

ARTICLE 5: COMPLAINT PROCEDURES

- 5.1 It is the purpose of this Article to provide appropriate means to respond to, and where possible to resolve, complaints received from parents/guardians, community members, students over the age of 18, and fellow employees regarding members of the bargaining unit. Complainants shall be advised to present informal complaints first with the employee who is the subject of the complaint. If the complainant does not wish to speak directly with the employee, then the complainant shall meet with the employee and that employee's immediate supervisor. For purposes of this Article, a complaint shall be defined as an allegation which relates to the employment relationship or an alleged misinterpretation or violation of the District's policies, regulations, rules, and procedures and which has no other remedy in law.
- 5.2 Complaints shall be kept confidential, and only individuals the parties involved considers necessary to the resolution of the complaint shall be informed of the complaint.
- 5.3 No record of the complaint shall be kept and no record shall be placed in the employee's personnel file if an investigation by the District shows that the complaint has no merit.
- 5.4 No documents, communications, or records dealing with the complaint shall be placed in an employee's personnel file that are not in accordance with Article 17.4 of this Agreement.
- 5.5 Any time limits specified in these procedures may be reduced or extended by mutual agreement of the parties involved.
- 5.6 Informal Complaints:
 - 5.6.1 Complainants shall be advised to present informal complaints first with the employee who is the subject of the complaint prior to presenting any formal complaint. The employee shall respond to the complainant within five (5) working days.
 - 5.6.2 Should the complainant present concerns about an employee directly to the employee's immediate supervisor and be unwilling to discuss the complaint with the employee alone, or the complaint has not been resolved pursuant to Article 5.6.1, the immediate supervisor shall schedule a meeting among the employee, immediate supervisor, and the complainant at a mutually acceptable time, but no later than ten (10) working days of receipt by the immediate supervisor of the informal complaint. The employee shall have the right to representation at the meeting.
 - 5.6.3 A complainant will not be required to attend a conference if unable to by reason of physical impairment, but shall make every effort to participate by other means.
 - 5.6.4 In all cases of complaints, the employee concerned shall be involved. The employee shall be provided an opportunity to hear and respond to the complaint before any resolution is reached.

5.7 Formal Complaints:

- 5.7.1 Should a complaint be unresolved at the informal level and should the complainant wish to pursue the complaint, the complaint must be submitted to the employee's immediate supervisor in writing. Failure to submit the complaint in writing shall constitute withdrawal of the complaint.
- 5.7.2 The formal complaint shall include the following information:
- 5.7.2.1 The name of the employee against whom the complaint is filed.
 - 5.7.2.2 Date(s) and time(s) when the action(s) took place about which the complaint is filed.
 - 5.7.2.3 Specific facts concerning the action(s) about which the complaint is filed.
 - 5.7.2.4 The name(s) of the witness(es) (if any) to the action(s) about which the complaint is filed.
 - 5.7.2.5 Attempts made to resolve the complaint at the informal level.
 - 5.7.2.6 A proposed resolution to the complaint.
 - 5.7.2.7 The name and signature of the complainant and the date of filing.
- 5.7.3 A copy of the complaint shall be given to the employee within five (5) working days of its receipt by the immediate supervisor or designee.
- 5.7.4 Within fifteen (15) working days after delivery of the written formal complaint to the employee, the immediate supervisor or designee shall initiate and complete any necessary investigation, which shall include a meeting with the employee and may include a meeting among the parties. The employee shall respond to the complaint in writing to the employee's immediate supervisor or designee within five (5) working days after receipt of the written complaint.
- 5.7.5 Within five (5) working days after conclusion of the investigation, the immediate supervisor or designee shall communicate, in writing, to the complainant and the employee regarding the findings of the investigation and the action taken, or to be taken, to resolve the complaint.
- 5.7.6 Should there be no satisfactory resolution to the complaint after the provisions of Article 5.7.1 through 5.7.5 have been met, and the complainant chooses to move the complaint forward, the complainant shall forward the written formal complaint, the employee's response, and the supervisor's response to the superintendent or designee within five (5) working days of the complainant's receipt of the immediate supervisor's written response. The employee shall be notified by the superintendent or designee within five (5) working days of receipt of the unresolved complaint.
- 5.7.7 The superintendent or designee shall, within fifteen (15) working days after receipt of the unresolved written formal complaint, meet with the complainant, the

employee, and the employee's immediate supervisor. The superintendent or designee shall chair the meeting. The employee and complainant may bring a representative to the meeting.

- 5.7.8 A complainant will not be required to attend a conference if unable to by reason of physical impairment, but shall make every effort to participate by other means.
- 5.7.9 The decision of the superintendent or designee shall be final.
- 5.8 Anonymous complaints shall be shared with the employee but no action shall be taken unless required by law (e.g. sexual harassment complaints).
- 5.9 Complaints regarding alleged illegal discrimination under applicable Federal and State equal employment opportunity laws shall follow the complaint procedures set forth in Board Policy 4030 and Administrative Regulation 4031.
- 5.10 Complaints regarding alleged sexual or other illegal harassment under applicable Federal and State laws shall follow the complaint procedures set forth in Board Policy and Administrative Regulation 4119.11 or Board Policy 5145.7.
- 5.11 Complaints regarding alleged violation of Federal or State law(s) or regulation(s) governing certain educational programs (Adult Basic Education, Consolidated Categorical Aid, Migrant Education, Vocational Education, Child Care and Development, Child Nutrition, Special Education), or alleging unlawful discrimination on the basis of ethnic group identification, religion, age, sex, color or physical or mental disability, in a program or activity conducted by a local agency which is funded directly by, or that receives or benefits from any State financial assistance, shall follow the complaint procedures set forth in Title 5 Code of Regulations.
- 5.12 Complaints regarding instructional materials used by a teacher or teachers in the District must follow the procedures set forth in Board Policy 1312.2 and Administrative Regulation 1312.2. The Association shall be provided the opportunity to discuss with the District any proposed changes to this Board Policy.