

## **PART V**

### **GRIEVANCE PROCEDURE**

#### **1. PURPOSE**

The purpose of the grievance procedure is to provide an efficient and fair method for resolution of disputes related to employee termination, employee discipline, and workplace safety issues.

This procedure is intended to provide an orderly process for a prompt and equitable resolution when a concern has not been resolved. The District intends that whenever feasible, complaints or grievances be resolved at the lowest possible administrative level. Employees are encouraged to discuss problems or concerns with their supervisor or an appropriate administrator at any time.

It is the District's policy to treat all employees fairly and equitably. An employee has the right to bring a grievance to the District's attention without reprisal. Filing a grievance will not adversely affect an employee's employment status.

The District regards workplace safety issues as critical and, therefore will work to immediately resolve these issues at the place where the issue arises. However, if the workplace safety issue is not resolved, the employee may utilize this grievance process.

#### **2. GENERAL PROVISIONS**

The probationary period for classified employees is six months, classified and certificated administrators is one year, and certificated employees is one year. Only employees who have passed probation, substitute teachers, and administrators and teachers with one or more years of service may utilize the grievance procedure, as shown below.

An employee may not file or advance a grievance outside of the designated timeframes, unless the timelines are modified by written agreement of the parties.

In the event that the employee has not received a timely decision at the first step in the procedure, the employee may request review of the grievance by the Superintendent, or his or her designee.

At each stage of this grievance process, an employee may be represented by the employee's union, legal counsel, or any other person of his/her choice. An employee will not be compensated for time spent in processing his/her grievance and shall not initiate a grievance (or engage in grievance related activities) during work hours. Grievance hearings will not be scheduled during the employee's workday, unless release for attendance is approved by Office of Human Resources, Employment Relations Department.

A grievance must be submitted on an initiation form. Appeals and reports of disposition shall be processed on the appeals and disposition forms, respectively. Designated forms will be transmitted to the supervisor or principal, the employee, the employee's representative, and Employment Relations.

In no event shall any party be entitled to attorneys' fees or other costs associated with any step in this process.

### 3. DEFINITIONS

The term "grievance" as used in this procedure is a dispute between an employee and the District regarding his or her termination, discipline, or workplace safety, as defined herein.

The term "termination" as used in this procedure means a separation of a non-probationary employee from employment with the District because of unsatisfactory performance or conduct.

The term "Termination" shall not include the following:

- Layoffs
- Voluntary separations from service including, without limitation, quitting or resignation
- Retirements
- Removal of an employee from a position during his/her probationary period
- Contract non-renewals (for probationary employees only)

The term "discipline" as used in this procedure includes a written reprimand in the employee's central office file and unpaid suspensions because of performance or conduct issues, or a disciplinary demotion of a non-probationary employee.

"Employee discipline" shall not include the following:

- Plans of correction or performance improvement
- Performance evaluations or reviews
- Documentation of employee acts or omissions in an employment file
- Verbal or written supervisory letters
- Non-disciplinary wage, benefit, or salary adjustments; or reassignments
- Contract non-renewals (for probationary employees only)

The term "workplace safety" as used in this procedure means an alleged violation of any applicable standard established under state or federal laws or regulations relating to workplace safety or any violation of District policy related to the physical health and safety of the employee filing the grievance.

4. **PROCEDURE FOR EMPLOYEE GROUPS A, B, C, D, G, H, AND I**

Applicable Group(s) A, B, C, G, H, I:

A non-probationary employee (or administrator/teacher with one or more years of service) may file a written grievance with the Office of Human Resources, Employment Relations Department, within 15 business days of his or her termination, or receipt of discipline, or an inability to satisfactorily resolve a workplace safety issue with his or her immediate supervisor.

**FIRST STEP** - Upon receipt of a written grievance, the Chief Human Resources Officer will designate an appropriate designee to hear the grievance. The employee or his/her representative will be notified of the designee assigned to the grievance and asked to contact the designee to schedule the hearing. The designee shall meet with the parties within 15 workdays of receipt of the grievance or as soon as practicable to discuss the grievance and attempt to resolve it. If the employee or employee representative does not contact the designee to schedule the hearing within 30 calendar days of filing, the grievance will be considered withdrawn. Additionally, the grievance hearing must be held within 60 days of filing. This timeline may be waived by mutual agreement. The designee shall review documentation provided by both parties in support of the employee's position, may allow the parties to present brief overviews of their positions if this is deemed helpful, and may direct pertinent questions to the parties. The designee shall issue a written disposition of the grievance within 15 business days after the meeting. If the designee has not issued a written disposition within 15 business days of the meeting, the employee may provide written notice to the District objecting to the District's failure to comply with the deadline. From the date the employee provides such notice, the designee must issue the written disposition within 5 business days. If it fails to do so, the grievant may file a Second Step appeal of the matter.

**SECOND STEP** - Either the employee or the Administration may file an appeal of the designated administrator's disposition to an impartial hearing officer in a matter involving termination, disciplinary demotion, all suspensions, workplace safety issues, or written reprimands which are letters in the central office personnel file. The appeal must be filed with the Office of Human Resources, Employment Relations Division, within 15 of the grievant's workdays after the receipt of the designated administrator's disposition.

- a. **SELECTION OF AN IMPARTIAL HEARING OFFICER (IHO):** The Office of Accountability and Efficiency shall maintain a list of qualified IHO's which may not include present or former employees of the District, the labor unions, or the labor unions' legal counsel. Qualified IHO's may include, but are not limited to, those individuals available to be impartial hearing officers through the Wisconsin Employment Relations Commission or the Wisconsin Association of School Boards. The District will apply any standards developed by the State of Wisconsin for qualifying IHO's. IHO's for appealed matters shall be assigned at random from the list of qualified IHO's by the management of the Office of Accountability and Efficiency.

Within 10 calendar days of the receipt of the first step appeal, the Office of Human Resources, Employment Relations Department, shall contact the Office of Accountability and Efficiency to request the selection of an IHO. Employment Relations will copy the employee or the employee's representative in the request for the IHO. Once an IHO has been selected by the Office of Accountability and Efficiency, the employee or the employee's representative and Employment Relations will schedule a date for the hearing. If the employee or employee representative does not contact the designee to schedule the IHO hearing within 30 calendar days of the IHO being selected, the grievance will be considered withdrawn.

The IHO shall be compensated at his/her established regular rate for the hearing and time spent composing the decision, if such rate is charged. Any charges will be split evenly between the Administration and the party appealing the termination, disciplinary action, or workplace safety concern.

- b. **MEDIATION:** The IHO shall offer the parties an opportunity to mediate the dispute immediately prior to holding a hearing on the matter. During such mediation, the parties shall present their positions to the IHO, but no evidence shall be taken. If no resolution is achieved, the IHO shall immediately commence the hearing.
- c. **HEARING BEFORE THE IHO:** The IHO shall take testimony and evidence, and be responsible for the fair and orderly conduct of the hearing and preservation of the record. All testimony shall be taken and recorded under the supervision of the IHO.

The parties shall provide all exhibits to each other at least 10 workdays in advance of the hearing.

For disciplinary or termination hearings, the Administration shall have the burden of proof to show just cause for the action taken.

For hearings related to workplace safety, the employee has the burden of proof to show the action is necessary. The Administration shall have the burden of proof to justify the reasonableness of the action taken.

The IHO shall sustain, modify, or overturn the determination of the designated administrator based upon his or her review of the facts as presented.

The IHO shall submit a written decision to the Office of Human Resources, Employment Relations Department, within 15 workdays of the receipt of the hearing transcript, including the reasons for the decision. The Office of Human Resources shall communicate the decision to the parties through electronic means or U.S. mail.

**THIRD STEP** - The employee may appeal the decision of the IHO to the Board. The Administration may appeal the decision of the IHO to the Board only with the concurrence of the appropriate executive officer. The appeal must be filed within 10 workdays of

receipt of the IHO's decision. An appeal to the Board is permitted only in matters involving an employee termination, discipline, or workplace safety issues.

Any appeal to the Board shall be on written record (paper review). The Board procedures governing such reviews, including the circumstances in which a hearing may be conducted, will be located in the Appendices to the Board Rules. The appealing party shall supply a copy of the written record to the other party without charge.

This entire grievance procedure shall not be construed to create and is not intended to establish or give rise to any contractual rights between the Milwaukee Board of School Directors and any of its employees and is at all times subject to modification or elimination by the Board at its sole discretion.