

ARTICLE 4. GRIEVANCE PROCEDURE

4.1 Definitions

- 4.1.1 A **grievance** is a formal written allegation by a grievant that has been adversely or personally affected by a violation of the specific provisions of this Agreement in the areas of the scope of representation (Government Code 53543.2) which has been filed as per this Article. Actions to challenge or change the policies of the District as set forth in the rules and regulations or administrative regulations and procedures must be undertaken under separate legal processes. Other matters for which a specific method of review is provided by law, by the rules and regulations of the Board of Education, by the administrative regulations and procedures of this School District or which are not within the scope of the written Agreement are not covered by this procedure.
- 4.1.2 A **grievant** shall be an individual unit member, a group of unit members, or the Association when it grieves on behalf of specified individuals or regarding a Association right provided by this Agreement.
- 4.1.3 A **day** is any day in which the central administrative office of this School District is open for business.
- 4.1.4 The **immediate supervisor** is the individual having immediate jurisdiction over the grievant who has been designated to adjust grievances.
- 4.1.5 A **designee** may be any one or more of the following: Member(s) of the Board of Education; Superintendent; Assistant Superintendent, Business; legal advisor(s); or any other persons selected by the Board of Education to aid in making a decision.

4.2 Informal Level

- 4.2.1 Before filing a formal written grievance, the grievant is to attempt to resolve it by an informal conference (I) with his/her immediate supervisor.
- 4.2.2 An additional informal conference (II) may be scheduled by the unit member in a further attempt to resolve the grievance.

4.3 Level I

- 4.3.1 Within ten (10) days after the occurrence of the act, omission giving rise to the grievance, or when it becomes apparent and a correction can still be made, the grievant must present the grievance in writing, fully completed on the appropriate District form to the immediate supervisor. Failure to do so automatically disallows the filing of the grievance. This statement shall be a clear, concise statement of the grievance, specific Section of the written Agreement within the

scope of representation alleged to have been violated, the circumstances involved, witnesses and supporting data (if any), the decision rendered at the informal conference, and the specific remedy sought.

- 4.3.2 The immediate supervisor shall communicate the decision to the employee and superintendent in writing within ten (10) days after receiving the grievance. If the supervisor does not respond within the time limits, the grievant may appeal to the next level.
- 4.3.3 Within the above time limits either party may request a personal conference.
- 4.3.4 The Association may select a representative, who upon invitation of the grievant, may participate in the grievance process at informal conference (II) and Levels I and II and III.
- 4.3.5 The District may select a representative who may participate in the grievance process at the informal conference (II) and Levels I and II and III.

4.4 **Level II**

- 4.4.1 In the event the grievant is not satisfied with the decision at Level I, the decision may be appealed on the appropriate District form to the superintendent or designee within five (5) days.
- 4.4.2 This statement shall include a copy of the original grievance, the decision rendered, and a clear, concise statement of the reasons for the appeal.
- 4.4.3 The superintendent or designee shall communicate a decision within ten (10) days after receiving the appeal. Either the grievant or the superintendent or designee may request a personal conference within the above time limits.

- 4.5 **Level III- Arbitration.** If within a period of ten (10) days after receipt of the decision of the appropriate administrator, the grievant is not satisfied with the decision rendered at Level II, and wishes to appeal the grievance further, the Association may, after consultation with the grievant, submit on the appropriate District form to the superintendent, an appeal for Arbitration. It is expressly understood that the only matters which are subject to Arbitration are grievances as defined in Section 4.1.1 which were processed and handled in accordance with the limitations and procedures of this Article. Processing and discussing the merits of an alleged grievance by the District shall not constitute a waiver by the District of a defense that the dispute is not grievable.

- 4.5.1 **Arbitrator** - The Arbitrator shall be selected by the grievant and the superintendent within five (5) days after such appeal request is received by the superintendent. If the two parties fail to reach agreement on the choice of an Arbitrator within five (5) days, the California State Conciliation Service or the American Arbitration Association will be requested to supply a list of five names.

Each party will alternately strike from the list until only one name remains. The order of striking will be determined by flip of the coin.

4.5.2 It shall be the function of the Arbitrator to decide whether there has been a violation of the Agreement, and provide remedy if there has been a violation. The Arbitrator shall be subject to the following limitations:

4.5.2.1 The Arbitrator shall have no power nor authority to add to, subtract from, disregard, alter, or modify any of the terms of this Agreement or the written policies, rules, regulations or procedures of the District.

4.5.2.2 The Arbitrator shall have no power nor authority to establish or change the structure of the salary schedule or Responsibility Levels, or hourly rates of pay.

4.5.2.3 The Arbitrator shall have no power nor authority to make any decisions which requires the commission of an act prohibited by law or which is violative of the terms of this Agreement.

4.5.2.4 All costs for the services of the Arbitrator, including, but not limited to, per diem expenses, his/her travel and subsistence expenses, costs of any hearing room and the recording, and preparation, and typing of any reports shall be paid by the Association. All other expenses shall be borne by the parties incurring them and neither party shall be responsible for the expenses of the witnesses called by the other.

4.5.2.5 Either party may arrange for a reporter to record the hearing. The cost of service and the expense of such report shall be paid by the party arranging the reporting.

4.5.2.6 If the parties cannot agree upon a submission agreement, the Arbitrator shall determine the issues by referring to the written grievance and the answers thereto at each step.

4.5.2.7 The decision of the Arbitrator will be submitted to the District and the Association and it will be binding upon the parties to this Agreement.

4.5.3 No recommendation rendered by the Arbitrator shall be retroactive beyond the date of filing of the grievance in Level I of this Grievance Procedure. The Arbitrator shall have no power to render a decision on any grievance occurring before or after the term of this Agreement.

4.6 **Waiver.** The grievant and superintendent or designee may mutually agree in writing to waive any step in this grievance procedure.

- 4.7 **Association to receive copy.** The District shall not agree to a final resolution of the grievance until the Association has received a copy of the grievance and the final proposed resolution, and has been given an opportunity to file a response. Said response shall be filed by the Association within ten (10) days following receipt.
- 4.8 Up to three (3) Association representatives may be annually designated to receive non-instructional time-off for the processing of grievances at Levels I and II (Sections 4.4 and 4.5) subject to the following conditions:
- 4.8.1 Twenty-four hours prior to release from duties for grievance processing the designated representative shall inform and receive the approval of the District;
- 4.8.2 That such time-off shall be limited solely to representing a grievant in a conference with a management person, at Levels I and II and III and in no way shall this limitation include use of such time for matters such as gathering information, interviewing witnesses, or preparing a presentation.
- 4.8.3 That no more than one representative shall receive time-off at any one time.
- 4.8.4 The District reserves the right to limit time-off from duties when it determines that the program of education is being materially affected because of member(s) absence.