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ARTICLE 6 GRIEVANCE PROCEDURE

6.1 DEFINITIONS

6.1.1 Grievance

Grievance shall mean a complaint by an employee, group of employees or the Association that there has been to him/her (or them) a violation or inequitable application of any provisions of the Agreement.

6.1.2 Grievant

A grievant is the employee or group of employees or the Association making the claim.

6.1.3 A Party in Interest

A party in interest is the person making the claim and any person who might be required to take action or against whom action might be taken in order to resolve the claim.

6.2 PURPOSE

- 6.2.3 The purpose of this procedure is to secure, at the lowest possible level, equitable solutions to the problems which may from time to time arise affecting teachers-unit members. Both parties agree that these proceedings will be kept as informal and confidential as may be appropriate at any level of the procedure.

6.3 PROCEDURE

6.3.1 Time Limits—Also see *Grievance Timeline Chart, Appendix page 70*.

Since it is important that grievances be processed in a timely manner as rapidly as possible, the number of days indicated at each level should be considered as a maximum and every effort should be made to expedite the process. The time limits specified may, however, be extended by mutual agreement.

Any grievance not appealed to the next step of the procedure within the prescribed time limits shall be considered settled on the basis of the answer given in the current step.

A member of the unit who wishes to have a grievance heard under this procedure must initiate action within twenty (20) working days of the time he/she had knowledge of the act or omission giving rise to the grievance.

6.3.2 Year End Grievances

In the event a grievance is filed at such time that it cannot be processed through all the steps in this grievance procedure by the end of the school year, and if left unresolved until the beginning of the following school year could result in irreparable harm to a party in interest, the time limits set forth herein shall be reduced so that the grievance procedure may be exhausted prior to the end of the school year or as soon thereafter as is practicable.

6.3.3 Informal Level – Principal or Immediate Supervisor

Within twenty (20) school days after the event or circumstances occasioning the grievance, or after becoming aware of the event or circumstance, the grievant shall

initially meet with their immediate supervisor/principal in an attempt to resolve the grievance informally.

6.3.4 Level 1 – Principal or Immediate Supervisor

6.3.4.1 If the informal discussion fails to resolve the grievance to the satisfaction of the grievant, a formal grievance may be initiated in writing no later than ten (10) school days after the informal discussion.

6.3.4.2 Within ~~ten (10)~~ seven (7) school days after the filing of the formal grievance, the immediate supervisor/principal shall meet with the grievant and shall respond in writing within ~~five (5)~~ three (3) school days of the meeting.

6.3.4.3 Initiate Grievance – Level 1: If a grievance arises from action or inaction on the part of administration at a level above the principal or immediate supervisor, the aggrieved person shall submit such grievance in writing to the Director-Human Resources with the processing of the grievance to commence at Level 1.

6.3.5 Level 2 – Superintendent

6.3.5.1 If the grievant is not satisfied with the decision at Level 1, they may appeal the decision to the Superintendent within ten (10) school days after the decision is rendered.

6.3.5.2 Within ten (10) school days the Superintendent shall meet with the grievant and shall respond in writing within five (5) school days of the meeting.

6.3.6 Level 3 – Grievance Mediation

6.3.6.1 If the grievant and/or the Association is not satisfied with the disposition of the grievance at Level 2, then within seven (7) school days from the day the Superintendent's written response was received, the grievant and/or the Association may request that the grievance be referred to grievance mediation.

6.3.6.2 The Association shall request that a conciliator/mediator from the California State Mediation and Conciliation Service (SMCS) be assigned to assist the parties in the resolution of the grievance. The District shall be copied on the Association's request. Any costs charged by the SMCS shall be borne equally by the parties.

6.3.6.3 The function of the conciliator/mediator shall be to assist the parties to achieve a mutually satisfactory resolution of the grievance. The conciliator/mediator shall be asked to meet with the grievant, the Association and the District, within fifteen (15) school days of the Association's request.

6.3.6.4 If an agreement is reached, the agreement shall be reduced to writing and shall be signed by the grievant, the Association and the District. This agreement shall be nonprecedential and shall constitute a settlement of the grievance.

6.3.6.5 In the event that the grievant, the Association and the Superintendent or her/his designee have not resolved the grievance with the assistance of the conciliator/mediator within ten (10) school days from the first meeting held by the conciliator/mediator, and

the parties have not agreed to continue the mediation, the Association may terminate Level Three and the grievance may proceed to Level Four.

6.3.7 Level 4 – Binding Arbitration

- (a) If the grievant has not signed a mediation agreement as provided for in 6.3.6.4, the grievant may, within ten (10) school days after the final meeting with the conciliator/mediator, request in writing that the Association submit the grievance to arbitration. The Association, by written notice to the Superintendent within fifteen (15) school days after the receipt of the request from the grievant, may submit the grievance to binding arbitration.
- (b) Within ten (10) school days after such written notice from the Association of submission to binding arbitration, representatives of the Board and the Association shall attempt to agree upon a mutually acceptable arbitrator and shall obtain a commitment from said arbitrator to serve. If the parties are unable to agree upon an arbitrator or to obtain such a commitment within the specified period, a request for a list of arbitrators may be made to the American Arbitration Association by either party. The parties shall then be bound by the rules and procedures of the American Arbitration Association in the selection of an arbitrator.
- (c) The arbitrator so selected shall confer with the representatives of the Board and the Association and hold the hearing promptly in a timely manner and shall issue an award not later than forty-five (45) days from the date of close of the hearing or if closing arguments have been waived by both parties, then forty-five (45) days from the date final statements and proofs on issues are submitted to the arbitrator him/her. The arbitrator's recommendations shall set forth his/her findings of fact, reasoning and conclusions on issues submitted.

6.3.8 Award of Arbitrator

The award of the arbitrator shall be binding upon the Association and the Board. The arbitrator is restricted to make whole settlements. Interest may be assessed on lost wages at the rate the District is earning interest on monies in its general fund during the most recent quarter. No punitive nor exemplary damages can be awarded.

6.4 RIGHTS OF TEACHERS TO REPRESENTATION

Any grievant may be represented at all stages of the grievance procedure by himself/herself, or, at his/her option, be accompanied by his/her representative(s).

6.5 RIGHTS OF PARTICIPANTS

No reprisals of any kind shall be taken by the Board or by any member of the administration against any party in interest, any representative, any member of the Association, or any participants in a grievance by reason of such participation.

6.6 MISCELLANEOUS

6.6.1 If the District fails to respond to a grievance within the time limits specified for that level, the grievant shall have the right to appeal to the next level.

6.6.42 All decisions rendered at Levels 1, 2, 3, and 4 of the grievance procedure shall be in writing setting forth the decision and the reasons therefore and shall be transmitted promptly to all parties in interest.

6.6.23 All documents, communications and records dealing with the processing of a grievance shall not be kept in the personnel file of any of the participants.

6.6.34 Forms for filing grievances, serving notices, taking appeals, making reports and recommendations, and other necessary documents shall be prepared jointly by the Superintendent and the Association and given appropriate distribution so as to facilitate operation of the grievance procedure.

6.6.45 No meetings and hearings under this procedure shall be conducted in public and shall include only such parties in interest and their designated or selected representatives, heretofore referred to in this Article.

6.6.56 Should the processing of any grievance require that an employee be released from his/her regular assignment, he/she shall be released without loss of pay or benefits.

6.6.67 All parties to the grievance will make available to other parties involved, all pertinent information not privileged under law in its possession or control, which is relevant to the issues raised by the grievance.

6.6.78 All costs for the services of the arbitrator, including but not limited to, per diem expense, the arbitrator's travel and subsistence expenses, and the cost of any hearing room, will be borne equally by the parties. All other costs will be borne by the party incurring them.