



Provo City School District Policy Series 5000: Personnel

5285 P1

Grievance

Definitions:

1. Aggrieved Person: The person or persons making the claim who has been adversely affected.
2. Employees who are defined as “At-Will” in Procedure 5020 P3 may meet and confer with their immediate supervisor regarding grievance claims and are not subject to policy 5285 or procedure 5285 P1.
3. Grievance: A claim made by an employee based upon an event or condition that affects the interpretation, meaning or application of any of provision of the employment agreement. It is expressly understood that a claim, which is not based upon an event or condition of the employment agreement, does not constitute a grievance. Specifically, a grievance may be filed only when an employee alleges one or more of the following: (a) disciplinary action against the employee, (b) violation of law, (c) violation of contract, or (d) violation of policy.
4. Hearing: A proceeding held in accordance with generally accepted principles of due process and administrative law in which proceeding evidence is presented and witnesses heard, and in which the party against whom the proceedings are held has a right to: (1) appear with or without counsel to present evidence, confront and cross-examine witnesses, or subpoena witnesses; or (2) obtain a decision based solely upon evidence presented to the hearing body in the presence of both parties or representatives of both parties, recognizing that presence is satisfied if a party has been given a reasonable opportunity to attend, even if the party fails to do so.
5. Party in Interest: The person or persons 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. Representation: The opportunity for an aggrieved person to choose individuals to participate with him/her at the formal level of the proceedings.

Informal Procedures

Employee concerns that involve a disciplinary action against the employee or that involve the alleged violation of the law, the contract, or District policy shall first be heard using Informal Procedures.

Informal Level I – Site Supervisor/Administrator

When an employee wishes to question a decision relevant to the above-mentioned categories, he/she shall first complete the Resolution of Concern Form No. 5285 F1 and submit it to the supervisor/administrator with whom s/he wishes to discuss the concern. This shall be done as

soon as is practical, but no longer than fifteen (15) workdays following the date of the occurrence causing the concern.

Within five (5) workdays of being notified of the concern, supervisor/administrator shall schedule a meeting with the employee to discuss the concern. After discussing the concern(s) with the employee, the supervisor/administrator shall then investigate the concern(s) and issue a written decision within five (5) workdays after discussing the concern. If no satisfactory resolution is affected or if no decision has been rendered within the time limit at Informal Level I, the employee may appeal to Informal Level II, Deputy Superintendent, within five (five) workdays of when the Informal Level I decision was or should have been made.

Informal Level II Deputy Superintendent

When concerns cannot be resolved at Informal Level I, the employee may present an appeal to the Deputy Superintendent within five (5) workdays following the unsuccessful resolution at Informal Level I. Within ten (10) workdays of receiving the formal, written grievance, the Deputy Superintendent shall hear the concern. After discussing the concern(s) with the employee, the Deputy Superintendent shall then investigate the concern(s) and issue a written decision within five (5) workdays after discussing the concern. If no satisfactory resolution is affected or if no decision has been rendered within the time limit at Informal Level II, the employee may file a formal written grievance and request a hearing with the Superintendent within five (5) workdays of when the Informal Level II decision was or should have been made.

Formal Procedures – Grievance & Hearings

Before a grievance is filed, the aggrieved employee must first attempt to resolve the concern using the Informal Procedures.

When filing a formal grievance, the aggrieved person may do any of the following: (1) address the grievance personally with the appropriate party; (2) request that a representative(s) accompany him/her to discuss the grievance with the appropriate party; (3) request that the representative act on his/her behalf to discuss the grievance with the appropriate party.

Rules for Conducting a Hearing:

In order to ensure that requirements of due process are met in the event of a grievance and hearing(s), the aggrieved party shall be provided with the following, no less than fifteen (15) days prior to the hearing: (1) notice of the hearing delivered in person or sent to the aggrieved party's address as shown on the records of the District; (2) a list of the issues to be discussed including pertinent laws, policies and disciplinary actions; (3) sufficient information about the allegations to permit the aggrieved party to prepare a meaningful defense; and (4) a copy of the rules under which the hearing will be conducted. Hearing fact finders shall use the preponderance of evidence as the standard for making determinations.

Formal Level I: Superintendent or Hearing officer

The Superintendent may elect to hear the grievance appeal or may appoint a hearing officer to hear the grievance appeal within thirty (30) workdays of presentation of the written Formal Level I grievance appeal.

Within fifteen (5) workdays after receiving the written grievance and request for a hearing, the Superintendent or hearing officer shall schedule a hearing with the aggrieved employee. When the Superintendent chooses to appoint a hearing officer, the hearing officer shall be knowledgeable in public school employment matters, laws, and regulations. Hearing notice shall be delivered to the employee a minimum of fifteen (15) workdays prior to the hearing. Prior to hearing, all parties in interest shall make available to the parties in interest and/or their representatives, the names of their witnesses and all pertinent information in their possession or control which is relevant to the grievance and which is not privileged under law. If any of the parties in interest require additional information prior to the hearing, they must submit a written request to the other parties in interest within five (5) workdays of receiving notice of the grievance hearing. The response shall be delivered within fifteen (15) workdays of the date of the request. Additional information shall not be introduced after this point in the grievance appeal process. After parties in interest acknowledge the receipt of additional requested information but no longer than fifteen (15) workdays after the information was requested, the Superintendent or hearing officer shall re-schedule the hearing if necessary.

Within fifteen (15) days of notifying the employee of the hearing, the Superintendent or hearing officer shall meet with the aggrieved person to hear the grievance. Within fifteen (15) workdays following the hearing, the Superintendent or hearing officer shall issue a decision. If no satisfactory resolution is affected or if no decision has been rendered within the time limit at Formal Level I, the employee may appeal to Formal Level II, Board of Education, within five (5) workdays of when the Formal Level I decision was or should have been made.

Formal Level II: Board of Education or Hearing Officer/Panel

The Board may elect to hear the grievance appeal or uphold the decision of the Formal Level I decision. If the Board elects to hear the grievance appeal, it may appoint a hearing officer or panel to hear the grievance appeal within thirty (30) workdays of presentation of the written Formal Level II grievance appeal.

When the Board chooses to appoint a hearing officer or panel, the hearing officer or panel shall be knowledgeable in public school employment matters, laws, and regulations and should be agreed upon by all parties in interest. The hearing officer or panel shall hear the grievance and make a recommendation to the Board, but the Board will make the final decision, which will be binding upon both the employee and the District. The Board decision may alter previous decisions in any way. If a hearing officer/panel is appointed, the hearing shall take place within thirty (30) workdays of said appointment. The Board shall submit its

decision to the employee or his/her representative in writing, within thirty (30) workdays of the date of the hearing.

The cost of the hearing officer or panel will be divided equally between the District and the employee.

Nothing herein shall limit an aggrieved person's right to appeal the Board's final decision to an appropriate court of law. Such judicial action must be commenced within thirty (30) workdays after the Board has rendered its written decision, or the right to judicial review shall be forfeited.