

## ARTICLE IV - GRIEVANCE PROCEDURE

4.1 The following definitions shall apply to the processing of grievances:

A "Grievance" is defined as a claim by the Association or by one or more unit members that here has been a violation, misinterpretation, or misapplication of a provision of this Agreement.

A "working day" is a day in which the central administrative office of the District is open for business.

The "immediate administrator" is the lowest level administrator having immediate jurisdiction over the grievant who has been designated by the District to adjust grievances.

"Time limits" indicated are considered maximum. Every effort shall be made to expedite the process. Time limits may be extended by mutual agreement of the parties.

A "grievant" is an individual unit member, who alleges a grievance defined above. The Association may be the grievant if an allegation that Association Rights (Article VIII) has been violated.

4.2 The parties shall make earnest effort to settle grievances, as defined in Section 1, at the lowest possible administrative level by following the steps listed below:

Step One - Before filing a formal grievance, the grievant shall attempt to resolve the grievance by an informal conference with his/her immediate supervisor within fifteen (15) working days after the occurrence or act of omission giving rise to the alleged grievance, or when the grievant could reasonably be expected to know of the event which gives rise to the grievance. In any case above, a grievance may not be filed after sixty (60) working days from the date of the act upon which the grievance is based.

Step Two - If the grievance is not settled by a decision at Step One, the grievant may submit the grievance in writing to his/her immediate supervisor within five (5) working days of the informal conference at Step One. The grievance shall state the facts surrounding the grievance and the remedy sought. It shall be signed and dated by the unit member.

A meeting shall be scheduled within five (5) working days between the grievant and immediate supervisor. Both sides shall be entitled to representatives. After a review of the grievance, the immediate supervisor shall issue a written decision on the grievance within five (5) working days.

Step Three - If the grievance is not settled by a decision at Step Two, the grievant may submit the grievance in writing to the Assistant Superintendent, Human Resources, within five (5) working days of the decision at Step Two. A meeting shall be scheduled within five (5) working days between the grievant and the Assistant Superintendent, Human Resources. Both sides shall be entitled to representatives. After a review of the grievance, the Assistant Superintendent, Human Resources, shall issue a written decision on the grievance within five (5) working days.

Step Four - If the grievance is not settled by a decision at Step Three, the grievant may submit the grievance in writing to the District Superintendent within five (5) working days of the decision at Step Three.

A meeting shall be scheduled, if requested by either party, within five (5) working days between the grievant and the Assistant Superintendent, Human Resources. Both sides shall be entitled to representatives. After review of the grievance, the Superintendent of Schools shall issue a written decision on the grievance within five (5) working days.

- 4.3 Any grievance not presented to the District as provided in Section 2 shall be waived for all purposes. If both parties mutually agree in writing, timelines may be waived in Step One through four. Any grievance, not processed by the unit member in accordance with the other time limits set forth in this Article, shall be considered settled on the basis of the decision last made by the District. If the District does not process the grievance within the time limits set forth in this Article, the grievant may proceed to the next level. If the action causing the grievance originated at the District level rather than the immediate supervisor level, the grievance, Step One, shall commence with the Assistant Superintendent, Human Resources at Step Three.
- 4.4 The unit member shall be entitled upon request to representation by the Association at all grievance meetings. In situations where the Association has not been invited to represent the unit member, the District shall not agree to a final resolution of the grievance until the Association has received a copy of the grievance and the proposed settlement and has been given the opportunity to file a response to the matter.
- 4.5 Both parties shall make every effort so that grievance investigation and resolution shall not interfere with the educational process. When grievances are processed during regular school time, the District shall provide released time for the grievant, Association Representatives and/or witnesses. It is understood that grievance hearings and meeting shall be held whenever possible outside of school time.
- 4.6 In the event a grievance is filed at such a time that it cannot be processed by the end of the school year, every effort shall be made by both parties to complete the grievance process prior to the end of the school year or as soon as practical.
- 4.7 No reprisals shall be taken by the District or the Association against any participant in the grievance procedure.
- 4.8 All documents, communications and records dealing with the processing of a grievance shall be filed in a separate file and shall not be kept in the personnel file of any of the participants. Upon request, the names of all participants in a given grievance shall be removed from all documents after one year from the date of the final resolution of the grievance.

## GRIEVANCE ARBITRATION

- 4.9.1 Grievances which are not settled pursuant to Article IV, Section 2, which the Association desires to contest further and which involve the interpretation or application of the

expressed terms of this Agreement may be submitted to arbitration as provided in this Article, but only if the Association gives written notice to the District of its desire to arbitrate the grievance within ten (10) working days after the termination of Step Four of the grievance procedure. It is expressly understood that the only matters which are subject to arbitration under this Article are grievances which were processed and handled in accordance with procedures of Article IV. The substance of evaluation in Article VI (Procedures of Evaluation) (procedures of evaluation are grievable), Article III (District Rights), and Article II (Non-discrimination) (except as noted within the Article), are specifically excluded from arbitration under the provisions of this Article.

- 4.9.2 As soon as possible, and in any event, not later than ten (10) working days after the District receives written notice of the Association's desire to arbitrate, the parties shall agree upon an arbitrator. If no agreement is reached within said ten (10) days, the parties shall request a list of seven arbitrators from the California State Mediation and Conciliation Service experienced in education labor relations. The parties shall alternately strike names from the list until only one name remains, that person shall arbitrate the dispute. The determination as to which party strikes first shall be decided by a flip of the coin.
- 4.9.3 The arbitrator shall have no power to alter, amend, change, add to, or subtract from any of the terms of this Agreement. He/she shall only find whether there has been a violation of the expressed terms of this Agreement and policies specified in Article IV (4.1) definition of a "grievance," in the respect alleged in the grievance. The findings of the arbitrator shall be based solely upon the evidence and arguments presented to him/her by the respective parties in the presence of each other, except to the extent that post-hearing briefs are filed. Such post-hearing briefs, if any, shall be based solely upon the evidence presented by the respective parties in the presence of each other.
- 4.9.4 This Agreement constitutes a contract between the parties which shall be interpreted and applied by the parties and by the arbitrator in the same manner as any other contract under the laws of the State of California. The function and purpose of the arbitrator is to determine disputed interpretation of terms actually found in the Agreement specified in Article IV (4.1), definition of a "grievance", or to determine disputed facts upon which the application of the Agreement depends. The arbitrator shall, therefore, not have authority, nor shall he/she consider it his/her function, to decide any issue not submitted or to so interpret or apply the Agreement as to change what can fairly be said to have been the intent of the parties as determined by generally accepted rules of contract construction. Past practices of the parties in interpreting or applying terms of their agreement may be relevant evidence, but shall not be used so as to justify, or result in, what is in effect a modification (whether by addition or by detracting) of the written terms of this Agreement. The arbitrator shall not make any decision or award, or fail to make any decision or award, merely because in his/her opinion such decision or award is fair or equitable. The arbitrator shall have no power to grant an award on any grievance based on facts or actions which occurred before or after the term of this Agreement.
- 4.9.5 The findings of the arbitrator which are within the limits herein prescribed shall be final and binding on all parties.

- 4.9.6 All fees and expenses of the arbitration, excluding the costs of a reporter's transcript if either party requests the same, shall be shared equally by the parties (50% District, 50% Association). Each party shall bear the expense of the presentation of its own case.
- 4.9.7 The arbitrator may hear and determine only one grievance at a time unless both parties mutually agree to consolidate similar grievances.