

Grievance Procedure for Employees

Board Policy: P-20
Adopted: September 13, 1993
Revised: May 10, 2005

I. General Requirements

- A. 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. Proceedings arising from this policy shall be held in confidence by the Board and its agents except as required by law and this policy.
- B. All parties with interest 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.
- C. No reprisals of any kind shall be taken by the Board or by an employee of the Haywood County Schools against any party participating in a grievance filed and decided pursuant to this policy.
- D. Each decision shall be in writing, setting forth the decision and reasons therefore, and shall be transmitted promptly to all parties in interest.
- E. All meetings and hearings conducted pursuant to this policy shall be private. The Board may conduct an open hearing only upon unanimous vote of the Board members present to hear the grievance.
- F. The Board and administration will cooperate with the employee(s) and his/her representative in the investigation of any grievance and will furnish the employee or his/her representative with information pertinent to the grievance without cost to the grievant or the employee against whom the grievance is filed.
- G. Should, in the judgment of the Superintendent and/or designee, the investigation or processing of any grievance require the absence of the grievant(s) and/or his/her representative from regular assignments, such absences will be excused without loss of pay or benefits.

II. Definitions

- A. Grievance - A formal written claim by an employee regarding a 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 that: a) there has been a violation, misapplication, or misinterpretation of state or federal law or regulation, school board policy, administrative regulation; b) an employee has been subject to discrimination on the basis of race, religion, sex, national origin, age, marital status, pregnancy, parenthood, citizenship status, or handicap; c) an employee's employment status or the terms or conditions of his/her employment have been adversely affected; d) there exists a

physical condition which jeopardizes an employee's health or safety, or which interferes with an employee's ability to discharge his/her responsibilities properly and effectively; or e) there exists a problem which cannot be resolved to the employee's satisfaction after efforts have been made to resolve the problem with the employee's immediate supervisor.

The term "grievance" shall 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 the Board of Education is without authority to act.

- B. Employee - Any person of the Haywood County Public School System.
- C. Grievant - The employee(s) making the claim.
- D. Parties in Interest - The grievant and the person against whom the grievance is filed.
- E. Days - 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 shall be the first full working day following receipt of the grievance.
- F. Final Administrative Decision – A decision of a school employee from which no further appeal to a school administrator is available.
- G. Official – The person hearing and responding to the grievant.

III. Time Limitations

- A. Timeliness - A formal grievance shall be filed as soon as possible, but in no event longer than thirty (30) days after disclosure of the facts giving rise to the grievance. The grievance shall be filed at the lowest possible level that a decision on the matter can be made. Except by mutual written agreement, failure by the official at any step to communicate a decision within the specified time limit shall permit the grievant to appeal at any step a grievance to the next step; likewise, failure by the grievant at any step to appeal a grievance to the next step within the specified time limit shall be considered acceptance of the decision at that step.
- B. Time Limits - All time limits herein shall consist of workdays except when a grievance is submitted on or after May 1, time limits shall 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. The number of days indicated at each level should be considered a maximum and every effort should be made to expedite the process. At the option of the employee(s), the beginning of the time limits herein may be postponed until the beginning of the next school year for a grievance arising after May 1.

IV. Grievance Procedure

It is usually desirable for an employee and his immediate supervisor to resolve problems through free and informal communication. However, should such informal processes fail to

satisfy the employee then a grievance may, at the option of the employee(s), be processed pursuant to the steps set forth below.

All grievances shall be in writing and the written statement of grievance shall remain the same throughout all steps of the grievance procedure.

Step 1: The employee(s) shall present the grievance in writing to his/her immediate supervisor or the supervisor's designee. The written grievance shall name the employee(s) against whom the grievance is filed and shall set forth the facts constituting the grievance and the specific laws, regulations, policies, procedures or conditions involved. A meeting will take place at a mutually agreed-upon time within five (5) days after receipt of the grievance. Each party may have one (1) representative at this meeting. The immediate supervisor or his designee shall provide the aggrieved employee(s) with a written response to the grievance within four (4) days after the meeting.

In the event the immediate supervisor or his designee determines at the outset that a Step 1 review is inappropriate, the grievance procedure may originate at Step 2.

Step 2: If the grievance is not resolved at Step 1, within four (4) days of receipt of the Step 1 decision, the employee(s) may refer the grievance for review by the Superintendent or his designee pursuant to Step 2. The Superintendent or his/her designee shall arrange for a meeting with the employee(s) to take place within five (5) days of receipt of the appeal. Each party may have one (1) representative at this meeting. The Superintendent or his/her designee shall provide the aggrieved employee(s) with a written decision within four (4) days after the meeting.

V. Appeals

If the grievance has not been resolved at Step 2 in the grievance process, the grievant may submit a written request for an appeal to the Board of Education. This request must be submitted within ten (10) days of receipt of the Step 2 decision in the grievance process. The chairman of the Board may designate a committee of three (3) or more members to hear the grievance. No new evidence, written or verbal, may be presented without the prior knowledge and consent of both parties or upon a majority vote of the Board or its committee. Each party may have one (1) representative at the hearing before the Board or its committee. The Board or its designated committee shall render a decision, in writing, within thirty (30) days of receipt of the request for Board review. The decision of the Board or its committee may affirm, disaffirm or modify the decision of the Superintendent. The decision of the Board or its committee shall be final.

A. Mandatory Appeals

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 terms and conditions of his/her employment, the grievant may appeal in writing the decision to the board within (10) days of receiving the superintendent's response.

A hearing will be conducted pursuant to board policy A-2, Appeals to the Board.

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

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/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.

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 chair shall appoint a three-person panel to review the request and determine if a hearing should be granted. 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.

If the board decides to grant a hearing, the hearing will be conducted pursuant to board policy A-2, Appeals to the Board. Notwithstanding the provisions of board policy A-2, the board may choose to review discretionary appeals on the record only, without allowing oral presentations.

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

VI. Records

Records on grievances will be maintained as required by policy A-3, Prohibition Against Discrimination, Harassment, and Bullying.

Legal Reference: G.S. 115C-47 Legal References: 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