

### **EMPLOYEE GRIEVANCE PROCEDURE**

Pursuant to state statute, the School Board shall provide a grievance procedure for the orderly resolution of employee grievances related to employee discipline, employee terminations, and workplace safety. Any employee of the District has the right to access the grievance procedure provided the grievance is filed in writing within the applicable timelines, and provided that the issue presented by the grievance properly concerns a grievable complaint. However, nothing within this Policy or within the written rules and procedures implementing this Policy shall be construed:

1. To prevent an employee and the District from resolving, or attempting to resolve, an employee's grievance, complaint, concern or other dispute using informal methods separate from the formal grievance process, such as a mediated resolution or other similar outcome;
2. To interfere with or conflict with the District's obligations, or an employee's or labor organization's rights, under any collective bargaining agreement. To the extent any collective bargaining agreement includes a contractual grievance procedure for the resolution of any grievance that is also within the jurisdiction of the district's statutorily-required grievance procedure, the District shall fully honor the contractual grievance procedure, including binding arbitration to the extent applicable; or
3. To grant or confer to any employee any substantive rights or employment protections that would not exist in the absence of this Policy and its implementing rules, except for those primarily procedural rights inherent and minimally necessary to an employee's ability to access and use the grievance procedure in the manner defined by state law and by the Board.

No employee is required to pursue a formal grievance using the procedures established pursuant to this policy, and supervisors and administrators are expected to fulfill their supervisory role(s) with respect to managing employee complaints and concerns even where an employee is unable to or elects not to pursue a grievance under the formal procedures established by the Board.

The grievance procedure shall provide for grievances to be handled in a timely manner. The procedure shall also include an opportunity for a grievant to present his/her grievance before an impartial hearing officer, as well as an appeals process in which the highest level of appeal is the Board.

In the event a grievance proceeds to a hearing before an impartial hearing officer, the District Administrator (or designee) shall identify an impartial hearing officer consistent with the following minimum requirements:

- The hearing officer shall be (1) an attorney who is licensed to practice in the State of Wisconsin; (2) a current or former school administrator who remains licensed by the Department of Public Instruction as either a district administrator or principal, provided the person demonstrates to the satisfaction of the District Administrator sufficient familiarity with the procedures for conducting a fair and impartial hearing; or (3) such other individuals deemed qualified by the Board provided that the Board, upon recommendation by the District Administrator, affirmatively approves such individual's alternative qualifications prior to the person serving as a hearing officer.

- If the hearing officer is an attorney, that individual may be an attorney who (or whose firm) represents the District in some other capacity only if (1) there is no evidence of bias toward either party; and (2) the attorney, or another attorney from the same firm, is not representing the District in any capacity in connection with the grievance in question.
- The hearing officer shall not be an employee of the District.
- Due to their background and experience, hearing officers may be identified based on their suitability to hear grievances over particular issues. (e.g., An individual may be deemed well-qualified to hear a grievance over a “workplace safety” issue, or perhaps well-suited for grievances other than a grievance over a “workplace safety” issue.)
- The hearing officer assigned to any pending grievance must be available to hear the case and render a decision in a timely manner. To the extent that the District has compiled a list of two or more potential impartial hearing officers who the District deems qualified to serve as a hearing officer with respect to any pending grievance, the District Administrator (or designee) may use a rotational system, random drawing, or similar system to identify the hearing officer who will be contacted first and asked about his/her availability. However, the failure to use such a system shall not be deemed an error unless the individual selected as the hearing officer fails to satisfy the statutory requirement of impartiality.

The role of the hearing officer shall include adherence to the following:

- A hearing officer must agree to comply with all relevant laws and with all applicable Board policies and District procedures to the extent not inconsistent with the law, including, but not limited by enumeration, laws and policies covering public records, personnel records, and student records.
- An impartial hearing officer shall neither add to, delete from, nor modify any Board policies or administrative rules or regulations, although it shall be within the purview of a hearing officer to reach a conclusion that a given policy, rule or regulation violates applicable law (subject to an appeal of such a conclusion to the Board).
- In reaching conclusions based upon his/her factual findings, an impartial hearing officer is not to substitute his/her independent judgment for the judgment of the District provided that the hearing officer determines that the District’s conclusions and any action taken by the District were lawful and reasonable under all of the facts, circumstances, and applicable standards. However, a hearing officer may state in his/her decision that he/she believes an alternative conclusion would have been more reasonable and explain the basis for making such a determination. An employee may appeal such a decision to the Board and request that the Board consider adopting the hearing officer’s alternate conclusion.

Legal References:

Wisconsin Statutes

Sections 19.81-19.88

[Open Meetings Law]

Section 66.0509(1m)

[Civil service protection and grievance procedure]

Cross References:

Employment Discrimination and Harassment Complaint Procedures

Adopted by the Board: 8/16/11