal in writing the decision to the board within ten days of receiving the superintendent's response.
- 2) A hearing will be conducted pursuant to board policy 2500, Hearings before the Board.
- 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.

b. Discretionary Appeals

- 1) If the grievant is not satisfied with the superintendent's response, but has not alleged a violation of a specified federal or state law, federal or state regulation, State Board of Education policy or procedure or local board policy or procedure or has not alleged that a specific decision of a school official adversely affects the grievant's employment status or the terms or conditions of his/her employment, the grievant may submit to the superintendent a written request for a hearing before the board of education within ten days of receiving the superintendent's response.
- 2) If the full board 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 chair shall appoint a three member panel to review the request and determine if a hearing should be granted. The panel will report the decision to the board. The board may modify the decision of 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 board policy 2500, Hearings before the Board. Notwithstanding the provisions of board 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.

F. RECORDS

Records on discrimination grievances will be maintained as required by policy 7230.

Legal References: Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq., 34 C.F.R. pt. 100; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq.; Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 et seq., 34 C.F.R. pt. 106; Equal Employment Opportunity Commission's "Final Amended Guidelines on Discrimination Because of Sex"; Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 621 et seq.; The Rehabilitation Act of 1973, 29 U.S.C. 706(8), 794, 34 C.F.R. pt. 104; The Americans With Disabilities Act, 42 U.S.C. 12134, 28 C.F.R. pt. 35; Office of Civil Rights, Sexual Harassment Guidance: Harassment of Students by School Employees, Students or Third Parties, 62 Fed. Reg. 12,034 (1997); Office of Civil Rights, Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance, 59 Fed. Reg. 11,448 (1994); G.S. 126-16

Cross References: Prohibition Against Discrimination and Harassment (policy 7230), Responding to Complaints (policy 1742), Hearings before the Board (policy 2500)