

It is the policy of the Caldwell County Board of Education, in keeping with the ultimate goal of serving the educational welfare of children, to develop and practice reasonable and effective methods of resolving difficulties that may arise among employees. The intent is to reduce potential areas of grievances and to establish and maintain recognized channels of communications between staff and administration. 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.

**A. INFORMAL RESOLUTION**

It is desirable for an employee and his or her immediate supervisor to resolve problems through free and informal communication. When informal procedures fail or are inappropriate or when the employee requests formal procedures, a grievance will be processed pursuant to the steps set forth in this policy.

**B. DEFINITIONS****1. Days**

Days are 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 will be the first full working day following receipt of the grievance. When a grievance is submitted on or after May 1, time limits will 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.

**2. Final Administrative Decision**

A final administrative decision is a decision of a school employee from which no further appeal to a school administrator is available.

**3. Grievance**

A grievance is a formal written claim by an employee regarding 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:

- a. that there has been a violation, misapplication or misinterpretation of state or federal law or regulations, Board policy or administrative procedure;
- b. that an employee's employment status or the terms or conditions of his or her employment have been adversely affected; or

- c. that there exists a physical condition that jeopardizes an employee’s health or safety or that interferes with an employee’s ability to discharge his or her responsibilities properly and effectively.

The term “grievance” does 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 upon which the Board of education is without authority to act. Claims of discrimination, harassment or bullying shall be processed under policy 1720/4015/7225, Discrimination, Harassment and Bullying Complaint Procedure.

4. Grievant

The grievant is the employee(s) making the claim.

5. Official

The official is the person hearing and responding to the grievant.

6. Parties in Interest

“Parties in interest” refers to the grievant and the person against whom the grievance is filed.

**C. TIMELINESS OF PROCESS**

Failure by the official at any step to communicate a decision within the specified time limit will permit the grievant to appeal the grievance to the next step unless the official has notified the grievant of the delay and the reason for the delay, such as the complexity of the investigation or report. The official shall make reasonable efforts to keep the grievant apprised of progress being made during any period of delay. Delays may not impermissibly interfere with the exercise of the grievant’s legal rights.

Failure by the grievant at any step to appeal a grievance to the next step within the specified time limit will be considered acceptance of the decision at that step, unless the grievant has notified the official of a delay and the reason for the delay and the official has consented in writing to the delay.

**D. GENERAL REQUIREMENTS**

1. All parties in interest and their representatives 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.
2. The Board or an employee of the school system will take no reprisals of any kind

against any party in interest or other employee on account of his or her participation in a grievance filed and decided pursuant to this policy.

3. Each decision will be in writing, setting forth the decision and reasons therefore, and will be transmitted promptly to all parties in interest.
4. All meetings and hearings conducted pursuant to this policy will be private.
5. The Board and school system will consider requests to hear grievances from a group of grievants, but the Board and officials have the discretion to hear and respond to grievants individually.
6. The Board and administration will cooperate with the employee and representative in the investigation of any grievance and will furnish the employee or representative information pertinent to the grievance without cost to the grievant employee or the employee against whom the grievance is filed.
7. The employee may have a representative, including an attorney, at any conference held with the Superintendent or at any hearing before the Appeals Committee or the Board. However, if the grievant intends to be represented by legal counsel, he or she shall notify the appropriate school official in advance so that the Superintendent or the Board also will have the opportunity to be represented by legal counsel.
8. Should, in the judgment of the Superintendent or designee, the investigation or processing of any grievance require the absence of the grievant and/or representative from regular work assignments, such absences will be excused without loss of pay or benefits.

**E. PROCESS FOR GRIEVANCE**

1. Filing a Grievance
  - a. A grievance shall be filed as soon as possible but no longer than 10 days after disclosure or discovery of the facts giving rise to the grievance. For a grievance submitted after 10 days that claims a violation, misapplication or misinterpretation of state or federal law, the Superintendent or designee shall determine whether the grievance will be investigated after considering factors such as the reason for the delay; the extent of the delay; the effect of the delay on the ability of the school system to investigate and respond to the complaint; and whether the investigation of the complaint is necessary to meet any legal obligations. However, employees should recognize that delays in filing a grievance may result in the grievance being denied or may significantly impair the ability of the school system to investigate and respond effectively to such complaints.

- b. All grievances shall be in writing, and the written statement of grievance shall remain the same throughout all steps of the grievance procedure. The written grievance shall include the following information: (1) the name of the school system employee or other individual whose decision or action is at issue; (2) the specific decision(s), action(s) or physical condition at issue; (3) any local Board policy, state or federal law, state or federal regulation or State Board of Education policy or procedure that the grievant believes has been misapplied, misinterpreted or violated; and (4) the specific resolution desired. If there is not a specific decision, action or physical condition at issue or no concern that federal or state law, federal or state regulation, State Board of Education policy or procedure, or Board policy or procedure has been misapplied, misinterpreted or violated, then the procedure established in policy 1742/5060, Responding to Complaints, is appropriate, and the principal or immediate supervisor shall address the concern following that policy.
  - c. The employee(s) shall present the grievance in writing to his or her immediate supervisor or the supervisor's designee, unless the grievance alleges that a state or federal law has been misapplied, misinterpreted or violated, in which case the grievance may be presented instead to the Associate Superintendent of Human Resources (or to the Superintendent if the grievant's supervisor is the Associate Superintendent of Human Resources). The person receiving the grievance hereinafter will be referred to as "official."
2. Response by Official
- a. The official shall arrange for a grievance file number to be assigned by the human resources office.
  - b. In the event the official determines at the outset that review by the official is inappropriate, the official shall forward the formal grievance to the Superintendent, who will investigate and respond as provided below in subsection E.3.
  - c. A meeting will take place at a mutually agreed-upon time within five (5) days after receipt of the grievance.
  - d. The official shall conduct any investigation of the facts necessary before rendering a decision.
  - e. The official shall provide the aggrieved employee(s) with a written response to the grievance within 10 days after the meeting.
3. Response by Superintendent

- a. If the grievant is dissatisfied with the official's response, the grievant may appeal in writing the decision to the Superintendent for review by the Superintendent or designee within five (5) days of receipt of the official's response.
  - b. The Superintendent or designee shall arrange for a meeting with the employee(s) to take place within 10 days of the receipt of the appeal. At the meeting, either party may present witnesses and one representative to assist in clarifying and resolving the issues.
  - c. The Superintendent or designee shall conduct any investigation necessary before arriving at a decision. The Superintendent or designee shall provide the aggrieved employee(s) with a written decision within 10 days after the meeting.
4. Appeal to the Board
- a. Mandatory Hearings
    - 1) 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 the terms or conditions of his or her employment, the grievant may appeal the decision to the Board within 10 days of receiving the Superintendent's response.
    - 2) The appeal shall be in writing and shall be addressed to the Board Chair or Superintendent.
    - 3) Upon receipt of the appeal, the Board Chair shall request from the Superintendent a copy of the administrative record developed during the grievance process. The Superintendent shall supply a copy of all documents provided to the Board Chair to the grievant.
    - 4) A hearing will be conducted before the Appeals Committee, pursuant to policy 2500, Hearings Before the Board. The hearing shall be limited to consideration of the issues set forth in the written grievance.
    - 5) The Appeals Committee will provide a 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.

- 6) If the grievant is dissatisfied with the decision of the Appeals Committee, the grievant may appeal the decision to the full Board within five (5) days of receiving the Appeals Committee's decision.
- 7) The full Board will consider the grievance at its next regular meeting. The Board will make a determination on the written record and will provide a final written decision within 30 days of the meeting at which the appeal was considered.

b. Discretionary Appeals

- 1) 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 or her employment, the grievant may, within 10 days of receiving the Superintendent's decision, petition the Board to hold a hearing.
- 2) The petition shall be in writing and shall be addressed to the Board Chair or Superintendent.
- 3) Upon receipt of the petition, the Board Chair shall request from the Superintendent a copy of the administrative record developed during the grievance process. The Superintendent shall supply a copy of all documents provided to the Board Chair to the grievant.
- 4) The Appeals Committee shall determine whether the grievant will be granted a hearing. If the Appeals Committee determines that a hearing will not be granted, the Committee will notify the grievant of that determination in writing within 30 days of receiving the appeal.
- 5) If the Appeals Committee determines that a hearing will be granted, the hearing will be conducted before the Appeals Committee, pursuant to policy 2500, Hearings Before the Board. The hearing shall be limited to consideration of the issues set forth in the written grievance.
- 6) The Appeals Committee will provide a written decision within 30 days of the hearing unless further investigation is necessary or the hearing necessitates that more time be taken to respond.
- 7) If the grievant is dissatisfied with the decision of the Appeals

Committee, the grievant may appeal the decision to the full Board within five (5) days of receiving the Appeals Committee's decision.

- 8) The Board will consider the grievance at its next regular meeting. The Board will make a determination on the written record and will provide a final written decision within 30 days of the meeting at which the appeal was considered.

## **F. RECORDS**

Appropriate records shall be maintained in accordance with state and federal law.

Legal References: G.S. 115C-45(c); 126-16

Cross References: Prohibition Against Discrimination, Harassment and Bullying (policy 1710/4021/7230), Discrimination, Harassment and Bullying Complaint Procedure (policy 1720/4015/7225), Responding to Complaints (policy 1742/5060), Hearings Before the Board (policy 2500)

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