

**Montgomery County Education Association**  
**Bargaining Proposal to Montgomery County Public Schools**

**December 05, 2022**

**Article 5: Grievance**

**A. Definitions**

1. A **grievance** is hereby defined to mean a dispute concerning the meaning, interpretation, or application of any of the provisions of this Agreement, except where this Agreement states otherwise.
2. A **grievant** is the person or persons making the claim.
3. A **party in interest** is either the person or persons making the claim and any person who might be required to take action or the person or persons against whom action might be taken in order to resolve the claim.

**B. Purpose**

1. The purpose of this procedure is to secure, at the lowest possible administrative level, equitable solutions to the problems that may occur in the administration of the Agreement. Both parties agree that these proceedings will be kept informal and confidential at all levels of the procedure.
2. Nothing herein contained shall be construed as limiting the right of any unit member having a grievance to discuss the matter with any appropriate member of the administration. Such grievance may be adjusted without intervention of the Association, providing that the adjustment is not inconsistent with the terms of this Agreement. The Association shall be notified and/ or provided the right to be present any time an adjustment is made as a result of the informal level discussion to ensure consistency with the Agreement.
3. The Association can grieve on matters with respect to the general application of any clause in the Agreement to the unit as a whole or with respect to association rights and privileges as set forth in Article 3.

**C. Procedure**

1. Since it is important that grievances be processed as rapidly as possible, the number of days indicated at each level should be considered as a maximum and every effort should be made to expedite the process. The time limits specified may, however, be extended by mutual agreement between the superintendent and the Association and shall be stated in writing. In the event a grievance is filed at such time that it would not normally be processed through all the steps in this grievance procedure by the end of the school year, the parties shall attempt to process such grievance prior to the end of the school year.

2. No grievance shall be initiated more than 15 duty days after the cause thereof has occurred ~~or, been discovered,~~ **or an informal attempt on the part of the Association to resolve said grievance has been exhausted.**
3. The grievant may be represented by himself/herself at the informal level or may request that MCEA (MCEA staff or building representative) be their representative. The grievant shall be represented by an MCEA representative at Level One and above.
4. Forms for filing grievances, serving notices, taking appeals, making reports and recommendations, and other necessary documents will be prepared jointly by the superintendent and the Association, and will be given appropriate distribution so as to facilitate operation of the grievance procedure.
5. Grievance meetings and/or hearings shall normally be scheduled before or after the unit member's duty day unless otherwise agreed to by the parties.
6. When it is necessary for a party in interest to attend a grievance hearing during the school day, the Association will assume one-half the cost of a substitute if one is employed.

D. Informal Process

A unit member with a grievance will first discuss it with their principal or immediate supervisor. The objective of this first meeting will be the informal resolution of the matter. An Association representative may be present at this informal level of the procedure and if chosen as their representative under Article 5, Section C.3, shall represent the grievant.

E. Formal Process

1. **Level One**—If the grievance cannot be resolved informally, ~~the Association may the grievant will be required to present to~~ **file with** the principal or other appropriate official their grievance in writing ~~on the proper form~~ within 15 duty days after the cause thereof has occurred or been discovered. If the grievance is not presented within the above-stated time limit, the grievance shall be deemed to be waived and shall not be subject to further discussion or appeal. The ~~principal~~ **person with whom it was filed** shall have five (5) duty days to respond.
2. **Level Two**—If the ~~aggrieved person~~ **Association** is not satisfied with the written disposition of their grievance at Level One, ~~they may file the grievance in writing with the Association within 10 duty days after the grievance was presented.~~ **the Association may elevate the grievance to Level Two in writing within 10 duty days after the written disposition is received.** Within five (5) duty days after receiving the written grievance, the Association will ~~review the merits of the grievance and counsel the grievant, referring~~ **refer** the grievance to the appropriate associate/director/chief if the Association determines that the grievance is meritorious. If the grievance is not referred to the appropriate associate/director/chief within the above-stated time limit, the grievance shall be deemed to be waived and shall not be subject to further discussion or appeal. Within seven (7) duty days after receiving the written grievance from the Association, the associate/director/chief will meet with the aggrieved person for the purpose of resolving the grievance. The associate/director/chief shall render a decision in writing within five (5) duty days of the meeting held with the aggrieved person.

3. **Level Three**—If the aggrieved person **Association** is not satisfied with the disposition of their grievance at Level Two, the ~~they may again file the written grievance with the Association~~**Association may file the grievance in writing** within five (5) duty days after a decision by the aforesaid administrator or ten (10) duty days after the grievance was referred to the aforesaid administrator. ~~writing within five duty days after the decision by the aforesaid administrator or ten (10) duty days after the grievance was referred to the aforesaid administrator. receiving the written grievance, the Association will review the merits of the grievance and counsel the grievant, referring~~ **refer** the grievance to the superintendent if the Association determines that the grievance is meritorious. If the grievance is not referred to the superintendent within the above-stated time limit, the grievance shall be deemed to be waived and shall not be subject to further discussion or appeal. Within ten (10) duty days after receiving the written grievance from the Association, the superintendent shall review the record and render a decision in writing. The superintendent, or designee, may request information directly from any party of interest in the grievance if they felt that additional information was needed. Any such written information shall be shared with the other party.
4. **Level Four**—
  - a) If the aggrieved person is not satisfied with the disposition of their grievance at Level Three, they may, within ~~five (5)~~**fifteen (15)** duty days after a decision by the superintendent, request in writing that the Association submit their grievance to arbitration. If the grievance is not submitted to arbitration within the above-stated time limit, the grievance shall be deemed to be waived and shall not be subject to further discussion or appeal. If any question arises as to whether a grievance involves the interpretation, meaning, or application of any of the provisions of this Agreement, such question will be ruled upon by the arbitrator before hearing the case.
  - b) The parties shall agree to a standing list of arbitrators who are mutually acceptable and who agree to be readily available. Cases appealed to arbitration shall be submitted to one of those arbitrators by mutual agreement of the parties.
  - c) If agreement on selection of a panel arbitrator cannot be reached, then, within 10 duty days after such a written notice of a failure to agree, a request for a list of arbitrators may be made to the American Arbitration Association by either party. The parties will then be bound by the rules and procedures of the American Arbitration Association.
  - d) The arbitrator so selected will confer with the representatives of the superintendent and the Association and hold hearings promptly and will issue their decision not later than 10 days from the date of the close of hearings, or, if oral hearings have been waived, from the date the final statements and proofs are submitted to them. The arbitrator's recommendations will be in writing and will set forth their findings of fact, reasoning, and conclusions on the issues submitted. The arbitrator will be without authority to make any recommendation beyond the

terms of this Agreement. The recommendation of the arbitrator shall be binding upon both parties.

- e) The costs for the services of the arbitrator, including per diem expenses, if any, and actual and necessary travel and subsistence expenses, and the cost of any hearing room, will be borne equally by the Board and the Association. All other expenses will be paid by the party incurring them.
- F. Voluntary Pre-arbitration Mediation Either party may request grievance mediation when a case is appealed to arbitration. If both parties agree, the Federal Mediation and Conciliation Service's Grievance Mediation Program may be used. If the mediation does not result in a mutually satisfactory resolution, the case may proceed to arbitration.
- G. Miscellaneous
1. No reprisals of any kind shall be taken by any party to this Agreement against any party in interest or any grievant.
  2. All documents, communications, and records dealing with the processing of a grievance will be filed in a separate grievance file and will not be kept in the personnel file of any of the participants.
  3. All decisions rendered at all levels of the grievance procedure will be in writing, setting forth the decision and the reasons therefore, and will be transmitted promptly to all parties in interest and to the Association **promptly within five (5) duty days.**
  4. The grievant shall be permitted to present evidence and witnesses and to cross-examine all witnesses whenever a hearing is held. When a unit member is not represented by the Association, the Association will have the right to be present and to state its views at all stages of the grievance procedure.
  5. The Association may submit any intended class action grievance to the superintendent or designee and the superintendent shall rule, within five duty days, if any other administrator has the authority to resolve the grievance. If no other administrator has the authority to resolve the grievance, the superintendent or designee shall, within 10 duty days from the initial submission of the grievance, respond or the Association shall be free to seek arbitration of the grievance.
  6. The parties shall develop a set of procedural guidelines for the conduct of grievance hearings.
- H. Administrative Complaint Procedure The administrative complaint procedure currently in use to process and resolve unit member complaints pertaining to matters not covered by this Agreement shall be continued.