

What is the Board's Responsibility?

MAKING SOUND DECISIONS, PRACTICAL IMPLICATIONS, AND EMPLOYEE GRIEVANCES

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Roadmap of Topics

- ▶ Determining whether a grievance policy is necessary for your District.
- ▶ Developing a grievance policy.
- ▶ Board's role in employee grievances.
- ▶ Practical implications.





Is A Grievance Policy Necessary?



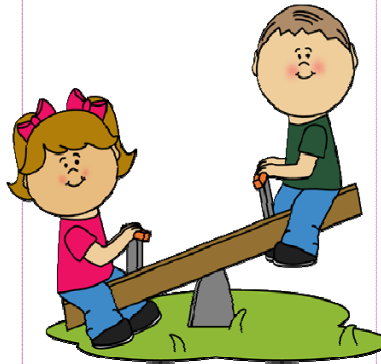
To have or not to have: Grievance Policy

- ▶ School boards are not required by state law to hear employee grievances or to grant a hearing request.
- ▶ Most Districts develop grievance policies that allow the board discretion when determining whether or not to grant a hearing.
- ▶ Grievance policies also give boards a limited opportunity to become involved in certain personnel matters where they otherwise would have no authority to get involved.

Weighing the pros and cons of grievance policies

PROS

- Consistency
- Allows board discretion
- Allows board limited authority to get involved
- Lays out the chain of command



CONS

- Board's role is not to micro-manage the schools and their employees
- Wastes the board's time—especially in larger school districts
- Runs the risk of interfering with chain of command

Types of grievance policies

- ▶ No policy.
 - ▶ Consistency is key!
 - ▶ Without policy guidance, similar grievances must be carefully handled in a way that reflects consistency for all employees.
- ▶ Policy that ends with Superintendent.
 - ▶ Board has no involvement.
 - ▶ Board member response to employee filing grievance should be "refer to policy."
- ▶ Policy that allows for board discretion.
 - ▶ Allows the board limited authority to hear employee grievances.
 - ▶ Should be written in a way that promotes discretion and does not allow every grievance an automatic board hearing.

What should Ashley have done?

- A. Referred Tiffany to the relevant board policy and explained that she could not become involved.
- B. Told Tiffany that she was the favorite board member and could get them to do anything she wanted.
- C. Written a scathing, anonymous article about Principal Freeman in the school board's monthly newsletter.

Tiffany is a cafeteria worker at Duff Middle School. She loves double bubble gum and chews it everyday, at least 10 pieces while she is at work. Tiffany gets in trouble with Principal Freeman, who insists on a "gum-free" campus. Tiffany files an employee grievance.

Tiffany's friend, Ashley, is on the district school board. When Tiffany asked her to get involved, Ashley contacted the board and asked that Tiffany's grievance be heard during the next board meeting, against board policy.

The board policy does not allow for board hearings on employee grievance matters.

Writing An Effective Grievance Policy

Key elements of a policy

- ▶ Definition of a grievance.
- ▶ Who can file a grievance?
- ▶ Time frames for filing a grievance.
- ▶ Meeting requirements.
- ▶ Administrative procedures.

Defining Grievance

- ▶ A disagreement involving the work situation in which an individual or group of individuals believes that an injustice has been done because of lack of policy, or because of a policy that is unfair, that deviates from or is a misapplication of a policy that affects employee's work status.
- ▶ Should specify that anything that falls outside of this definition will not be processed under the grievance policy.
- ▶ Should specify when alternative complaint procedure are in place
 - ▶ TEDA
 - ▶ Discrimination policy
 - ▶ RIF
 - ▶ Salary disputes

Who can file a grievance?

- ▶ Employees directly affected by policy or incident.
 - ▶ Occasionally, joint grievances are appropriate.
- ▶ Should specify employees (or former employees) to whom the policy does not apply.
 - ▶ Retirees
 - ▶ Temporary employees
- ▶ Force employee to identify policy(ies) violated.

Time frame for filing a grievance

- ▶ Specify # of days grievance must be filed after occurrence that gives rise to the grievance.
- ▶ Specify # of days within which grievance meeting must be conducted, if required, and written response must be issued.
- ▶ Specify # of days within which appeal to next level must be submitted.
- ▶ Provide for reasonable extensions of time frames.

Meeting Requirements

- ▶ Specify whether meeting is to be requested or is required to be conducted.
- ▶ Initial grievance meeting should always be held; subsequent appeal meetings may be optional, but still recommended.
- ▶ Specify whether meeting is at discretion of the school board at that level of appeal.

Administrative Procedures

- ▶ Policy itself may be general, with separate administrative rule specifying the procedural details.
- ▶ Grievance form should be developed and its use a requirement.

Sample Grievance Policy: GBK

- ▶ The Board recognizes the need to provide the means for the resolution of disputes concerning the application of any of the provisions of the district's policies, rules or regulations as they affect the work activity of employees.
- ▶ Employees should secure an equitable solution of grievances at the most immediate administrative level.
- ▶ Employees must seek resolution of disputes under the existing grievance regulation and will have the right to do so with complete freedom from reprisal.
- ▶ The Superintendent is responsible for maintaining administrative procedures which will facilitate this policy.

Same Administrative Rule: GBK-R

- ▶ **Purpose**
 - ▶ The purpose of this procedure is to settle, at the lowest possible administrative level, employee grievances as defined herein.
- ▶ **Definition**
 - ▶ A grievance is a claim by an employee of a violation, misinterpretation or misapplication of a provision of school board policies and administrative procedures or rules and regulations as they affect the employment or work of such employee.
 - ▶ Actions which are contractual or subject to the Teacher Employment and Dismissal Act, S.C. Code 1976, as amended, Section 59-25-410, et seq. and employment decisions implemented under the district's reduction in force policy are not grievances under this procedure.
- ▶ **Joint Grievances**
 - ▶ The superintendent may allow employees to present a joint grievance where each grievant alleges essentially the same facts or circumstances and requests the same relief. Joint grievances must bear the signature of each grievant. The district reserves the right to consolidate individual grievances and the right to hear joint grievances on a separate basis.
- ▶ **Definitions**
 - ▶ "Supervisor" means any person having the authority to recommend employment, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline an employee or any person having the responsibility of directing or reviewing the work of an employee.
 - ▶ "Day" is any day which the administrative office is open.

Sample GBK-R cont.

► Forms

- The district superintendent will provide forms for use in filing and administering a grievance.

► Procedure

- Grievance hearings will be conducted informally. Either party may make a stenographic record or tape recording of the meeting. Any such record will be made available to the other party.

► Level One

- Any employee having a grievance will first orally review or discuss such grievance with his/her immediate supervisor.

- If discussion at Step 1 does not resolve the matter to the satisfaction of the employee, such employee has the right to present the grievance in writing to the immediate supervisor. This must be done within 10 working days after completing Step 1 above. Failure to do so will mean that the grievance no longer exists.

- The written grievance will consist of a concise statement of facts upon which the grievance is based and a reference to the specific provision of the contract, policy, rule or regulation in question. The employee will file a copy of the grievance with the superintendent at the same time. The employee has the right to include in the appeal a request for a hearing before the immediate supervisor.

- If requested, a hearing will be conducted within five working days after the receipt of such request, and the aggrieved employee will be advised in writing of the time, place and date of such hearing. If no hearing is requested, the supervisor will decide the matter on the written grievance.

Sample GBK-R cont.

► Level two

- If the decision of the immediate supervisor does not resolve the grievance to the satisfaction of the employee, or if no decision is made within the allotted time, the grievant may appeal in writing to the superintendent. At the same time, the employee will serve a copy of the written appeal on the immediate supervisor.
- The supervisor may file a written response with the superintendent and serve a copy on the employee within five working days from the receipt of the copy of the employee's written appeal.
- If, in appealing to the superintendent, the grievant requests to be heard by the superintendent, a hearing will be conducted by the superintendent within ten working days after the time of the filing of a response by the supervisor has expired.

► Level three

- If the action taken by the superintendent does not resolve the grievance to the satisfaction of the grievant, he/she may request in writing that the superintendent notify the board of the grievant's wish to be heard by the board.
- Failure to file such a request with the superintendent within five working days after receipt of the superintendent's decision on the grievance will cause the decision of the superintendent to become the final judgment in the matter.
- Upon receiving the grievant's request to be heard by the board, the superintendent will present to the board the grievant's request to be heard together with copies of all correspondence and decisions from levels one and two.
- . If the board determines to hear the appeal, written notice from the board to the grievant will be rendered within 15 calendar days giving notice of the day, time and place of such a hearing

Sample GBK-R cont.

- ▶ General Provisions

- ▶ At any level, other than before the superintendent, the superintendent has the discretion to grant reasonable extension of time to the party. In matters at the superintendent level, the chairman of the board has the discretion to grant reasonable extension time.
- ▶ The grievant may be represented by legal counsel at level three. Such a counselor must be admitted to the practice of law in South Carolina and be a member in good standing of the South Carolina State Bar. The district will not provide counsel for the grievant.

Board's Role in Grievance Procedures

Board's Role: Employee Grievances

- ▶ Review information submitted by the employee.
- ▶ Board discussion.
- ▶ Determine whether to grant hearing request.
- ▶ Develop a hearing format.

Reviewing Information Submitted by Employee

- ▶ Initial grievance form and any documentation submitted by employee during the initial grievance process.
- ▶ Written responses by supervisors and administrators at each level, including any documentation supporting the grievance decision.
- ▶ Relevant school board policies.
- ▶ Written summary of grievance history.

Board Discussion

- ▶ Normally happens in executive session.
- ▶ Review any new documents or statements that were not considered by supervisors and administrators at the initial grievance level.
- ▶ May receive advice and recommendation from superintendent and/or attorney.

Determine whether to grant the hearing request

- ▶ Determine whether there appears to be any procedural irregularities in the grievance process.
- ▶ Determine whether the initial grievance decision appears to be supported by a sound decision process.
- ▶ Consider past practices and/or past similar grievance hearing requests.

Hearing Format

- ▶ Hearing procedures are within the discretion of the board unless already specified in school board policy.
- ▶ Occurs in executive session unless employee requests hearing to happen in open session.
- ▶ Should be informal; employee or representative allowed to address the board.
- ▶ Information not already presented at the initial grievance level is not permissible.

Practical Implications

Types of Issues where Grievance Procedure will NOT apply

- ▶ Teacher Employment Dismissal Act (TEDA)
- ▶ Reduction in Force (RIF)
- ▶ Contractual issues

Will the District's grievance policy apply?

- Andrea, one of the guidance counselors at Butler High School, files an employee grievance because her position has been eliminated due to a reduction-in-force.
- Sara, a special education teacher at White Elementary school, files an employee grievance because she is unsatisfied with the District's "no belly dancing" policy because she believes it negatively affects her District job.
- David teaches art at Brownville Middle School. After receiving a letter from the Superintendent terminating his contract, David files an employee grievance.

