

SCHOOL DISTRICT OF SOUTH MILWAUKEE GRIEVANCE PROCEDURE

Approved September 21, 2011

Employees shall use the following procedure as the exclusive internal method for resolving disputes regarding employee termination, employee discipline or workplace safety issues. (Employees with contractual grievance procedures shall follow the contractual procedure.) A determined effort shall be made to settle any grievance at the lowest possible level in the grievance procedure.

I. Timelines

- A. **Informal Grievance Submission:** 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. Grievances related to termination may proceed straight to the written grievance step.

- B. **Formal Grievance Submission:** If the grievance is not resolved at the informal level, the employee may file a written grievance within fifteen (15) working days of the termination, discipline or actual or reasonable knowledge of the alleged workplace safety issue. "Working day" is defined as any day that the District Business Office is open. The grievance must be in writing.

- C. **Administrative Response:** The Director of Personnel, Administrative & Legal Services (or designee) will meet with the grievant within fifteen (15) working days of receipt of the written grievance. The Administration will provide a written response within five (5) working days of the meeting.

- D. **Impartial Hearing:** If the grievance is not resolved at the formal grievance level, the grievant may file an appeal to the Impartial Hearing Officer by giving written notice to the Director of Personnel, Administrative & Legal Services within ten (10) working days of the Administrative Response. The Administration will work with the Impartial Hearing Officer and grievant to schedule a mutually agreeable hearing date.

If there is a dispute over the timeliness or the ability to use the grievance procedure on the issue, the Administration shall have the discretion to bifurcate the hearing for the purpose of deciding those issues (i.e., address whether the grievance was filed in a timely manner before hearing the merits of the grievance or address whether the content of the grievance is properly before the impartial hearing officer.)

- E. Impartial Hearing Officer Response: The Impartial Hearing Officer shall file a written response within thirty (30) working days of the hearing date.
- F. School Board Review: If the grievance is not resolved at the IHO level, the non-prevailing party may file a request for School Board review within ten (10) working days of receipt of the Impartial Hearing Officer Response. The School Board shall make a decision regarding whether or not a hearing will be held within twenty-five (25) working days of the appeal. A written decision will be made within sixty (60) working days of the filing of the appeal. The School Board's decision is final and may not be appealed.
- G. All timelines may be extended by mutual agreement.

II. General Requirements

- A. An employee may only initiate a grievance in writing regarding employee termination, employee discipline or alleged workplace safety issues.
 - 1. The term "employee termination," as used in this section, shall not include the following:
 - a. Layoffs;
 - b. Workforce reduction activities;
 - c. Voluntary termination including, without limitation, quitting or resignation;
 - d. Job abandonment;
 - e. End of employment due to disability;
 - f. Retirement;
 - g. Non-Renewal under Wis. Sec. 118.22; or
 - h. Any other cessation of employment not involving involuntary termination including but not limited to completion of assignment of a temporary, seasonal, contract, daily assignment, substitute, or replacement employment relationship.
 - 2. The term "employee discipline," shall include any employment action that results in disciplinary suspension without pay, disciplinary reduction in pay or other benefits, or disciplinary demotion.

The term "employee discipline," as used in this section, shall not include the following:

- a. Plans of correction or performance improvement;
- b. Performance evaluations or reviews;
- c. Documentation of employee acts and/or omissions in an

- employment file;
- d. Oral or written reprimands;
- e. Administrative suspension with pay;
- f. Administrative suspension without pay pending investigation of alleged misconduct or nonperformance;
- g. Non-disciplinary wage, benefit or salary adjustments; or,
- h. Other non-material employment actions.

3. 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.

B. The written grievance must contain:

- 1. A statement of the pertinent facts surrounding the nature of grievance.
- 2. The date the incident occurred.
- 3. The steps taken to informally resolve the grievance, the individuals involved in the attempted resolution, and the results of such discussion;
- 4. The specific requested remedy; and,
- 5. Must include the workplace safety rule alleged to have been violated, if applicable.

C. The Administration's written response to the grievance must contain:

- 1. A statement of the date the meeting between the Administration and grievant was held.
- 2. A decision as to whether the grievance is sustained or denied.
- 3. In the event the grievance is denied, a statement outlining the timeline to appeal the denial.

D. Impartial Hearing Officer Selection: The Administration shall select the Impartial Hearing Officer (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.

E. Impartial Hearing Officer Standard of Review: The IHO will adhere to specific guidelines set forth by the District regarding hearing procedures. The standard of review for the IHO will be whether the decision of the Administration was

arbitrary or capricious. A decision will not have been arbitrary or capricious if it was made in the best interest of the district. If the decision was not arbitrary or capricious then the IHO is required to find on behalf of the Administration. The Rules of Evidence will not be strictly followed, but no factual findings may be based solely on hearsay evidence.

- F. The Impartial Hearing Officer's written recommendation to the grievance must contain:
 - 1. A statement of the pertinent facts surrounding the nature of the grievance.
 - 2. A recommendation as to whether the grievance is sustained or denied, with the rationale for the recommendation.
 - 3. A statement outlining the timeline to appeal the recommendation.
 - 4. The IHO must sustain or deny the decision of the Administration. Authority is not given to modify the decision as made by the Administration. Authority is not given to grant in whole or in part the specific request of the grievant.

- G. Appeal to the School Board: The School Board may decide, in each situation, whether it will review the record and make a decision, assign an independent hearing officer to create a recommendation for the School Board's review, or hold a new hearing and make an independent decision. The manner of review is the sole choice of the School Board. All School Board actions throughout this process shall comply with the requirements of Wisconsin's Open Meetings Law.

If the School Board meets with the parties for a hearing to review evidence and hear testimony relating to the grievance, all exhibits must have been either presented at a previous grievance step or must have been provided to the other party at least twenty-four (24) hours prior to the hearing.

- H. The School Board's written decision regarding the grievance must contain:
 - 1. A decision as to whether the grievance is sustained, denied or modified.

III. Process

- A. Grievances will be processed per the provided timelines.
 - 1. An employee may advance a grievance to the next step if a response is not provided within the designated timeframes.
 - 2. An employee may not file or advance a grievance outside of the designated timeframes.

3. The Director of Personnel, Administrative & Legal Services may advance a grievance to the next step at the written request of either the employee or the supervisor.
 4. Failure of the employee to adhere to any of the specified timelines within the process shall result in the grievance being denied. Timelines may only be extended through the mutual consent of both parties. The School Board in its discretion may, however, consider an otherwise untimely grievance at the School Board level of the grievance procedure.
- B. Grievance meetings/hearings held during the employee's off-duty hours will not be compensated.
 - C. Any grievant may be represented at all stages of the grievance procedure by a representative of his/her own choosing.
 - D. Grievances of the same type, and with similar factual situations, may be consolidated at the discretion of the Administration.
 - E. Granting the requested or agreed upon remedy resolves the grievance.
 - F. The decision of the School Board is final and not subject to further review.