



410 South Commercial Street • Neenah, WI 54956 • Tel: (920) 751-6800 • Fax: (920) 751-6809

MEMORANDUM

TO: Board of Education
Dr. Mary B. Pfeiffer, District Administrator

FROM: Victoria L. Holt, Assistant District Administrator of Human Resources & Central Services *vlh*

DATE: April 4, 2013

RE: Policy Manual Clarification

The Grievance Procedures outlined in the Employee Policy Manuals for Faculty and Support Staff personnel did not include timelines for a written response at the Step Two and Step Three levels. I am recommending that the Board approve the attached policy manual clarifications in bold under Step Two and Step Three of the Grievance Procedures for Faculty and Support Staff.

I will be available at the April 9 meeting if the Board has any questions related to the clarification to the Grievance Procedures outlined in the Employee Policy Manuals.

GRIEVANCE PROCEDURES (Faculty)

- 1) A grievance shall mean a dispute regarding the application of School Board policies regarding an employee's discipline or termination of employment, or a dispute concerning workplace safety. No grievance shall be processed under this policy unless it is in writing and contains all of the following:
 - a. the name and position of the grievant;
 - b. a clear and concise statement of the grievance;
 - c. the issue involved;
 - d. the relief sought;
 - e. the date the incident or alleged violation took place;
 - f. the specific section of the Policy Manual or workplace safety rule alleged to have been violated;
 - g. the signature of the grievant and the date.
- 2) The term "days" means work days, other than weekends and holidays. The time within which an act is to be done under this policy shall be computed by excluding the first day and including the last day.
- 3) A "grievant" is a school district employee.
- 4) "Workplace safety" means those conditions related to physical health and safety of employees enforceable under federal or state law, or District rule related to: safety of the physical work environment, the safe operation of workplace equipment and tools, provision of protective equipment, training and warning requirements, workplace violence and accident risk.
- 5) "Discipline" means oral reprimands (where a written record of the reprimand is placed in the employee's file); written reprimands, suspension and/or demotion. Discipline does not include performance reviews, work plans or corrective actions that do not include a reprimand or other adverse employment action.
- 6) "Termination" means discharge from employment for disciplinary reasons. Non-renewals and layoffs (reduction in force) are not considered terminations and are not subject to this procedure.

Procedures:

Step One

Within ten (10) days after the facts upon which the grievance is based or should have reasonably become known, the employee shall present the written grievance to his/her immediate supervisor. The immediate supervisor shall give a written answer within ten (10) days of receipt of the grievance, with a copy to the District Personnel Office.

An employee who has been notified of termination may process the grievance commencing at Step Three.

Step Two

If the grievance is not satisfactorily resolved at Step One, it may be submitted by the grievant to the District Administrator within five (5) days after having received the answer in Step One. After receipt of the written grievance by the District Administrator, he/she or the designated representative of the District Administrator will meet with the grievant **within ten (10) days** in an effort to resolve the issue(s) raised in the grievance. Within ten (10) days after the meeting, the District Administrator shall respond to the grievance in writing. The District Administrator shall also determine if the grievance is timely, if the subject matter of the grievance is within the scope of this policy and otherwise properly processed as required by this policy. If the District Administrator is aware of other similar pending grievances, he/she may consolidate those matters and process them as one grievance.

Step Three

Upon the written request of the grievant in response to an adverse decision, the decision at Step Two may be appealed by a written statement particularly describing the reason for appeal. **The appeal must be in writing and received in the District Administrator's office within five (5) days after having received an answer to Step Two.** If the decision at Step Two is based in whole or in part on the basis of timeliness, scope of the grievance process or other failure of the Grievant to properly follow the process, the matter shall be referred to the Board who shall determine whether the matter should be processed further. If the Step Two decision is on the merits of the grievance, only the grievance will be referred to an Impartial Hearing Officer (IHO). The IHO will be designated by the District Administrator. Any costs incurred by the IHO will be paid by the School District. The IHO will convene a hearing **within ten (10) days of receiving the appeal** in the manner the IHO determines necessary. The IHO shall have the authority to administer oaths, issue subpoenas at the request of the parties, and decide if a transcript is necessary. The IHO may require the parties to submit grievance documents and witness lists in advance of the hearing to expedite the hearing. The burden of proof shall be "a preponderance of the evidence." In termination and discipline cases, the District shall have the burden. In workplace safety cases, the employee shall have the burden. The IHO may request oral or written arguments and replies. The IHO shall provide the parties a written decision **within ten (10) days after the hearing.**

The IHO may only consider the matter presented in the initial grievance filed by the employee. The IHO shall have no power to add to, subtract from or otherwise modify the express terms of School Board policy.

Step Four

Either party may appeal an adverse determination at Step Three to the Board of Education, by filing written notice appealing the decision of the IHO in the District Personnel Office within ten (10) days of the decision of the IHO. The Board of Education shall within thirty (30) days after submission of the appeal, schedule the review of the IHO's decision. The review will be conducted by the Board during a closed session meeting. The Board will vote in closed session unless the Board receives a request from the employee for the vote to take place in open session. The Board must receive the request to vote in open session as part of their request for the Step Four grievance. The Board may make its decision based on the written decision of the IHO or the Board may examine any records, evidence and testimony produced at the hearing before the IHO. A simple majority vote of the Board membership shall decide the appeal within twenty (20) days following the last session scheduled for review. The Board will issue a final written decision which shall be binding on all parties.

Timelines

Failure to process a grievance by the grievant within the time limit, or agreed upon extensions, shall constitute waiver of the grievance and will be considered resolved on the basis of the District's last answer. Failure of a management representative to meet the time limits shall cause the grievance to

move automatically to the next step in the procedure. To encourage that grievances are addressed in a prompt manner the time limits set by this policy are intended to be strictly observed and may not be extended except in extreme circumstances and then only upon the express written consent of the parties.

Exclusive Remedy

This procedure constitutes the exclusive process for the redress of any employee grievances as defined herein. However, nothing in this grievance procedure shall prevent any employee from addressing concerns regarding matters not subject to the grievance procedure with administration and employees are encouraged to discuss matters of concern with Administration. Matters not subject to the grievance procedure that are raised by employees shall be considered by the administration which has final authority, subject to any applicable School Board policy or directive, to resolve the matter.

GRIEVANCE PROCEDURE (Support Staff)

Definitions:

- A. A grievance shall mean a dispute regarding the application of School Board policies regarding an employee's discipline or termination of employment, or a dispute concerning workplace safety. No grievance shall be processed under this policy unless it is in writing and contains all of the following:
- 1) the name and position of the grievant;
 - 2) a clear and concise statement of the grievance;
 - 3) the issue involved;
 - 4) the relief sought;
 - 5) the date the incident or alleged violation took place;
 - 6) the specific section of the Policy Manual or workplace safety rule alleged to have been violated;
 - 7) the signature of the grievant and the date.
- B. The term "days" means work days, other than weekends and holidays. The time within which an act is to be done under this policy shall be computed by excluding the first day and including the last day.
- C. A "grievant" is a school district employee.
- D. "Workplace safety" means those conditions related to physical health and safety of employees enforceable under federal or state law, or District rule related to: safety of the physical work environment, the safe operation of workplace equipment and tools, provision of protective equipment, training and warning requirements, workplace violence and accident risk.
- E. "Discipline" means oral reprimands (where a written record of the reprimand is placed in the employee's file); written reprimands, suspension and/or demotion. Discipline does not include performance reviews, work plans or corrective actions that do not include a reprimand or other adverse employment action.
- F. "Termination" means discharge from employment for disciplinary reasons. Non-renewals and layoffs (reduction in force) are not considered terminations and are not subject to this procedure.

Procedures:

Step One

Within ten (10) days after the facts upon which the grievance is based or should have reasonably become known, the employee shall present the written grievance to his/her immediate supervisor. The immediate supervisor shall give a written answer within ten (10) days of receipt of the grievance, with a copy to the District Personnel Office.

An employee who has been notified of termination may process the grievance commencing at Step Three.

Step Two

If the grievance is not satisfactorily resolved at Step One, it may be submitted by the grievant to the District Administrator within five (5) days after having received the answer in Step One. After receipt of the written grievance by the District Administrator, he/she or the designated representative of the District Administrator will meet with the grievant **within ten (10) days** in an effort to resolve the issue(s) raised in the grievance. Within ten (10) days after the meeting, the District Administrator shall respond to the grievance in writing.

The District Administrator shall also determine if the grievance is timely, if the subject matter of the grievance is within the scope of this policy and otherwise properly processed as required by this policy. If the District Administrator is aware of other similar pending grievances, he/she may consolidate those matters and process them as one grievance.

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