

Overview

The purpose of this process is to provide for an internal complaint resolution procedure that is consistent with the requirements of state law and Board policy for resolving complaints concerning employee discipline, employee termination and workplace safety. This process is intended to serve as the written document that sets forth the procedure for the complainant and the District to use to process a complaint.

Overall points to consider regarding the Complaint Resolution Process

- An employee must file the complaint or appeal a decision for themselves. No third party complaints or appeals will be considered.
- Both the District and the complainant shall not be retaliated against for the filing of or the result of a complaint throughout the process.
- This process may be revised, updated or repealed at any time.
- The District reserves the right to consolidate complaints for processing, if appropriate.
- A complaint shall be considered waived if not filed or appealed within the designated timeline.
- No recordings (video or audio) shall be allowed at any point in the process other than by the identified court reporter.
- Complainants and the District are allowed representation of their choosing throughout the process.

Eligibility

Who is eligible to use this process:

1. Non-union employees effective October 1, 2011.
2. Represented employees at the expiration of current Labor Agreement – July 1, 2012.
3. Not applicable to student employees or work study employees.

What items are covered under this process:

1. Discipline resulting in:
 - a. Loss of pay or time.
 - b. Suspension.
 - c. Demotion.

The process is not applicable for:

- Verbal warnings
- Written warnings
- Corrective Action Plans
- Performance Improvement Plans
- Professional Development Plans
- Performance Evaluations or Reviews
- Administrative suspension with pay pending investigation
- Non-disciplinary changes in wages, benefits or positions/assignments

2. Termination

Process is not applicable for termination as a result of:

- Layoff
- Non-renewal
- Voluntary Termination (resignation, retirement)
- Job abandonment (No-call, no-show)
- Elimination of position and subsequent termination
- Inability to perform the functions of the position

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- Failure to meet the qualifications of a position
- End of temporary, substitute or limited-term assignment
- Reduction in hours or in full-time equivalency
- Job transfer or change in assignment
- Non-reappointment to an extra-curricular assignment

3. Workplace Safety

Defined as: *Conditions of employment affecting an employee's safety, the safe operation of workplace equipment and tools, safety of the physical work environment, personal protective equipment and workplace violence.*

- A complaint can be filed over a workplace safety issue if the safety of at least one employee is involved (versus visitors or students only).
- The issue must concern safety of a person (not the "safety" of one's vehicle or other possession).
- The complaint must be filed by an employee who is presently affected by the issue or who might reasonably in the future be affected by the issue.
- The issue presented by the complaint must be under the reasonable control of the District.
- The District reserves the right to require additional documentation if required.

Process

Steps in the process:

1. Notice to supervisor.
2. Appeal to District Superintendent or designee.
3. Appeal to Impartial Hearing Officer.
4. Final appeal to the School Board.

Step One:

The employee, within five (5) working days from the date of discipline, termination or event giving rise to safety concern, will provide the following in writing on the Grievance Form to their immediate supervisor:

A clear and concise statement of the issue or complaint including:

- Date incident occurred and witnesses to the incident
- Whether the grievance concerns a disciplinary action, a termination, or a workplace safety issue
- Process (or policies) violated
- Steps taken to informally resolve the issue
- Why the employee disagrees with the decision
- Remedy sought
- Employee's signature and date

In order to provide enough time for the organization to do a thorough investigation of the issue, the immediate supervisor will respond with a decision within fifteen (15) working days, including rationale for the decision.

Step Two:

If the employee does not agree with the result of Step One, the employee may appeal the decision to the District Superintendent or designee. The employee, within five (5) working days of the issuance of the decision

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given from Step One, must provide the following in writing on the Grievance Appeal Form to the Superintendent or designee:

A clear and concise statement of the issue or complaint including

- All information provided in Step One
- Any additional information
- Rationale regarding why the employee disagrees with the Step One decision

Note: The Secretary to the Superintendent will serve as the gate-keeper and distributor of all information.

The District Superintendent or designee will first determine if the applicable issue qualifies for application under this process (qualifying discipline, termination, workplace safety). Once determined that the issue qualifies, the Step Two process will proceed.

The District Superintendent or designee will then call a meeting of all appropriate parties to discuss the complaint.

In order to provide enough time for the organization to do a thorough investigation of the issue, the District Superintendent or designee will respond with a decision within fifteen (15) working days, including rationale for the decision.

Step Three:

If the employee does not agree with the result of Step Two, the employee may appeal the decision to an Impartial Hearing Officer (IHO). The District will identify a pool of potential IHOs for the complainant to choose from.

The employee, within five (5) working days of the issuance of the decision given from Step Two, must provide the following in writing on the Grievance Appeal Form to the Superintendent or designee:

A clear and concise statement of the issue or complaint including

- All information provided in Step One and Two
- Any additional information
- Rationale regarding why the employee disagrees with the previous decisions

The complainant will inform the Superintendent or designee in writing within five (5) working days of their choice of IHO.

After the employee chooses an IHO, the Secretary to the Superintendent will serve as the gate-keeper and distributor of all information. The Secretary to the Superintendent will gather all information and exhibits from prior steps in the process and distribute to the IHO and complainant prior to the hearing.

The following shall apply to the hearing before an Impartial Hearing Officer:

- Neither the employee nor the District can discuss the case with the IHO in advance of the formal hearing. The only communication will be for scheduling purposes.
- Every effort will be made to schedule a hearing within fifteen (15) working days. However, if, due to scheduling and availability issues, it may be necessary to use an alternate IHO or mutually agree on rescheduling the hearing.
- The IHO cannot have an interest in the case. The IHO will determine whether they have a conflict of interest in the case and report so to the Superintendent or designee.
- It is not expected that there will be a cost to using an IHO, but, if there is a cost incurred for the IHO and/or a transcription of the hearing, the District will pay the costs.

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- The hearing will be documented by a court reporter. If there is a cost incurred for transcribing the hearing, the District will pay the costs.
- Any witnesses will need to be notified of the hearing by the party that will call them, witnesses will not be notified by the IHO.

Hearing Process

The hearing will be presided over by the IHO. The complainant and the District will be allowed a maximum of one hour each to present necessary information at the hearing. The complainant will go first for both the initial statement and presentation of witnesses. The IHO has discretion to allow additional witnesses with time given to both parties equally.

The Hearing shall be held in compliance with the Wisconsin Open Meetings Law when applicable.

The IHO will only consider information provided at the hearing. The IHO may uphold the decision in Step Two or may over-rule the prior decision if it is determined that the District acted in a way that was arbitrary or capricious and recommend appropriate action to be taken. The IHO will issue a timely written decision, making every effort to make a decision within fifteen working days.

The decision will include:

1. A summary of facts and evidence
2. A summary of relevant policies
3. Analysis of above
4. Decision

Step Four:

If either the employee or the District does not agree with the result of Step Three, they may appeal the decision to the School Board.

The employee or District, within five working days of the date of issuance of the decision given from Step Three, will provide the following in writing on the Grievance Appeal Form to the Superintendent or designee:

1. A clear and concise statement of the issue or complaint including
2. All information provided in Step One, Two and Three
3. Rationale regarding why the employee or District disagrees with the previous decision
4. Information not previously furnished will not be considered at this step

The Secretary to the Superintendent will serve as the gate-keeper and distributor of all information. The Secretary to the Superintendent will gather all information and exhibits from prior steps in the process and distribute to the School Board, Board Counsel and complainant prior to the Board proceeding.

The proceeding before the School Board will be scheduled at the next practical board meeting as appropriate and shall be held in compliance with the Wisconsin Open Meetings Law when applicable.

Board Proceeding Process

The proceeding before the Board will be informal and consist of oral presentation by both sides. The complainant and the District will be allowed a maximum of fifteen (15) minutes each to present necessary information. The complainant will go first in the presentation.

The proceeding is presided over by the Board Counsel, as long as a Board quorum is present.

During the conduct of the proceeding, all attendees will be required to refrain from in any way interfering with or disturbing the process. Anyone interfering with or disturbing the proceeding will be removed from the premises.

The Board has the right to adjourn the proceeding after the presentations are concluded to determine if additional information is needed. The Board Counsel will ask questions on behalf of the Board.

The Board has the authority to hire a court reporter if they deem necessary. If there is a charge for this service, the costs will be paid by the District.

The Board will only consider information provided in advance by the Secretary of the Superintendent and oral presentations at the proceeding. The Board will deliberate after the statements are concluded and after District and complainant are dismissed.

At deliberations, the Board can do either of the following, at their discretion:

1. Issue a binding and final decision determining whether or not the District acted in an arbitrary or capricious manner and making any final determination regarding appropriate action if any
2. Delay a decision providing an estimated timeframe when a decision would be given

The Board will issue a timely written decision, making every effort to make a decision within fifteen (15) working days with the goal of issuing a decision immediately.

There shall be no subsequent appeal of the Board decision. The decision of the School Board is final and binding on all parties.

Grievances Filed by the District Administrator

In the event a grievance is filed by the District Administrator, it shall be initially filed with the Board President and Board Clerk according to the deadlines established within Step 1 of this grievance procedure, above, and the Board shall have the role and responsibilities of the District Administrator in Step 2 and elsewhere in the process. All other notices provided by the District Administrator acting as a grievant shall similarly be filed with the Board President and Board Clerk.

Meeting and/or Hearing Times

An attempt will be made to hold Grievance meetings and/or hearings outside of the grievant's workday. However, if a meeting or hearing is held during the grievant's work day the grievant's time will be unpaid.

Date Received:

4110E-A

GRIEVANCE FORM

Grievance #

Name:

Position:

Date Filed:

Date of Incident:

Grievance Category: Employee Discipline Employee Termination Workplace Safety

State in detail the facts including the times and places and description of the particular incident(s) and identify any witnesses:

(Attach Additional Documentation if Necessary)

List the policy (or policies) violated:

What steps have been taken to resolve the issue:

Why you disagree with the decision:

Remedy sought:

Employee's Signature

Date

GRIEVANCE RESPONSE FORM

Grievance #

Employee Name:

Date:

Date Grievance Received:

Facts and Issues Regarding Decision:

Decision and Reasons for Decision:

Signature

Date

Name

Title

GRIEVANCE APPEAL FORM

Grievance #:

Name:

Position:

Date:

I wish to appeal Grievance #

This Complaint is therefore appealed to Step #: 2 3 4

Grievance Issue:

Reason for Appeal:

Employee's Signature

Date

**Agreement for Services
as
Impartial Hearing Officer
for
D.C. Everest Area School District**

I, _____, do hereby agree to provide services to D. C. Everest School District as a volunteer Impartial Hearing Officer in accordance with the District Complaint Resolution Policy. While performing such services, I will be an agent of D.C. Everest Schools and will be covered by the General Liability and Educators Legal Liability Insurance policies of the District (subject to all terms and conditions of these policies) while providing such services as a volunteer Impartial Hearing Officer.

As an Impartial Hearing Officer I understand and agree to the following:

- I 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 laws and policies covering public records, personnel records, and student records.
- As impartial hearing officer I shall neither add to, delete from, nor modify any Board policies or administrative rules or regulations, although it shall be within the purview of my duties as 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 factual findings, as an impartial hearing officer I will not to substitute my independent judgment for the judgment of the District provided that as the hearing officer I determine that the District’s conclusions and any action taken by the District were lawful, reasonable, were not arbitrary or capricious under all of the facts, circumstances, and applicable standards. However, as a hearing officer I may state in my decision that I believe 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 my alternate conclusion(s) or resolution as the hearing officer.

Dated this _____ day of _____,

D. C. Everest School District

Kristine Gilmore
Superintendent

Date

Date