

GRIEVANCE PROCEDURE FOR EMPLOYEES

Policy Code: **1750/7220**

It is the policy of the Transylvania County Board of Education (the “board”), in keeping with the ultimate goal of serving the educational welfare of children, to develop and practice reasonable and effective methods of resolving difficulties that may arise among employees. The intent is to reduce potential areas of grievances and to establish and maintain recognized channels of communications between staff and administration. The purpose of this procedure is to secure, at the lowest possible level, equitable solutions to the problems that arise from time to time and affect employees.

Each employee of the board has the right to present for resolution any grievance related to his or her employment and is encouraged to exercise this right without fear of retaliation. For this purpose, the following grievance procedure is established.

A. INFORMAL RESOLUTION

It is desirable for an employee and his or her immediate supervisor to resolve problems through free and informal communication. When informal procedures fail or are inappropriate or when the employee requests formal procedures, a grievance will be processed pursuant to the steps set forth in this policy.

B. DEFINITIONS

1. Days

Days are the working days, exclusive of Saturdays, Sundays, vacation days, or holidays, as set forth in the aggrieved employee’s employment calendar. In counting days, the first day will be the first full working day following receipt of the grievance. When a grievance is submitted on or after May 1, time limits will consist of all weekdays (Monday–Friday) so that the matter may be resolved before the close of the school term or as soon thereafter as possible.

2. Final Administrative Decision

A final administrative decision is a decision of a school employee from which no further appeal to a school administrator is available.

3. Grievance

A grievance is a formal written claim by an employee regarding specific decision(s) made by another employee and alleging that such decision(s) have adversely affected the person making the claim. A grievance may include, but is not limited to, the following allegations:

- a. that there has been a violation, misapplication, or misinterpretation of state

or federal law or regulations, school board policy, or administrative procedure;

- b. that an employee's employment status or the terms or conditions of his or her employment have been adversely affected; or
- c. that there exists a physical condition that jeopardizes an employee's health or safety or that interferes with an employee's ability to discharge his or her responsibilities properly and effectively.

The term "grievance" does not apply to any matter for which the method of review is prescribed by law, for which there is a more specific board policy providing a process for addressing the concern, or upon which the board of education is without authority to act. Claims of discrimination, harassment, or bullying must be processed under policy 1720/4015/7225, Discrimination, Harassment, and Bullying Complaint Procedure.

4. Grievant

The grievant is the employee(s) making the claim.

5. Official

The official is the person hearing and responding to the grievant.

6. Parties in Interest

"Parties in interest" refers to the grievant and the person against whom the grievance is filed.

C. TIMELINESS OF PROCESS

Failure by the official at any step to communicate a decision within the specified time limit will permit the grievant to appeal the grievance to the next step unless the official has notified the grievant of the delay and the reason for the delay, such as the complexity of the investigation or report. The official shall make reasonable efforts to keep the grievant apprised of progress being made during any period of delay. Delays may not impermissibly interfere with the exercise of the grievant's legal rights.

Failure by the grievant at any step to appeal a grievance to the next step within the specified time limit will be considered acceptance of the decision at that step, unless the grievant has notified the official of a delay and the reason for the delay and the official has consented in writing to the delay.

D. GENERAL REQUIREMENTS

1. All parties in interest and their representatives in any grievance filed pursuant to this policy shall conduct themselves in a professional manner at all times during the investigation and hearing of the grievance.
2. The board or an employee of the school system will take no reprisals of any kind against any party in interest or other employee on account of his or her participation in a grievance filed and decided pursuant to this policy.
3. Each decision will be in writing, setting forth the decision and reasons therefore, and will be transmitted promptly to all parties in interest.
4. All meetings and hearings conducted pursuant to this policy will be private.
5. The board and school system will consider requests to hear grievances from a group of grievants, but the board and officials have the discretion to hear and respond to grievants individually.
6. The board and administration will cooperate with the employee and representative in the investigation of any grievance and will furnish the employee or representative information pertinent to the grievance without cost to the grievant employee or the employee against whom the grievance is filed.
7. The employee may have a representative, including an attorney, at any stage of the grievance. However, if the grievant intends to be represented by legal counsel, he or she must notify the appropriate school official in advance so that school personnel also will have the opportunity to be represented by legal counsel.
8. All meetings and hearings will be arranged at the convenience of all parties involved whenever practicable. Should, in the judgment of the superintendent or designee, the investigation or processing of any grievance require the absence of the grievant and/or representative from regular work assignments, such absences will be excused without loss of pay or benefits.

E. PROCESS FOR GRIEVANCE

1. Filing a Grievance
 - a. A grievance must be filed as soon as possible but no longer than 30 days after disclosure or discovery of the facts giving rise to the grievance. For a grievance submitted after 30 days that claims a violation, misapplication, or misinterpretation of state or federal law, the superintendent or designee shall determine whether the grievance will be investigated after considering factors such as the reason for the delay; the extent of the delay; the effect of the delay on the ability of the school system to investigate and respond to the complaint; and whether the investigation of

the complaint is necessary to meet any legal obligations. However, employees should recognize that delays in filing a grievance may significantly impair the ability of the school system to investigate and respond effectively to such complaints.

- b. All grievances must be in writing, and the written statement of grievance must remain the same throughout all steps of the grievance procedure. The written grievance must include the following information: (1) the name of the school system employee or other individual whose decision or action is at issue; (2) the specific decision(s), action(s), or physical condition(s) at issue; (3) any local board policy, state or federal law, state or federal regulation, or State Board of Education policy or procedure that the grievant believes has been misapplied, misinterpreted, or violated; and (4) the specific resolution desired. If there is not a specific decision, action, or physical condition at issue, or no concern that federal or state law, federal or state regulation, State Board of Education policy or procedure, or board policy or procedure has been misapplied, misinterpreted, or violated, then the procedure established in policy 1742/5060, Responding to Complaints, is appropriate, and the principal or immediate supervisor shall address the concern following that policy.
- c. The employee(s) shall present the grievance in writing to his or her immediate supervisor or the supervisor's designee, unless the grievance alleges that a state or federal law has been misapplied, misinterpreted, or violated, in which case the grievance may be presented instead to the assistant superintendent of human resources (or to the superintendent if the grievant's supervisor is the assistant superintendent of human resources). The person receiving the grievance hereinafter will be referred to as the "official."

2. Response by Official

- ~~a.~~ ~~The official shall arrange for a grievance file number to be assigned by the human resources office.~~
- ~~b.~~a. In the event the official determines at the outset that review by the official is inappropriate, the official shall forward the formal grievance to the superintendent who will investigate and respond as provided below in subsection E.3.
- ~~b.~~ A meeting with the aggrieved employee(s) will take place at a mutually agreed-upon time within five days after receipt of the grievance.
- ~~c.~~ The official shall conduct any investigation of the facts necessary before rendering a decision.

e.d. The official shall provide the aggrieved employee(s) with a written response to the grievance within 10 days after the meeting.

3. Response by Superintendent

- a. If the grievant is dissatisfied with the official's response, the grievant may appeal in writing the decision to the superintendent for review by the superintendent or designee within five days of receipt of the official's response.
- b. The superintendent or designee shall arrange for a meeting with the employee(s) to take place within five days of the receipt of the appeal.
- c. The superintendent or designee shall conduct any investigation necessary before arriving at a decision. The superintendent or designee shall provide the aggrieved employee(s) with a written decision within 10 days after the meeting.

4. Appeal to the Board

If the grievant is not satisfied with the superintendent's response, the grievant may appeal the superintendent's decision and request a hearing before the board.

If the grievant has alleged a violation of a specified federal or state law, federal or state regulation, State Board of Education policy or procedure, or board policy or procedure, or has alleged that a specific decision of a school official adversely affects the grievant's employment status or the terms or conditions of his or her employment, the grievant shall have a right to appeal a final administrative decision to the board of education (see subsection E.4.a, Mandatory Appeals, below). If the grievant has not alleged such specific violations, he or she may request a board hearing, which the board may grant at its discretion (see subsection E.4.b, Discretionary Appeals, below).

a. Mandatory Appeals

- 1) If the grievant is not satisfied with the superintendent's response and has alleged a violation of a specified federal or state law, federal or state regulation, State Board of Education policy or procedure, or local board policy or procedure, or has alleged that a specific decision of a school official adversely affects the grievant's employment status or the terms or conditions of his or her employment, the grievant may appeal ~~in writing~~ the decision to the board. The grievant must submit the appeal in writing to the superintendent within 10 days of receiving the superintendent's response.

1)2) Upon receipt of the grievant's request, the superintendent shall verify whether the appeal to the board is mandatory. The superintendent shall forward his or her decision, the grievant's appeal, and any additional relevant documentation to the board.

2)3) A hearing will be conducted pursuant to policy 2500, Hearings Before the Board. As practicable, the hearing will be held at the next regularly scheduled board meeting, or as soon as possible thereafter in accordance with policy 2500. Alternatively, the hearing may be held at a called special meeting if the chairperson, upon consultation with the board attorney, determines that such a meeting would be in the best interests of the board and the parties involved.

3)4) The board will provide a final written decision within 30 days of receiving the appeal unless further investigation is necessary or the hearing necessitates that more time be taken to respond.

b. Discretionary Appeals

1) If the grievant is not satisfied with the superintendent's response but has not alleged a violation of a specified federal or state law, federal or state regulation, State Board of Education policy or procedure, or local board policy or procedure, or has not alleged that a specific decision of a school official adversely affects the grievant's employment status or the terms or conditions of his or her employment, the grievant may submit to the superintendent a written request for a hearing before the board of education within 10 days of receiving the superintendent's response.

1)2) Upon receipt of the grievant's request, the superintendent shall verify whether the appeal to the board is discretionary. The superintendent shall forward his or her decision, the grievant's appeal, and any additional relevant documentation to the board.

2)3) If the full board will be meeting within two weeks of the request for a hearing, the board will decide at that time whether to grant a hearing. Otherwise, the board chairperson will appoint a three-person panel to review the request and determine whether to (1) deny the appeal; (2) review the superintendent's decision on the written record only; or (3) grant a hearing. The panel will report the decision to the board. The board may modify the decision of the panel upon majority vote at a board meeting.

3)4) If the board denies the appeal, the decision of the superintendent will be final and the grievant will be notified within five days of

the board's decision.

4)5) If the board decides to grant a hearing, the hearing will be conducted pursuant to policy 2500. As practicable, the hearing will be held at the next regularly scheduled board meeting, or as soon as possible thereafter in accordance with policy 2500. Alternatively, the hearing may be held at a called special meeting if the chairperson, upon consultation with the board attorney, determines that such a meeting would be in the best interests of the board and the parties involved.

5)6) The board will provide a final written decision within 30 days of the decision to grant an appeal, unless further investigation is necessary or the hearing necessitates that more time be taken to respond.

F. RECORDS

Appropriate records shall be maintained in accordance with state and federal law.

Legal References: G.S. 115C-45(c); 126-16

Cross References: Prohibition Against Discrimination, Harassment, and Bullying (policy 1710/4021/7230), Discrimination, Harassment, and Bullying Complaint Procedure (policy 1720/4015/7225), Responding to Complaints (policy 1742/5060), Hearings Before the Board (policy 2500)

Adopted: