

# **STUDENT AND PARENT GRIEVANCE PROCEDURE**

*Policy Code:* **1740/4010**

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## **A. OPTIONS FOR RESOLVING COMPLAINTS**

The board strives to resolve concerns and complaints whenever possible. To this end, the board has provided opportunities for students and parents to express their concerns through processes established in board policies. Board policy 1742/5060, Responding to Complaints, identifies these different processes and provides a mechanism for resolving complaints in an informal manner.

While the board encourages informal resolutions, the board recognizes that students and parents may want a more formal process for certain types of complaints or if an informal process was not satisfactory. This policy provides a complaint procedure that can be used as described below.

Any parent or student who is unclear of the options for proceeding with a concern may contact the principal's office or the superintendent's office for further information and copies of all applicable board policies.

## **B. DEFINITIONS**

### **1. Days:**

Days are working days, exclusive of Saturdays, Sundays, vacation days or holidays, as set forth in the school calendar. In counting days, the first day will be the first full working day following the receipt of the grievance. 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 formal complaint regarding specific decisions made by school personnel that alleges that such decisions have adversely affected the person making the complaint. A grievance may be submitted in specific circumstances such as when a student or parent believes that board policy or law has been misapplied, misinterpreted or violated.

Any claims of discrimination on any prohibited basis also may be submitted as a grievance. The term “grievance” does not include 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 is without authority to act.

4. Grievant

The parent or student or group of parents or students submitting the grievance.

5. Parent

All references to parent include a student’s parent, legal guardian, legal custodian, or another caregiver adult authorized to enroll a student under policy 4120, Domicile or Residence Requirements.

**C. TIMELINESS OF PROCESS**

The number of days indicated at each level should be considered a maximum and every effort should be made to expedite the process.

Failure by a school system 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 will make reasonable efforts to keep the grievant apprised of progress being made during any period of delay. Delays are not permitted that interfere with the exercise of any 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 appropriate school system official of a delay, the reason for the delay and the official has consented in writing to the delay.

**D. GENERAL REQUIREMENTS**

1. No reprisals of any kind will be taken by the board or by an employee of the school district against any grievant or other student or employee on account of his or her participation in a grievance filed and decided pursuant to this policy.
2. All meetings and hearings conducted pursuant to this policy will be private.
3. The board and school district will consider requests to hear grievances from a group of grievants, but the board and officials have the discretion to respond to individual grievants.

4. The grievant may be represented by legal counsel at the grievant's expense at any hearing before the Board of Education. 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. At any meeting or hearing during the grievance process, a student grievant may be accompanied by a parent as well as a representative.

**E. PROCESS FOR GRIEVANCE**

1. Filing a Grievance

- a. Whenever a student or parent believes that he or she has been adversely affected by a decision of a school employee, the student or parent may file a grievance as provided in this policy.
- b. 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 which claims a violation, misapplication or misinterpretation of state or federal law, including discrimination, the superintendent or designee will 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 district to investigate and respond to the complaint; and whether the investigation of the complaint is necessary to meet any legal obligations. However, students and parents should recognize that delays in reporting may significantly impair the ability of the school district to investigate and respond effectively to such complaints.
- c. A student or parent who has a grievance must provide the following information in writing to the principal: (1) the name of the school district employee or other individual whose decision or action is at issue; (2) the specific decision(s) or actions at issue; (3) any board policy or law that the parent or student believes has been misapplied, misinterpreted or violated; (4) and the specific resolution desired. If there is not a specific decision at issue and no concern that state or federal law has been misapplied, misinterpreted or violated, then the procedure established in board policy 1742/5060, Responding to Complaints, is appropriate and the principal will address the concern following that board policy.
- d. Even if the principal is the employee whose decision or action is at issue, the

student or parent will submit the grievance first to the principal in order for the principal to address the issue within the formal process. If, however, the grievance claims that a state or federal law has been misapplied, misinterpreted, or violated, the student or parent may submit the grievance directly to the superintendent or the superintendent's designee.

- e. A procedure for reporting an act of bullying or harassment, including a provision that permits a person to report such an act anonymously. This procedure must begin with the principal of the school. This shall not be construed to permit formal disciplinary action solely on the basis of an anonymous report

2. Investigation

- a. The principal will schedule and hold a meeting with the grievant within five school days of receiving the request.
- b. The principal will conduct any investigation of the facts necessary before rendering a decision.

3. Response by Principal

- a. The principal will provide a written response to the grievance within ten days of meeting with the grievant. The response will include the principal's decision regarding resolution of the grievance and the basis for the decision. In responding, the principal cannot disclose information about other students or employees that by law is considered confidential.
- b. A copy of the grievance and the principal's response will be filed with the superintendent.

4. Response by Superintendent

- a. If the grievant is dissatisfied with the principal's decision, the grievant may appeal the decision to the superintendent. The appeal must be made in writing within five days of receiving the principal's decision.
- b. The superintendent may review the written documents and respond or the superintendent may schedule and hold a conference with the grievant and

principal, and any other individuals the superintendent determines to be appropriate within five school days after receiving the appeal.

- c. The superintendent will provide a written response within 10 days after receiving the appeal. In responding, the superintendent cannot disclose information about other students or employees that by law is considered confidential.

5. Appeal to 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 local board of education policy or procedure, the grievant will have the right to appeal a final administrative decision to the board of education (see subsection E.5.a, Mandatory Appeals, below). If a 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.5.b, Discretionary Appeals, below).

a. Mandatory Appeals

- 1) If the grievant is dissatisfied with the superintendent's response to his or her grievance 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 of education policy or procedure, the grievant may appeal the decision to the board within five days of receiving the superintendent's response.
- 2) A hearing will be conducted pursuant to policy 2500, Hearings Before the Board.
- 3) 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 dissatisfied with the superintendent's response to his or her grievance 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 of education policy or procedure,

then within five days of receiving the superintendent's response, the grievant may submit to the superintendent a written request for a hearing before the board of education.

- 2) 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) 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) If the board decides to grant a hearing, the hearing will be conducted pursuant to policy 2500.
- 5) 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. SPECIAL CIRCUMSTANCES**

### **1. Discrimination on the Basis of Sex**

Sexual harassment complaint procedures are established in board policy 1745.

For other complaints of discrimination on the basis of sex, if the grievant is dissatisfied with the principal's written response, the grievance may be appealed to the Title IX coordinator. The Title IX coordinator will review the written documents and may conduct any factual inquiry and hold a conference as necessary to make a determination of whether there was discrimination on the basis of sex. The Title IX coordinator will provide a written response within 10 days of receiving the grievance unless additional time is necessary to complete any investigation. If the corrective steps involve actions outside of the scope of the Title IX coordinator's responsibilities, the superintendent or designee also will be notified so that responsibility for the corrective steps can be delegated to the appropriate individual. If still not satisfied, the student may appeal the Title IX coordinator's response to the superintendent and board as provided in this policy. (See also policy 1710 as it relates to the Title IX

coordinator.)

## 2. Discrimination on the Basis of Disability

If the student alleged discrimination on the basis of a handicapping condition or disability and the student is dissatisfied with the principal's written response, the grievance may then be appealed to the Section 504/Americans With Disabilities Act ("504/ADA") coordinator. The 504/ADA coordinator will review the written documents and may conduct any factual inquiry and hold a conference as necessary to make a determination of whether there was a discrimination on the basis of disability. The 504/ADA coordinator will provide a written response within 10 days of receiving the grievance unless additional time is necessary to complete any investigation. If the corrective steps involve actions outside the scope of the 504/ADA coordinator's responsibilities, the superintendent or designee also will be notified so that responsibility for the corrective steps can be delegated to the appropriate individual. If still not satisfied, the student may appeal the 504/ADA coordinator's response to the superintendent and board as provided in this policy. (See also policy 1710 as it relates to the 504/ADA coordinator.)

## 3. Appeal of Superintendent's Decision

If a student wants to initiate a formal grievance in regard to a certain decision made by the superintendent that directly and specifically affects the student, the general process described in this policy will be used except the grievance will be submitted directly to the superintendent.

### G. NOTICE

The superintendent or designee is responsible for providing effective notice to students, parents and school system employees of the procedures for reporting and investigating grievances.

### H. RECORDS

Records of discrimination complaints will be maintained as required by 1710.

Legal Reference: Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq., 34 C.F.R. pt. 100; Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq.; Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq., 34 C.F.R. pt. 106; Equal Employment Opportunity Commission's "Final Amended Guidelines on Discrimination Because of Sex"; Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 621 et seq.; The Rehabilitation Act of 1973,

29 U.S.C. § 706(8), 794, 34 C.F.R. pt. 104; The Americans With Disabilities Act, 42 U.S.C. § 12134, 28 C.F.R. pt. 35; Office of Civil Rights, Sexual Harassment Guidance: Harassment of Students by School Employees, Students or Third Parties, 62 Fed. Reg. 12,034 (1997); Office of Civil Rights, Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance, 59 Fed. Reg. 11,448 (1994); G.S. 126-16, 150B-43 et seq. : G.S. 115C-45(c); 126-16; 150B-43 *et seq.*

Cross Reference: Harassment Defined (policy 1735), Sexual Harassment Defined (policy 1736), Responding to Complaints (board policy 1742/5060), Sexual Harassment Complaint Procedure for Students (policy 1745), Hearings Before the Board (policy 2500), Domicile or Residence Requirements (policy 4120), Student Behavior Policies (4300 series)

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