

Redress of Grievances - DHC

Purpose

The purpose of this policy is to provide employees an orderly process for the prompt and equitable resolution of grievances. The Board intends that, whenever feasible, complaints be resolved at the lowest possible administrative level.

Redress of Grievances

Employees shall have the right, in a peaceable manner that does not interfere with education in the District; to assemble together for their common goals and apply to those vested with the powers of government for redress of grievances or other purposes, by petition, address, or remonstrance.

Evaluations

Teachers may present grievances regarding the evaluation process and shall receive a written response. Grievances involving solely the content of evaluations shall be concluded at the Superintendent level. The employee may present a concern involving the content of evaluations to the Board.

Utah Code Ann. § 53A-8a-405 (2012) ~~10-110(1) and (2)~~

Utah Code Ann. § 53A-8a-406 (2012)

Right to Representation

An employee, or, where appropriate, a group of employees, may present a grievance through another person or organization recognized by the Board regarding any adverse employment action or administrative action decision negatively affecting the employee.

Freedom from Retaliation

No retaliatory action shall be taken by the Board or any administrator against an employee or other participant in a grievance proceeding because of participation in the grievance procedure.

Presentation

An employee's legal right to present a grievance is satisfied at each level when someone in a position of authority hears the employee's concern; however, that authority is under no legal compulsion to take action to rectify the matter.

Board's Role

The Board shall provide an opportunity for employees to present their grievances for Board consideration. At the option of the Board, grievances may be reviewed solely at the administrative level by a school principal, or the Board may exercise its discretion to hear a grievance at a regular meeting in executive session or at such other times as the Board may determine.

Notice to Employees

Principals of each school shall be responsible for informing all employees under their supervision of the District's employee grievances policy.

Definitions

1. Complaint
 - a. A complaint must specify the individual harm suffered.
2. A grievance under this policy shall include:
 - a. Grievances concerning an employee's wages, hours, or conditions of work or other adverse employment action decisions affecting an employee.
 - b. Specific allegations of unlawful discrimination in employment on the basis of sex (including allegations of sexual harassment), race, religion, national origin, age, disability, sexual orientation, or gender identity or handicap or on the basis of the employee's exercise of constitutional rights.
 - c. Alleged violations of State Board rules or of policies adopted by the Board.
 - d. Alleged violations of a constitutional, statutory, or common law right.
3. Aggrieved Party
 - a. An aggrieved party is an employee who alleges a violation of a constitutional, statutory, or common law right, or of a State Board rule or local Board policy. An employee who files a grievance is not necessarily an "aggrieved party." Different procedures may apply to "aggrieved parties" than to "complainants." Those distinctions shall be determined on a case-by-case basis.

Presentations and Hearings

In most circumstances, complainants shall be entitled to administrative review conferences and an informal presentation of the complaint to the Board at the Board's discretion; however, this provision shall not be construed to create an independent right to a hearing before the Board in addition to hearings required by law. Aggrieved parties whose legal rights have been adversely affected such that they are entitled to some type of due process hearing shall be offered a hearing before the Board or its designee. Upon receipt of the written request for a hearing, the Superintendent shall determine whether an aggrieved party is legally entitled to more than a presentation and, if so, the type of hearing appropriate.

Aggrieved Party

An employee aggrieved by a violation of a constitutional, statutory, or common law right, a rule adopted by the State Board of Education, or a policy adopted by the Board shall be afforded a hearing before the Board in accordance with applicable law. However, this provision shall not be construed to create an independent right to a hearing before the Board in addition to any hearing required by law.

Request

The aggrieved employee shall make a written request for a hearing, identifying specifically the claimed violation and the relief requested. The written request shall be deemed filed upon

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receipt by the Superintendent's office. The request shall be filed with the Superintendent's office not more than 15 days after the claimed violation.

Hearing

The school principal or designee shall conduct a hearing within 30 days of receipt of a written request. However, the hearing may be postponed by mutual consent. The principal or designee shall notify the aggrieved employee in writing of the time and place of the hearing. The Board shall notify the aggrieved employee of its decision in writing within 15 days after the hearing.

Other Review Processes

Employee termination and non-renewal procedures are found in policy series D and such actions are not subject to the procedures set forth in this section.

Representation

The employee registering a complaint or any employee who is the subject of a complaint may be represented at his or her own expense by a fellow employee, attorney, other person, or organization. The District may be assisted in processing complaints, as it deems appropriate.

General Provisions

The following shall be general provisions for processing grievances:

1. Grievances shall be heard in informal administrative conferences.
2. Time is of the essence. All time limits shall be strictly complied with, except if extended by mutual consent. All references are to calendar days, unless otherwise indicated.
3. The appropriate administrator at each level shall respond to the employee within seven working days of a grievance conference. Oral grievances may receive an oral or written response, and written grievances shall receive a written response.
4. The employee has seven working days after a response to appeal to the next level. The grievance shall be considered concluded if at any level it is not appealed within the given time limit.
5. All grievances arising out of an event or condition or related series of events must be addressed in one grievance. An employee may not bring separate or serial grievances concerning events or conditions about which the employee has previously complained.

Level One

Any employee having a grievance shall meet with the Principal or immediate supervisor within fifteen days of the time the employee first knew, or should have known, of the event, condition, or series of events upon which the grievance is based.

Level Two

If the employee is not satisfied with the outcome of the grievance conference at Level One, the employee may meet with the Superintendent or a designee to discuss the grievance within seven working days after receiving the response.

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At or prior to the conference with the Superintendent or designee, the employee shall submit a written description of the basis of the grievance, the date(s) it occurred, the remedy sought, and the date the employee conferred with the Principal or immediate supervisor.

Level Three

If the outcome of the grievance conference at Level Two is not to the employee's satisfaction, an employee wishing to appeal shall file a written request with the Superintendent for a Board hearing at the next regular meeting. In matters involving an aggrieved party, the meeting shall be held within 30 days after the date the written request for a Board hearing was filed with the Superintendent, unless postponed by mutual consent. The Board shall notify the aggrieved employee in writing of the time and place of the hearing. The Board shall provide written notification to the aggrieved employee of its decision within 15 days after the hearing.

The Board may designate a portion of its regular monthly meeting to hear employee grievances. However, the Board shall not discuss any subject that is not included in the written notice (posted agenda) for the meeting other than to propose to place it on the agenda for a subsequent meeting.

The Board President may set reasonable time limits on grievance presentations. The Board shall listen to the grievance but is not required to respond or take any action on the matter unless the grievance is from an aggrieved party.

Aggrieved parties who are entitled to some type of due process hearing shall be afforded that hearing with the Board or its designee at Level Three. If the Board's designee conducts the hearing, the designee shall make a recommendation to the Board at a meeting held within 30 days of the date the request for a Board hearing was filed with the Superintendent. The employee shall be given an opportunity to respond to the recommendation either orally or in writing.

Executive Session Closed Hearing

If the grievance involves the character, professional competence, or physical or mental health of the employee bringing the grievance, it shall be heard by the Board in a closed meeting ~~executive session~~ unless the employee requests that it be heard in public. If the grievance involves complaints or charges against another ~~person~~ employee, it shall be heard by the Board in a closed meeting ~~executive session~~ unless the person ~~employee~~ complained about requests that it be heard in public.

Utah Code Ann. § 52-4-205 (1)(a) (2014)~~52-4-5~~