The Cleveland County Board of Education (the “Board”) supports timely and effective resolutions to potential areas of conflict. Employees are encouraged to communicate with supervisors to resolve issues and concerns. When an informal resolution does not result or if the employee elects to pursue a formal grievance, the employee may submit his or her grievance pursuant to the steps set forth in this policy.

A. DEFINITIONS

1. Grievance

A grievance is a formal written complaint by an employee or group of employees that a final administrative decision has resulted in one of the following outcomes:

   a. a violation of a specified federal law, State law, State Board of Education policy, State rule, or local Board policy; or

   b. an adverse effect on the terms or conditions of employment or employment status of the school employee.

The term “grievance” does not apply to any matter for which the method of review is otherwise specifically prescribed by law, Board policy, or upon which the Board of Education is without authority to act. Recommended decisions and Board decisions are not grievable.

2. Grievant

The grievant is the employee making the claim.

3. Final Administrative Decision

A final administrative decision is a decision of a school employee from which no further appeal to a school administrator is available.

4. Days

Days are the working days, exclusive of Saturdays, Sundays, vacation days, or holidays, as set forth in the school calendar, unless otherwise specified in this policy. In counting days, the first day will be the first full working day following receipt of the grievance.

For any time period provided by this policy, receipt of notification may occur through hand delivery, regular mail, or email.
B. TIMELINESS OF PROCESS

Failure by the official at any level to communicate a decision within the specified time limit will permit the grievant to appeal the grievance to the next level unless the parties mutually agree to a delay. Failure by the grievant to appeal a grievance to the next level within the specified time limit will end the grievance process.

C. GENERAL REQUIREMENTS

1. All parties in interest and their representatives in any grievance filed pursuant to this policy are expected to conduct themselves in a professional and cooperative manner during the investigation and hearing of the grievance. This includes respecting the confidentiality of personnel matters throughout the grievance process and furnishing the grievant or his/her representative upon request with information pertinent to the grievance to the extent required by law without cost to the grievant or the employee(s) against whom the grievance is filed.

2. All meetings and hearings conducted pursuant to this policy will be confidential.

3. The school system prohibits retaliation of any kind against any participant in the grievance process.

4. Each decision will be in writing and will be transmitted to all parties.

5. Grievances will generally be handled on an individual basis, rather than as a group. If grievants request to be heard as a group, the Board and school officials may grant or deny that request at their discretion. If grievants are to be heard as a group, the Board and school officials may ask the group to designate one or more representatives to present on behalf of the group.

6. The employee may have a professional representative from an employee association or an attorney at Levels 2 and 3 of the grievance process. However, if the grievant intends to be represented by legal counsel, he or she must notify the appropriate school official in advance so that school personnel will have the opportunity to be represented by legal counsel.

7. If the Superintendent or designee decides that the investigation or processing of any grievance requires the absence of the grievant from regular work assignments, such absences will be granted without loss of pay or benefits.

8. With respect to any proposed grievance subject to review under this policy, the Superintendent or designee may place the grievance process on hold while any disciplinary proceeding or investigation is pending against the grievant.

9. A grievance may be withdrawn at any time. Once a grievance is voluntarily withdrawn, it cannot be reopened.
D. PROCESS FOR GRIEVANCE

1. Filing a Grievance

   a. A grievance must be filed within thirty (30) calendar days after the decision giving rise to the grievance. Grievances filed after thirty (30) calendar days will be reviewed by the school system as a complaint outside the grievance process.

   b. All grievances must be submitted to the Executive Director of Human Resources. The written grievance must include the following information: (1) the name of the school system employee whose decision is at issue; (2) the specific decision at issue and factual basis in support of the grievance; (3) any alleged violation of a specified federal law, State law, State Board of Education policy, State rule, or local board; (4) any terms or conditions of employment or employment status adversely affected by the decision; and (5) the specific remedy desired.

   c. A copy of the grievance form shall be made available to the employee(s) against whom the grievance is filed.

   d. If the concerns expressed on the grievance form do not meet the requirements of a grievance as set forth in this policy, appropriate school system personnel will review the concerns as a complaint outside the grievance process.

2. Level One

   a. Upon receipt of a written grievance that meets the requirements of a grievance as set forth in this policy, the Executive Director of Human Resources shall forward the grievance to the official whose decision is the subject of the grievance. A Level 1 meeting shall occur between the grievant and the official(s) against whom the grievance is filed. This meeting shall occur within ten (10) days of receipt of the grievance unless a later time is mutually agreed upon in writing. An appropriate Central Services employee may also attend this meeting to facilitate the Level 1 meeting. Dismissals, demotions, or suspensions without pay of non-certified employees shall be reviewed initially at Level 2.

   b. The official shall provide the grievant with a written response within ten (10) days after the meeting, unless the official notifies the grievant in writing that additional time, up to twenty (20) days, is needed for further review.

3. Level Two

   a. A grievant who is not satisfied with the Level 1 response may submit a written appeal to the Superintendent or designee within ten (10) days of receipt of the Level 1 response. The appeal shall specify with particularity the reason(s) for the appeal.

   b. The Superintendent's designee shall arrange for a Level 2 hearing to occur within twenty (20) days of receipt of the appeal, unless the Superintendent's designee
determines that additional time, up to twenty (20) days, is needed for further review. The parties may agree in writing to further delay the hearing.

c. The Superintendent's designee shall provide written notice of the Level 2 hearing. Either party may call witnesses at the Level 2 hearing. Both parties will have the opportunity to review any documents to be considered at the hearing and the names of any witnesses that may be called at the hearing. The Superintendent's designee is authorized to establish additional procedures in order to maintain an efficient and fair appeal hearing.

d. The Superintendent's designee shall provide the Superintendent with a written recommendation within seven (7) days of the Level 2 hearing. The Superintendent shall review the recommendation and send written notice to the parties of his or her decision within ten (10) days of receiving the written recommendation.

4. Level Three

If the grievant is not satisfied with the Superintendent's decision, the grievant may submit a written appeal to the Board of Education within ten (10) days. The grievant shall send the appeal to the Superintendent to forward to the Board Chair.

a. Upon receipt of the appeal, the Board Chair shall appoint a panel of Board members to hear and decide the appeal. When possible, the full Board shall serve on the panel, but in no case shall there be fewer than three (3) members of the Board to hear and decide the grievance.

b. The panel shall make reasonable efforts to meet and consider the appeal within twenty (20) days after the chairperson refers the grievance to the panel. Notice of the appeal hearing will be given to the parties.

c. The panel shall review the grievance on the record unless it determines that additional information may be presented. No new evidence, written or verbal, may be presented without the prior knowledge and consent of both parties or upon a majority vote of the panel. Each party may make a brief oral presentation of no more than fifteen (15) minutes to summarize his or her position. The panel has the authority to ask questions, extend time limits, exclude extraneous or duplicative information, and otherwise maintain an efficient and fair appeal hearing. The hearing will be recorded and shall be held in closed session.

d. The Board panel may affirm, reverse or modify the decision of the Superintendent. The Level 2 decision will be reversed if the decision was:
   1. in violation of constitutional provisions;
   2. in excess of the statutory authority or jurisdiction of the school system;
   3. made upon unlawful procedure;
   4. affected by other error of law;
   5. unsupported by substantial evidence in view of the entire record as submitted; or
   6. arbitrary, capricious, or otherwise not in the best interest of the school system.
Substantial evidence refers to relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

e. The panel will provide a final written decision within twenty (20) days after the Level 3 hearing unless the panel determines that additional time is needed for further review. The decision of the Board panel shall be final.

E. PROCESS FOR APPEALS OF NON-GRIEVANCES

1. If an employee believes he or she was aggrieved by a decision that does not meet the definition of a grievance as set forth in this policy, the employee has a right to appeal to the Superintendent in writing within ten (10) days. If an employee is not satisfied with the Superintendent's response, the employee may request a discretionary Board hearing by filing a written appeal within ten (10) days. The appeal shall state with particularity the reason(s) why a hearing is necessary and shall be submitted to the Superintendent.

2. The Superintendent shall forward timely appeals for a discretionary hearing to the Board Chair and Vice Chair. The Board Chair and Vice Chair will determine whether a discretionary hearing will be granted.

3. If the Board Chair or Vice Chair approves the request for a discretionary hearing, the grievant will be provided notification of the scheduled discretionary hearing. A discretionary hearing will follow the same procedures as a Level 3 hearing.

4. If the Board Chair and Vice Chair both deny the request for a discretionary hearing, the decision of the Superintendent will be final and the grievant will be notified of the decision to deny the appeal for a discretionary hearing.

F. RECORDS

Appropriate records shall be maintained in accordance with state and federal law.

Legal References: G.S. 115C-45(c); 126-16

Adopted: February 13, 2017

Replaces: Board Policy 5230, Employee Grievance