

LOS ANGELES UNIFIED SCHOOL DISTRICT
PERSONNEL COMMISSION

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LAWS AND RULES

December 18, 2002

893 PROCEDURES FOR THE ADJUSTMENT OF GRIEVANCES FOR NON BARGAINING UNIT CLASSIFIED PERSONNEL

A. Definition of a Grievance

A "grievance" is a claim by a permanent classified employee that the District has violated an express term of a written rule or written policy of the Board of Education, Personnel Commission, or the administration and by reason of such violation, the employee's interest have been adversely affected. This procedure shall not be available to employees in a bargaining unit.

All other matters and disputes of any nature are beyond the scope of this grievance procedure, including but not limited to those matters for which other methods of adjustment may be provided by the District, such as reductions in force, examination results, references or procedures; performance evaluations; disciplinary matters; complaints of one employee about another and those matters for which other methods of adjustment are provided by the District. Complaints regarding discrimination are to be handled under appropriate statutory procedures rather than this grievance procedure.

B. Grievance Procedures

1. The legal respondent in any grievance shall be the District itself rather than any individual supervisor or administrator.
2. If the same grievance or essentially the same grievance, as determined by mutual agreement, is signed and submitted by more than one employee, only one employee may process the grievance under this Rule. The final determination of the grievance shall apply to the other pending grievances.
3. The filing or pendency of a grievance shall not delay or interfere with implementation of any District action during the processing thereof.
4. Processing and discussing the merits of a grievance shall not be considered a waiver by the District of the defense that the matter is neither grievable nor subject to consideration by an arbitrator or that the grievance should be denied for other reasons which do not go to the merits of the grievance, such as the untimely filing of the grievance.

CHANGE:

To revise and update rules.

Remove: August 9, 2000, page 1 of 6. Add: December 18, 2002, page 1 of 7.

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5. If a supervisor or administrator with the authority and responsibility to adjust a grievance is absent during the specified time for meeting his/her responsibility, and no mutual agreement as been reached for a time extension, that supervisor's or administrator's designated representative shall assume his responsibility. If an employee or his supervisor is absent on an approved leave of absence of three months or less or because his/her assignment period is other than a 12 month basis, the proceedings may, upon mutual written agreement, cease until all parties return to work and will then resume as though there had been no interruption. If the employee wishes to continue the proceedings when not actually working on the job, mutual agreement between the grievant and respondent must be reached to continue the proceedings.
6. At all grievance meetings under this Rule, the grievant shall be entitled to be accompanied by one representative. A grievant shall also be entitled to represent himself or herself.
7. Grievance meetings and hearings will be scheduled by the District at mutually convenient times and places during normal District business hours. Such meetings or hearings will be scheduled so as to minimize interference with regular employee duties. If a grievance meeting or hearing is scheduled during regular duty hours, reasonable employee released time, including necessary travel time with mileage reimbursement, will be provided to the grievant and, if also employed by the District, his/her representative and any witnesses requested to attend.
8. From the time a grievance is filed until it is resolved, neither the District nor the grievant shall make public the grievance or evidence regarding the grievance. This prohibition is not intended to restrict normal interviewing or witness and other necessary preparations for the hearing.
9. If a grievance is not processed by the grievant at any step in accordance with the time limits of this rule, it shall be deemed withdrawn. If the District fails to respond to the grievance in a timely manner at any step, the running of its time limit shall be deemed a denial of the grievance and termination of the step in question, and the grievant may proceed to the next step. All time limits and grievance steps may be shortened, extended or waived, but only by mutual written agreement.
10. A "Day" for purposes of this Rule is defined as any day of the calendar year except Saturdays, Sundays and legal or school holidays.

CHANGE:

Complete revision of Rule to bring into conformity with the procedures listed in the contracts.

Remove: December 1, 1971, page 2 of 6. Add: May 27, 1985, page 2 of 7.

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Steps in the Grievance ProcessC. 1. Required Informal Discussion:

Before filing a formal written grievance under Step One, a grievant must attempt to resolve the dispute by presenting the grievance orally to the immediate supervisor or designee and discussing the grievance with him or her. The written grievance must be filed with the time limits required under Step One, whether or not the grievant is able first to discuss it with the supervisor.

2. Step One

Within fifteen days after the grievant knew or reasonably should have known of the occurrence of the facts upon which the grievance is based, the grievance must be presented in writing to the immediate supervisor or his/her designee, on a form provided by the District, stating the facts surrounding the grievance, identifying the specific written Rule, or policy which is alleged to have been violated, and the remedy requested. The form shall be signed and dated by the grievant. In addition, school based personnel must provide a copy of the completed form to the site administrator. A meeting between the grievant and the immediate supervisor or designee shall take place within five days from presentation of the grievance, and the supervisor or designee shall reply in writing within five days following the meeting. The receipt of such reply shall terminate Step One. If a grievance does not relate to the immediate supervisor and the remedy requested is not within the authority of the immediate supervisor, the grievance may, if the grievant desires, be filed with the administrator who has such responsibility and authority.

3. Step Two:

If the grievance is not resolved in Step One, the grievant may, within five days after the termination of Step One, present the written grievance to the grievant's division head, Educational Service Center administrator, or designee. In the case of autonomous Offices or Branches, the grievance will be presented to the head of the organizational unit. Within five days from receipt of the grievance, a meeting shall take place to discuss the matter and the administrator shall reply in writing within five days following the meeting. The receipt of such reply shall terminate Step Two.

CHANGE:

Clerical error clean-up.

Remove: (Reissue) May 27, 1985, page 3 of 6. Add: October 3, 2013, page 3 of 7.

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4. Step Three

If the grievance is not resolved in Step Two, the grievant may, within five days after the termination of Step Two, present the written grievance to the administrator designated by the District to hear and decide Step Three Grievances. If, this administrator or designee desires, a meeting may take place within five days from receipt of grievance. The administrator or designee shall reply in writing within five days after the meeting or, if no meeting is held within five days after receipt of the grievance. The receipt of such reply shall terminate Step Three.

5. Request for Arbitration:

If the grievant not satisfied with the decision at Step Three, he/she may submit the matter to the Office of Staff Relations for arbitration. This request must be made within five days after the termination of Step Three.

- a. Within five days from the date the request for arbitration is received by the Office of Staff Relations, a meeting shall be arranged with the parties to the grievance, or their representatives, for the selection of an arbitrator. The arbitrator may be jointly agreed upon by the parties or shall be selected from the list of persons by alternately striking names until one remains. This list of arbitrators shall be the same as that detailed in the then existing contract between the District and the organization representing classroom teachers.
- b. The party who strikes the first name shall be determined by lot. If the arbitrator indicates that he/she will not be available for hearing within a reasonable time not to exceed sixty days from the selection of the arbitrator, the parties shall proceed to select another arbitrator as indicated above. All fees for the services of the arbitrator shall be paid from the appropriate funds of the District. Each party shall bear the expense of the presentation of its own case.
- c. The hearing shall be under the direction of the Arbitrator who shall conduct all matters in accordance with the rules and procedures prescribed in Section 11513 of the Government Code except as otherwise indicated in this Rule. Arbitration hearings shall be private with attendance limited to the parties of the grievance and their representatives, if any, and witnesses while testifying.
- d. The Office of Staff Relations shall be responsible for the arrangements for the hearing, the maintenance of records, and such other services required by the arbitrator in fulfilling his/her responsibilities.

CHANGE:

To identify District third step grievance representative.

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- e. The parties shall exchange lists of proposed witnesses not later than five days prior to the first date of the hearing.
- f. Neither party shall communicate with the arbitrator without first contacting the other party to explain the purpose of the intended communication.
- g. If the District claims that the grievance should be dismissed for reasons that do not go to the merits (e.g., mootness, untimeliness, matter beyond the scope of procedure, or breach of confidentiality provisions) the District may cause its claim to be heard and ruled upon by the arbitrator prior to a hearing on the merits. If the District plans to invoke this separate preliminary hearing, it shall so advise the grievant prior to the selection of the arbitrator. Either the grievant or the District may require that a different arbitrator be selected to hear the merits in the event that such a hearing is required. There shall be at least fifteen days between the arbitrator's decision on the preliminary matter(s) and any hearing on the merits. The preliminary hearing is optional to the District and if not utilized, the District shall not be precluded from raising its arbitrability defenses at the regular hearing, provided that it gives the grievant ten days' notice of its intention to do so. Moreover, both the grievant and the District shall retain all rights they have under law to pursue issues relating to arbitrability of a grievance.
- h. The arbitrator shall have no power to alter, add to or subtract from the provisions of any Rule or policy of the Board of Education, Personnel Commission, or the administration, but shall only determine if the violation(s) detailed in the grievance are proven. Past practice may be relevant evidence, but shall not be used so as to justify or result in what is in effect a modification (whether by revision, addition or detracting) a Rule or policy of the Board of Education, Personnel Commission, or the administration. The arbitrator shall have no power to determine an award or remedy exceeding that sought by the grievant.
- i. The arbitrator shall render written findings, conclusions, and the recommendations within thirty working days of the termination of the hearing. The findings, conclusions, and recommendations shall be sent to the parties concerned and to the Office of Staff Relations and the Superintendent of Schools for implementation.

CHANGE:

Complete revision of Rule.

Remove: November 24, 1969, page 5 of 6. Add: May 27, 1985, page 5 of 7.

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6. Board of Education Review:

- a. If the grievant, the respondent, or the concerned administrators are not satisfied with the recommendations submitted by the arbitrator, a written appeal may be made to the Board of Education within five days after receipt of the findings, conclusions, and recommendations. The written appeal shall be submitted to the Executive Officer of the Board of Education and shall:
 - a. Be based upon a statement of objections to the findings, conclusions, or recommendations of the arbitrator.
 - b. Provide a statement setting forth with particularity the factual or other basis for such objections.
 - c. Describe the relief requested.

Copies of the appeal shall also be submitted to the Superintendent of Schools and the Office of Staff Relations.

- b. A copy of the appeal shall be provided to the responding party, who shall be required to submit a written reply to the points made in the appeal within five days of receipt thereof.
- c. The Board of Education may review the records of the hearing, including the findings, conclusions, and recommendations, or conduct its own hearing or investigation of the appeal.
- d. When the Board of Education has reached a decision, the Clerk of the Board of Education shall notify the Superintendent of Schools and the individuals involved in writing as soon as possible after the completion of the review. The Superintendent of Schools shall implement the decision.
- e. The decision of the Board of Education shall be final and conclusive.

D. Grievance Files:

The District's Office of Staff Relations shall maintain a file of all grievance records and communications separate from the personnel files of the grievant(s) and grievance documents and decisions shall not be included in the personnel file unless it is reasonably necessary or appropriate to do so. Grievance documents, including arbitration awards, shall never be placed in an employee's examination folder.

CHANGE:

Complete revision of Rule.

Remove: November 24, 1969, page 6 of 6. Add: May 27, 1985, page 6 of 7.

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E. No Reprisals:

There shall be no reprisal against an employee for utilizing these grievance procedures or for assisting a grievant pursuant to these procedures.

F. Personnel Commission Review:

In the processing of grievances of employees on the staff of the Personnel Commission, the Personnel Commission and the Personnel Director shall be substituted in the provisions of this Rule for the Board of Education and the Superintendent of Schools respectively.

CHANGE:

Continuance of Rule.

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