

POLICY 4271
EMPLOYEE COMPLAINT (GRIEVANCE)

Employees shall use the following procedure for resolving disputes regarding employee termination, employee discipline or workplace safety issues.

1. Definitions.

- a. “Days” as used in this policy is defined as any day that the district is open.
- b. “Employee Termination” as used in this policy section, shall not include the following:
- Layoffs;
 - Workforce reduction activities;
 - Voluntary termination including, without limitation, quitting or resignation;
 - Job abandonment;
 - End of employment due to disability, lack of qualification or licensure or other inability to perform job duties;
 - Retirement; or
 - Any other cessation of employment not involving involuntary termination.
- c. “Employee discipline” as used in this policy shall include any employment action that results in disciplinary action, which typically involves any four (4) steps: verbal reprimand, written reprimand, suspension with or without pay, and termination of employment.

“Employee discipline,” as used in this policy, shall not include the following:

- Plans of correction or performance improvement;
- Performance evaluations or reviews;
- Documentation of employee acts and/or omissions in an employment file;
- Administrative suspension with pay pending investigation of alleged misconduct or nonperformance;
- Non-disciplinary wage, benefit or salary adjustments;
- Other non-material employment actions;
- Counseling meetings or discussions or other pre-disciplinary action; or
- Demotion for reasons other than discipline, transfer or change in assignment.

The term “workplace safety” as used in this section means any alleged violation of any standard established under state law or rule or federal law or regulation relating to workplace safety.

POLICY 4271
EMPLOYEE COMPLAINT (GRIEVANCE)
PAGE 2

2. Time Limits

Failure of the employee to comply with the timelines will be deemed a waiver of the processing of the grievance and the grievance will be denied. The employee may advance a grievance to the next step of the process if a response is not provided within the designated timeframes. The Office of Human Resources may advance a grievance to the next step at the request of either the employee or the employee's supervisor.

3. Procedure

- a. **Informal Grievance Resolution:** The employee must discuss any grievance related to discipline or workplace safety with the employee's immediate supervisor prior to filing a formal written grievance in order to informally resolve the issue. This discussion must occur within five days of when the employee knew or should have known of the events leading to the grievance. Grievances related to termination may proceed straight to the Formal Grievance Procedure.
- b. **Formal Grievance Submission:** The employee must file a written grievance with the superintendent (or designee) within 10 days of termination, discipline or actual or reasonable knowledge of the alleged workplace safety issue. The written grievance must contain:
 - Name of grievant;
 - A statement of the pertinent facts surrounding the nature of the grievance;
 - The date the alleged incident occurred;
 - The work rule or policy allegedly violated including any safety rule alleged to have been violated, if applicable;
 - The steps taken to informally resolve the grievance, the individuals involved in the attempted resolution, and the results of such discussion; and
 - The specific requested remedy.
- c. **Administrative Response:** The Office of Human Resources (or designee) will meet with the grievant within 10 days of receipt of the written grievance. The administration will provide a written response within 10 days of the meeting. The administration's written response to the grievance must contain:
 - A statement of the date the meeting between the administration and grievant was held;

POLICY 4271
EMPLOYEE COMPLAINT (GRIEVANCE)
PAGE 3

- A decision as to whether the grievance is sustained or denied; an
 - In the event the grievance is denied, a statement outlining the timeline to appeal the denial.
- d. **Impartial Hearing:** The grievant may file an appeal to the Impartial Hearing Officer (IHO) by giving written notice to the superintendent within five days of the issuance of the Administrative Response. Depending on the issues involved, the hearing officer will determine whether a hearing is necessary unless a hearing is required under the procedures established by the district in a different applicable policy. The administration will work with the IHO and grievant to schedule a mutually agreeable hearing date should one be needed. If it is determined that no hearing is necessary, the matter will be decided based on the submission of written documents.

The administration shall select the IHO. The IHO shall not be an employee of the district. The IHO may be an employee of another district, a retired school administrator, a lawyer, a professional mediator/arbitrator, or other qualified individual. The cost of the IHO will be the responsibility of the district.

Standard of Review: The IHO will adhere to specific guidelines set forth by the district regarding hearing procedures. The Rules of Evidence will not be strictly followed, but no factual findings may be based solely on hearsay evidence. The standard of review for the IHO is whether the decision of the administration was supported by just cause. If the decision was supported by just cause then the IHO is required to find on behalf of the administration.

IHO Response: The IHO shall file a written response within 30 days of the hearing date or the date of the submission of written documents.

The IHO's written response to the grievance must contain:

- A statement of the pertinent facts surrounding the nature of the grievance.
- A decision as to whether the grievance is sustained or denied, with the rationale for the decision.
- A statement outlining the timeline to appeal the decision to the school board.
- The IHO must sustain or deny the decision of the administration. The IHO has no authority to modify the administration's decision and may not grant in whole or in part the specific request of the grievant.

POLICY 4271
EMPLOYEE COMPLAINT (GRIEVANCE)
PAGE 4

- e. Review by the school board: The non-prevailing party may file a written request for review of the IHO's decision by the school board within 10 days of receipt of the IHO Response.

The school board shall not take additional testimony or evidence; it may only decide whether the IHO reached decision supported by just cause based on the information presented to the IHO. The school board will review the record and make a decision. A written decision will be made within 30 days of the filing of the appeal.

The school board's written decision regarding the grievance must contain:

- A decision as to whether the grievance is sustained, denied or modified.

The school board shall decide the matter by a majority vote and the decision of the school board is final and binding and is not subject to further review.

- f. General Requirements:

- Grievance meetings/hearings held during the employee's off-duty hours will not be compensated.
- Granting the requested or agreed upon remedy at any step in the process resolves the grievance

LEGAL REF.: Wisconsin Statutes

Sections 19.81 – 19.88 [Open Meetings Laws]

66.0509(1m) [Civil service protection and grievance procedures]

CROSS REF.: 2810 Incident Reporting

3600 School Safety

3631 Accident Reports

Employee Handbook

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