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by 10/27/08 3:35pm.  


ARTICLE V

GRIEVANCE PROCEDURE

5.1 Definitions

- 5.1.1 A "grievance" is a statement by a unit member or the Association that the District has allegedly violated, misinterpreted or misapplied an express term or provision of this Agreement and by reasons of such violation his/her/its rights have been adversely affected.
- 5.1.2 A "grievant" is an individual unit member or the Association who alleges that a grievance has occurred. If two or more unit members have the same or similar grievance, then the District shall process the first grievance filed and shall apply the remedy thereto to all other grievances filed on the same or similar subjects.
- 5.1.3 "Days" shall consist of days during which the District central office is open for business. Any time limits affected by the Winter or Spring breaks, shall be extended by ten (10) and five (5) days respectively.
- 5.1.4 The "immediate supervisor" is the manager having immediate jurisdiction over the grievant who has been designated by the District to adjust grievances. Normally the "immediate supervisor" will be the grievant's *Principal*. In the case of a traveling unit member, the "immediate supervisor" shall be the *Principal* at the site where the alleged violation took place, or the departmental supervisor if the allegation is not site based.
- 5.1.5 *An alleged violation, misinterpretation, or misapplication of the Contract by a District administrator other than the grievant's immediate supervisor, shall be grieved beginning at Formal Level Two of the grievance procedure.*
- 5.1.6 *The "grievance forms" shall be appropriate to each formal level of the grievance procedure to include formal levels one through four. The "grievance forms" are contained within Appendix \_\_\_\_.*

5.2 Purpose

- 5.2.1 The purpose of this procedure is to secure, at the lowest possible administrative level, equitable solutions to an alleged grievance. *Both parties agree that these proceedings will be kept as informal and confidential as may be appropriate at any level of the procedure. The issuance of an arbitration decision is a matter of public record.*
- 5.2.2 ~~Nothing contained herein will be construed as limiting the right of any unit member having a grievance to discuss the matter informally with an appropriate member of the administration and to have the grievance adjusted without intervention by the~~

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~~Association, provided that the adjustment is not inconsistent with the terms of the Agreement and that the Association has been given an opportunity to be present at such adjustment and to state its views. The right to be present shall mean present without speaking, unless invited to by both parties. To state its views shall mean a brief statement at the end of the meeting between the parties prior to adjournment.~~

5.2.3

~~Time limits specified at each level shall be considered maximums and every effort shall be made to expedite the process. The time limits may, however, be extended by mutual agreement. If a grievance is filed towards the end of the school year, the parties shall make a good faith effort to shorten the time limits so that the grievance is resolved prior to the end of the school year or as soon thereafter as possible.~~



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5.3

Procedure

5.3.1

Informal Level:

Before filing a formal grievance the grievant shall attempt to resolve the alleged grievance by having an informal conference with his/her immediate supervisor. Such a conference shall be held within twenty (20) days of the occurrence of the act or omission giving rise to the grievance, or within twenty (20) days from the date the grievant has, with reasonable diligence, knowledge of the act or omission.

**5.3.1.1 If the grievant is not satisfied with the disposition of the grievance at the Informal Level and intends to pursue the matter, then, within ten (10) days after presentation of the grievance at the Informal Level, the grievant shall file a Formal Level One grievance in writing with his/her immediate supervisor.**

5.3.2

Formal Level One:

~~If the grievant is not satisfied with the disposition of the grievance at the Informal Level and wishes to pursue the matter then, within ten (10) days after presentation of the grievance at the Informal Level, the grievant shall file the grievance in writing with his/her immediate supervisor. Following receipt of the written grievance, the immediate supervisor shall arrange a meeting with the grievant to review and discuss the grievance. The immediate supervisor shall arrange the meeting and provide a written response to the grievant within ten (10) days of the receipt of the written grievance.~~

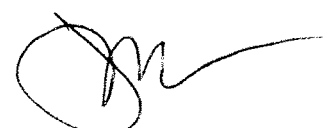
**5.3.2.1 A Formal Level One grievance shall be presented in writing to the immediate supervisor using the grievance form, with a copy simultaneously provided to the Association. The immediate supervisor shall meet with the grievant and designated Association representative within five (5) days of receipt of the grievance. The immediate supervisor shall provide a written disposition of the grievance, including the reasons therefor, to the grievant(s) and the Association within five (5) days of such meeting. These timelines shall be deemed extended if the grievant(s) and the Association representative are unavailable to meet.**

**5.3.2.2 If the grievant is not satisfied with the disposition of the grievance at Formal Level One, then the grievant may, within ten (10) days of receipt of the decision at Formal Level One, appeal in writing to Formal Level Two to the District's designated Grievance Officer, with a copy simultaneously provided to the Association.**

5.3.3

Formal Level Two:

~~If the grievant is not satisfied with the disposition of the grievance at Formal Level One, then the grievant may appeal, in writing, the decision at Formal Level One to the District's designated Grievance Officer. Such an appeal shall occur within five (5) days of receipt of the decision at Formal Level One. Following receipt of the appeal, the District's designated Grievance Officer shall arrange a meeting with the grievant to review and discuss the grievance. The District's designated Grievance Officer shall arrange the meeting and provide written response within ten (10) days of the receipt of the appeal.~~



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5.3.3.1 *The District's designated Grievance Officer shall meet with the grievant and designated Association representative within five (5) days of receipt of the grievance appeal and shall provide a written disposition of the grievance, including the reasons therefor, to the grievant(s) and the Association within five (5) days of such meeting. These timelines shall be deemed extended if the grievant(s) and/or Association representative are unavailable to meet.*

5.3.3.2 *If a grievance is not resolved at Formal Level Two, the two parties may mutually agree to implement the "local grievance resolution process" as contained in Section 5.3.4. The parties shall have ten (10) days from receipt of the written decision in Section 5.3.3.1 above to reach mutual agreement on whether to proceed to "local grievance resolution." If the two parties fail to reach mutual agreement, then within twenty (20) subsequent days the grievant may request in writing to the Association's Executive Board, at its next regularly scheduled meeting, that the Association submit the grievance to binding arbitration as contained in Section 5.3.5.*

5.3.4 Formal Level Three:

~~If the grievant is not satisfied with the disposition of the grievance at Formal Level Two, then the grievant may, within five (5) days of the receipt of the decision at Formal Level Two, request in writing that the Association submit his/her grievance to binding arbitration. The Association, by written notice to the District's designated Grievance Officer within ten (10) days after receipt of the request from the grievant, may submit the grievance to binding arbitration. If any question arises as to the arbitrability of the grievance, such question shall be ruled upon by the arbitrator.~~

5.3.4.1 ~~The parties shall attempt to select a mutually acceptable arbitrator. If agreement is not reached within five (5) days of the Association's submission of the grievance to binding arbitration, the parties shall request a list of arbitrators from either the California State Conciliation Service or the American Arbitration Association. The decision as to who strikes the first name shall be determined by the flip of a coin. The parties shall alternately strike names from the list until only one name remains. This person shall serve as the arbitrator. 5.3.4.1 The District and the Association shall convene a "local grievance mediation session."~~

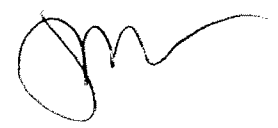
5.3.4.2 ~~The arbitrator shall have no power to amend, alter, change, add to, or subtract from any of the terms of this Agreement. The arbitrator shall make a ruling on whether or not there has been a violation, misapplication or misinterpretation of the Agreement as alleged in the grievance. The decision and remedy, if any, of the arbitrator shall be in writing and be based upon the evidence and arguments presented to him/her by the respective parties in the presence of each other or in post hearing briefs.~~

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- ~~5.3.4.3~~ The decision of the arbitrator shall be final and binding.
- ~~5.3.4.4~~ If the Board or the Association later files a judicial action claiming that the arbitrator exceeded his/her authority, the parties agree that the facts of said claim shall be presented to the courts.
- ~~5.3.4.5~~ All costs for services of the arbitrator, including, but not limited to, per diem expenses, travel and subsistence expenses and the cost of any hearing room will be borne equally by the Board and the Association. All other costs, except for reasonable release time, will be borne by the party incurring them.
- 5.3.4.1** *The District and the Association shall convene a "local grievance resolution session" within ten (10) days of mutually agreeing to utilize this process.*
- 5.3.4.2** *The Association will designate up to three (3) representatives.*
- 5.3.4.3** *The District Superintendent will designate up to three (3) District representative(s).*
- 5.3.4.4** *The representatives for both parties will have full authority to reach agreement.*
- 5.3.4.5** *If the Association and the Superintendent or his/her designee have not resolved the grievance within twenty (20) days from the last meeting of the "local grievance resolution session," the grievant may request in writing to the Association's Executive Board, at its next regularly scheduled meeting, that the Association submit the grievance to binding arbitration as contained in Section 5.3.5.*

**5.3.5** *Formal Level Four*

- 5.3.5.1** *If the Association proceeds to arbitration, it shall notify the District in writing within five (5) days of the meeting referenced in Section 5.3.3.2 or Section 5.3.4.5 and shall simultaneously request a list of five (5) arbitrators from the California State Conciliation Service. Within ten (10) days of receiving a list of arbitrators from the California State Conciliation Service, representatives of the District and the Association shall agree upon an arbitrator and contact the arbitrator within two (2) days to schedule dates for arbitration sessions. The decision as to who strikes the first name shall be determined by the flip of a coin. The parties shall alternately strike names from the list until only one name remains. This person shall serve as the arbitrator.*
- 5.3.6.2** *The arbitrator's decision shall be in writing and shall set forth the findings of fact, reasoning, and conclusions of the issues submitted. The arbitrator shall be without power or authority to make any decision that requires the commission*



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*of an act prohibited by law or which is a violation of the terms of this Agreement. The arbitrator shall have no power to amend, alter, change, or add to or subtract from any of the terms of this Agreement. However, it is agreed that the arbitrator is empowered to include in any award such as financial reimbursement or other remedies as proposed in the grievance. The decision of the arbitrator shall be submitted to the Association and the District and will be final and binding upon the parties. If any question arises as to the arbitrability of the grievance, such question will be ruled upon by the arbitrator before he/she hears the merits of the grievance, if it has been determined to be arbitrable.*

**5.3.6.3** *All costs for the services of the arbitrator, including but not limited to, per diem expenses, travel and subsistence expenses, and the cost, if any, of a hearing room, shall be borne equally by the District and the Association. All other costs, except for release time for the grievant(s), Association representative(s), and witnesses, shall be borne by the party incurring them.*

**5.3.7** *All documents, communications and records dealing with the processing of a grievance shall be filed in a separate grievance file and will not be kept in the personnel file of any unit member.*

**5.3.8** *The written statement of the grievance or appeals shall contain the provisions of the Agreement alleged to have been violated, the circumstances involved, the decision, if any rendered at the previous level, and the specific remedy sought.*

**5.3.9** *The filing or pendency of a grievance shall not delay or interfere with implementation of any District action during the processing thereof.*

**5.4 Time Limits**

**5.4.1** *Time limits provided for at each level shall begin the day following receipt of the grievance appeal or written decision.*

**5.4.2** *The time limits specified at each level should be considered the maximum and every effort should be made to expedite the process. The time limits may, however, be extended in writing by mutual agreement.*

**5.4.3** *If the grievance is not processed by the grievant in accordance with the time limits set forth in this Article, then the grievance shall be considered settled on the basis of the decision last made by the District. If the District fails to respond to the grievance in accordance with the time limits set forth in this Article, then the grievance shall be deemed denied and the grievant may proceed to the next level.*

**5.4.4** *If a grievance has not been resolved by the end of the school year, then the grievance clock stops and resumes after the first ten (10) student days at the start of the following school year at the same grievance level previously*



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*reached. The grievant shall have the right to exercise his/her discretion whether or not to waive, in writing, the above referenced timeline and continue the grievance procedure from the last day of the school year.*

**5.5 Rights of Representation**

**5.5.1** *A grievant may be represented by an Association representative(s) at all levels of the grievance procedure, to include the Informal Conference.*

**5.5.2** *A unit member may at any time present grievances to the District, and have such grievances adjusted, without the intervention of the Association, as long as the adjustment is reached prior to arbitration and such adjustment is not inconsistent with terms of the written agreement. The District shall provide a copy of the grievance to the Association within three (3) days of receipt of the grievance. If any employee presents a grievance on his/her own behalf, the Association shall have the right to be present and state its views at all grievance meetings. The District shall not agree to a resolution of the grievance until the Association has received a copy of the grievance and the proposed resolution and has been given the opportunity to file a response.*

**5.5.3** Reasonable release time shall be granted for processing grievances, however, meetings will normally be scheduled at a time that will not conflict with regular unit members' instructional duties. However, unusual circumstances may warrant that a grievance meeting be conducted during the grievant's regular instructional time. When arbitration hearings are scheduled so as to conflict with the work hours of the grievant, representatives, and/or witnesses, release time without loss of salary or benefits will be provided.

**5.6 No Reprisals**

**5.6.1** *No reprisals of any kind shall be taken by the District against the grievant, any participant, the Association, or any party in interest in the grievance procedure.*

**5.4 ~~Miscellaneous~~**

~~5.4.1~~ ~~The written statement of the grievance or appeals shall contain the provisions of the Agreement alleged to have been violated, the circumstances involved, the decision, if any rendered at the previous level, and the specific remedy sought.~~

~~5.4.2~~ ~~No reprisals shall be taken by the District or the Association against any participant in the grievance procedure.~~

~~5.4.3~~ ~~A unit member may be represented by himself/herself, or, at his/her option by an Association representative up to and including Formal Level Two. The District's designated Grievance Officer or his/her designee may be present at each level of the procedure.~~

~~5.4.4~~ ~~Time limits for appeal provided in each Level shall begin the day following receipt of written decision by the parties in interest.~~

~~5.4.5~~ ~~If the grievance is not processed by the grievant in accordance with the time limits~~



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~~set forth in this Article, then the grievance shall be considered settled on the basis of the decision last made by the District. If the District fails to respond to the grievance in accordance with the time limits set forth in this Article, then the grievance shall be deemed denied and the grievant may proceed to the next level.~~

~~5.4.6 All documents, communications and records developed for the processing of a grievance will be filed in a separate grievance file and will not be kept in the personnel file of the grievant or any of the participants.~~

~~5.4.7 The filing or pendency of a grievance shall not delay or interfere with implementation of any District action during the processing thereof.~~

~~5.5.4 Reasonable release time shall be granted for processing grievances, however, meetings will normally be scheduled at a time that will not conflict with regular unit members' instructional duties. However, unusual circumstances may warrant that a grievance meeting be conducted during the grievant's regular instructional time. When arbitration hearings are scheduled so as to conflict with the work hours of the grievant, representatives and/or witnesses, release time without loss of salary or benefits will be provided.~~