

PERSONNEL

Grievance Procedure- Teachers

The School Board adopts employee grievance procedures that are consistent with the Code of Virginia, 1950, as amended, and applicable regulations.

PART I - Definitions

The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise:

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

"Day" means calendar days unless a different meaning is clearly expressed in this Regulation. Whenever the last day for performing an act required by this Regulation 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.

"Dismissal" means the dismissal of any teacher during the term of such teacher's contract.

"Disciplinary Action" means an action which results in a change to a teacher's salary (disciplinary suspension, involuntary demotion, disciplinary probation).

"Grievance" means a complaint or a dispute by a teacher relating to the teacher's employment, including but not necessarily limited to: 1) disciplinary action including dismissal; 2) the application or interpretation of: a) personnel policies, b) procedures, c) rules and regulations, d) ordinances, and e) statutes; 3) acts of reprisal against a teacher for filing or processing a grievance, participating as a witness in any step, meeting or hearing relating to a grievance; and 4) complaints of discrimination on the basis of race, color, creed, political affiliation, disability, age, national origin, sex, sexual orientation, gender identity, pregnancy or childbirth or related medical condition, religion, marital status, genetic information, or military status.

The School Board shall have the exclusive right to manage the affairs and operations of the School Division. Accordingly, the term "grievance" shall not include a complaint or

dispute by a teacher relating to: 1) the establishment and revision of wages or salaries, position classifications, or general benefits; 2) suspension of a teacher or non-renewal of the contract of a teacher who has not achieved continuing contract status; 3) the establishment or contents of ordinances, statutes, or personnel policies, procedures, rules, and regulations; 4) failure to promote; 5) discharge, layoff, or suspension from duties because of decrease in enrollment, decrease in enrollment in, or abolition of, a particular subject, or insufficient funding; 6) hiring, transfer, assignment, and retention of teachers within the School Division; 7) suspension from duties in emergencies; 8) the methods, means, and personnel by which the School Division's operations are to be carried on; 9) verbal or written counselings, letters of concern, reprimands, or other forms of corrective action resulting in no change to an employee's salary; 10) suspension with or without pay when charged with the commission of a felony, crime of moral turpitude, any offense involving the sexual molestation, physical or sexual abuse, or rape of a child, or any crime the conviction of which is a basis for termination of employment; or 119) coaching or extracurricular activity sponsorship.

Placement on a performance improvement plan (PIP) or a requirement that a teacher continue on such a plan PIP is are not a disciplinary actions and therefore which are not grievable under this procedure. Challenges to the content or placement of documents in a teacher's personnel file are also not grievable under this procedure. While these management rights are reserved for 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. The School Board authorizes the Superintendent or designee to appoint other qualified hearing officers when those hearing officers appointed by the School Board are not available to handle a grievance.

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if

proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

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

"Religion" includes any outward expression of religious faith, including adherence to religious dressing and grooming practices and the carrying or display of religious items or symbols.

"Teacher" or "teachers" means ~~for the purpose of Part II, all employees of the School Division involved in classroom instruction and all other full-time employees of the School Division except those employees classified as supervising employees.~~ "Teacher" means, ~~for the purpose of Part III,~~ all regularly licensed professional public school personnel employed under a written contract as provided by Section 22.1-302 of the Code of Virginia by the School Board as a teacher, or as an assistant principal, principal or supervisor as provided by the Code of Virginia §22.1-294, as amended.

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

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

"Written grievance appeal" means a written or typed statement describing the event or action complained of, the date of the event or action complained of, and a concise description of those policies, regulations, or statutes upon which the grievant/teacher bases the teacher's claim. The grievant shall specify what the grievant expects to obtain through use of the grievance procedure. A written grievance appeal on a form prescribed by the Virginia Board of Education and supplied by the ~~local~~ School Board.

PART II - Grievance Procedure

Section 2.1 - Purpose of Part II of this Grievance Procedure

The purpose of Part II of this procedure is to provide an orderly procedure for resolving disputes concerning the application, interpretation, or violation of any of the provisions of the School Board policies, rules, and regulations as they affect the work of teachers ~~and other full-time employees~~, other than dismissal. An equitable solution of grievances should be secured at the most immediate administrative level. The procedure should not be construed as limiting the right of any ~~employee-teacher~~ to discuss any matter of concern with any member of the School Administration. Nor should the procedure be construed to restrict any ~~employee's-teacher's~~ right to seek, or the School Administration's right to provide, review of complaints that are not included within the definition of a grievance. Nothing in this procedure shall be interpreted to limit a School Board's exclusive final authority over the management and operation of the School Division.

Section 2.2 - Grievance Procedure

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

A. Step 1 - Informal

The first step shall be an informal conference between the teacher/~~employee~~ and ~~his or her~~~~the teacher's~~ immediate supervisor (which may be the principal or director). During the conference, the ~~employee-teacher~~ shall state the nature of the grievance, and the immediate supervisor shall attempt to adjust the grievance. It is mandatory that the teacher/~~employee~~ present the grievance informally prior to proceeding to Step 2. Teachers/~~Employees~~ are not entitled to have lawyers or personal representatives present at the informal conference. If the teacher/~~employee~~ intends to move forward with the grievance beyond Step 1, the teacher/~~employee~~ must notify the principal/director of this intention at the end of the conference. This allows the School Administration to establish the grievance timeline.

B. Step 2 - Principal or Director

If for any reason the grievance is not resolved informally in Step 1 to the satisfaction of the teacher/~~employee~~, the teacher/~~employee~~ must perfect the grievance by filing a written grievance appeal on the required form obtained through the Office of Employee Relations in the Department of Human Resources within fifteen (15) business days following the event giving rise to the grievance, or within fifteen (15) business days following the time when the employee knew or reasonably should have known of its occurrence, specifying on the form the specific relief sought. Regardless of the outcome of Step 1, if a written grievance appeal is not, without just cause, filed within the specified time, the grievance will be barred.

The written notice must be complete, and it is the grievant's responsibility to ensure the grievance is received by the deadline. Therefore, ~~he/she~~the teachery should have the form date stamped by the school/department if delivering in person or sent via certified mail, return receipt requested to verify delivery. Once the grievance is committed to writing at Step 2, the grievant cannot add additional issues to the grievance at later steps in the grievance process.

A meeting shall be held between the principal or director (and/or designee) and the grievant (and/or designee) within five (5) business days of the receipt by the principal/director of the written grievance. The principal/director must ensure a representative from the Office of Employee Relations is present to facilitate the meeting. The grievant and/or other party involved shall be entitled to present appropriate witnesses and have a representative present other than an attorney. The principal/director (and/or designee) shall respond in writing within five (5) business days following such meeting. If the Step 1 conference was with the principal/director or designee, the Step 2 meeting may occur with the next level supervisor if determined appropriate. However, the principal/director may still be present.

C. Step 3 - Superintendent

If the grievance is not settled to the grievant's satisfaction in Step 2, then the grievant can proceed to Step 3 by filing a written notice of appeal with the Office of Employee Relations to present to the Superintendent. The appeal will be accompanied by the original written grievance appeal form within five (5) business days after receipt of the Step 2 answer (or the due date of such answer). A meeting

shall then be held between the Superintendent (~~and/or designee~~) and the grievant (~~and/or designee~~) at a mutually agreeable time within five (5) business days. The Superintendent or designee may make a written request for more specific information from the grievant, but only if such information was not requested in Step 2. The grievant shall file an answer to such request within ten (10) business days, and the meeting shall be held within five (5) business days of the date on which the answer was received. At such meeting both the Superintendent (~~and/or designee~~) and the grievant shall be entitled to present witnesses and to be accompanied by a representative who may be an attorney. A representative may examine, cross-examine, question, and present evidence on behalf of a grievant or the Superintendent without violating the provisions of Section 54.1-3904 of the Code of Virginia, as amended. The Superintendent (~~or designee~~) shall respond in writing within five (5) business days following such meeting. If the grievance is not resolved to the satisfaction of the grievant in Step 3, the grievant may elect to have a hearing as provided in Step 4. By mutual agreement of the parties, time periods may be extended.

D. Step 4 - Hearing Officer

In the event the grievance is not settled upon completion of Step 3, the grievant may request that a further hearing on the grievance be held. If the grievant elects to proceed to Step 4, the grievant must notify the Superintendent in writing, through the Office of Employee Relations, of the intention to request a further hearing and enclose a copy of the original grievance form within five (5) business days after receipt of a Step 3 answer (or the due date of such answer). The School Board elects to have all requests for hearings by the School Board first assigned to a hearing officer who has been appointed by the School Board as provided by law. The School Board authorizes the Superintendent or designee to maintain a list of eligible hearing officers and make all arrangements for the appointment of a hearing officer and necessary arrangements for conducting such further hearings. The School Board authorizes the Superintendent or designee to appoint other qualified hearing officers when those hearing officers appointed by the School Board are not available to handle a grievance. At its sole discretion, the School Board may choose to hear a specific grievance rather than have

the hearing conducted by a hearing officer discretion. If the School Board chooses to hear a specific grievance rather than have a hearing officer conduct the hearing, the School Board will follow the procedure set forth in 1-3 below; however, no report will be made other than the School Board's final decision.

1. Holding of Hearing

The hearing shall be set within thirty (30) days of the request and the grievant shall be given at least fifteen (15) days' written notice of the date, time, and place of the hearing. Waiver of the time period to hold the hearing may only happen for unusual or emergency circumstances. At the hearing, the grievant and the Superintendent or designee(s) may appear with or without legal counsel or other representatives. Non-availability of legal counsel or personal representatives due to scheduling issues will not constitute unusual or emergency circumstances for the purpose of waiving the time period.

2. Procedure for the Hearing before a Hearing Officer

- a. The hearing officer shall determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing, provided that, at the request of the grievant, the hearing shall be private.
- b. The hearing officer may ask for statements from the Superintendent/designee and the grievant/designee clarifying the issues involved at the beginning of the hearing and at the discretion of the hearing officer may allow closing statements.
- c. The parties shall then present their claims in evidence. Witnesses may be questioned by the hearing officer, the grievant, and the Superintendent/designee, or their representatives. The hearing officer, in the hearing officer's discretion, may vary this procedure, but shall afford full and equal opportunity for all parties to present any material or

relevant evidence and shall afford the parties the right of cross-examination.

- d. The parties shall produce such additional evidence as the hearing officer may deem necessary to an understanding and determination of the dispute. The hearing officer will be the judge of the relevancy and materiality of the evidence offered. All evidence shall be taken in the presence of the hearing officer and of the parties.
- e. Exhibits offered by the grievant/designee or the Superintendent/designee may be received in evidence by the hearing officer and, when so received, shall be marked and made a part of the record.
- f. The hearing officer's recommendation shall be based exclusively upon the evidence presented at the hearing. Upon the hearing officer's own motion or the application by either party to the grievance, the hearing officer may reopen the hearing for the purpose of after-discovered evidence upon a finding of good cause by the hearing officer at any time before the hearing officer's recommendation is due.
- g. The hearing officer shall make a written recommendation to the School Board and the grievant as soon as practicable but no more than ten (10) business days after the close of the hearing.
- h. The hearing officer shall ensure ~~a create~~ a stenographic or tape recording is created of the hearing and transmit such along with the written recommendation to the School Board. If the grievance concerns matters other than dismissal, the stenographic or tape recording may be dispensed with entirely by mutual consent of the parties. If the stenographic or tape recording is not dispensed with, the two (2) parties shall share equally the cost of the recording. If either party requests a transcript, that party shall bear the expense

involved in preparing it. If the grievance concerns a dismissal, the recording may not be dispensed with.

3. Expenses

- a. The grievant shall bear ~~his or her~~their the grievant's own expenses. The School Board shall bear the expenses of the Superintendent or designee. The expenses of the hearing officer shall be borne one-half by the School Board and one-half by the grievant.
- b. The Superintendent or designee is authorized to set the per diem rate of the hearing officer.
- c. Witnesses who are employees of the School Board shall be granted release time if the hearing is held during the school day. The hearing shall be held at the school in which most witnesses work, if feasible.

4. Right to Further Hearing before the School Board

Following a hearing by a hearing officer, the School Board may make its decision upon the record or recording of the hearing conducted before the hearing officer, or the School Board may elect to conduct a further hearing to receive additional evidence by giving written notice of the time and place to the grievant and the Superintendent within ten (10) business days after the School Board receives the record or recording of the initial hearing. Such notice must specify each matter to be inquired into by the School Board. The School Board will give the grievant its written decision as soon as practicable and not more than thirty (30) days after receiving the record or recording of the hearing; however, should there be a further hearing before the School Board, such decision shall be furnished to the grievant as soon as practicable and not more than thirty (30) days after such further hearing has concluded.

5. The School Board's attorney, assistants, or representative, if ~~he, she, or~~ they represented a participant in the prior proceedings, the grievant, the grievant's attorney, or representative and, notwithstanding the

provisions of Virginia Code § 22.1-69, as amended, the Superintendent or designee shall be excluded from any executive session of the School Board which has as its purpose reaching a decision on a grievance. However, immediately after a decision has been made and publicly announced, as in favor of or not in favor of the grievant, the School Board's attorney or representative and the Superintendent or designee may join the School Board in executive session to assist in the writing of the decision.

6. The School Board shall retain its exclusive final authority over matters concerning employment and the supervision of its personnel. The School Board may alter, accept, or reject any decision by the Superintendent or designee, the School Administration, or a hearing officer.

Section 2.3 - Grievability

A. Initial Determination of Grievability

Decisions regarding whether a matter is grievable shall be made by the School Board at the request of the School Administration or the grievant. The School Board shall reach its decision only after allowing the School Administration and the grievant the opportunity to present written or oral arguments regarding grievability. ~~The decision as to whether the arguments shall be written or oral shall be in the discretion of the School Board~~ The School Board determines that all grievability determinations will be made through written arguments. Decisions of the School Board shall be made within ten (10) business days of such request. Such determination of grievability shall be made subsequent to the reduction of the grievance to writing but prior to any hearing before a hearing officer or the School Board or the right to such determination shall be deemed to have been waived. Failure of the School Board to make such a determination within such a prescribed ten business-day period shall entitle the grievant to advance to the next step as if the matter were grievable. Parties are not entitled to a grievability determination regarding failure to comply with substantial grievance procedure requirements. The grievance shall be tolled until the School Board makes a decision on grievability.

B. Appeal of Determination on Grievability

1. Decisions of the School Board regarding grievability may be appealed to the Virginia Beach Circuit Court as set forth by law.

Section 2.4 - Time Limitations

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

- A. The failure of the grievant to comply with all substantial procedural requirements including initiation of the grievance and notice of appeal to the next step in the procedure shall eliminate the employee's right to any further proceedings on the grievance unless just cause for such failure can be shown.
- B. The failure of the School Board or any supervisory employee to comply with all substantial procedural requirements without just cause shall entitle the grievant, at the grievant's option, to advance to the next step in the procedure or, at the final step, to a decision in the grievant's favor.
- C. The determination as to whether the substantial procedural requirements of Part II of this procedure have been complied with shall be made by the School Board. In any case in which there is a factual dispute as to whether the procedural requirements have been met or just cause has been shown for failure to comply, the School Board shall have the option of allowing the grievant to proceed to the next step. The fact that the grievance is allowed to proceed in such case shall not prevent any party from raising such failure to observe the substantial procedural requirements as an affirmative defense at any further hearing involving the grievance.
- D. Waiver of time limitations for any step may only happen for unusual or emergency circumstances. Non-availability of legal counsel or personal representatives due to scheduling issues will not constitute unusual or emergency circumstances for the purpose of waiving time periods.

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Section 2.5 - Separability

If any portion of Part II of this procedure, or the application thereof, shall be held invalid by a court of competent jurisdiction, the remainder of this procedure and the application

thereof in all other circumstances where not expressly held invalid shall not be affected thereby.

PART III

Part III of this procedure is to provide an orderly procedure for the expeditious resolution of disputes involving the dismissal of any teacher. Teachers may be recommended for dismissal in accordance with Code of Virginia §22.1-307, as amended. ~~School Board Regulation 4-3.2 provides the procedure for resolving recommendations for dismissal, suspension, or other disciplinary action for non-instructional and classified employees.~~

Section 3.1 - Procedure for Teacher Dismissals

A. Notice to Teacher of Recommendation for Dismissal

1. ~~1.~~ In the event the Superintendent or designee determines to recommend dismissal of any teacher, written notice shall be sent to the teacher and grievance forms, prescribed by the Virginia Board of Education, shall be provided notifying the teacher of the proposed dismissal and informing the teacher that within ten (10) business days after receiving the notice, the teacher may request a hearing before the School Board. The School Board elects to have all requests for further hearings be assigned to a hearing officer who will be appointed by the School Board as provided by law and this Regulation. The School Board authorizes the Superintendent or designee to maintain a list of eligible hearing officers, appoint qualified hearing officers if the School Board's appointed hearing officers are not available for the case, and make all arrangements for the appointment of a hearing officer and necessary arrangements for conducting such further hearings. At its sole discretion, the School Board may choose to hear a specific grievance rather than directing the grievance to a hearing officer.
2. During such ten (10) business day period and thereafter until a hearing is held in accordance with the provisions of this section if one is requested by the teacher, the merits of the recommendation of the Superintendent or designee shall not be considered, discussed, or acted upon by the School Board except as provided for in this section.

3. At the request of the teacher, the Superintendent or designee will provide the reasons for the recommendation in writing or, if the teacher prefers, in a personal interview. In the event that a teacher requests a hearing, the Superintendent or designee shall provide, within ten (10) days of the request, the teacher or ~~his~~their teacher's representative with the opportunity to inspect and copy the teacher's personnel file and all other documents relied upon in reaching the decision to recommend dismissal. Within ten (10) days of the request of the Superintendent or designee, the teacher or representative shall provide the Superintendent or designee with the opportunity to inspect and copy the documents to be offered in rebuttal to the decision to recommend dismissal. The Superintendent or designee and the teacher or representative shall be under a continuing duty to disclose and produce any additional documents identified later which may be used in the respective parties' cases-in-chief. The cost of copying such documents shall be paid by the requesting party.

4. Holding of Hearing

The hearing shall be held within fifteen (15) calendar days from the date of the request for a hearing. Waiver of the time period to hold the hearing may only happen for unusual or emergency circumstances with the mutual consent of both parties. Non-availability of legal counsel or personal representatives due to scheduling issues will not constitute unusual or emergency circumstances for the purpose of waiving the time period.

The teacher and the Superintendent or designee each may have present at the hearing and be represented at all stages by a legal counsel and another representative. The hearing shall be private unless the teacher requests a public hearing.

5. Procedure for the Hearing

- a. The hearing officer or the School Board (if the hearing is before the School Board. All references to School Board in Section 5a – e mean when the hearing is before the School Board rather than the hearing officer.) shall determine the

propriety of attendance at the hearing of persons not having a direct interest in the hearing, provided that, at the request of the teacher, the hearing shall be public.

- b. At the beginning of the hearing, opening statements from the ~~Superintendent School Administrator and~~ the teacher (or their representatives) clarifying the issues will be allowed and, at the discretion of the hearing officer or the School Board closing statements, also may be allowed.
- c. The parties shall then present their claims in evidence. Witnesses may be questioned by the hearing officer or the School Board or by the teacher and the Superintendent or designee, or their representatives. However, the hearing officer or the School Board may, at its discretion, vary this procedure, but shall afford full and equal opportunity to all parties for presentation of any material or relevant evidence and shall afford the parties the right of cross-examination.
- d. The parties shall produce such additional evidence as the hearing officer or the School Board may deem necessary to an understanding and determination of the dispute. The hearing officer or the School Board shall determine the relevancy and materiality of the evidence offered. All evidence shall be taken in the presence of the hearing officer and the parties.
- e. Exhibits offered by the teacher or the Superintendent or designee may be received in evidence and, when so received, shall be marked and made a part of the record.
- f. In hearings before a hearing officer, the written recommendations made by the hearing officer shall be based exclusively upon the evidence and testimony presented at the hearing.
- g. The hearing may be reopened by the hearing officer at any time before the hearing officer's report is made or before the

School Board has rendered a final decision. Upon its own motion, the hearing officer, or the School Board, may reopen the hearing or may reopen upon application of the teacher or the Superintendent or designee for good cause shown to hear after-discovered evidence.

- h. If the recommendation for dismissal is heard before a hearing officer, the hearing officer shall make a written recommendation to the School Board, the Superintendent or designee, and the teacher, no later than ten (10) business days after the completion of the hearing, unless the parties agree to an extension for the hearing officer's decision.
- i. A stenographic record or tape recording of the proceedings shall be taken. In cases of dismissal, a record or recording of the proceedings shall be made and preserved for a period of six (6) months. If either the teacher or the School Board requests that a transcript of the record or recording be made at any time prior to expiration of the six (6) month period, it shall be made and copies shall be furnished to both parties. The School Board shall bear the expense of the recording and the transcription.

6. Expenses

- a. The teacher shall bear the teacher's own expenses. The School Board shall bear the expenses of the Superintendent/designee and the hearing officer.
- b. The School Board authorizes the Superintendent or designee to make all arrangements and payments for the hearing officer.

7. Decision by the School Board and Further Hearing

At its sole discretion, the School Board may choose to hear a specific grievance rather than directing the grievance to a hearing officer. If the School Board hears the grievance, the School Board will render its decision within thirty (30) days after the close of the

hearing. If the hearing is held before a hearing officer, the School Board may make its decision upon the record or recording the hearing as well as the hearing officer's report and hearing evidence, or it may elect to hold a further hearing to receive additional evidence. In either circumstance, the School Board will reach its decision on the case by a majority vote of a quorum of the School Board. In the event of a hearing before a hearing officer in which no further hearing by the School Board is conducted, the School Board shall render a written decision as soon as practicable but not later than thirty (30) days after receiving the recordings and the hearing officer's recommendation. If the School Board elects to hold a further hearing after receiving a hearing officer's recommendation and the hearing recording and evidence, it shall do so as soon as practicable and will give written notice of the date and time of such further hearing to the Superintendent and the teacher within ten (10) business days after it receives the record or recording of initial hearing. Such notice shall also specify the matter to be inquired into by the School Board. The further hearing must take place no later than thirty (30) days from the time the written notice is provided unless mutually agreed to by both parties. In the case of a hearing before the School Board, the School Board shall give the teacher its written decision as soon as practicable but not more than thirty (30) days after the further hearing. A teacher may be dismissed or suspended by a majority vote of a quorum of the School Board.

8. The teacher and the Superintendent or designee may be represented by legal counsel and another representative. The hearing before the School Board shall be private, unless the teacher requests a public hearing. The School Board shall establish the rules for the conduct of any hearing before it. Such rules shall include the opportunity for the teacher and the Superintendent to make opening statements and to present all material or relevant evidence and to cross-examine the witnesses. Witnesses may be questioned by the School Board.
9. A record or recording of the proceedings shall be made and preserved for a period of six (6) months. If either the teacher or the School Board

requests that a transcript of the record or recording be made at any time prior to expiration of the six-month period, it shall be made, and copies shall be furnished to both parties. The School Board shall bear the expense of the recording and the transcription.

10. The School Board's attorney, assistants, or representative, if ~~he, she, or they~~ represent~~ing~~ a participant in the prior proceedings, the grievant, the grievant's attorney, or representative, and notwithstanding the provisions of Virginia Code Section 22.1-69, as amended, the Superintendent or designee shall be excluded from any executive session of the School Board which has as its purpose reaching a decision on a grievance. However, immediately after a decision has been made and publicly announced, as in favor of or not in favor of the grievant, the School Board's attorney or representative and the Superintendent or designee may join the School Board in executive session to assist in the writing of the decision.

Section 3.2 - Time Limitations

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

- A. The failure of the grievant to comply with all substantial procedural requirements shall terminate the teacher's right to any further proceedings on the grievance unless just cause for such failure can be shown.
- B. The failure of the School Board or of any supervisory employee to comply with all substantial procedural requirements without just cause shall entitle the grievant, at his or her option, to advance to the next step in the procedure, or, at the final step, to a decision in his or her favor.
- C. The determination as to whether the substantial procedural requirements of Part III of this procedure have been complied with shall be made by the School Board. In any case in which there is a factual dispute as to whether the procedural requirements have been met or just cause has been shown for failure to comply, the School Board shall have the option of allowing the grievance to proceed to its next step. The fact that the grievance is allowed to proceed in such case shall not prevent any party from

raising such failure to observe the substantial procedural requirements as an affirmative defense at any further hearing involving the grievance.

Section 3.3 - Separability

If any portion of Part III of the procedure, or the application thereof, shall be held invalid by a court of competent jurisdiction, the remainder of this procedure and the application thereof in all other circumstances where not expressly held invalid shall not be affected thereby.

Related Links

[School Board Policy 4-3](#)

[School Board Regulation 4-3.2](#)

[School Board Regulation 4-4.1](#)

[School Board Regulation 4-4.3](#)

[School Board Regulation 4-6.1](#)

Legal Reference

Code of Virginia §22.1-295.2, as amended. Employment discrimination prohibited; sexual orientation or gender identity.

Code of Virginia §22.1-306, as amended. Definitions.

Code of Virginia §22.1-307, as amended. Dismissal of teacher; grounds.

Code of Virginia §22.1-309, as amended. Notice to teacher or recommendation of dismissal; school board not to consider merits during notice; superintendent required to provide reasons for recommendation upon request.

Code of Virginia §22.1-311, as amended. Hearing before school board or hearing officer.

Code of Virginia §22.1-313, as amended. Decision of school board; generally.

Code of Virginia §22.1-314, as amended. Decision of school board; issue of grievability; appeal.

Virginia Board of Education Regulations 8VAC20-90 *et seq.*, as amended. Procedure for Adjusting Grievances.

Approved by Superintendent: July 16, 1991

Revised by Superintendent: September 15, 1992

Approved by School Board: (See School Board Policy 4-3)

Revised by Superintendent: December 3, 2003

Revised by Superintendent: October 28, 2013

Revised by Superintendent: September 9, 2014

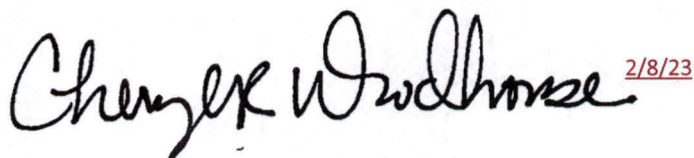
Revised by Superintendent: May 22, 2015

Revised by Superintendent: August 17, 2021

Revised by Superintendent:

APPROVED AS TO
LEGAL SUFFICIENCY


4/18/24

 2/8/23