

5.4 Procedure

a. Informal

The parties in interest acknowledge that it is usually most desirable for an employee and his/her supervisor to resolve problems through free and informal communication. **Prior to the filing of a grievance, but** Accordingly, within ten (10) workdays of the date the problem/dispute arose, ~~the employees~~ **will discuss potential problems with their supervisor.** ~~either individually or accompanied by an ESSA representative, will present the problem/dispute to his/her supervisor. Within five (5) work days after the presentation of the problem/dispute, the supervisor shall give his/her answer, in writing, to the employee and the ESSA. The supervisor shall be obligated to give his/her answer to the ESSA only if ESSA representatives were present at the informal meeting.~~ **Each party may have representation by the union or District present at the informal meeting.**

The Employee and supervisor will discuss the presented problem. If the parties are unable to resolve the problem/dispute, the employee may file a grievance.

b. Grievance Filing -Step 1

1. ~~If the problem/dispute is not resolved at the informal step, the employee or ESSA may within five (5) work days submit the grievance in written form to the supervisor. The supervisor shall arrange for a meeting with the grievant within five (5) work days.~~ **The grievance process is initiated with the filing of the mutually agreed upon form and after the informal meeting has occurred between the employee and the supervisor. The mutually agreed upon form must be filed within ten (10) workdays. Upon the receipt of the mutually agreed upon form, the District shall schedule a meeting at a mutually agreed upon time within ten (10) workdays.**
2. ~~On a form mutually developed by the District and the ESSA, the statement of grievance shall name the employee involved, shall state the facts giving rise to the grievance, the Negotiated Agreement articles that have been violated and shall state the contention of the employee and the ESSA with respect to any violation of this Agreement and shall indicate specific relief requested.~~ **If in the judgement of the ESSA, a grievance affects a group of employees, or the ESSA, the ESSA may initiate and submit such a grievance in writing, the parties may mutually agree to start the grievance process at Step 2 of the procedure.**(moved from 5.3.c and with changes)



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3. ~~Within five (5) work days after the aforementioned meeting the supervisor shall communicate his/her answer to the grievant and the ESSA in writing.~~ **The employee or representative, upon request, shall be granted up to a five (5) work day extension prior to filing the grievance, if requested prior to the conclusion of the ten (10) workday to file the grievance. The request must provide a rationale on the need for an extension.**

c. **Step One**

The meeting will be comprised of open dialogue to ensure a good faith attempt to resolve the problem/dispute.

Within five (5) work days after the aforementioned meeting the District shall communicate their answer to the parties in writing.


d. e. **Step Two**

1. If the grievance is not resolved at Step 1, the grievant may within ~~five (5)~~ **ten (10)** work days submit the grievance in written form to the Superintendent **and parties.** ~~A copy shall be given to the supervisor involved at the same time.~~
2. The Superintendent shall arrange for a Step **two (2) meeting** hearing with the grievant to take place ~~within fifteen (15) work days of his/her receipt of the grievance or appeal~~ **at a mutually agreed upon time within twenty (20) work days.** **If the step two meeting is related to a termination of employment,** ~~the parties in interest shall have the right to include in the meeting any person necessary to develop facts pertinent to the grievance.~~
3. Upon conclusion of the ~~hearing~~ **meeting,** the Superintendent will have ten (10) work days to provide an answer in writing, together with the reasons to the **parties** ~~grievant and the ESSA.~~
4. If the grievance is denied at Step 2, the parties may jointly decide to meet within five (5) work days to discuss whether the dispute can be informally resolved.

If the grievance is not resolved at Step 2, Step 3 - Binding Arbitration may be followed.



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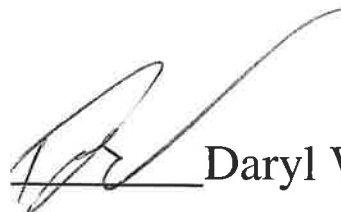
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e. Step Three 3 - Binding Arbitration

1. Within fifteen (15) work days after the receipt of the decision by the Superintendent, the ESSA or the District may, upon written notification to the other party, submit the grievance to arbitration under and in accordance with the rules of the American Arbitration Association. If any question arises as to whether the grievance is arbitrable, such question will first be ruled upon by the arbitrator selected to hear the dispute. In the event that a case is appealed to an arbitrator on which he/she has no power to rule, it shall be referred back to the parties without decision or recommendation on its merits.
2. Within ten (10) work days after such written notice of submission to arbitration the District and the ESSA will attempt to agree on a mutually acceptable arbitrator to serve. If the parties are unable to agree upon an arbitrator or to obtain such commitment within a ten (10) work day period, a request for a list of arbitrators will be made jointly to the American Arbitration Association.
3. The arbitrator will be without power or authority to make any decisions which require the commission of an act prohibited by law or which violates the terms of this Agreement. He/She shall have no power to change any practice, policy, or rule of the District nor to substitute his/her judgment for that of the District as to the reasonableness of any such practice, policy, rule, or any action taken by the District.
4. There shall be no appeal from an arbitrator's decision if it is within the scope of his/her authority. It shall be final and binding on the ESSA, its members, the employee or employees involved, and the District. **The Association shall discourage any attempt of its members and shall not encourage or cooperate in any appeal to any court or labor board from a decision of an arbitrator.**
5. The costs of the services of the arbitrator, including per diem expenses, if any, his/her travel, subsistence expenses, and the cost of any hearing room will be borne equally by the District and the ESSA. All other expenses shall be borne by the party incurring them and neither party shall be responsible for the expenses of witnesses called by the other.



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