

## **ARTICLE THIRTY-FOUR GRIEVANCE PROCEDURE**

- A. **Definition:** Any claim by an employee(s), or the BTU that there has been a violation, misinterpretation or misapplication of any provision of this Agreement may be processed as a grievance as hereinafter provided.
- B. **Exclusive Rights:** The parties agree that the BTU has the exclusive right to process grievances under all steps of this grievance procedure, except that any bargaining unit member may process a grievance through said procedure if the BTU expressly waives its right in writing to process a grievance because the unit member is not a dues-paying member of the union. A copy of the waiver shall be provided to the school District's Director of Employee & Labor Relations. The union accepts its duty of fair representation but retains its right to preclude the processing of non-meritorious grievances through the steps of this grievance procedure, inclusive of arbitration.
- C. **Informal Discussion:** In the event that an employee believes there is a basis for a grievance, he/she shall first discuss promptly the alleged grievance with the immediate supervisor either personally or, if he/she prefers, accompanied by a BTU steward, within fifteen (15) working days of the date on which the employee could reasonably have known of the occurrence of the event giving rise to the alleged grievance.
- D. **Formal Grievance:** If, as a result of the informal discussion with the immediate supervisor, an alleged grievance still exists, the following formal grievance procedure may be invoked within five (5) working days of the informal discussion, on the form set forth in Appendix B, signed by the grievant and/or a steward of the BTU, which form shall be available from the principal or the BTU steward in each building. If the grievance involves more than one (1) school building, a group of employees, or arises from the action or inaction of the administration above the level of the immediate supervisor, it may be initially filed with the Superintendent at Step II and informal discussion may be waived by mutual agreement. In the event that a BTU steward has not signed the grievance, a copy of the grievance shall be provided to the BTU immediately upon the filing of the grievance.

### STEP I

The grievant may submit to the immediate supervisor a copy of the grievance form. Within five (5) working days of receipt of the grievance, the immediate supervisor shall meet with the grievant and/or the BTU in

an effort to resolve the grievance. The immediate supervisor shall indicate the disposition of the grievance in writing within five (5) working days after such meeting, and shall furnish a copy thereof to the BTU.

## STEP II

If the grievant or BTU is not satisfied with the disposition of the grievance, or if no disposition has been made within the specified time limit, the grievance shall be submitted to the Superintendent within ten (10) working days of the disposition, or expiration of the time limit. Within twelve (12) working days of receipt of the grievance, the Superintendent shall meet with the grievant and/or the BTU and shall indicate the disposition of the grievance in writing to the grievant and/or BTU within five (5) days of such a meeting.

## STEP III

If the grievant is not satisfied with the disposition of the grievance by the Superintendent, or if no disposition has been made within the specified time limit, the grievance may be submitted by the BTU to arbitration before an impartial arbitrator within fifteen (15) working days of the date of the disposition at Step II, or the expiration of the time limit. If the parties cannot agree as to the arbitrator within five (5) working days from the notification date that arbitration will be pursued, the BTU will contact the Employee & Labor Relations Department staff one final time for the purpose of attempting to reach agreement prior to requesting the AAA or FMCS to select an arbitrator in accordance with their rules. The arbitrator shall be selected by the American Arbitration Association or the Federal Mediation and Conciliation Service in accordance with their rules, which rules must likewise govern the arbitration proceedings. The arbitrator shall limit his/her decision to the application and interpretation of this Agreement and shall have no power to amend, modify, nullify, alter, and to, or subtract from the terms of this Agreement. The Superintendent and the BTU shall not be permitted to assert in such arbitration proceedings any ground or rely on any evidence not previously disclosed to the other party. Both parties agree that the award of the arbitrator shall be final and binding.

### E. **Cost of Arbitration**

If the arbitrator sustains the position of the grievant, the fees and expenses of the arbitrator, including AAA or FMCS filing fees, shall be paid by the District. However, if the arbitrator sustains the District's position, all fees and expenses shall be paid by the grievant or the BTU. If the decision issued by the arbitrator is not the one requested by either

party, the arbitrator shall determine the distribution of his/her fees between the parties. Each party shall be responsible for any other expense it chooses to incur. Employees required to testify will be made available without loss of pay; however, whenever possible, they will be placed on call to minimize time lost from work. Employees who have completed their testimony shall return to work unless they are the grievant(s). In group grievances, the group of employees shall be represented by the BTU and one member of the group.

- F. **Time Limits:** The time limits provided in this Article shall be strictly observed, but may be extended by written agreement of the parties. In the event a grievance is filed after May 1<sup>st</sup> of any year and strict adherence to the time limits may result in hardship to any party, the parties shall use their best efforts to process such grievances prior to the end of the school term or as soon thereafter as possible. Whenever illness or other incapacity of either party or its representatives prevents attendance at a grievance meeting, the time limits shall be extended to such time that such person(s) can be present. When such grievance meetings and conferences are held during school hours, all employees whose presence is required shall be excused, without loss of pay or accumulated leave, for that purpose.
- G. **Adjustment:** Adjustment of any grievance as described herein shall not be inconsistent with the provisions of this Agreement.
- H. **Reprisal to Employees:** All employees will be entitled to fair, reasonable and equitable treatment in the processing of grievances. No reprisals of any kind will be made by the District or its representative or any member of the administration against any bargaining unit member(s) in the grievance procedure by reason of such participation. All documents, grievance forms, appendix, communications, and records dealing with the processing of a grievance, shall be filed separately from the personnel files of any party in interest, including final disposition.

Notwithstanding, the expiration of this Agreement, any claim or grievance arising thereunder may be processed through the grievance procedure until resolution.

- I. **Appeal:** If the Board takes any actions as contained in Florida Statutes, Section 1012.33, against a bargaining unit member, said unit member(s) shall be entitled to those appeal rights granted under Section 1012.33. The parties agree that affected employees may not grieve nor arbitrate charges/actions contained in Florida Statutes, Section 1012.33 under Article Thirty-Four of this Agreement, nor any other applicable arbitration statutes.

- J. **Waiver:** If the BTU waives its right to process a grievance to arbitration because the affected employee is not a dues-paying member of the union, the employee may carry the case forward but he/she may be responsible for all arbitration costs pursuant to the provisions in Section E above. Under such circumstances, the BTU shall not be responsible for arbitration costs associated with the specific grievances.
  
- K. **Expedited Arbitration:** On a case-by-case basis, the parties may mutually agree to utilize an expedited arbitration procedure. The parties shall select the arbitrator through lists furnished by American Arbitration Association and the hearing shall be conducted under their rules and regulations for expedited arbitration.