

ARTICLE 10
GRIEVANCE PROCEDURE

10.1 Definitions

- 10.1.1 A "grievance" is defined as, and limited to, a statement by a grievant that the District has violated an express term of this agreement and that, by reason of such violation, his/her rights have been adversely affected. Excluded from these procedures are matters so indicated elsewhere in this agreement.
- 10.1.2 A "grievant" is an employee or group of employees in the bargaining unit and/or the Association on its own behalf or on the behalf of its members. The grievant may represent him/herself in the grievance procedure or elect to be accompanied by representatives of his/her own choosing, whether or not such persons are employees of the District. The representatives may help present the grievance orally or in writing or serve as an advisor to the grievant.
- 10.1.3 A "day" is a day in which the central administrative offices of the District are open for business.
- 10.1.4 Immediate supervisor is the District designee not in the bargaining unit having immediate jurisdiction over the grievant.

10.2 Steps of Grievance

- 10.2.1 There shall be an earnest effort on the part of both parties to settle grievances promptly through the steps listed below.
- 10.2.2 Required Informal Discussion:
Prior to filing a formal grievance, a grievant shall attempt to resolve the dispute by presenting the grievance orally to the immediate supervisor and discuss the grievance issue and proposed resolution with him/her. The immediate supervisor shall meet with the grievant within ten (10) days after receiving a request from the grievant for an informal conference. If the immediate supervisor is not in work status at the time the informal discussion is requested, the grievant shall initiate a meeting with the supervisor of the immediate supervisor. The request to discuss the grievance with the supervisor shall be made within fifteen days after the grievant knew, or reasonably should have known, of the events giving rise to the grievance.
- 10.2.3 Optional Peer Resolution Committee:
In the event that the grievance is not resolved at the informal level, the grievant may request that the grievance be submitted to the Peer Resolution Committee (PRC) for consideration. The grievant has fifteen (15) days from the date of the informal discussion to submit his/her grievance to the PRC. The PRC shall be comprised of one classified bargaining unit member and one administrator/manager. CSEA shall appoint six (6) unit members to be available to serve on the PRC. In order to be eligible to serve on the PRC, the individual must receive district provided training. The Office of Human Resources, in conjunction with CSEA, shall annually provide a mutually agreed upon training program on dispute resolution techniques. A grievant who opts to have their grievance submitted to the PRC shall so notify, in writing, the Office of Human Resources and the CSEA Chapter President.

Upon such a request, the Office of Human Resources shall appoint an administrator/manager and request CSEA to assign a unit member from the pool of six unit members to serve on the particular PRC. Neither the administrator/manager nor the unit member appointed to the PRC shall be from the same department as the grievant.

Within ten (10) days from receipt of a request to submit a grievance to the peer resolution process, the PRC shall meet with the employee and the involved administrator/manager to attempt to reach a mutually agreeable resolution of the grievance. In the event that the grievant is represented in any such meeting, the involved administrator/manager may be accompanied by a representative from the Office of Human Resources. The PRC shall file a written report of the resolution to everyone involved in the process. In the event that the PRC is not able to resolve the grievance within twenty (20) days of its appointment, the grievant may submit his/her grievance to Step 1 of the grievance procedure.

A grievant may elect to withdraw from the PRC process at any time. The timelines for filing a grievance at Step 1 shall be tolled during the time the PRC is addressing a grievance. Discussions held in conjunction with the PRC shall not be admissible in any subsequent arbitration proceeding. This section shall expire with the expiration date of this contract unless otherwise mutually agreed to by the District and CSEA.

10.2.4 Step 1: If the grievance is not settled in the informal discussion, the grievance shall be set forth on the appropriate form in writing and presented to the employee's immediate supervisor within 15 (fifteen) days after the informal meeting or the completion of the Peer Resolution process as provided for under Section 10.2.3. At the request of either the grievant or the employee's immediate supervisor, a meeting shall be arranged to review and discuss the grievance. The grievant shall make himself/herself available for such a meeting. The employee's immediate supervisor will give a written reply to the grievant by the end of the tenth day following the submission of the grievance and giving of such reply will terminate Step 1.

10.2.5 Step 2: If the grievance is not settled at Step 1 (See 10.2.4), the grievant may file a written appeal with the Vice President, Human Resources. Upon mutual agreement of the District and the Association, Step 1 may be skipped and the grievance appealed directly to Step 2. The appeal shall be accompanied by all written statements submitted in Step 1; the decision rendered at such step, and shall contain a written statement indicating reasons for his/her appeal. This appeal must be presented to the Vice President, Human Resources or his/her designee within 10 (ten) days after the termination of Step 1, and if requested by either party, a meeting shall be arranged to review and discuss the grievance. A decision shall be rendered by the Vice President, Human Resources or his/her designee within 10 (ten) days after the meeting on the Step 2 grievance. In the absence of a request for a meeting, the decision shall be rendered within 10 (ten) days of the receipt of the Step 2 grievance. The rendering of such decision will terminate Step 2.

10.2.6 Step 3: If the grievance is not settled at Step 2 (See 10.2.5), the Association may file a written notification within 10 (ten) days after termination of Step 2, with the Vice President, Human Resources submitting the grievance to arbitration. The appeal shall be accompanied by all statements submitted at prior levels, the decision rendered at each Step, and shall contain a written statement indicating reasons for the appeal.

Within 15 (fifteen) days after the District receives written notification of the Association's desire to arbitrate, the parties shall agree upon an arbitrator. If no agreement is otherwise reached, the parties shall request seven names from the California State Conciliation Service and shall, by alternate striking of names, select an arbitrator. The arbitrator shall be bound by the arbitration standards enumerated below.

10.2.7 Arbitration Standards

The arbitrator shall have no power to alter, amend, change, add to, or subtract from any of the terms of this Agreement, but shall determine only whether or not there has been a violation of this Agreement as complained of by the grievant. The decision of the arbitrator shall be based solely upon the evidence and arguments presented her/him by the respective parties in the presence of each other, and upon post-hearing briefs of the parties. However, the arbitrator may also make judicial notice of a matter of fact or law that is authorized for judicial notice by the statutory or decisional law of the State of California or of the United States.

This Agreement constitutes a contract between the parties which shall be interpreted and applied by the parties and 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, 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 or her function to decide any issue not properly before him/her or to interpret or apply the Agreement so 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 practice of the parties may be presented and considered as relevant evidence in interpreting or applying terms of this Agreement. The arbitrator shall not render any decision or award, or fail to render any decision or award, merely because in his/her opinion such decision or award is fair or equitable. No decision or award rendered by the arbitrator shall be retroactive beyond the beginning of the period specified in Step One of the grievance procedure set forth in this Article or the occurrence of the act or omission of an act giving rise to the grievance.

10.2.8 The decision of the arbitrator shall be binding on the parties.

10.2.9 All costs of the services of the arbitrator including but not limited to, per diem expenses, travel expenses and subsistence expenses, shall be borne equally by the Association and the District. All other costs will be borne by the party incurring them.

10.3 General Provisions

10.3.1 If a grievance is not processed by the employee in accordance with the time limits set forth in this article, it shall be considered settled on the basis of the decision last made by the District. If the District fails to respond to the grievance in a timely manner at any Step, the grievant may proceed to the next Step. However, the time limits hereunder may be lengthened, shortened or waived, in any particular case but only by mutual written agreement.

10.3.2 The grievant shall be entitled, upon request, to representation by the Association as specified in 10.1.2. of this Article. In situations where the Association has not been invited to represent the employee, the decision shall not be final until the Association has received a copy and has had five days to respond to the proposed resolution of the grievance.

10.3.3 The respondent, in all cases, shall be the District itself, rather than any individual. The filing or pendency of grievances shall not delay or interfere with implementation of any District action during the processing thereof.

10.3.4 The grievant and/or his/her representative shall be provided release time without loss of compensation for the purpose of grievance conferences or hearings. Release time shall not be provided for a grievance investigation and/or preparation. The parties agree that this shall constitute a "reasonable period of release time and a reasonable number of representatives" within the meaning of Government Code, Section 3543.1, (c).

- 10.3.5 In order to encourage a professional and harmonious disposition of individual grievances, it is agreed that from the time a grievance is filed until the conclusion of all grievance proceedings, neither the grievant, nor the Association, nor the District shall make public either the grievance or evidence regarding the grievance.
- 10.3.6 The District records dealing with the filing and processing of a grievance shall be maintained separately from the grievant's personnel file. Access to grievant's files shall be limited to the grievant, District personnel representatives who have a legitimate need to have such access and the Association representative with proper written authorization.
- 10.3.7 No reprisals of any kind shall be taken by the Superintendent/President or any member or representative of the administration or the Board against the grievant or any representative of the grievant by reason of his/her bringing a grievance or participating in a grievance, nor shall any reprisals of any kind be taken by the Association or any members or representatives of the Association against either the grievant, the District, or any District employee in the grievance procedure by reasons of such participation or decision.
- 10.3.8 The District shall provide a grievance form for use by district employees which shall be agreed to by the District and the Association. The written form shall include the following information to be provided by the grievant:
- a. a full statement of the facts surrounding the grievance and detailing the specific provisions of this agreement alleged to have been violated;
 - b. a statement as to the remedy or relief requested by the grievant;
 - c. as an attachment, any documents in the possession of the grievant which are relevant to the disposition of the grievance;
 - d. an identification of all witnesses whom the grievant believes have information relevant
 - e. a box indicating the grievant's right to waive or request an official meeting at each Step of the grievance.
 - f. signature of the grievant and date signed.
- 10.3.9 During the processing of any of the formal steps of the grievance, neither the grievant nor the representative of the District may be accompanied or represented by more than a total of two persons unless otherwise mutually agreed.

10.4 Harassment

If an employee believes a District manager or supervisor systematically and persistently badgers, upbraids, or threatens an employee, the employee shall within fifteen (15) days following such instances have the right to file in writing with the Vice President of Human Resources, a claim of harassment using a District approved form. Such written statements shall include specific instances including dates and times of the action(s) that are alleged to be harassment. Upon receipt of such a claim, the Office of Human Resources shall convene a PRC pursuant to the procedure and terms set forth in Section 10.2.3, with the exception that such claims are not subject to the formal Steps of the grievance procedure. In the event that the claim is not resolved by the PRC, the Vice President of Human Resources shall investigate or have investigated the claims of the employee and shall, if he/she deems appropriate, meet with the employee regarding the employee's claims. The Vice President of Human Resources, shall, after such review, provide a written response within fifteen (15) days after completing the investigation of the employee's claim, and such response shall be final and binding and not subject to the grievance procedure.

This procedure of resolution of harassment complaints is not to be utilized as a substitute for the procedure of federal or state law or District policy or regulation(s) to handle claims of sexual or discriminatory harassment.