

BEAVERTON EDUCATION ASSOCIATION'S COUNTER PROPOSAL

September 30, 2021

In general:

BEA proposed **new language is in red**, proposed deletions **highlighted in light red**.

BSD proposed **new language is in blue**, proposed deletions **highlighted in light blue**.

Mutually proposed/agreed upon **new language is in green**, and mutually proposed agreed upon deletions **highlighted in light green**.

Items **highlighted in yellow** are questions or comments or have a question attached to them.

For proposals from BEA (like this one!):

Language in blue ~~that is crossed out~~ is BSD proposed language that has not been accepted by BEA.

Language **highlighted in light blue** but not crossed out in this counter is language that has been deleted in the BSD proposal but reinstated in the BEA proposal.

ARTICLE 6

COMPLAINTS CONCERNING EMPLOYEE PERFORMANCE

- C. The Employee shall be notified if a specific complaint is recorded in the employee's working file, personnel file or used as a basis of a written judgment of the employee, the name of the complainant shall be included in the written record and the employees shall have the right to review the record and attach a rebuttal to any claims.

ARTICLE 8 EMPLOYEE RIGHTS AND RESPONSIBILITIES

A. Required Meetings or Hearings

1. Whenever an employee is required to appear before any administrator or representative of the District concerning the employee's dismissal, non-renewal, suspension, or written disciplinary action; the employee shall be advised, in advance, of the nature/purpose of the meeting and of the employee's right to have a representative of the Association present at the employee's request to advise the employee and represent the employee during such meeting or interview. The employee and the administrator shall give advance notice of who the respective representative will be, if any.
2. Evaluation conferences are excluded from the application of Section A-1 except:
 1. Probationary employees may request and shall be entitled to have the presence of an Association representative at an evaluation conference when the employee is placed on a "plan of assistance" and at all subsequent conferences while remaining on such plan.
 2. Contract employees may request and shall be entitled to have the presence of an Association representative at an evaluation conference when an employee is placed on an evaluation plan of awareness, a plan of assistance for improvement, and all subsequent conferences while remaining on such plan. Contract employees shall be placed on an evaluation plan of awareness prior to placement on a plan of assistance except in cases where a contract employee has been on a plan of assistance.
2. The District will offer to provide a mentor teacher or the equivalent for any contract employee placed on a plan of assistance for improvement.
3. Members shall not be used to evaluate bargaining unit members.
4. Nothing in Section A shall be construed to deprive any employee of legal rights of representation under the Constitution of the United States, state and federal statutes, and rulings issued by courts of competent jurisdiction and the Employment Relations Board.

B. Evaluation of Students

The employee shall be responsible for determining grades and other evaluations of students, within the grading policies of the Beaverton School District based upon the employee's professional judgment of available criteria pertinent to any given subject area or activity for which the employee is responsible. No grade or evaluation shall be changed without conferring with the employee.

C. Adverse Criticism of Employees

Any adverse criticism of an employee by a colleague, supervisor, administrator, or Board member shall be done only through proper channels as identified in policy and contract.

The District will monitor any online platforms hosted by the District for adverse criticism of identifiable bargaining unit members. When such criticism is discovered, the District shall immediately remove criticism and direct the posting party to the appropriate channels for such criticism.

The District shall not act upon any adverse criticism or claim that has not been received through proper channels and that the employee has not been made aware of and given the opportunity to address.

The District shall not act upon any anonymous criticisms.

BEA moved our proposals here to E.5, E.6, and E.7

D. Citizenship and Academic Freedom

1. Citizenship – Employees shall be entitled to full rights of citizenship and no religious or political activities of any employees outside the school environment shall be grounds for any discipline or discrimination with respect to the professional employment of such employees providing said activities do not violate any local, state or federal law.
2. Academic Freedom – The Association and the District acknowledge the fundamental need to protect teachers from any censorship or restraint that might interfere with their obligation to perform their prescribed teaching function. Educators shall be free to determine the method and materials to be used for instruction within the confines of Board Policy/AR IIA, Oregon state standards and District learning targets and Board Policy in effect as of the signing of this Agreement and as adopted by the Board on January 29, 2019. Educators will be allowed to make decisions regarding sequence and timing of lessons based on their professional judgment and assessment of the class.

E. Protection of Employees, Students & Property

1. Reasonable Force – Employees may, within the scope of their employment, use and apply such amount of force as is reasonable and necessary to quell a disturbance threatening physical injury to others, to

obtain possession of weapons or other dangerous objects upon the person or within the control of the pupil, for the purpose of self defense, and for the protection of persons or property.

2. The District agrees to defend and indemnify employees in accordance with ORS 30.285.
3. Assault – Reimbursement for personal property damage – The District shall reimburse employees for the reasonable cost of any clothing or other personal property damaged or destroyed as a direct result of an assault on an employee’s person while the employee was acting in the discharge of the employee’s duties within the scope of the employee’s employment.
4. Reporting Assaults –Employees shall immediately report cases of assault suffered by them in connection with their employment to their principal or other immediate supervisor. The assaulted employee and any witnesses to the assault shall report the details of such assault in writing to the principal as soon as possible thereafter.
5. ~~The District shall notify affected employees of any threatening communications received by the District in accordance with ORS 339.327.~~
5. In cases where the District receives a request for information which concerns or involves a member(s) of the bargaining unit, those so affected and the Association shall be notified prior to providing such information. The notification shall include the name of the person or entity making the request and the specific information requested.

If the request includes information contained in an employee’s personnel file, and the district is legally obligated to provide such information, the employee shall be provided a copy of the information to be provided at least five days in advance of providing the information to the requesting party. Should such request for information be made by an entity with proper authority to ask for the information confidentially then notification to employees as contain in this provision shall not apply.
6. The District shall notify affected employees of any threatening communications received by the District within twenty four (24) hours of receipt. Any threatening materials shall be produced for the employee at the time of notification. The District will take necessary steps to ensure the safety of any employee and students that may be at risk based on the threatening communication.
7. Any employee receiving threatening communications should immediately report such to their immediate supervisor who shall notify the appropriate District official so that appropriate action can be taken to ensure the safety of employees and students.

F. Working Files and Personnel Files

1. In accordance with ~~Board Policy GBL and~~ Oregon law, employee personnel files shall be confidential and shall be open for inspection only to those individuals set forth in policy or pursuant to a lawful subpoena. An employee shall have the right, upon request, to review the working or personnel file contents and to receive a copy at Board expense of any documents contained therein. In order to review an employee's personnel file, 24-hour notice must be given to the Human Resource Department.
 - a. The personnel file shall contain all materials relevant to the employee's employment and shall be the sole official repository of such materials. Any record of disciplinary action will remain in the physical personnel file. Evaluations will remain in the physical personnel file or in an electronic employee management system. Article 8 F (2) will apply to any electronic management system utilized by the District. Working file notes will not be placed in the personnel file.
 - b. An employee shall be entitled to have a representative of the Association accompany the employee during such review.
 - c. At least once every three (3) years, an employee shall have the right to indicate those documents and/or other materials in the employee's working file, the employee believes to be inappropriate for retention.
 - d. Said documents will be reviewed by an appropriate administrator in consultation with the Human Resource Department. If they agree, the documents will be removed.
2. No material ~~that is critical in nature~~ other than routine administrative material such as salary placement, work location, classes taught, endorsements, etc., will be placed in the employee's personnel file unless the employee has had an opportunity to review the materials.
 - a. The employee will acknowledge the opportunity to review such materials by affixing a signature and date to the copy to be filed, with the express understanding that such signature does not necessarily indicate agreement with the contents thereof.
 - b. The employee will also have the right to submit a written response to any material and such response will be reviewed by the appropriate Human Resource administrator and attached to the file copy.
3. Working files used by the principal to support dismissal or disciplinary action must be reduced to writing and inserted in the employee's personnel file within one (1) calendar year of the event or be deemed no longer valid.
4. Written evidence not previously recorded in the employee's personnel file prior to written notification of dismissal or discipline shall not be used by the Board as a basis for action.
5. If a complaint involving possible criminal or ethical violations is investigated and not determined to have merit or sufficient evidentiary support to proceed with any action

against the employee, all materials concerning the complaint and investigation shall be kept in the District personnel office in a separate file accessible only to the Chief Human Resource Officer.

6. In cases where the District receives a request for information which concerns or involves a member(s) of the bargaining unit, other than routine information such (e.g. salary, work location, classes taught, etc.), those so affected shall be notified prior to providing such information. The notification shall include the identity of the requesting party and the information that has been requested. This provision shall not apply in situations in which the District has been directed by law enforcement or a governmental agency not to notify the member that a request for information has been made.

G. Resignation

1. Employees shall have the right to resign without reprisal because of such resignation, provided at least 60 days written notice has been given to the District.
2. The District may accept a resignation from an employee with less than 60 days' notice provided that there are extenuating circumstances, written notice has been given, and a replacement is available.

H. Non Discrimination

The provisions of this agreement shall be equally applied to all members of the bargaining unit without regard to an individual's actual or perceived race, color, religion, gender, sex, sexual orientation, gender identity, gender expression, national or ethnic origin, marital status, age, mental or physical disability, pregnancy, familial status, economic status, veteran status or because of a perceived or actual association with any other persons within these protected classes. **Grievances filed under this section shall be the exclusive remedy of any claim of discrimination. Filing of any complaint to any federal or state administrative agency or court shall terminate any rights to proceed under the grievance procedure. Insofar as alternative remedies exist under the law for employees to pursue claims alleging discrimination, this Section may not form the basis of a grievance.**

I. Physical Environment

Members may report any potential health or safety concerns to the Safety Committee or administrator (e.g. air, water, noise). When members follow District procedures for reporting physical environment problems, the District shall apprise the affected members within 30 days of the status or disposition of the problem.

When environmental quality concerns have been reported, following District procedures, the results of any study commissioned by the District will be provided to the administrator and the administrator will communicate with the staff member who brought the concern forward within thirty (30) days of receipt and shared with staff, as appropriate.

J. Medical Services to Students

Members will not be required to perform any medical procedures for students except in accordance with the regulations of the Oregon State Board of Nursing (OAR 851-047-0020 and 0030).