

GRIEVANCE PROCEDURE FOR EMPLOYEES

1. Purpose-- The purpose of this procedure is to secure, at the lowest administrative level, equitable solutions to claim(s) arising from a violation, misapplication, or misinterpretation of Board Policies or Administrative Directives, which may include discrimination or harassment prohibited by Policies 3.05 and 3.19, and to establish an orderly succession of procedures wherein these solutions may be pursued.
2. Definitions: As used herein, the following terms shall mean:
 - a. "Grievance" -- a written complaint that alleges a violation, misinterpretation, or misapplication of Board Policy or Administrative Directives, including discrimination or harassment prohibited by Policies 3.05 and 3.19
 - b. "Employee" -- every person employed in any position, instructional or non- instructional, by the South Tech Charter Academy, Inc. Board.
 - c. "Grievant" and "Complainant" -- an employee [or an applicant as defined in subsection (2)(e)] who alleges in writing that he/she has been subjected to discrimination or harassment as prohibited by Policies 3.05 and 3.19.
 - d. "Accused Employee" -- an employee who is alleged to have subjected another employee to discrimination or harassment as prohibited by Policies 3.05 and 3.19.
 - e. "Applicant," -- any person applying for employment with the Academy, or a current District employee who applies for another instructional or non-instructional position within the District.
 - f. "Supervisor" -- the person with direct responsibility for supervising or managing the aggrieved employee and who has the authority to take action necessary to resolve the grievance.
 - g. "Superior" -- the supervisor of the aggrieved employee's immediate supervisor.
 - h. "Days" -- workdays unless calendar days are specified.
3. Procedure for Grievances (Other than Alleged Harassment or Discrimination) – The following grievance procedure applies when the grievance is based on an allegation *other than* discrimination or harassment under Policies 3.05 and 3.19. (If the grievance is based on allegations of discrimination or harassment as prohibited by Policies 3.05 and 3.19, the procedures of Section (4) shall apply, instead.).
 - a. Level One: Informal Conference

Within ten (10) workdays after the employee first knows or reasonably should have known of the grievable incident, the employee shall initially discuss the matter with the immediate supervisor with the objective of informally resolving the matter. The supervisor shall prepare a written summarization of the conversation to be signed by the employee making the informal complaint.
 - b. Level Two: Filing a Written Grievance
 - i. Within ten (10) workdays after the informal conference described in Level One, if no satisfactory disposition is made, the employee may file a written grievance with the supervisor. The written grievance shall set forth specifically the event(s) upon which the grievance is based, citing the Policy and/or Directive alleged to be violated, the date the alleged infraction took place, and grounds upon which the grievance is made. The employee must sign and date the grievance.
 - ii. Within ten (10) workdays after receiving the written grievance, the supervisor shall schedule another meeting with the employee. Within ten (10) workdays of the second meeting, and after investigating the allegations, the supervisor shall issue a written decision to the employee.
 - c. Level Three: Review by the Academy President or Management Company Representative
 - i. Within ten (10) workdays after the supervisor's decision, if the employee is not satisfied with the supervisor's decision or if no decision has been issued, the employee may forward the written grievance and the supervisor's decision to the Academy President or Management Company Representative. The written grievance shall set forth the event(s) upon which the grievance is based. If the grievance is not forwarded to the President or Management Company Representative within the designated time, the grievance is considered withdrawn from the grievance process and shall be so noted in the grievance file.
 - ii. The Academy President or Management Company Representative shall appoint an ad hoc grievance review committee. The chair of the committee will be the highest-ranking school official on the committee. The committee will consist of:

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- A. One (1) member from school management, selected by the President or Management Company Representative;
 - B. One (1) member selected by the grievant; and
 - C. A third member selected by agreement of the first two (2) members. If the third member is not selected by the other committee members within seven (7) calendar days, the President or Management Company Representative shall appoint a third member to serve on the committee
 - iii. In an effort to resolve the grievance, within ten (10) workdays after the committee is designated, the committee shall meet with the grievant and the person alleged to have violated, misinterpreted, or misapplied a Policy or Directive. Other persons may be presented as witnesses at the meeting by either the grievant or the supervisor/superior. The committee shall issue a written recommendation within ten (10) workdays after the meeting, determining whether any violation has occurred, and if so, an appropriate remedy. A copy of the recommendation shall be provided to the grievant, supervisor, and the President or Management Company Representative.
 - iv. The President or Management Company Representative shall review the recommendation of the committee and the record of the grievance. If the President or Management Company Representative finds that a meeting with the grievant would assist in the final determination, the President or Management Company Representative may schedule a meeting for the purposes of this review. The President or Management Company Representative's decision is the final and binding decision of the Academy
4. Reporting and Resolving Allegations of Harassment or Discrimination.-- When the cause for the grievance is an allegation of discrimination or harassment of an employee (or applicant, as defined in subsection (2)(e)), the following procedures shall apply:
- a. Level One: Reporting to the Supervisor and Investigation by Supervisor
 - i. Reporting Discrimination or Harassment.-- Any employee (or applicant as defined in subsection (2)(e)) who believes he/she is a victim of discrimination or harassment as prohibited by Policies 3.05 and 3.19, may report the incident(s) in writing to the Academy President or Management Company Representative or other immediate supervisor, as applicable. Due to the sensitive nature of sexual harassment complaints, or in the event of an allegation of harassment or discrimination by one's supervisor, the complaint may be filed in writing directly with the President or Management Company Representative. The President or Management Company Representative will not provide Level One investigation unless the nature of the accusation excludes other levels of supervision that report to the President or Management Company Representative. If the nature of the accusation necessitates involvement of the President or Management Company Representative, every effort will be made to locate an appropriate designee to leave another level of resolution prior to litigation.
 - ii. Complaints should be filed as soon as possible after the alleged incident, but must be filed within sixty (60) calendar days after the employee (or applicant as defined in subsection (2)(e)) first knows or should have known of the grievable incident. Failure on the part of the complainant to initiate and/or follow up on a complaint in a timely manner may result in the complaint being deemed abandoned.
 - iii. The President or Management Company Representative/designee or other immediate supervisor (as applicable) may assist the individual in putting the complaint in writing; reviewing it with the complainant; and obtaining the complainant's signature. The complainant will be requested to provide signed, specific information regarding the alleged discrimination or harassment, the alleged offender(s), witnesses, and other relevant information. All complaints filed must be reported to the Academy President or Management Company Representative.
 - iv. It is the responsibility of the assistant principal, or other supervisor as applicable, to forward all harassment or discrimination complaints to the President or Management Company Representative and initiate an investigation within two (2) work days.

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- b. Investigation by Secondary School Principal/Designee.-- The Principal/designee shall document and begin within two (2) work days to thoroughly investigate all complaints of harassment or discrimination, including the following steps
 - i. Promptly talk with the complainant. The complainant shall have an opportunity to describe the incident, present any evidence, name witnesses, and put his/her complaint in writing if he/she has not already done so;
 - ii. Talk with any witnesses or others who may have relevant information; and
 - iii. Conduct an investigative meeting with the accused/employee, and the accused/employee's representative, if applicable, to discuss the allegations and allow the accused/employee to respond to the allegations.
 - iv. During the investigation, the Principal shall initiate any action deemed necessary to protect the complainant or other employees, consistent with the requirements of applicable laws.
 - v. When necessary to carry out the investigation or for other good reasons and consistent with federal and state privacy laws, the Principal should discuss the complaint with any of the following persons, as appropriate:
 - A. School President or Management Company Representative
 - B. Legal counsel for the Board
 - C. Another employee whose knowledge of the persons involved may help determine the truth;
 - D. The accused/employee
- c. Decision of the Principal/Designee.--Upon completion of the investigation, the Principal/designee shall make a decision, within thirty (30) calendar days of receiving the complaint if possible, about the validity of the allegations in the complaint. The President or Management Company Representative shall discuss the determination and any recommended corrective action with the Principal/designee or other immediate supervisor, as applicable. In reaching a decision about the complaint, the following should be taken into account:
 - i. Written statements of witness, the complainant, and accused/employee (or representative thereof); and written or oral advice from school personnel listed above in subparagraphs (4)(b)(v) A-D;
 - ii. The details and consistency of each person's account;
 - iii. Evidence of how the complainant reacted to the incident;
 - iv. Evidence of past instances of harassment or discrimination by the accused/employee (provided that, if evidence of past harassment/discrimination is to be considered, the principal/designee must review in their entirety the files regarding those past incidents);
 - v. Evidence of past harassment or discrimination complaints that were found to be untrue (provided that, if evidence of past accusations or complaints is to be considered, the principal/designee/supervisor must review in their entirety the files regarding those past incidents); and
 - vi. Case law, state and federal laws and regulations, and Board Policies prohibiting harassment and discrimination.
- d. To determine the severity of the harassment or discrimination, factors such as the following may be considered:
 - i. How the misconduct affected an employee's work;
 - ii. The type, frequency, and duration of the misconduct;
 - iii. The number of persons involved;
 - iv. The subject(s) of harassment or discrimination;
 - v. The place and situation where the incident occurred; and
 - vi. Other incidents at the site.
- e. The recommendations for action(s) to be taken, consistent with any applicable collective-bargaining agreement provisions, to resolve a complaint of harassment or discrimination by an employee may include, but are not limited to, the following:
 - i. No action, if the complaint is unsubstantiated;
 - ii. Training requirements for the accused/employee;
 - iii. Oral reprimand of the accused/employee;
 - iv. Written reprimand of the accused/employee,
 - v. Suspension of the accused/employee; or
 - vi. Termination of the accused/employee.

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- f. Level Two: Appeal to the President or Management Company Representative -- Within ten (10) work days after the Principal/designee issues a written decision, a dissatisfied party may appeal the decision in writing to the President or Management Company Representative. An appeal may also be filed if no decision has been issued within ten (10) workdays of the meeting. A copy of the appeal will also be provided to the Chairperson of the Board. If the grievance is not forwarded to the President or Management Company Representative within the designated time, the grievance is considered withdrawn from the grievance process and shall be so noted in the grievance file.
 - i. Notice of the appeal shall be given to the opposite party within two (2) workdays of receipt of appeal.
 - ii. The President or Management Company Representative shall appoint an ad hoc Harassment Grievance Review Committee. The chair of the committee will be the highest-ranking School official on the committee. The committee will consist of
 - A. One (1) member from school management, selected by the Academy President or Management Company Representative.
 - B. One (1) member selected by the grievant; and
 - C. A third member selected by agreement of the first two (2) members. If the third member is not selected by the other committee members within seven (7) calendar days, the President or Management Company Representative shall appoint a third member to serve on the committee.
 - iii. In an effort to resolve the grievance, within ten (10) workdays after the committee is designated, the committee shall meet with the appealing party and, if deemed appropriate, may also meet with the opposite party. Either the appealing party or the opposite party may present other persons as witnesses at the meeting.
 - iv. The committee shall issue a written recommendation within ten (10) workdays after the meeting, determining whether any violation has occurred, and if so, recommending an appropriate remedy. A copy of the recommendation shall be provided to both parties, the grievant's supervisor and the President or Management Company Representative.
 - v. The President or Management Company Representative shall review the recommendation of the grievance review committee and the record of the grievance. If the President or Management Company Representative finds that a meeting with the grievant and/or accused/employee would assist in the final determination, the President or Management Company Representative may recommend scheduling a meeting for the purposes of this review. The President or Management Company Representative's decision is the final and binding decision of the Academy.
- g. If the complainant is not satisfied with the results of the procedures contained in this Section, he/or she may utilize other means for resolution as provided by law, including seeking recourse through the federal Office for Civil Rights ("OCR") or Equal Employment Opportunity Commission ("EEOC").
5. Rights of Employees (and Applicants as Defined in Subsection (2)(e))
 - a. During any of the grievance levels, the employee (or applicant as defined in subsection (2)(e)) may be represented by a person of the employee's/applicant's choice once the grievance is filed with the supervisor. For grievances governed by Section (3) that are filed by employees/applicants who choose to be represented by legal counsel, the process will begin at the School President or Management Company Representative phase of Level 3 under subsection (3)(c).
 - b. Any member of the administration or other employee against the employee, representative, or any other participant in the grievance procedure by reason of such participation shall take no retaliation or reprisals of any kind.
6. General Provisions
 - a. Grievance report forms for filing a grievance shall be available in the President or Management Company Representative's office. Employees are to be notified of the procedures in this Policy through the Policy's distribution to staff.
 - b. Failure of the employee/applicant to advance the grievance through the procedure within the time lines designated will result in immediate dismissal of the grievance.
 - c. If a preliminary investigation is begun regarding a complaint, the written complaint and documents relating to the investigation are confidential, pursuant to Fla. Stat. §§ 119.07(3)(p) &

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- (u), 231.291(3)(a)1, and 231.262(1)(a), until the investigation is either concluded or ceases to be active.
- d. All records pertaining to a grievance may be filed in a separate grievance file and may not be kept in the official "personnel file" of the employee/applicant, but this grievance file will be treated as provided by Fla. Stat. §§ 119.07 and 231.291(4). All decisions of management are to be forwarded to the labor relations department, which may be designated as the custodian of those records for grievances involving a bargaining unit member. The grievance file is subject to disclosure pursuant to the Public Records law and Fla. Stat. § 231.291(4).
 - e. If a grievance is filed under the grievance procedure in a collective bargaining agreement, the employee may not pursue the grievance under this procedure
 - e. The filing of a grievance shall not interfere with the right of the Board to carry out its responsibilities, subject to the final decision on a grievance.
7. President or Management Company Representative or Other Employees That Report Directly To The Board:
- a. When the Grievant is a Direct Board Report - The President or Management Company Representative or any other employee that reports directly to the Board shall file any grievance in writing with the Board Chair. The Chair should request appropriate school personnel to begin the investigation/ resolution process set forth in Section (3) or (4) above, as applicable.
 - b. When the Grievant is an Employee in the Office of a Direct Board Report-- Employees working in the Office of the President or Management Company Representative or for any other employee that reports directly to the Board, should file any initial grievance with their direct supervisor pursuant to Section (3) or (4) above (*unless the grievance is against a direct Board report, in which case subsection (c) below shall apply*). If the grievance is not resolved at this level, the grievance may be appealed as set forth under Section (3) or (4), as applicable.
 - c. When the Accused is a Direct Board Report-- When a direct Board report is the accused, the grievant shall file the complaint in writing with the Board Chair, who shall take prompt action as specified below:
 - i. First, the Chair shall notify the accused of the complaint
 - ii. Second, the Chair shall notify the Board of the complaint. The Board shall determine if the complaint appears to merit formal investigation
 - iii. If the Board deems the complaint to merit formal investigation, the Board shall set the parameters for the investigation. The investigation should document the statements of the grievant, witnesses, and the accused.
 - iv. If a preliminary investigation is begun, the written complaint and documents relating to the investigation are confidential, pursuant to Fla. Stat. §§ 119.07(3)(p) & (u), 231.291(3)(a)1, and 231.262(1)(a), until the investigation is either concluded or ceases to be active
 - v. To conduct the investigation, the Board may consider:
 - A. Retaining outside special counsel (which should be an attorney or law firm that is not currently retained by the Board and has not handled any matters for or against the Board within the past five years);
 - B. Requesting the personnel-investigation department of the School District of Palm Beach County to conduct the inquiry;
 - C. If applicable, referring the matter to the State Attorney's Office, the Commission on Ethics, or other applicable state agency.
 - vi. The Board and the accused should receive the final investigative report at the same time.
 - vii. Upon receiving the report, the Board shall determine whether any action is required. The accused/employee and/or the employee's representative shall have a right to address the Board at the meeting where the decision will be made.
 - viii. Consistent with the employment contract, if informal action such as a reprimand is deemed necessary, such action may be reflected in the employee's evaluation and personnel file. In accordance with the employment contract, if formal action such as demotion, suspension, or termination is deemed necessary, the employee shall receive appropriate notice and opportunity for a hearing under Fla. Stat. §§ 120.569 and 120.57, and the Board's final order may be appealable pursuant to Fla. Stat. § 120.68

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Implemented: §§ 119.07(3)(p) & (u); 228.2001; 230.22(1); 231.001, 231.291; 231.262(1), Fla. Stat.

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Reference: Palm Beach School District Policy 3.31