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ARTICLE XII

Grievance Procedure

A. DEFINITION:

1. A "grievance" is a claim by a grievant that he/she has been adversely affected by an interpretation, application, or violation of the specific provisions of this Agreement. Informally, a grievance may be presented verbally; formally, it shall be presented in writing.
2. A "grievant" may be any employee in the bargaining unit covered by the terms of this contract. The Association may file grievances that relate to the explicit language contained in Article IV, Association Rights, of this contract.
3. A "day" is any day on which the grievant and the appropriate manager as part of their regular contract assignments are scheduled to be on duty.
4. The "immediate manager" is the lowest level manager who has authority to remedy the grievance.

B. INFORMAL LEVEL:

1. Within twenty (20) days after the alleged violation (except for payroll errors) and before filing a formal written grievance, the grievant shall attempt to resolve his/her claim by an informal conference with his/her immediate manager. If the employee requests, an Association representative may participate with the employee in the informal conference. It shall be the grievant's responsibility to inform the manager that the conference is for the purpose of seeking to resolve the grievance at the informal level.
2. The immediate manager shall provide a response within five (5) days of the informal conference.

C. FORMAL LEVEL – STEP 1:

Within ten (10) days of the informal conference, should the grievance not be resolved, the grievant shall present his/her grievance in writing on the Teachers Unit Grievance Form to his/her manager.

1. The statement of the grievance shall be a clear, concise statement of the circumstances giving rise to the grievance, shall include the specific article, section, and paragraph of the contract allegedly misapplied, misinterpreted, or violated, and shall specify the remedy sought.

ARTICLE XII – GRIEVANCE PROCEDURE (continued)

- 1 2. The immediate manager shall communicate the decision to the employee in
2 writing within ten (10) days after receiving the grievance.
3

4 **D. FORMAL LEVEL – STEP 2:**

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6 Upon receipt of the Step 1 response, and if the decision of the manager is not
7 satisfactory, the grievant, within ten (10) days of receipt of the response may file an
8 appeal with Employee Relations Services which shall transmit it to the Superintendent
9 or to another district-level manager designated by the Superintendent.
10

- 11 1. The statement of the grievance shall be a clear, concise statement of the
12 circumstances giving rise to the grievance, shall include the specific article,
13 section, and paragraph of the contract allegedly misapplied, misinterpreted, or
14 violated, and shall specify the remedy sought.
15
16 2. The grievant or the respondent (Superintendent or designee) may request a
17 personal conference regarding the grievance. The respondent shall
18 communicate his/her decision in writing to the grievant within fifteen (15) days
19 of receipt of the appeal or within four (4) days following a conference.
20

21 **E. FORMAL LEVEL – STEP 3:**

22
23 If the grievant is not satisfied with the decision at Step 2, he/she may within ten (10)
24 days after receipt of the decision at Step 2, submit to Employee Relations Services a
25 written request for mediation of the grievance. Employee Relations Services shall
26 within five (5) days after receipt of the written request submit to the California State
27 Conciliation Service a request for the immediate services of a mediator.
28

29 The parties agree that Step 3 of this Grievance Procedure may be waived by mutual
30 agreement of the grievant and the District.
31

- 32 1. The function of the mediator shall be to assist the parties to achieve a mutually
33 satisfactory resolution of the grievance by means of the mediation process.
34
35 2. If a satisfactory resolution of the grievance is achieved by means of this
36 mediation process, both parties to the grievance shall sign a written statement
37 of resolution to that effect, and thus waive the right of either party to further
38 appeal the grievance.
39

40 **F. FORMAL LEVEL – STEP 4, BINDING ARBITRATION:**

41
42 If resolution of the grievance is not achieved as a result of mediation (Step 3), or if
43 Step 3 has been waived, the grievant may request the Association to submit the
44 grievance to arbitration.
45

46 If the Association proceeds to arbitration, the statement of grievance shall be filed

ARTICLE XII – GRIEVANCE PROCEDURE (continued)

1 with Employee Relations Services on the appropriate Step 4 form within ten (10)
2 days following the conclusion of mediation. The form shall include the same
3 information as cited in D.1. above and the response at Step 2 as well as the exclusive
4 representative's endorsement of filing.
5

6 1. **Selection of Arbitrator:**
7

- 8 a. Within ten (10) days of receipt of the Step 4 grievance form, Employee
9 Relations Services and Association staff shall attempt to agree upon a
10 mutually acceptable arbitrator and obtain a commitment from said
11 arbitrator to serve.
12
13 b. In the event that the parties cannot agree upon an arbitrator within
14 the specified period, a list of seven (7) arbitrators experienced in
15 hearing grievances in public schools shall be requested from the
16 State Conciliation Service or the American Arbitration Association.
17 The parties shall select an arbitrator from this list by alternately
18 striking names. The order of striking shall be determined by
19 flipping a coin.
20

21 2. **Powers of the Arbitrator:**
22

- 23 a. The arbitrator shall have no authority to hear evidence and/or rule on
24 any sections of this Agreement which were not present in the original
25 grievance, Formal Level - Step 1.
26
27 b. The parties shall attempt to agree upon a statement of the issue(s) to be
28 submitted to arbitration. If the parties cannot agree, the arbitrator shall
29 determine the issue(s) by referring to the written grievance documents.
30
31 c. After a hearing and after both parties have had an opportunity to present
32 written arguments, the arbitrator shall submit a decision within thirty
33 (30) days.
34
35 d. The arbitrator's decision shall be in writing and shall set forth the
36 findings of fact, reasoning, and conclusions on the issue(s) submitted.
37 The arbitrator shall be without power or authority to make any decision
38 which requires the commission of an act prohibited by law or which
39 changes or is violative of the terms of this Agreement. Subject to the
40 limitations specified in Article VI, Section C., it is agreed that the
41 remedy of the arbitrator may include such financial reimbursement as
42 may be necessary to make the grievant whole for any monetary loss
43 resulting from a violation, misapplication, or misinterpretation of the
44 specific provisions of this Agreement.

ARTICLE XII – GRIEVANCE PROCEDURE (continued)

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- e. The decision of the arbitrator shall be submitted to the Association and the Director of Employee Relations Services, and shall be binding upon the parties.
- f. If any question arises as to the arbitrability of the grievance, such question will be ruled upon by the arbitrator only after he/she has had an opportunity to hear the merits of the grievance.

3. **Areas of Exclusion.**

The arbitrator shall have no power to recommend or resolve:

- a. Any issue arising out of the exercise by the Board or the Administration of its responsibilities under Article III, Reserved Rights of the District, except as modified by specific provisions of this Agreement.
- b. Issues involving evaluation other than procedures specifically identified in Article XI, Evaluation Procedures.

4. **Cost of Arbitration:**

- a. All cost of the services of the arbitrator, including but not limited to, per diem expenses, travel and travel time, and the cost of any hearing room which is not the property of the school district shall be borne equally by the District and the Association.
- b. Either party may request that the hearing be recorded. The costs of a certified court reporter shall be paid by the party requesting the reporter and only the party paying for the reporter shall receive a transcript of the hearing. Alternately, both parties may mutually agree to share equal the costs of the reporter in which case both parties shall receive a copy of the transcript.
- c. The grievant and required employee witnesses will be granted released time as necessary to participate in any hearing required by the arbitration process. The release of employee witnesses will be scheduled to minimize classroom disruption.
- d. Each party shall bear the expense of the preparation and presentation of its own case.

5. **Expedited Arbitration.** The parties may mutually agree that arbitration may proceed under the expedited Rules of the American Arbitration Association.

ARTICLE XII – GRIEVANCE PROCEDURE (continued)

1 G. MISCELLANEOUS PROVISIONS:
2

3 1. **Right to Representation.** The District and the Association recognize the right
4 of the employee to present grievances without involvement of the Association
5 and of the Association to represent the employee who so requests it. Both the
6 grievant and the respondent reserve the right to have representation at each of
7 the steps.
8

9 2. **Time Limits.** The District and the Association agree that time limits in this
10 Article may be extended by mutual consent. If the respondent at any step fails
11 to meet the deadline for a response, the grievance may be appealed to the next
12 higher step. Failure of the grievant to request an extension or to meet time
13 limits shall render the grievance null and void.
14

15 3. **Conferences.** Upon request of either a grievant or a respondent, a conference
16 shall be arranged for discussion of a grievance.
17

18 4. **Released Time:**
19

20 a. An employee with a grievance shall be granted reasonable released
21 time to process the grievance.
22

23 b. The Association may, upon request of the grievant, have released time
24 for an authorized representative to participate in a grievance
25 conference.
26

27 c. The Association shall designate in writing to Employee Relations
28 Services the names of unit members who are authorized as grievance
29 representatives prior to the District's approval of released time.
30

31 d. Except for the informal conference, an employee must request approval
32 from the appropriate manager at least twenty-four (24) hours prior to
33 being released from duties to participate as a grievant or representative
34 in a grievance conference.
35

36 e. Released time shall be limited to one Association representative per
37 grievance conference.
38

39 f. Released time for processing grievances at the site level shall be at
40 times that do not disrupt direct service to students.
41

42 5. **Bypass to Appropriate District-Level Manager.** If the Association and
43 Employee Relations Services agree, and where the immediate manager would
44 not be the appropriate respondent, Level 1 of the grievance procedure may be
45 bypassed and the grievance brought directly to the appropriate district-level
46 manager.

ARTICLE XII – GRIEVANCE PROCEDURE (continued)

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6. **Group Grievance.** If more than one employee shares in the same allegation, only one grievance may be filed in their behalf upon mutual agreement of the Association and the district manager named in the grievance.
7. **Filing of Materials.** All documents, communications, and records dealing with the processing of a grievance shall be filed separately from the personnel files of the participants.
8. **Grievance Withdrawal.** A grievance may be withdrawn at any level without establishing precedent.
9. As per Government Code, Section 3543.5, the District shall not impose or threaten to impose reprisals, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their participation in the grievance procedure.
10. Issues properly addressed through the grievance procedure may not subsequently be considered through the District's complaint procedure.