

EMPLOYEE GRIEVANCES

(Discipline, Termination and Workplace Safety)

Pursuant to state law, the School District of Jefferson's Board of Education shall provide a grievance procedure for the orderly resolution of employee grievances related to employee discipline, employee terminations, and workplace safety.

ADOPTED: September 26, 2011

REVISED:

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LEGAL REF.: Wisconsin Statute: 66.0509 (1m)

GRIEVANCE PROCEDURE GUIDELINES

Employees shall use the following procedure for resolving disputes regarding employee termination, employee discipline or workplace safety issues.

I. Time Lines

- A. **Informal Grievance Submission:** The employee must discuss any grievance related to discipline or workplace safety with the employee's immediate supervisor prior to filing a formal written grievance in order to informally resolve the issue. Grievances related to termination may proceed straight to the written grievance step.
- B. **Formal Grievance Submission:** The employee must file a written grievance within fifteen (15) working days of the termination, discipline, or actual or reasonable knowledge of the alleged workplace safety issue. "Working day" is defined as any day that the District Office is open. The grievance must be in writing.
- C. **Administrative Response:** The Superintendent (or designee) will meet with the grievant within fifteen (15) working days of receipt of the written grievance. The Administration will provide a written response within five (5) working days of the meeting.
- D. **Impartial Hearing:** The grievant may file an appeal to the Impartial Hearing Officer by giving written notice to the Superintendent within ten (10) working days of the Administrative Response. The Administration will work with the Impartial Hearing Officer and grievant to schedule a mutually agreeable hearing date.
- E. **Impartial Hearing Officer Response:** The Impartial Hearing Officer shall file a written response within sixty (60) working days of the hearing date.
- F. **School Board Review:** The non-prevailing party may file a request for School Board review within ten (10) working days of receipt of the Impartial Hearing Officer Response. The School Board shall make a decision regarding whether or not a hearing will be held within twenty-five (25) working days of the appeal. A written decision will be made within sixty (60) working days of the filing of the appeal.
- G. All timelines may be extended by mutual agreement.

II. General Requirements

- A. An employee may only initiate a grievance in writing regarding employee termination, employee discipline, or alleged workplace safety issues.
 - 1. The term "employee termination" as used in this section shall not include the following:
 - a. Layoffs;

- b. Workforce reduction activities;
- c. Voluntary termination including, without limitation, quitting or resignation;
- d. Job abandonment;
- e. End of employment due to disability;
- f. Retirement;
- g. Non-Renewal under Wis. Stats. §118.22 and §118.24; or
- h. Any other cessation of employment not involving involuntary termination including, but not limited to, completion of assignment of a temporary, seasonal, contract, daily assignment, substitute, or replacement employment relationship.

2. The term "employee discipline" shall include any employment action that results in disciplinary suspension without pay, disciplinary reduction in pay or other benefits, disciplinary demotion, and oral or written reprimands.

The term "employee discipline" as used in this section shall not include the following:

- a. Plans of correction or performance improvement;
- b. Performance evaluations or reviews;
- c. Documentation of employee acts and/or omissions in an employment file;
- d. Administrative suspension with pay;
- e. Administrative suspension without pay pending investigation of alleged misconduct or nonperformance;
- f. Non-disciplinary wage, benefit or salary adjustments; or,
- g. Other non-material employment actions.

3. The term "workplace safety" as used in this section means any alleged violation of any standard established under state law or rule or federal law or regulation relating to workplace safety.

B. The written grievance must contain:

1. A statement of the pertinent facts surrounding the nature of grievance.
2. The date the incident occurred.
3. The steps taken to informally resolve the grievance, the individuals involved in the attempted resolution, and the results of such discussion;
4. The specific requested remedy; and,
5. Must include the workplace safety rule alleged to have been violated, if applicable.

C. The Administration's written response to the grievance must contain:

1. A statement of the date the meeting between the Administration and grievant was held.

2. A decision as to whether the grievance is sustained or denied.
 3. In the event the grievance is denied, a statement outlining the time line to appeal the denial.
- D. **Impartial Hearing Officer Selection:** The Administration shall select the Impartial Hearing Officer (IHO). The IHO shall not be an employee of the district. The IHO may be an employee of another district, a retired school administrator, a lawyer, a professional mediator/arbitrator, or other qualified individual. The cost of the IHO will be the responsibility of the district.
- E. **Impartial Hearing Officer Standard of Review:** The IHO will adhere to specific guidelines set forth by the District regarding hearing procedures. The standard of review for the IHO is whether the decision of the Administration was arbitrary or capricious. A decision will not have been arbitrary or capricious if it was made in the best interest of the district. If the decision was not arbitrary or capricious then the IHO is required to find on behalf of the Administration. The Rules of Evidence will not be strictly followed, but no factual findings may be based solely on hearsay evidence.
- F. The Impartial Hearing Officer's written recommendation to the grievance must contain:
1. A statement of the pertinent facts surrounding the nature of the grievance.
 2. A recommendation as to whether the grievance is sustained or denied, with the rationale for the recommendation.
 3. A statement outlining the timeline to appeal the recommendation.
 4. The IHO must sustain or deny the decision of the Administration. Authority is not given to modify the decision as made by the Administration. Authority is not given to grant in whole or in part the specific request of the grievant.
- G. **Appeal to the School Board:** The School Board may decide, in each situation, whether it will review the record and make a decision, assign an impartial hearing officer to create a recommendation for the School Board's review, or hold a new hearing and make an independent decision. The manner of review is the sole choice of the School Board.
- H. The School Board's written decision regarding the grievance must contain:
1. A decision as to whether the grievance is sustained, denied, or modified.

III. Process

- A. Grievances will be processed per the provided time lines.
 - 1. An employee may advance a grievance to the next step if a response is not provided within the designated time frames.
 - 2. An employee may not file or advance a grievance outside of the designated time frames.
 - 3. The Superintendent may advance a grievance to the next step at the written request of either the employee or the supervisor.
 - 4. Failure of the employee to adhere to any of the specified timelines within the process shall result in the grievance being denied. The School Board in its discretion may, however, consider an otherwise untimely grievance at the School Board level of the grievance procedure.
- B. Grievance meetings/hearings held during the employee's off-duty hours will not be compensated.
- C. Granting the requested or agreed-upon remedy resolves the grievance.
- D. The decision of the School Board is final and not subject to further review.

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