

## ARTICLE 11 - Grievance Procedure

11.1 The purpose of this procedure is to secure, at the lowest possible step, equitable solutions to the problems which may arise from time to time affecting employees. Both the administration and employees shall keep these proceedings as informal ~~and confidential~~ as may be appropriate at any step of the procedure. A complaint against another employee or regarding the ESD is not subject to the grievance process. ~~(See Employee Handbook)~~

### 11.2 Definitions

- (a) Grievance: A complaint by an employee, group of employees, or the Union of an alleged violation of a specific provision of this Collective Bargaining Agreement (CBA), violation of policy and/or procedure, and/or an inequitable application of any provision of this CBA.
- (b) Grievant: The person, persons, or the Union who have the grievance and are presenting the complaint.
- (c) Immediate Supervisor: The person having direct administrative or supervisory responsibilities for the grievant and the authority to resolve the issue.
- (d) Time: Any and all time limits specified in the grievance procedures may be waived by mutual Agreement of the parties. For the purposes of this Article, "days" shall mean, an employee's scheduled work days. Failure at any step of this procedure to communicate the decision in writing within the specified time limit shall permit the grievant to proceed to the next step. Failure of the grievant to appeal a decision to the next step within the specified time limit ~~shall~~ may be considered a waiver of the grievance.
- (e) Representative: The Union representative(s) who may speak for or advise the grievant if the grievant chooses to be represented, or the ESD representative who may speak for or advise the ESD at any time during the course of the grievance procedure.
- ~~(f) Non Reprisal: Neither the Union nor the ESD shall take any reprisal against any person or agency as a result of the exercise of rights under this Article.~~
- (g) Meetings and Hearings: Subject to requirements of the public meeting law, meetings and hearings under this procedure shall not be conducted in public and shall include only the parties and their designated or selected representatives.
- ~~(h) Dismissal: This procedure shall not apply to dismissal of probationary employees.~~

11.3 Neither the Union nor the ESD shall take any reprisal against any person or agency as a result of the exercise of rights under this Article.

### 11.4 Steps of the Grievance Procedure

- (a) Step One: Informal with Immediate Supervisor the grievant shall request a meeting to discuss the grievance with the immediate supervisor with the objective

of resolving the matter informally within ~~fifteen (15)~~thirty (30) days of when the grievant knew or, by reasonable diligence, should have known of the alleged violation being grieved. This meeting shall be scheduled by mutual agreement as soon as is practicable but within not more than five (5) days of the date the meeting was requested unless an extension of time is agreed upon mutually. The employee, or their representative, shall inform the supervisor prior, during, or within three (3) business days of the informal meeting that the meeting constitutes a Step One Grievance meeting. The supervisor shall respond to the grievance as quickly as reasonable, but not later than ten (10) days after the grievance is first discussed. The immediate supervisor's response shall be in writing.

~~(b)~~ — Step Two: Chief Human Resources Officer or Superintendent's Designee  
If the grievance remains unresolved, the grievant shall submit the grievance in writing to the Chief Human Resources Officer within fifteen (15) days of the receipt of the immediate supervisor's reply. ~~The written grievance shall include:~~

- ~~(i) — Clear statement of the grievance and related facts;~~
- ~~(ii) — Specific identification of the specific portion of the contract allegedly violated;~~
- ~~(iii) — A clear statement of the remedy sought; and~~
- ~~(iv) — A copy of the immediate supervisor's written reply.~~

The Chief Human Resources Officer or Superintendent's designee shall meet with the grievant and respond in writing to the grievant within ten (10) ESD working days of the receipt of the grievance.

(c) Step Three: Superintendent If the grievance remains unresolved, the grievant shall submit the grievance set forth in Step Two in writing to the Superintendent within fifteen (15) days of the receipt of the Chief Human Resources Officer's written decision. The Superintendent shall review the grievance, arrange for a meeting with the grievant and representative(s) within ten (10) days, and give a written answer to the grievant with a copy to the Union no later than ten (10) days after the grievance meeting.

~~(d)~~ — Step Four: ESD Board If the grievance remains unresolved, the grievant shall submit the grievance set forth in Step Three in writing to the ESD Board within fifteen (15) days of the receipt of the Superintendent's written decision. The ESD Board shall determine whether to grant or deny the grievance and, if granted, what remedy if any should result. The ESD board shall notify the grievant and the Union in writing of its decision within ten (10) days of its decision. ~~The ESD Board level shall be the final step of this Grievance Procedure. Although this step is the final step of the procedure in this Agreement, the Union reserves the right to pursue the matter through other means, if applicable.~~

(e) Step Five: Arbitration

- (i) If the grievance remains unresolved, the grievant may request in writing that the Union submit the grievance to arbitration within fifteen (15) days of receipt of the step four decision. It is the sole and exclusive right of OSEA to determine if grievances are appealed to arbitration. If the Union so determines to appeal, it may submit the grievance to arbitration within fifteen (15) days after receipt of a request by the grievant.
- (ii) Within ten (10) days of the ESD's receipt of written notification from the Union of their desire to arbitrate the grievance, the parties shall attempt to mutually agree upon an arbitrator and obtain a commitment from such arbitrator to serve. If the parties are unable to agree upon an arbitrator within the ten (10) day period, the Union shall request a list of seven (7) arbitrators from the Employment Relations Board (ERB) Mediation and Conciliation Service. Upon receipt of the list, the party to strike the first name shall be determined by lot and the parties shall alternately strike names thereafter until only one name remains. The remaining arbitrator shall be deemed to be appointed, provided they are available to serve upon a mutually agreeable date within sixty (60) calendar days from the date of selection.
- (iii) The arbitrator so selected will confer with the representatives of the Superintendent and the Union and hold hearings promptly and will issue their decision not later than thirty (30) days from the date of the close of the hearing, or if oral hearings have been waived, then from the date the final statements and evidence are submitted to them. The arbitrator's decision will be in writing and will set forth their findings of fact, reasoning and conclusions on the issues submitted. The arbitrator will be without power or authority to make any decision, which requires the commission of an act, prohibited by law or which is in violation of or expands upon the terms of this Agreement. The decision of the arbitrator will be submitted to the Board and the Union and will be final and binding upon the parties.
- (iv) The ESD and the Union will share equally any joint costs of the arbitration procedure, such as the fee and expense of the arbitrator and the cost of transcripts if requested by both parties. Each party shall be responsible for its own costs associated with arbitration.