



Pojoaque Valley Schools
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General Grievance Procedure for Employees

This Procedure is promulgated pursuant to Board Policy 236, governs grievances and complaints of employees not based on allegations of unlawful discrimination or sexual misconduct and is effective upon issuance. The grievance procedures for employee complaints based on unlawful discrimination or sexual misconduct are described in the Title IX-504 Procedure. **This procedure shall not be construed to create new or additional rights beyond those granted in Board policies or law.**

1. **Purpose.** Recognizing that misunderstandings and lack of effective communication are a significant source of disruption in the workplace, this Procedure is promulgated pursuant to Policy 236 and is intended to provide an orderly, fair and efficient process for resolving, as informally and at the lowest administrative level as possible, legitimate employment related complaints. Employees are encouraged to discuss their concerns and grievances with their supervisor, principal, or other appropriate administrator prior to filing a written grievance.

2. **Definitions.**

- a. "Employee" means any current employee of the District.
- b. "Grievance" includes the terms "complaint" or "dispute". A grievance means an allegation by an employee directly relating to:
 - (1) An employee's wages, hours, conditions of work or employment status;
 - (2) Whistleblower complaints as defined in the New Mexico Whistleblower Protection Act, NMSA 1978 §§ 10-16C-1, et seq.;
 - (3) A misinterpretation or misapplication of a Board Policy, administrative rule or procedure that directly and adversely affects the employee and results in actual harm.
- c. "Day(s)" means workdays identified on the approved school calendar for each year, provided that any day in which the District is not open for business due to weather or other unforeseen circumstances shall not be considered a "workday".

3. A grievance may be filed by only an individual employee based on an act or actions related to that individual. Multiple or group grievances are not permitted.

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4. Limitation on Filing Grievances.

a. A grievance may be filed by a grievant only while employed in the District. Grievances filed after the date of resignation, discharge or termination shall be untimely. A grievant who resigns during the pendency of a grievance shall be deemed to have waived a resolution of such grievance. A grievant who resigns in lieu of termination during the pendency of a grievance shall not be eligible for future employment with the District.

b. A grievance shall be filed no later than five (5) days after the grievant knew or reasonably should have known of the action which precipitated the grievance.

c. An employee shall not bring separate or serial complaints arising from the same event or series of events that have been or could have been addressed in a previous complaint. When two or more grievances are filed by the same person which are sufficiently similar in nature and remedy that would allow for their resolution in the same proceeding, the District may consolidate the grievances or may deny the amended grievance. The employee shall be notified of such action, but the consolidation or denial shall not form the basis for a new grievance. When a grievance consolidation or amendment is allowed, time shall be counted from the date of such action forward for determining grievance steps.

d. A grievance of unlawful discrimination or sexual misconduct erroneously filed under this procedure shall be stamped as accepted on the date filed and shall be promptly re-routed to the appropriate complaint investigative procedure.

5. Non-Grievable Actions

The following actions are not grievable:

a. Discretionary acts in the exercise of professional judgment pertaining to an employee's work performance evaluation by an immediate supervisor, including the determination to initiate a Professional Growth Plan (“**PGP**”) to address substandard or unsatisfactory work performance, the evaluation of the outcome of the PGP and discretionary acts following the completion or termination of the PGP.

b. Discretionary actions in the exercise of professional judgment of the Superintendent or designee arising from program or budget re-alignments, adjustments or reductions, adjustments in student enrollment and adjustments based on curriculum or licensure requirements.

c. Decisions of the Superintendent including, but not limited to, refusal to re-employ, discharge, termination, demotions or other actions affecting employment and are perceived by the employee to be directly adverse to him or her personnel status.

d. Grievances arising from the non renewal of a contract with an exempt employee identified in NMSA 1978 §22-10A-26;

e. Grievances arising from the proposed termination or non renewal of employment.

f. Grievances arising from terminations under NMSA 1978 §§ 22-10A-24 and 22-10A-25 or discharges under §§22-10A-27 and 22-10A-28 or under the Board's RIF policy which are addressed by statute.

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6. Grievance Steps

a. Grievances will be heard by the supervisor at a reasonable time agreeable to both parties, but in no event more than five (5) days after the written statement has been delivered to the supervisor unless delayed by agreement of both the employee and supervisor. Grievance forms shall be made available to employees at the administrative office of each school site and the central office Human Resources Office.

b. All proceedings will be kept informal and confidential and the rules of evidence applicable to judicial proceedings shall not apply. Either party may make an audio recording of the meeting at each step provided that the recording is clearly audible, each party is identified by name when speaking and a complete copy of the recording is provided to the other party.

c. An employee may discuss the matter personally with the supervisor, or the employee may be accompanied by a representative of his/her choice.

d. The supervisor may be accompanied by another representative of the administration at any hearing or meeting with the employee.

e. In view of the importance of resolving the matter as rapidly as possible, the number of days indicated at each step shall be maximum, and every effort shall be made to expedite the process.

f. No member of the board of education and no member of the administration shall retaliate against any employee by doing any act which adversely affects the employee's employment status because the employee instituted a grievance proceeding. Investigations or disciplinary actions taken in good faith for reasons not related to the grievance shall not be deemed retaliation.

g. The supervisor and each administrator shall keep all communications, documents and records relating to the grievance matter in a separate confidential file, and such communications, documents and records, other than documentation evidencing the grievance resolution, shall be destroyed after the final action in resolution of the grievance.

h. The administration agrees to make available to the employee(s) or his/her representative all pertinent information, not privileged or confidential, in its possession or control, which is relevant to the issues raised.

i. The aggrieved party shall be responsible for submitting the grievance to the next step. The failure of an employee to appeal to the next step within the time permitted shall be deemed the employee's acceptance of the resolution at the lower step and the grievance process shall terminate.

j. Each party shall be responsible for payment of any costs incurred in the grievance process.

7. Written Grievance Review

a. Step One

The employee shall submit to the immediate supervisor a written statement setting forth in detail the factual background and essence of the problem, provided that if the grievance alleges unlawful harassment against the employee by an immediate supervisor, the Step One grievance complaint shall be submitted to the appropriate central office administrator.

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The supervisor shall hold a meeting with the employee and, if requested, his/her designated representative within five (5) days after delivery of the written statement to the supervisor. The role of the representative of either party at step one shall be non-participatory. The supervisor shall submit to the employee a decision, in writing, within five (5) days after delivery of the written statement by the employee. If the supervisor fails to submit a written decision to the employee within the five (5) days following the meeting, the issue shall automatically be submitted for resolution to the appropriate central office administrator pursuant to Step Two.

b. Step Two

If the employee is not satisfied with the disposition of the problem at Step One, or if the complaint is a claim of unlawful harassment against an immediate supervisor, the written statement maybe submitted to the appropriate central office administrator, within three (3) days after the decision at Step One has been rendered. Immediately thereafter, the supervisor shall deliver his file on the matter to the central office administrator.

The central office administrator will meet with the employee, or any other person involved in an effort to resolve the matter, the meeting to take place within five (5) days after receipt of the written statement by the central office administrator. The employee(s) or administrator(s) shall have the right to submit written statements and other evidence, and provide witnesses but no official record shall be made. The central office administrator shall within three (3) days after the meeting render a written decision. If the central office administrator fails to submit a decision in writing within the three (3) day period, the problem shall automatically be submitted to the superintendent in accordance with Step Three.

c. Step Three

If the employee(s) is not satisfied with the disposition of the problem at Step Two, the matter may be appealed in writing to the superintendent if the superintendent was not involved in Step Two. Such appeal may be instituted by the employee's delivering a notice thereof in writing to the superintendent within two (2) days after a decision has been rendered by the central office administrator. The superintendent may appoint a designee to hear the Step Three complaint and make a recommended decision to the Superintendent.

Within five (5) school days following receipt of the notice of appeal or of the failure of the central office administrator to render a written decision, the superintendent or designee shall review any file on the matter and meet with the appealing employee and any other individuals deemed by the superintendent to be appropriate for a fair resolution of the matter. If the matter is heard by the Superintendent's designee, the designee shall make a recommendation to the superintendent within three (3) days of the meeting. The superintendent shall, within three (3) days of such meeting if heard by the superintendent or within five (5) days of the meeting if heard by a designee, render a written decision on the matter and mail or deliver a copy thereof to the appealing employee and the employee against whom the complaint was made.

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d. Step Four

If the employee(s) is not satisfied with the disposition of the matter by the superintendent, a written appeal may be submitted to the board of education, if delivered to the superintendent within (5) days after the superintendent's decision has been rendered.

The board of education shall review the matter at its next regular meeting or, if deemed appropriate, at a special meeting called for the purpose of entertaining the appeal. The board shall review all written statements, written testimony, documents and other tangible evidence, which has been accumulated in the matter. If deemed necessary by the board, a hearing shall be called for the purpose of resolution of the grievance. The employees and the superintendent shall be advised in writing of the board's decision within five (5) school days of the meeting or within five (5) school days after the conclusion of any hearing. The decision of the board is final.

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