

ARTICLE 14: GRIEVANCE PROCEDURE

14.1 Definitions

“Grievance” shall mean an alleged violation, misapplication or misinterpretation of a specific provision of this Agreement which adversely affects the grievant(s).

“Grievant” shall mean a unit member(s) covered by this Agreement filing a grievance. In a case of multiple grievance claims on the same issue, the District may elect to hear only the first written grievance filed, and the decision rendered shall be applicable to all claims on the same issue, arising from the same set of circumstances. In addition, the Association either on its behalf, or on behalf of an affected member, shall have the right to initiate a grievance which affects more than one unit member at a single worksite, or unit members in more than one worksite.

“Conferee” shall mean an Association representative who shall assist the unit member in presenting and processing the grievance. An immediate supervisor with whom a grievance is filed may also choose a representative.

“Association” shall mean the employee organization recognized by the Board of Education as the exclusive representative for the unit of employees covered by this Agreement.

“Days” shall mean any day on which the central administrative offices of the District are open for business.

“Immediate Supervisor” shall be the first level administrator having immediate jurisdiction over the grievant, and who has been designated by the Superintendent to adjust grievances.

14.2 Time Line

A District grievance form shall be completed in writing by the unit member within ten (10) days of the occurrence or within ten (10) days of when the unit member could reasonably have known of the occurrence, act or omission giving rise to the grievance.

14.3 Time Line Extensions

Time limits affected by the winter recess shall be extended by ten (10) days; and time limits affected by the spring or summer recess shall be extended by five (5) days.

14.4 General Provisions

14.4.1 The purpose of this procedure is to attempt to secure equitable solutions to grievances. All parties agree that these proceedings shall be kept informal and confidential, and that the grievant and immediate supervisor should attempt to resolve the grievance at the informal level.

14.4.2 The filing of a grievance shall in no way interfere with the right of the District to proceed in carrying out its management responsibilities subject to the final decision of the grievance.

In the event the alleged grievance involves an order, requirement or other directive, the grievant shall fulfill or carry out such order, requirement or other directive pending the final decision of the grievance.

14.4.3 The unit member and immediate supervisor shall have the right to include in the grievance hearings such witnesses as they deem necessary to develop facts pertinent to the grievance. These names shall be made available to both parties upon request. Such witnesses shall be in addition to the conferee that either party may select.

14.4.4 Although a specific time period is provided for administrative decisions at each level of the grievance procedure, it is recognized that multiple grievance claims must be processed in a sequential manner. Consequently, at each level of the procedure, grievance claims shall be assigned consecutive numbers based upon the time and date on which written grievances are received. Administration personnel shall process such numbered grievances in a sequential manner, following a pattern that first filed will be first considered.

14.5 **Level I (Informal Procedure)**

The unit member shall meet with the immediate supervisor to discuss the potential grievance in an attempt to resolve it informally. If the potential grievance is not resolved at this level, the unit member may then proceed to Level II.

14.6 **Level II (Formal Procedure)**

Within ten (10) days of the occurrence, or within ten (10) days of when the unit member could reasonably have known of the occurrence, act or omission giving rise to the grievance, the grievant must present his/her grievance in writing on the District grievance form to the immediate supervisor. This District form shall contain a clear and concise statement of the grievance, the circumstances involved, the decision rendered at the informal conference, and the specific remedy sought. The immediate supervisor shall

communicate a decision to the unit member in writing within ten (10) days after receiving the grievance. If the administrator does not respond within the time limits, the grievant may appeal to the next level. Within the above time limits, either party may request a personal conference to discuss the grievance. Either the grievant or the immediate supervisor may have a conferee present at such a conference.

14.7 **Level III (Appeal to Superintendent)**

If the grievant is not satisfied with the decision at Level II, the unit member may, within ten (10) days appeal the decision to the Superintendent or his/her designee. This written appeal shall include a copy of the original grievance; the appeals and the decisions rendered at previous levels; and a clear, concise statement of the reasons for the appeal. The Superintendent, or his/her designee, shall communicate a decision within ten (10) days. If the Superintendent, or designee, does not respond within the time limits provided, the grievant may appeal to the next level.

14.8 **Level IV (Binding Arbitration)**

If the grievant is not satisfied with the decision at Level III, the unit member may, within ten (10) days, submit a written request to the Association for arbitration of the dispute. The Association may submit the grievance to arbitration within ten (10) days of its receipt of the request. The Association and the District shall attempt to agree upon an arbitrator. If no agreement can be reached within five (5) days, the parties shall request the California State Conciliation Service to supply a panel of five (5) names of persons experienced in hearing grievances. Each party shall alternately strike a name until only one name remains. The remaining panel member shall be the arbitrator. The order of striking shall be determined by lot.

14.8.1 The arbitrator's decision shall be in writing and shall set forth the findings of fact, reasoning conclusions of the issue(s) submitted.

The arbitrator shall be without power of authority to make any decision which requires the commission of an act prohibited by law or which is a violation of the terms of this Agreement. He/she may not add to, subtract from, or modify this Agreement. However, it is agreed that the arbitrator is empowered to include in any award such financial reimbursement or other remedies as he/she judges to be proper. The decision of the arbitrator shall be submitted to the Association and the Superintendent, 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 only after he/she has had an opportunity to hear the merits of the grievance.

14.8.2 All costs for the services of the arbitrator, including, but not

limited to, per diem expenses, his/her travel and subsistence expenses, and the cost of any hearing room, will be borne equally by the District and the Association. All other costs, except for release time for the grievant(s), Association representative(s) and others as provided by law, shall be borne by the party incurring them.

14.9 Time Limits

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

14.9.2 Since it is important that grievances be processed as rapidly as possible, the time limits specified at each level should be considered to be maximums, and every effort should be made to expedite the process. The time limits may, however, be extended by mutual written agreement.

14.9.3 In the event a grievance is filed at such a time that it cannot be processed through all the steps in this grievance procedure by the end of the school year; and, if left unresolved until the beginning of the following school year could result in harm to an aggrieved person, the time limits set forth herein will be reduced so that the procedure may be exhausted prior to the end of the school year or as soon as practicable.

14.10 Rights of Representation

A unit member alleging a grievance may be represented at all stages of the grievance procedure by an Association-designated representative.

14.11 No Reprisals

No reprisals of any kind will be taken by any member or representative of the Administration or the Board of Education against any aggrieved party, any party of interest, any member of the Association or any other participant in the grievance by reason of such participation.

14.12 Miscellaneous

14.12.1 If a grievance arises from action or inaction on the part of a member of the administration at a level above the principal or immediate supervisor, the aggrieved party shall submit such grievance in writing directly to the Superintendent and the Association with the processing of such grievance to commence at Level III.

- 14.12.2 When it is necessary for a representative designated by the Association to investigate a grievance, or attend a grievance meeting or hearing during the day, he/she will, upon notice to the Principal or immediate supervisor, be released without loss of pay in order to permit participation in the foregoing activities. Any unit member who is requested to appear in such investigations, meetings or hearings as a witness will be accorded the same right.
- 14.12.3 All documents, communications and records dealing with the processing of a grievance shall be filed in a separate grievance file and shall not be kept in the personnel file of any of the participants.
- 14.12.4 The Association and District shall mutually agree upon a form for filing grievances.
- 14.12.5 Upon mutual written agreement of the Association and the Superintendent, a grievance may be taken directly to arbitration.
- 14.12.6 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 the terms of this written Agreement. If a unit member 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.

14.13 Expedited Arbitration

Upon mutual agreement of the parties, the arbitration may be held under the Expedited Arbitration Rules as provided for in this Article.

14.14 Expedited Arbitration Rules

14.14.1 Representation by Counsel

Any party may be represented at the hearing by counsel or other representative.

14.14.2 Attendance at Hearings

Persons having a direct interest in the arbitration are entitled to attend hearings. The Arbitrator may require the retirement of any witness during the testimony of other witnesses. The Arbitrator shall determine whether any other person may attend the hearing.

14.14.3 Oaths

Before proceeding with the first hearing, the Arbitrator shall require witnesses to testify under oath.

14.14.4 No Stenographic Record

There shall be no stenographic record of the proceedings.

14.14.5 Proceedings

The hearing shall be conducted by the Arbitrator in whatever manner will most expeditiously permit full representation of the evidence and arguments of the parties. The Arbitrator shall take appropriate minutes of the proceedings. Normally, the hearing shall be completed within one (1) day. In unusual circumstances, and for good cause shown, the Arbitrator may schedule an additional hearing within five (5) days.

14.14.6 Arbitration in the Absence of a Party

The arbitration may proceed in the absence of any party who, after due notice, fails to be present. An award shall not be made solely on the default of a party. The Arbitrator shall require the attending party to submit supporting evidence.

14.14.7 Evidence

The Arbitrator shall be the sole judge of the relevancy and materiality of the evidence offered.

14.14.8 Evidence by Affidavit and Filing of Documents

The Arbitrator may receive and consider evidence in the form of an affidavit, but shall give appropriate weight to any objections made. All documents to be considered by the Arbitrator shall be filed at the hearing. There shall be no post-hearing briefs.

14.14.9 Close of Hearings

The Arbitrator shall ask whether parties have any further proofs to offer or witnesses to be heard. Upon receiving negative replies, the Arbitrator shall declare and note the hearing closed.

14.14.10 Waiver of Rules

Any party who proceeds with the arbitration after knowledge that any provision or requirement of these rules has not been complied with, and who fails to state objections thereto in writing, shall be deemed to have waived the right to object.

14.14.11 Serving of Notices

Any papers of process necessary or proper for the initiation or continuation of an arbitration under these rules, and for any court action in connection therewith, or for the entry of judgment on an award made thereunder, may be served on such party:

- 1) By mail addressed to such party or its attorney at its last known address;
- 2) by personal service; or,
- 3) as otherwise provided in these rules.

14.14.12 Time of Award

The award shall be rendered promptly by the Arbitrator and, unless otherwise agreed to by the parties, not later than five (5) business days from the date of the closing of the hearing.

14.14.13 Form of Award

The award shall be in writing and shall be signed by the Arbitrator. If the Arbitrator determines that an opinion is necessary, it shall be in summary form.

14.14.14 Delivery of Award to Parties

Parties shall accept as legal delivery of the award the placing of the award, or a true copy thereof, in the mail by the Arbitrator, addressed to such party at its last known address, or to its attorney, or personal service of the award, or the filing of the award in any manner which may be prescribed by law.

14.14.15 Expenses

The expenses of witnesses for either side shall be paid by the party producing such witnesses.