

GRIEVANCE PROCEDURE FOR EMPLOYEES

It is the policy of the Avery County Board of Education, 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

Days: 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.

Final Administrative Decision: is a decision of a school employee which no further appeal to a school administrator is available

Grievance: 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. there has been a violation, misapplication, or misinterpretation of state or federal law or regulation, school board policy or administrative procedure;

that an employee's employment status of the terms or conditions of his or her employment have been adversely affected; or
- b. 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" will 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 the board of education is without authority to act.

Grievant: The employee(s) making the claim.

Parties in Interest: The grievant and the person against whom the grievance is filed.

C. TIMELINESS OF PROCESS

Failure by a school system 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 appropriate school system official of a delay, the reason for the delay and the official has consented in writing to the delay.

D. GENERAL REQUIREMENTS

1. At all times during the grievance process, all parties in interest and their representatives must conduct themselves in a professional manner, including respecting the confidentiality of personnel matters
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 and will be scheduled at mutually convenient times.
5. The board and administration will consider requests to hear grievances from a group of grievants but have the discretion to respond to individual grievants.
6. The board and administration will cooperate with the grievant and representative in the investigation of any grievance and will furnish the grievant or his or her representative

information pertinent to the grievance without cost to the grievant or the employee against whom the grievance is filed.

7. The grievant may have a representative, including an attorney, at any stage of the grievance. However, if the grievant intends to be represented by legal counsel, he or she 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

Reporting a Grievance

1. 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, students and parents should recognize that delays in reporting may significantly impair the ability of the school district to investigate and respond effectively to such complaints.
2. All grievances will be in writing and the written statement of grievance must remain the same throughout all steps of the grievance procedure. The written grievance must include the following information: (1) the name of the school system 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 procedure that the grievant believes has been misapplied, misinterpreted, or violated; and (4) the specific resolution desired. If there is not a specific decision, action, or physical condition at issue, or no concern that federal or state law, federal or state regulation, State Board of Education policy or procedure, or board policy or procedure has been misapplied, misinterpreted, or violated, then the procedure established in policy 1742/5060, Responding to Complaints, is

appropriate, and the principal or immediate supervisor shall address the concern following that policy.

3. The employee(s) will present the grievance in writing to his or her immediate supervisor or the supervisor's designee unless the grievance alleges that a state or federal law has been misapplied, misinterpreted, or violated, in which case the grievance may be presented instead to the assistant superintendent of human resources (or to the superintendent if the employee's supervisor is the assistant superintendent of human resources). The person receiving the grievance hereinafter will be referred to as "official." Any grievance against the superintendent should be filed directly with the board in accordance with subsection E.4, below.

Response by Official

1. The official will arrange for a grievance file to be kept by the personnel office.
2. 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.
3. The official shall meet with the grievant at a mutually agreed-upon time within five (5) days after receipt of the grievance.
4. The official will conduct any investigation of the facts necessary before rendering a decision.
5. The official or his or her designee will provide the grievant with a written response to the grievance within ten (10) days after the meeting.

Response by Superintendent

1. 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.
2. The superintendent or designee will arrange for a meeting with the grievant to take place within five (5) days of the receipt of the appeal.
3. The superintendent or designee will conduct any investigation necessary before arriving at a decision. The superintendent or designee will provide the grievant with a written decision with ten days after the meeting with the grievant.

Response by the Board

1. If the grievant is not satisfied with the superintendent's response, the grievant may appeal in writing the decision to the board within ten (10) days of receiving the superintendent's response. This notification constitutes a request by the employee for a review of his grievance by the Board of Education. The employee's grievance shall be reviewed by the Board within twenty (20) working days of receipt by the Superintendent of the employee's request for review. No new evidence, written or verbal, may be presented without prior knowledge and consent of both parties or upon a majority vote of the Board. Each party may have an attorney at the hearing before the Board.
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. The decision of the Board may affirm, disaffirm or modify the decision of the Superintendent. The decision of the Board shall be final.

F. RECORDS

Appropriate records will be maintained in accordance with state and federal law.

Legal References: Age Discrimination in Employment Act of 1967, 29 U.S.C. 621 *et seq.*; Americans With Disabilities Act, 42 U.S.C. 12134, 28 C.F.R. pt. 35; Rehabilitation Act of 1973, 29 U.S.C. 705(20), 794, 34 C.F.R. pt. 104; 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.*, 29 C.F.R. pt. 1604; Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 *et seq.*, 34 C.F.R. pt. 106; *Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance*, U.S. Department of Education, Office for Civil Rights (1994); *Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties*, U.S. Department of Education, Office for Civil Rights (2001); G.S. 126-16; Cross References: Prohibition Against Discrimination, Harassment and Bullying (policy 1710/4021/7230), Responding to Complaints (policy 1742/5060), Hearings Before the Board (policy 2500)

Cross Reference: Responding to Complaints (policy 1742/5060); Hearings Before the Board (policy 2500)

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