

Article 12 - Grievance Procedure

- 12.1 Any grievance which arises out of alleged District violation, misinterpretation, or misapplication of the Agreement, its attachments, exhibits, and appendices, hereinafter referred to as the Agreement, shall be resolved in accordance with provisions set forth herein.
- 12.2 A “grievance” shall mean an alleged violation, misapplication, or misinterpretation of a specific provision of this Agreement which adversely affects the Grievant. This grievance procedure shall not be used to challenge or change policies, rules, or procedures of the District which are not included in this Agreement, nor shall the grievance procedure be used for other matters for which remedies are provided by law, or District policies or rules. There shall be a procedure for review by the Board of Education of complaints regarding alleged violations of Board of Education Policies and official rules and regulations.
- 12.3 A Grievant is a bargaining unit member or the Association, alleging a violation, misinterpretation, or misapplication of a specific provision of this Agreement.
- 12.3.1 Association Grievances. An Association Grievance is a grievance signed and filed by the President or Chief Job Steward/Grievance Chairperson of Chapter 450, or the State Association, in the name of CSEA regarding a violation, misinterpretation, or misapplication of a provision of this Agreement.
- 12.4 Any bargaining unit member may formally process his/her grievance and have the grievance heard with or without the participation of an Association representative. In this instance, the District shall not agree to a resolution of the grievance until the CSEA has received a copy of the grievance and the proposed resolution and has been given the opportunity to file a response within ten (10) days.
- 12.4.1 The Association's response shall be limited solely to the question of whether the proposed settlement is inconsistent with the terms of the Agreement or applicable law.
- 12.5 No adjustment shall be made at any step of the procedure, which is inconsistent with the terms of the Agreement.
- 12.6 The filing of a grievance shall not interfere with the right of the Board of Education to proceed in carrying out its management responsibilities subject to the final decision of the grievance.
- 12.7 A copy of any written grievance and/or written decision required in each step of the grievance procedure shall be filed with the Superintendent/designee and the Association.
- 12.8 In a case of multiple grievance claims on the same issue, the District may elect to hear only the first written grievance filed, and the decision rendered shall be applicable to all claims on the same issue arising from the same set of circumstances.
- 12.9 The specific time limits and procedures as hereinafter provided shall be followed in processing all grievances. Any grievance not filed in accordance with such procedure or within the time

Board Approved: 02/12/07
CSEA Ratification: 02/09/07

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limits specified within each step need not be considered by the District. By mutual consent of the Grievant and the District, any step may be extended or skipped. If the management representative fails to respond within the time limits specified at any step, the grievance may be filed at the next step.

12.10 A grievance shall, whenever possible, be discussed and settled informally between the Grievant and his/her immediate supervisor/designee.

12.11 Any information in the possession of the District, which is needed by the Grievant to investigate and process a grievance, shall be presented to the Grievant within three (3) working days of the Grievant's request for such information.

12.12 Discussion of the merits of an alleged grievance at any step shall not constitute a waiver of the District's rights to declare it non-grievable.

12.13 Step 1

12.13.1 If the matter is not satisfactorily settled on an informal basis, the Grievant may institute a formal grievance by setting forth in writing on a form provided or approved by the Superintendent/designee the nature of the grievance, the terms or provisions of the Agreement allegedly violated, and the remedy sought. The grievance must state the facts with enough specificity to allow the District to determine the scope of the potential remedy.

12.13.2 The grievance shall be presented to the immediate supervisor, the Superintendent/designee, and the Association in writing within thirty (30) working days after the occurrence of the alleged violation, or if it concerns an alleged continuing violation, then it must be filed within thirty (30) working days after the alleged violation first became known or should have become known to the Grievant; except that in the case of an alleged payroll computational error, such allegation shall be presented to the immediate supervisor in writing within fourteen (14) working days after the alleged error is discovered by the Grievant.

12.13.3 After the presentation of the grievance and upon request, the Grievant shall be provided an opportunity to meet with the immediate supervisor/designee in an attempt to settle the grievance. The decision of the immediate supervisor/designee shall be in writing and shall be transmitted to the Grievant, the Superintendent/designee, and the Association within five (5) working days after receipt of the grievance unless extended by mutual consent of the Grievant and the District.

12.14 Step 2

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- 12.14.1 If the matter is not satisfactorily settled in Step 1, the Grievant may file a letter of appeal with the Superintendent/designee and the Association specifying the reason(s) for the appeal together with a copy of the grievance and decision rendered for settlement within five (5) working days after the receipt of the decision in Step 1.
- 12.14.2 The Superintendent/designee need not consider any grievance in Step 2 which encompasses different allegations than those presented in Step 1.
- 12.14.3 After the presentation of the grievance and upon request, the Grievant shall be provided an opportunity to meet with the Superintendent/designee in an attempt to settle the grievance.
- 12.14.4 The decision of the Superintendent/designee shall be in writing and transmitted to the Grievant and the Association within five (5) working days after receipt of the letter of appeal unless extended by mutual consent.
- 12.15 Step 3 (Advisory Arbitration)
- 12.15.1 If the Association is not satisfied with the decision at Step Two, the Association shall notify the Superintendent in writing of its request for advisory arbitration on the grievance within thirty (30) days of the date the written decision is mailed or faxed to the Association. The date mailed shall be determined by the US Mail Postmark on the envelope mailed to the Orange Field Office. The date faxed shall be determined by the time/date stamp placed on the decision by the fax machine during transmission to the Orange Field Office. The request to the Superintendent shall include a copy of the original grievance and appeals and the decisions rendered and a suggested arbitrator to hear the grievance.
- 12.15.2 The Association and the District shall attempt to agree upon an advisory arbitrator. If no agreement is reached within 15 days from the receipt by the Superintendent's office for the request for arbitration, then the Association shall request a list of arbitrators experienced in labor relations in public schools from the California Mediation and Conciliation Service, Los Angeles Office (CMCS). The Association and the District shall review the list and attempt to agree upon the advisory arbitrator. If no agreement is reached within ten (10) working days from receipt of the list the parties will engage in the striking process. In the striking process each party shall alternately strike a name from a list of five (5) arbitrators until one name remains. The remaining individual shall be the arbitrator. The order of striking shall be determined by lot.
- 12.15.3 The Arbitrator shall, as soon as possible, hear evidence and render a decision on the issue or issues submitted to him/her. If any question arises as to whether or not the

Board Approved: 02/12/07
CSEA Ratification: 02/09/07

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grievance can be arbitrated, the question shall be ruled upon by the arbitrator prior to hearing the merits of the grievance.

12.15.3.1 The arbitrator shall have no power to alter, amend, change, or add to or subtract from any of the terms of this Agreement, and shall determine only whether or not there has been a violation of this Agreement as alleged in the grievance. The decision of the arbitrator shall be based solely upon the evidence and arguments presented by the respective parties in the presence of each other and upon arguments presented in written briefs.

12.15.4 The Board of Education shall review and consider the recommendation of the advisory arbitrator and shall make the final determination on the grievance. Such decision, along with the reasons for the decision, shall be communicated to the parties in writing, and the action of the Board of Education shall be final and binding on all parties. Nothing herein shall preclude the Association from appealing the decision to a court of competent jurisdiction.

12.16 Costs

12.16.1 Each party shall bear the cost of his/her counsel, any other costs of presenting his/her case, and the cost of any transcripts that s/he requires.

12.16.1.1 The cost of the arbitrator selection process and the fees and expenses of the arbitrator and the hearing shall be borne equally by the District and the Association. All other expenses shall be borne by the party incurring them.

12.16.2 The Board of Education authorizes released time for the purpose of processing grievances without loss of compensation to the Grievant as follows:

12.16.2.1 To the Grievant and, if requested, one advisor/consultant of his/her choice during informal discussion of the grievance with the immediate supervisor.

12.16.2.2 To the Grievant and, if requested, one advisor/consultant of s/he choice, and witnesses as agreed to by the Grievant and the District at Step One when meeting with the immediate supervisor and at Step Two when meeting with the Superintendent/Designee.

12.16.2.3 To the Grievant and one CSEA Chapter 450 Executive Board

Board Approved: 02/12/07
CSEA Ratification: 02/09/07

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member and witnesses as required during the Advisory Arbitration hearing.

12.16.3 Processing of Grievances Defined

12.16.3.1 Processing of grievances shall be that time actually spent in discussions during meetings with the immediate supervisor, meetings with the Superintendent/designee, and during the advisory arbitration hearing.

12.16.3.2 Reasonable released time spent traveling to and from the meetings and/or hearings described above shall be a part of processing of grievances.