

BOARD AGENDA ITEM

September 27, 2011

SUBJECT:

Amendment to Administrative Rule GBK-R *Staff Concerns/Complaints/Grievances*
Second Reading

BACKGROUND:

The District has a comprehensive grievance procedure in Policy GBK and Rule GBK-R to deal with a variety of issues that can be grieved by employees. These procedures also constitute the internal district procedure for handling civil rights complaints of various types. As the State Department of Education has refined certified and administrative employee evaluation instruments and procedures, the models have become more specific in their guidelines and have some internal review or rebuttal measures available. Performance parameters are clearly defined and outlined in the models, as well as the utilization of team approach methodologies for formal evaluations. Consequently, the ability to file grievances in connection with evaluations, evaluation models utilized, the assignment of improvement plans, and other aspects of evaluation processes should be exempt from the grievance procedures in the view of the administration.

ADMINISTRATIVE CONSIDERATION:

Under the present Grievance Policy and Rule, the potential for filing grievances against supervisors has a demonstrated potential to be unnecessarily time consuming and counterproductive to the efficient process of employee evaluations. The administration believes that the proposed changes will not have any substantial or materially negative effect on the rights of employees, generally, and will preclude the abuse of the grievance process in some instances.

RECOMMENDATION:

Adopt on second reading the proposed changes to Administrative Rule GBK-R

ATTACHMENT:

- 1) Administrative Rule GBK-R as amended and approved at first reading

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AR GBK-R Staff Concerns/Complaints/Grievances

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The board encourages employees to discuss their concerns or complaints informally with their supervisors. Often, the cause of a problem or concern is merely a misunderstanding among the individuals involved. If, at any time, an employee feels that a formal mechanism for raising a concern or problem is needed, the employee should follow the procedure in this administrative rule.

Purpose

The purpose of this procedure is to provide a prompt and effective means of settling, at the lowest possible administrative level, differences that may arise among employees or between employees and their supervisors. The district will keep these proceedings as informal and confidential as may be appropriate at all levels of procedure.

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 activity of such employee.

The board does not consider actions which are subject to the Teachers Employment and Dismissal Act, S.C. Code 1976, as amended, Section 59-25-410, et seq; Section 59-26-40 (Rev. 1998); and employment decisions implemented under the district's reduction in force policy to be grievances under this procedure. Additionally, matters related to the evaluation of employees, the evaluation model utilized (where a choice exists), and the assignment of improvement plans (whether a component of an evaluation model or independent of an evaluation), are not subject to the provisions of this grievance policy.

Joint grievances

The district 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.

Definition of supervisor

The term "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 for directing or reviewing the work of an employee.

Definition of day

Unless otherwise indicated, a "day" is defined as a working day for the supervisor with whom the complaint is filed.

General provisions

An employee who wishes to file a grievance must submit a written statement to his/her direct supervisor within 30 calendar days following either the event giving rise to the grievance or the time when the employee reasonably should have gained knowledge of its occurrence.

Employees activating or participating in these procedures will not be the object of reprisal, sanction or penalty of any kind.

The first supervisor or administrator receiving a written notice of a grievance will provide the person filing the same with a copy of this policy and obtain acknowledgment of receipt of such copy. The acknowledgement will include a statement recognizing the necessity for confidentiality in personnel matters.

The written statement of the grievance will include, but not be limited to, the specific nature of the grievance; the date, time and place of the event or condition that caused the grievance; the name of the person against whom the grievance is being filed; the action requested to resolve the grievance; the name and title of any third party representative, if requested; and the signature of the grievant.

Should the employee believe that resolution of the grievance requires a decision beyond the supervisor's level or area of authority, the employee will so state such belief upon submitting the written statement. If the supervisor is in agreement concerning authority to resolve the grievance, he/she will immediately pass the grievance on to the appropriate supervisor, who will handle the matter as a first level grievance. The direct supervisor may, however, determine that resolution of the grievance is not outside his/her authority and hear the grievance.

Employees may present a joint grievance where each grievant alleges the same facts or circumstances and requests the same relief. Joint grievances must bear the signature of each grievant. The school district also reserves the right to consolidate individual grievances.

Records at all levels will be made available to all parties at the next level. Copies of the decision at each level will be sent to the grievant and immediate supervisor.

Specific resolution provisions

Level one

Any employee having a complaint that may lead to a formal grievance will first discuss such complaint informally with the immediate supervisor.

If discussion at the above step does not resolve the matter to the satisfaction of the employee, such employee will present a written statement of the grievance to the immediate supervisor within 10 working days of the discussion. The written grievance will consist of a concise statement of the facts upon which the grievance is based.

The immediate supervisor will arrange a meeting on the grievance within 10 working days after receipt thereof. The decision made and the reasons for the decision will be communicated in writing to the grievant within 10 working days following the date of the hearing.

If no decision is made at level one within 10 working days, the complaint will be submitted automatically to the next level within 10 working days unless an extension is agreed to by both parties.

The immediate supervisor will keep a record of any hearing held and obtain the signature from all participants that a hearing was held.

Level two

If the decision of the immediate supervisor does not resolve the grievance, the grievant may appeal to the next level of supervision within 10 working days. The grievant will follow the procedures outlined in level one and present the appeal to the area or division supervisor.

Level three

The area (division) supervisor will follow the procedures outlined at level one except that if a satisfactory resolution of the grievance is not achieved, the grievant may appeal to the district superintendent.

Level four

The district superintendent will follow the procedures outlined at level one except that if a satisfactory resolution is not achieved, the grievant may request a hearing before the Aiken County Board of Education within 10 working days of the district superintendent's response. Such request will be made in writing to the chairman of the board of education.

Level five

The board of education will consider the grievance at its next regularly scheduled meeting. The grievance will normally be considered based upon the written appeal and the record of proceedings from the earlier levels involved in the procedure. Upon request of any party to the proceeding, and at its option, the board may schedule further proceedings for the purpose of questioning participants or witnesses in the grievance proceeding and for gathering such additional information as it deems necessary. The board in receiving such further information will provide a fair and reasonable opportunity for participants to be heard but will, in its discretion, make such limitations on the time for presentation, format for information received,

and questions to be considered, as it deems necessary and appropriate to make an informed disposition of the appeal.

The board of education will render a decision within 10 working days (after considering an appeal on written submission, or after hearing additional information), and that decision will be considered as final.

Any grievance that is not advanced to the next level of authority within 10 working days following the administration's response will be deemed abandoned.

Title IX complaints and Section 504 complaints

The procedures as herein described are to be used to process employee complaints based on alleged violations of Title IX of the Education Amendments of 1972 (sex discrimination) and Section 504 of the Rehabilitation Act of 1973 (discrimination against the disabled).

After level one, however, 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 designated time, the grievant may appeal in writing to the assistant superintendent for administration if the complaint involves an alleged Title IX violation or to the coordinator of the disabled if the complaint involves an alleged violation of Section 504.

The grievant must file the appeal within five working days from the grievant's receipt of the immediate supervisor's decision. If, in that appeal, the grievant requests to be heard by the assistant superintendent for administration or coordinator for the disabled, a hearing will be conducted within five working days after the receipt of the request.

The assistant superintendent for administration or coordinator of the disabled, as appropriate, will render a decision on the matter within five working days after receipt of the appeal, or, if a hearing is requested, within five working days after the conclusion of the hearing. The decision and the reasons therefore will be reduced to writing and copies sent to the grievant and the immediate supervisor.

After appeal to the assistant superintendent for administration or coordinator of the disabled, as appropriate, the grievant may follow the procedures described above for appeal to the supervisor and then to the board.

Complaints alleging other types of discrimination

The procedures as herein described are to be used to process employee complaints based on any other alleged discriminatory practice, act or omission.

After level two, however, if the decision of the next level supervisor does not resolve the grievance to the satisfaction of the employee, or if no decision is made within the designated time, the grievant may appeal in writing to the assistant superintendent for administration (serving as the district's civil rights coordinator).

The grievant must file the appeal within five working days from the grievant's receipt of the next level supervisor's decision. If, in that appeal, the grievant requests to be heard by the district's civil rights coordinator, a conference will be conducted within five working days after the receipt of the request.

The district's civil rights coordinator will render a decision on the matter within five working days after receipt of the appeal or, if a conference is requested, within five working days after the conclusion of the conference. The decision and the reasons therefore will be reduced to writing and copies sent to the grievant and the supervisor from whom the appeal was taken.

After appeal to the district civil rights coordinator, the grievant may follow the procedures described above for appeal to the superintendent and to the board.

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The School District of Aiken County