

LICENSED STAFF GRIEVANCES REGULATIONS

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**Part I**

**Definitions**

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise.

"Business day" means any day that the School Board office is open.

"Days" means calendar days unless otherwise specified. Whenever the last day for performing an act required by this procedure falls on a Saturday, Sunday, or legal holiday, the act may be performed on the next day that is not a Saturday, Sunday, or legal holiday. The time limits contained herein may, by express agreement between the School Board or school division, and the teacher (or representative), be reasonably extended.

"Dismissal" means the dismissal of any teacher within the term of such teacher's contract and the nonrenewal of a contract of a teacher on a continuing contract, unless otherwise provided by law.

"Grievance" means, for the purpose of Part II, a complaint or a dispute by a teacher relating to his/her employment, including but not necessarily limited to the application or interpretation of personnel policies, rules and regulations, ordinances, and statutes; acts of reprisal against a teacher for filing or processing a grievance, or participating as a witness in any step, meeting, or hearing related to a grievance; or complaints of discrimination on the basis of race, color, creed, political affiliation, handicap, age, national origin, or sex. "Grievance" means, for the purposes of Part III, a complaint or a dispute involving a teacher relating to his/her employment involving dismissal. The term "grievance" shall not include a complaint or dispute by a teacher relating to the establishment and revision of wages or salaries, position classifications or general benefits; suspension of a teacher or nonrenewal of the contract of a teacher who has not achieved continuing contract status; the establishment or contents of ordinances, statutes or personnel policies, procedures, rules and regulations; failure to promote; discharge, layoff, or suspension from duties because of decrease in enrollment, decrease in enrollment in or abolition of a particular subject, or insufficient funding; hiring, transfer, assignment and retention of teachers within the school division; suspension from duties; the methods, means and personnel by which the school division's operations are to be carried on; or coaching or extracurricular activity sponsorship. While these management rights are reserved to the School Board, failure to apply, where applicable, these rules, regulations, policies, or procedures as written or established by the School Board is grievable.

"Hearing officer" means an impartial hearing officer from outside the school division who possesses some knowledge and expertise in public education and education law and who is capable of presiding over an administrative hearing.

45 "Personnel file" means, for the purposes of Part III, any and all memoranda, entries or other  
46 documents included in the teacher's file as maintained in the central school administration office  
47 or in any file regarding the teacher maintained within a school in which the teacher serves.

48  
49 "Teacher" or "teachers" means all regularly licensed professional public school personnel  
50 employed under a written contract as provided by § 22.1-302 of the Code of Virginia, as a  
51 teacher or as an assistant principal, principal, or supervisor but excluding all Superintendents as  
52 provided by § 22.1-294 of the Code of Virginia.

53  
54 "Shall file," "shall respond in writing," or "shall serve written notice" means the document is  
55 either delivered personally or is mailed by registered or certified mail, return receipt requested,  
56 and postmarked within the time limits prescribed by this procedure to the grievant or office of  
57 the proper School Board representative.

58  
59 "Supervisory employee" means any person having authority in the interest of the Board (i) to  
60 hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other  
61 employees; and (ii) to direct other employees; or (iii) to adjust the grievance of other employees;  
62 or (iv) to recommend any action set forth in clause (i), (ii), or (iii) above; provided that the  
63 authority to act as set forth in clause (i), (ii), (iii), or (iv) requires the exercise of independent  
64 judgment and is not merely routine and clerical in nature.

65  
66 "Written grievance appeal" means a written or typed statement describing the event or action  
67 complained of, ~~or~~ the date of the event or action complained of, and a concise description of  
68 those policies, rules, regulations, or statutes upon which the teacher bases his/her claim. The  
69 grievant shall specify what he/she expects to obtain through use of the grievance procedure.  
70 A written grievance appeal shall be on forms prescribed by the Board of Education and supplied  
71 by the School Board.

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## 73 **Part II**

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### 75 **Purpose**

76  
77 The purpose of Part II of the Procedure for Adjusting Grievances is to provide an orderly  
78 procedure for resolving disputes concerning the application, interpretation, or violation of any of  
79 the provisions of local School Board policies, rules and regulations as they affect the work of  
80 teachers, other than dismissals. An equitable solution of grievances should be secured at the most  
81 immediate administrative level. The procedure should not be construed as limiting the right of  
82 any teacher to discuss any matter of concern with any member of the school administration, nor  
83 should the procedure be construed to restrict any teacher's right to seek, or the school division  
84 administration's right to provide, review of complaints that are not included within the definition  
85 of a grievance. Nothing in this procedure shall be interpreted to limit a School Board's exclusive  
86 final authority over the management and operation of the school division.

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**91 Grievance procedure**

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93 Recognizing that grievances should begin and should be settled promptly, a grievance must be  
94 initiated within 15 business days following either the event giving rise to the grievance, or within  
95 15 business days following the time when the employee knew or reasonably should have known  
96 of its occurrence. Grievances shall be processed as follows:

97

98 1. Step 1 -- Informal. The first step shall be an informal conference between the teacher and  
99 his/her immediate supervisor (which may be the principal). The teacher shall state the nature of  
100 the grievance, and the immediate supervisor shall attempt to adjust the grievance. It is mandatory  
101 that the teacher present the grievance informally prior to proceeding to Step 2.

102

103 2. Step 2 -- Principal. If for any reason the grievance is not resolved informally in Step 1 to the  
104 satisfaction of the teacher, the teacher must perfect his/her grievance by filing a written  
105 grievance\_appeal on the required form within 15 business days following the event giving rise to  
106 the grievance, or within 15 business days following the time when the employee knew or  
107 reasonably should have known of its occurrence, specifying on the form the specific relief  
108 expected. Regardless of the outcome of Step 1, if a written grievance appeal is not, without just  
109 cause, filed within the specified time, the grievance will be barred.

110

111 A meeting shall be held between the principal (or his/her designee or both) and the teacher (or  
112 his/her designee or both) within five business days of the receipt by the principal of the written  
113 grievance. At such meeting the teacher or other party involved, or both, shall be entitled to  
114 present appropriate witnesses and to be accompanied by a representative other than an attorney.  
115 The principal (or his/her designee or both) shall respond in writing within five business days  
116 following such meeting.

117

118 The principal may forward to the teacher within five days from the receipt of the written  
119 grievance a written request for more specific information regarding the grievance. The teacher  
120 shall file an answer thereto within 10 business days, and the meeting must then be held within  
121 five business days thereafter.

122

123 3. Step 3 -- Superintendent or Designee. If the grievance is not settled to the teacher's satisfaction  
124 in Step 2, the teacher can proceed to Step 3 by filing a written notice of appeal with the  
125 Superintendent, accompanied by the original written grievance appeal form within five business  
126 days after receipt of the Step 2 answer (or the due date of such answer). A meeting shall then be  
127 held between the Superintendent (or his/her designee or both) and the teacher (or his/her  
128 designee or both) at a mutually agreeable time within five business days. The Superintendent or  
129 designee may make a written request for more specific information from the teacher, but only if  
130 such information was not requested in Step 2. The teacher shall file an answer to such request  
131 within 10 business days, and the meeting shall be held within five business days of the date on  
132 which the answer was received. At such meeting both the Superintendent and the teacher shall be  
133 entitled to present witnesses and to be accompanied by a representative who may be an attorney.  
134 A representative may examine, cross-examine, question, and present evidence on behalf of a  
135 grievant or the Superintendent without violating the provisions of § 54.1- 3904 of the Code of  
136 Virginia. If no settlement can be reached in said meeting, the Superintendent (or designee) shall

137 respond in writing within five business days following such meeting. If the grievance is not  
138 resolved to the satisfaction of the teacher in Step 3, the teacher may request a decision by the  
139 School Board pursuant to Step 4.

140

141 4. Step 4 -- Decision by the School Board.

142

143 a. If a teacher elects to request a decision by the School Board as provided for in Step 3, he/she  
144 must notify the Superintendent in writing of the intention to make the request of the Board,  
145 within five business days after receipt of the decision as required in Step 3 or the due date  
146 thereof. Upon receipt of such notice, the Board may hold a hearing on the grievance, may elect to  
147 have the hearing conducted by a hearing officer appointed by the School Board consistent with  
148 the procedures in § 22.1-311 of the Code of Virginia, or may make its determination on the basis  
149 of the written evidence presented by the teacher, the recommendation of the Superintendent, and  
150 the record of the proceedings at steps 1-3.

151

152 b. In any case in which the School Board elects to hold a hearing or elects to have a hearing  
153 officer conduct the hearing, the hearing shall be set within 30 days of the School Board's receipt  
154 of the notice required by subdivision 4 a of this section (Step 4a), and the teacher must be given  
155 at least 15 days' written notice of the date, time, and place of the hearing.

156

157 The teacher and the Division Superintendent may be represented by legal counsel or other  
158 representatives. The hearing shall be private, unless the teacher requests a public hearing. The  
159 School Board or the hearing officer, as the case may be, shall establish the rules for the conduct  
160 of the hearing. Such rules shall include the opportunity for the teacher and the Division  
161 Superintendent to make an opening statement and to present all material or relevant evidence,  
162 including the testimony of witnesses and the right of all parties or their representatives to cross-  
163 examine the witnesses. Witnesses may be questioned by the School Board or the hearing officer.

164

165 In the case of a hearing conducted by the School Board, the School Board's attorney, assistants,  
166 or representative, if he/she or they represented a participant in the prior proceedings, the  
167 grievant, the grievant's attorney or representative and, notwithstanding the provisions of § 22.1-  
168 69 of the Code of Virginia, the Superintendent shall be excluded from any closed session of the  
169 School Board that has as its purpose reaching a decision on the grievance. However, immediately  
170 after a decision has been made and publicly announced, as in favor of or not in favor of the  
171 grievant, the School Board's attorney or representative, and the Superintendent, may join the  
172 School Board in executive session to assist in the writing of the decision.

173

174 A stenographic record or other recording of the hearing shall be taken. However, the recording  
175 may be dispensed with entirely by mutual consent of the parties. If the recording is not dispensed  
176 with, the two parties shall share the cost of the recording equally, and if either party requests a  
177 transcript, that party shall bear the expense of its preparation.

178

179 c. In the event of a hearing conducted by a hearing officer, the recommendation of the hearing  
180 officer shall be based exclusively upon the evidence presented at the hearing. Upon the hearing  
181 officer's own motion or upon application by either party to the grievance, the hearing officer may  
182 reopen the hearing for the purpose of hearing after-discovered evidence upon a finding of good

183 cause by the hearing officer at any time before his/her recommendation is due. The hearing  
 184 officer shall transmit his/her written recommendation and a record or recording of the hearing to  
 185 the School Board as soon as practicable and no more than 10 business days after the hearing.

186  
 187 d. In the event of a hearing by a hearing officer, the School Board may make its decision upon  
 188 the record or recording of such hearing or the School Board may elect to conduct a further  
 189 hearing to receive additional evidence. The School Board must hold such further hearing as soon  
 190 as practicable and must give written notice of the time and place of such further hearing to the  
 191 Division Superintendent and the teacher within 10 business days after the Board received the  
 192 record or recording of the initial hearing. The notice must specify each matter to be inquired into  
 193 by the School Board. The School Board shall determine the procedure to be followed at such  
 194 further hearing.

195  
 196 e. In the event of a hearing before the School Board, the School Board shall give the teacher its  
 197 written decision as soon as practicable and no more than 30 days after the hearing. The decision  
 198 of the School Board shall be reached after considering the evidence and information presented at  
 199 the School Board hearing.

200  
 201 f. In the event of a hearing before a hearing officer followed by a further hearing by the School  
 202 Board, the School Board shall give the teacher its written decision as soon as practicable and no  
 203 more than 30 days after such further hearing. The decision of the School Board shall be reached  
 204 after considering the record or recording of the initial hearing, the recommendations of the  
 205 hearing officer, and the evidence and information presented at the further hearing before the  
 206 School Board.

207  
 208 g. In the event of a hearing before a hearing officer in cases in which no further hearing is  
 209 conducted by the School Board, the School Board shall give the teacher its written decision as  
 210 soon as practicable and no more than 30 days after receiving the record or recording of the  
 211 hearing. The decision of the School Board shall be reached after considering the record or  
 212 recording of the hearing and the recommendations of the hearing officer.

213  
 214 h. The School Board shall retain its exclusive final authority over matters concerning  
 215 employment and the supervision of its personnel.

216  
 217 **Grievability**

218  
 219 A. Initial determination of grievability. Decisions regarding whether a matter is grievable shall  
 220 be made by the School Board at the request of the Division administration or grievant and such  
 221 decision shall be made within 10 business days of such request. The School Board shall reach its  
 222 decision only after allowing the Division administration and the grievant opportunity to present  
 223 written or oral arguments regarding grievability. The decision as to whether the arguments shall  
 224 be written or oral shall be at the discretion of the School Board. Such determination of  
 225 grievability shall be made subsequent to the reduction of the grievance to writing but prior to any  
 226 hearing by the Board or a hearing officer, or the right to such determination shall be deemed to  
 227 have been waived. Failure of the School Board to make such a determination within such a

228 prescribed 10-business-day period shall entitle the grievant to advance to the next step as if the  
229 matter were grievable.

230

231 B. Appeal of determination on grievability.

232

233 1. Decisions of the School Board may be appealed to the circuit court having jurisdiction in the  
234 school division for a hearing on the issue of grievability.

235

236 a. Proceedings for a review of the decision of the School Board shall be instituted by filing a  
237 notice of appeal with the School Board within 10 business days after the date of the decision and  
238 giving a copy thereof to all other parties.

239

240 b. Within 10 business days thereafter, the School Board shall transmit to the clerk of the court to  
241 which the appeal is taken, a copy of its decision, a copy of the notice of appeal, and the exhibits.  
242 The failure of the School Board to transmit the record within the time allowed shall not prejudice  
243 the rights of the grievant. The court may, on motion of the grievant, issue a writ of certiorari  
244 requiring the School Board to transmit the records on or before a certain date.

245

246 c. Within 10 business days of receipt by the clerk of such record, the court, sitting without a jury,  
247 shall hear the appeal on the record transmitted by the School Board and such additional evidence  
248 as may be necessary to resolve any controversy as to the correctness of the record. The court  
249 may, in its discretion, receive such other evidence as the ends of justice require.

250

251 d. The court may affirm the decision of the School Board or may reverse or modify the decision.  
252 The decision of the court shall be rendered not later than 15 days from the date of the conclusion  
253 of the court's hearing.

254

#### 255 **Time Limitations**

256

257 A. The right of any party to proceed at any step of this Part II grievance procedure shall be  
258 conditioned upon compliance with the time limitations and other requirements set forth in this  
259 procedure.

260

261 B. The failure of the teacher to comply with all substantial procedural requirements including  
262 initiation of the grievance and notice of appeal to the next step in the procedure, shall eliminate  
263 the teacher's right to any further proceedings on the grievance unless just cause for such failure  
264 can be shown.

265

266 C. The failure of the School Board or any supervisory employee to comply with all substantial  
267 procedural requirements without just cause shall entitle the grievant, at his option, to advance to  
268 the next step in the procedure or, at the final step, to a decision in his favor.

269

270 D. The determination as to whether the substantial procedural requirements of this Part II of the  
271 Procedure for Adjusting Grievances have been complied with shall be made by the School  
272 Board. In any case in which there is a factual dispute as to whether the procedural requirements  
273 have been met or just cause has been shown for failure to comply, the School Board shall have

274 the option of allowing the grievant to proceed to its next step. The fact that the grievance is  
 275 allowed to proceed in such case shall not prevent any party from raising such failure to observe  
 276 the substantial procedural requirements as an affirmative defense at any further hearing involving  
 277 the grievance.

278

### 279 **Part III**

280

#### 281 **Procedure for Dismissals**

282

##### 283 A. Notice to teacher of Recommendation for Dismissal

284

285 1. In the event the Division Superintendent determines to recommend dismissal of any teacher,  
 286 written notice shall be sent to the teacher on forms prescribed by the Virginia Board of Education  
 287 notifying him of the proposed dismissal, and informing the teacher that within 10 business days  
 288 after receiving the notice, the teacher may request a hearing before the School Board or, at the  
 289 option of the School Board, a hearing officer appointed by the School Board as provided in  
 290 § 22.1-311 of the Code of Virginia.

291

292 2. During such 10-business-day period and thereafter until a hearing is held in accordance with  
 293 the provisions herein, if one is requested by the teacher, the merits of the recommendation of the  
 294 Division Superintendent shall not be considered, discussed, or acted upon by the School Board  
 295 except as provided for herein.

296

297 3. At the request of the teacher, the Superintendent shall provide the reasons for the  
 298 recommendation in writing or, if the teacher prefers, in a personal interview with the  
 299 Superintendent or designee. In the event a teacher requests a hearing pursuant to § 22.1-  
 300 311 or 22.1-312 of the Code of Virginia, the Division Superintendent shall provide, within 10  
 301 days of the request, the teacher, or his/her representative, with the opportunity to inspect and  
 302 copy his/her personnel file and all other documents relied upon in reaching the decision to  
 303 recommend dismissal. Within 10 days of the request of the Division Superintendent, the teacher,  
 304 or his/her representative, shall provide the Division Superintendent with the opportunity to  
 305 inspect and copy the documents to be offered in rebuttal to the decision to recommend dismissal.  
 306 The Division Superintendent and the teacher or his/her representative shall be under a continuing  
 307 duty to disclose and produce any additional documents identified later that may be used in the  
 308 respective parties' cases-in-chief. The cost of copying such documents shall be paid by the  
 309 requesting party.

310

311 4. Upon a timely request for a hearing, the School Board or, at the School Board's option, a  
 312 hearing officer appointed by the School Board shall set a hearing within 15 days of the request  
 313 and the teacher shall be given at least five days' written notice of the time and the place of the  
 314 hearing.

315

##### 316 B. Procedure for Hearing

317

318 1. The hearing shall be conducted by the School Board or, at the School Board's option, a  
 319 hearing officer appointed by the School Board. The teacher and the Division Superintendent may

320 be represented by legal counsel or other representatives. The hearing shall be private, unless the  
321 teacher requests a public hearing. The School Board or hearing officer, as the case may be, shall  
322 establish the rules for the conduct of the hearing, and such rules shall include the opportunity for  
323 the teacher and the Division Superintendent to make an opening statement and to present all  
324 material or relevant evidence, including the testimony of witnesses, and the right of all parties to  
325 cross-examine the witnesses. Witnesses may be questioned by the School Board or hearing  
326 officer.

327  
328 2. The parties shall produce such additional evidence as the School Board or hearing officer may  
329 deem necessary to an understanding and determination of the dispute. The School Board or  
330 hearing officer shall determine the relevancy and materiality of the evidence offered. All  
331 evidence shall be taken in the presence of the School Board or hearing officer and of the parties.

332  
333 3. Exhibits offered by the teacher or the Division Superintendent may be received in evidence by  
334 the School Board or hearing officer and, when so received, shall be marked and made a part of  
335 the record.

336  
337 4. A stenographic record or other recording of the proceedings shall be taken. The two parties  
338 shall share the cost of the recording equally. The record or recording of the proceedings shall be  
339 preserved for a period of six months. If the School Board requests that a transcript of the record  
340 or recording be made at any time prior to expiration of the six-month period, it shall be made and  
341 copies shall be furnished to both parties. The School Board shall bear the expense of the  
342 transcription.

343  
344 5. The teacher shall bear his/her own expenses. The School Board shall bear the expenses of the  
345 Division Superintendent and the hearing officer.

346  
347 6. Witnesses who are employees of the School Board shall be granted release time if the hearing  
348 is held during the school day. The hearing shall be held at the school in which most witnesses  
349 work, if feasible.

350  
351 7. In the event of a hearing conducted by a hearing officer, the recommendation of the hearing  
352 officer shall be based exclusively upon the evidence presented at the hearing. Upon the hearing  
353 officer's own motion or upon application by the teacher or the Division Superintendent, the  
354 hearing officer may reopen the hearing for the purpose of hearing after-discovered evidence  
355 upon a finding of good cause by the hearing officer at any time before his/her recommendation is  
356 due. The hearing officer shall transmit his/her written recommendation and a record or recording  
357 of the hearing to the School Board as soon as practicable and no more than 10 business days after  
358 the hearing.

359  
360 8. In the event of a hearing by a hearing officer, the School Board may make its decision upon  
361 the record or recording of such hearing or the School Board may elect to conduct a further  
362 hearing to receive additional evidence. The School Board must hold such further hearing as soon  
363 as practicable and must give written notice of the time and place of such further hearing to the  
364 Division Superintendent and the teacher within 10 business days after the Board received the  
365 record or recording of the initial hearing. The notice must specify each matter to be inquired into

366 by the School Board. The School Board shall determine the procedure to be followed at such  
 367 further hearing.

368  
 369 C. School Board Determination

370  
 371 1. In the event of a hearing before the School Board, the School Board shall give the teacher its  
 372 written decision as soon as practicable and no more than 30 days after the hearing. The decision  
 373 of the School Board shall be reached after considering the evidence and information presented at  
 374 the School Board hearing.

375  
 376 2. In the event of a hearing before a hearing officer followed by a further hearing by the School  
 377 Board pursuant to subdivision B 8 of this section, the School Board shall give the teacher its  
 378 written decision as soon as practicable and no more than 30 days after such further hearing. The  
 379 decision of the School Board shall be reached after considering the record or recording of the  
 380 initial hearing, the recommendations of the hearing officer, and the evidence and information  
 381 presented at the further hearing before the School Board.

382  
 383 3. In the event of a hearing before a hearing officer in cases in which no further hearing is  
 384 conducted by the School Board, the School Board shall give the teacher its written decision as  
 385 soon as practicable and no more than 30 days after receiving the record or recording of the  
 386 hearing. The decision of the School Board shall be reached after considering the record or  
 387 recording of the hearing and the recommendations of the hearing officer.

388  
 389 4. The School Board may dismiss or suspend a teacher upon a majority vote of a quorum of the  
 390 School Board. The School Board's attorney, assistants, or representative, if he/she or they  
 391 represented a participant in the prior proceedings; the grievant; the grievant's attorney or  
 392 representative; and, notwithstanding the provisions of § 22.1-69 of the Code of Virginia, the  
 393 Superintendent shall be excluded from any closed session of the School Board that has as its  
 394 purpose reaching a decision on a grievance. However, immediately after a decision has been  
 395 made and publicly announced, as in favor of or not in favor of the grievant, the School Board's  
 396 attorney or representative and the Superintendent may join the School Board in executive session  
 397 to assist in the writing of the decision.

398  
 399 **Virginia State Board of Education Forms - Links**

400  
 401 [Statement of Grievance \(11/2015\)](#)  
 402 [Principal's Decision \(11/2015\)](#)  
 403 [Superintendent's Decision \(11/2015\)](#)  
 404 [Request for Hearing \(11/2015\)](#)  
 405 [Notice of Proposed Dismissal \(11/2015\)](#)

406  
 407 Established: May 19, 2016

408  
 409 Legal Refs.: Code of Virginia, 1950, as amended, §§ 22.1-69, 22.1-253.13:7.B.8,  
 410 22.1-294, 22.1-302, 22.1-306 et seq., 22.1-311, 22.1-312, 54.1-3904  
 411

412	Cross Refs.:	GBM	Licensed Staff Grievances
413		GBMA	Support Staff Grievances
414		GBMA-R	Support Staff Grievances Regulations