

## **Procedure 4-402.B Employee Grievances - Support Staff Formal Grievance Procedure**

### **Definition**

A grievance shall mean a claim by an aggrieved support staff employee who has successfully completed a four (4) month probationary period that the employee has been treated inequitably by reason of any act or condition that is contrary to established Governing Board policy. A grievance must be filed no later than thirty (30) working days after the incident.

### ***Exceptions:***

- A. Merit increases, rates of pay, promotions, performance ratings, oral or written reprimands, and letters of counseling are not subject to grievance under this policy, since they are determined by supervisors on the basis of performance.
- B. Discrimination claims based on gender, sexual orientation, race, color, creed, religion/religious beliefs, age, disability, political beliefs/affiliations, marital status, citizenship status, national origin, home language, family, social or cultural background are not affected by the probation period and may be filed at any time by any staff member.

As a matter of District policy, every effort will be made to resolve a grievance through informal discussions within departments. The supervisor or appropriate associate superintendent or associate to the Superintendent are responsible for objectively considering a grievance and for responding to the aggrieved staff member on a timely basis. By the same token, the staff member is responsible for giving the department head and supervisor the opportunity to resolve a grievance on an informal basis before carrying it beyond the department level.

When a grievance cannot be settled informally, a staff member is entitled to further consideration of the grievance as set forth in the regulations.

### **Mediation**

The appropriate associate superintendent or associate to the Superintendent will assist in resolving a grievance by serving as an impartial mediator. Mediation may be requested at the commencement of Step Two and any time thereafter by either party and will serve to suspend time limits prescribed in the regulation. A requested variance in the specific time limits must be submitted to the appropriate associate superintendent or associate to the Superintendent for action prior to the expiration of the stated time limit, if possible.

### **Time Extensions**

The time limits specified in the grievance regulation may be extended by agreement of all interested parties. If an investigation causes delay, the aggrieved will be advised in writing. However, the number of days indicated at each level should be considered a maximum, and every effort should be made to expedite the process.

*Academic-year employees.* If a grievance is filed so that sufficient time as stipulated under all levels of the procedure cannot be provided before the last day of school, then said grievance shall be resolved in the new school term in September next, unless the parties mutually agree to proceed without delay.

### Group Grievances

When employees have a common grievance, any such group of aggrieved persons, upon their request, may initiate a group grievance. Individuals filing a group grievance shall follow the procedures outlined in the grievance regulation, commencing with the Step One, Part 1 (informal).

### Flow Chart and Timelines

Employees filing grievances should refer immediately to the Staff Grievance Procedure Flow Chart, and Staff Grievance Procedure Timelines for an overview of the steps that must be taken and the time lines allowed.

### Representation

At any time during the grievance procedure, the aggrieved may choose to be accompanied by a representative.

### Rules of Evidence

Technical rules of evidence do not apply at any proceedings or hearings that take place pursuant to any of the policies or regulations of the District. (The waiving of technical rules of evidence allow all parties involved more freedom of action and, thus, the parties are not limited by restraints found in legal proceedings or hearings. This grievance procedure, therefore, is a quasi-legal procedure rather than a legal procedure such as that which would be found in a court of law.)

### Withdrawal of Grievance

A grievance may be withdrawn at any level, and such withdrawal will not have any adverse effect upon the aggrieved. Further, all record of the grievance will be destroyed. A grievance that has been withdrawn shall not be reopened.

### Step One - The Immediate Supervisor

#### *Part 1 - Informal:*

- A. A staff member who has a perceived grievance shall first discuss it with the immediate supervisor in an effort to resolve the problem informally. The informal grievance shall not be in writing. ~~and neither party shall be represented.~~
- B. The immediate supervisor shall consider the facts and shall grant, deny, or negotiate a modification of the request within two (2) working days. If the requested relief is not within the immediate supervisor's authority, the supervisor shall inform the aggrieved and deny the grievance on that ground.

#### *Part 2 - Formal:*

- A. An aggrieved who does not receive satisfaction from the respondent at the informal first level of the grievance and wishes to proceed with the grievance must file a written grievance within five (5) working days of receipt of the informal decision. The aggrieved shall use Grievance Form A.
- B. The written grievance shall set out, specifically, the staff member's concern and/or dissatisfaction and the desired action/adjustment requested.
  - 1. The immediate supervisor shall consider the facts and shall grant, deny, or negotiate a resolution of the request within five (5) working days of receipt of the written grievance. The immediate supervisor shall use Grievance Form B, in responding to the aggrieved. If the requested action is not within the immediate supervisor's authority, the supervisor shall inform the aggrieved, on Form B, and deny the grievance on that ground.
  - 2. Upon receipt of Form B, the aggrieved shall indicate on said form a response to the decision and return it, within five (5) working days, to the immediate supervisor.
  - 3. If the requested relief is not granted, or if the supervisor does not have the authority to grant the adjustment, the aggrieved has the right to carry the grievance to the second step.

For purposes of interpreting this regulation, the first formal step will apply only when a staff member reports to a supervisor who is not a department head, since the "immediate supervisor" may be the department head or another person who shares the responsibility for assigning work and evaluating performance of the staff member. If the immediate supervisor is also the department head, the grievance procedure will begin with Step Two.

#### Step Two - Department Head

If the aggrieved staff member begins formal grievance proceedings at this level as set forth above, or if the staff member is not satisfied with the result obtained at the first formal step and wishes to continue grievance proceedings, the aggrieved shall present a grievance, in writing, to the department head within five (5) working days of receipt of the response from the immediate supervisor, or of the date the verbal response to the informal grievance is received. The aggrieved shall use Grievance Form C; however,

the aggrieved may submit a copy of the written grievance previously presented to the immediate supervisor if said written grievance meets the requirements of Form C.

- A. The department head shall consider the grievance and, if the desired adjustment is within the department head's authority shall respond to the grievance, in writing, using Grievance Form D, within five (5) working days. The department head may grant, deny, propose a compromise, and/or negotiate a resolution to the grievance.
- B. Upon receipt of Form D, the aggrieved shall indicate on said form a response to the decision and return the form, within five (5) working days, to the department head.
- C. If the desired adjustment is denied or is not within the authority of the department head to consider, the aggrieved has the right to proceed to Step Three.

#### Step Three - Principal, Director, Associate Superintendent, or Associate to the Superintendent

An aggrieved who wishes to continue the grievance procedures must present said grievance to the principal, director, associate superintendent, or associate to the Superintendent within five (5) working days of receipt of Form D, the Step Two decision.

A Step Three grievance must be submitted in writing, on Grievance Form E, and must state the specific complaint, facts in support of the aggrieved's position, and the specific corrective action desired.

The aggrieved may submit a copy of the written grievance previously presented to the department head if said written grievance meets the requirements of Form E.

- A. The responsible administrator shall consider the grievance and may conduct informal hearings and/or develop additional facts in any manner deemed necessary.
- B. The responsible administrator will reply in writing using Form E, to the aggrieved within ten (10) working days. If investigations or other circumstances cause delays to this schedule, the aggrieved will be so advised in writing.
- C. Upon receipt of Form E, the aggrieved shall indicate on said form a response to the decision and return it, within five (5) working days, to the responsible administrator.
- D. If the responsible administrator denies the corrective action desired, or does not have authority to take such action, the aggrieved has the right to carry the grievance to the fourth and final step of the grievance procedure.

#### Step Four - The Hearing

If the grievance is felt by the staff member to merit consideration at the final step, a hearing by the staff grievance committee may be requested. Requests for a hearing

must be submitted in writing on Grievance Form F, to the appropriate associate superintendent or associate to the Superintendent within five (5) working days of the aggrieved's receipt of a reply from the principal, director, associate superintendent, or associate to the Superintendent.

- A. Requests must indicate that the grievance procedure has been followed through the third step and must state the specific complaint and facts in support of the corrective action desired. (Note: A copy of the request for third step consideration may be submitted to avoid undue repetition.)
- B. A list of names and addresses of witnesses for the concerned party must be submitted with the request for hearing form.

*Selection of the staff grievance committee:*

- A. Each grievance committee shall consist of five (5) persons. Prior to the selection of this committee, names of witnesses for all parties concerned must be submitted to the human resources division. The human resources division will then assemble a drawing box containing the names of all support staff personnel not on probation. The aggrieved will draw five (5) names from this drawing box. Should a name be drawn that appears on the witness list, another name shall automatically be drawn. This drawing will be held at the human resources division and be witnessed by the associate to the Superintendent or designee.
- B. Upon selection of five (5) names by the aggrieved, the appropriate administrator will notify those chosen to serve on the staff grievance committee and arrange an organizational meeting. At the meeting, the committee members shall select a chairperson, and a hearing date at the earliest opportunity agreeable to all concerned parties. Every effort will be made to establish the date within ten (10) working days following receipt of the request by the appropriate administrator.

*Conduct of hearings:*

- A. An employee may appear or designate a representative, not necessarily an attorney, before any Board hearing or any quasi-judicial hearing dealing with personnel matters, providing that no fee may be charged for any services rendered in connection with such hearing by any such designated representative not an attorney admitted to practice.
- B. In the interest of fairness, neither side shall have professional representation without providing advance notice to all other parties of intent to use professional representation. The aggrieved will provide the appropriate administrator with the names, addresses, and professional qualifications of representatives at the time of the request for a formal hearing.
- C. The names and qualifications of persons representing any party other than the aggrieved will be provided to the appropriate administrator by said party upon receipt of notification that the grievance will be heard by the staff grievance committee.

- D. The appropriate administrator or designee will notify concerned parties of the hearing date and inform them of the names and qualifications of all representatives and witnesses.
- E. A qualified administrator shall serve as an impartial technical advisor and is responsible for informing all parties of hearing policies and procedures.
- F. The administrator shall advise the aggrieved of the right to be represented by any willing person of the aggrieved's choice and will further inform the aggrieved that the District is not liable for any costs or expenses incurred for such representation. The administrator will advise concerned parties of the right to present and question witnesses who have direct knowledge of pertinent facts.
- G. During the hearing, the qualified administrator will serve as an advisor to the chairperson of the staff grievance committee.

*Committee responsibilities:*

- A. The committee shall be responsible for evaluating the facts surrounding the grievance in order to make a fair recommendation.
  - 1. They shall pose questions in order to establish the facts.
  - 2. They have the right to question anyone involved from either side.
  - 3. As necessary, they may require demonstrations, documents, or other evidence.
  - 4. At the conclusion of the hearing, the committee shall meet to formulate and finalize their recommendations. The final recommendation will be the result of a vote by the committee members.
- B. The committee's decision and/or recommendation shall be submitted to the Superintendent on Grievance Form G, and shall include, but is not limited to, the following:
  - 1. A brief summary of the case, as presented in the hearings, facts developed by the committee, pertinent documents, etc.
  - 2. The committee's recommendation to the Superintendent as to the appropriate disposition of the grievance, e.g., that the requested corrective action be granted, modified, or denied.
- C. The committee may make additional recommendations within the scope of the requested corrective action that it believes to be in the interest of sound District-staff relations.
- D. The form shall be signed by each member of the committee.

*Committee chairperson's responsibilities/obligations:*

It will be the chairperson's responsibility to conduct the hearing in a manner to ensure that each side has the opportunity to present its position to the committee. The chairperson is also responsible for submitting the committee's

recommendation to the Superintendent, who renders the final decision. The chairperson of the committee shall:

1. Conduct the hearing, as the chief hearing official, in an orderly and dignified manner.
2. Poll the votes of the committee, formalize the committee's recommendations, obtain the signatures of all committee members, and submit the majority opinion as a recommendation to the Superintendent. In the interest of objectivity, written minority opinions are encouraged.

*Superintendent:*

The Superintendent will render the final decision in writing to all interested parties, utilizing Grievance Form G. Other concerned parties are advised by means of a copy to each.

1. The Superintendent may endorse, modify, or reject the recommendation of the staff grievance committee. The Superintendent may also direct further investigation or conduct a further hearing of the facts before rendering a decision.
2. The Superintendent's written decision also serves as a directive for any action necessary for compliance with the decision.
3. The decision of the Superintendent is final and concludes the staff grievance procedure.

Flow Chart

*How Grievances are Presented:*

Informal Discussion	In Writing	At a Hearing
Informal	Step One	X
Formal	Step One	X
	Step Two	X
	Step Three	X

Timelines

Aggrieved shall have thirty (30) working days after a grievable occurrence in which to file a grievance.

*Step One, Part 1 - Informal:*

Respondent must respond, verbally, within two (2) working days (no form).

[All action in the following steps of the grievance procedure will be in writing]

*Step One, Part 2 - Formal:*

- A. Aggrieved must file, using Form A, within five (5) working days of receipt of verbal response to informal grievance.
- B. Respondent must respond to aggrieved, using Form B, within five (5) working days.
- C. Aggrieved must respond to decision, again, using Form B, within five (5) working days.

*Step Two:*

- A. Aggrieved must file, using Form C, within five (5) working days of receipt of Form B.
- B. Respondent must respond to aggrieved, using Form D, within five (5) working days.
- C. Aggrieved must respond to decision, using Form D, within five (5) working days.

*Step Three:*

- A. Aggrieved must file, using Form E, within five (5) working days of receipt of Form D.
- B. Respondent must respond to aggrieved, using Form E, within ten (10) working days.
- C. Aggrieved must respond to decision within five (5) working days of receipt of Form E.

*Step Four:*

- A. Aggrieved must file request for hearing, using Form F, within five (5) working days of receipt of Form E.
- B. The hearing will be established at the first opportunity. Every effort will be made to establish the hearing date within ten (10) working days following the aggrieved's request for a hearing.