

Policy - 5240

Personnel

Grievance Procedures - Non-Certificated

Definitions

“Grievance” means a written allegation of unfair treatment or a violation of District policy. A non-certificated employee of this District may file a grievance about any matter related to his or her employment, provided that neither the employee’s salary or benefits nor the decision to terminate the employee for cause during the initial one hundred eighty (180) days of employment will be a proper subject for consideration under this grievance procedure.

“Working day” means, for purposes of this policy, a weekday (Monday through Friday) except those weekdays identified in the approved school calendar as vacation or holidays.

Procedure

1. A grievance must be in writing and received by the employee’s immediate supervisor within six (6) working days of the occurrence of the incident giving rise to the grievance. The grievance must state the allegation and the remedy or remedies sought.
2. The immediate supervisor will respond in writing to the employee within six (6) working days of receipt of the grievance.
3. If the employee is not satisfied with the response of the immediate supervisor, or there is no response within six (6) working days, the employee may appeal the grievance to the Superintendent or designee within five (5) working days of the date the response was, or should have been, received.
4. The Superintendent or designee will communicate with the non-certificated employee within six (6) working days in an effort to resolve the appeal. A written record of the communication between the parties will be maintained.
5. Within five (5) working days of communicating with the employee, the Superintendent or designee will respond in writing to the employee.
6. If the employee is not satisfied with the response of the Superintendent or designee, or no response was received in the appropriate timeframe, the employee may request a review of the grievance by a hearing panel within five (5) working days of the date the response was, or should have been, received.

7. The Board will convene a panel consisting of three (3) persons within ten (10) working days of receipt of the appeal. The panel will consist of one (1) individual designated by the Board, one (1) individual designated by the employee, and one (1) individual agreed upon by the two (2) appointed panel members.
8. The employee and the Superintendent or designee, or their representative, will be given an opportunity to present information and arguments, oral or written, relevant to the grievance filed in the matter. The panel may establish time limits for the submission or presentation of information and argument(s). The panel will exclude evidence that is not relevant to the matter(s) raised in the grievance. The rules of civil procedure and evidence do not apply.
9. The panel will review all relevant information presented by the parties and will make a determination as to whether the information supports a finding of:
 - a. Act(s) of unfair treatment by the District; or
 - b. A violation of District policy by the District.

If the panel determines that the information supports a finding of (a) or (b), the panel will make a determination as to the appropriate resolution of the grievance.

10. Within five (5) working days following completion of the review, the panel will submit a written decision setting forth factual findings and conclusions to the employee, the Superintendent or designee, and the Board.
11. The panel's decision will be the final and conclusive resolution of the grievance unless the Board overturns the panel's decision by resolution at the Board's next regularly scheduled public meeting, or either party appeals to the District court within forty-two (42) calendar days of the filing of the Board's decision.
12. Upon appeal of a decision of the Board, the District court may affirm or set aside and remand the matter to the Board of trustees upon the following grounds:
 - a. The findings of fact are not based on any substantial, competent evidence;
 - b. The Board of trustees has acted without jurisdiction or in excess of its powers;
or
 - c. The findings by the Board of trustees as a matter of law do not support the decision.
13. The employee and the supervisor, Superintendent, or designee are entitled to a representative at each step of the grievance procedure.

14. The grievance procedure timelines established in this policy may be waived or modified by mutual agreement.
15. Utilization of the grievance procedure established pursuant to this policy will not constitute a waiver of any right of appeal available pursuant to law or regulation.
16. Neither the Board nor any member of the administration will take reprisals affecting the employment status of any party in interest.
17. A non-certificated employee of the District will be required to review and sign any entries made to his or her personnel file. At reasonable times and places, in the presence of an appropriate District official, a non-certificated employee may inspect documents contained in his or her official personnel file.

Legal Reference: I.C. § 33-506 Organization and Government of Board of
 Trustees
 I.C. § 33-517 Non-Certificated Personnel

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