

# Article V -Grievance



**PALO ALTO**  
UNIFIED SCHOOL DISTRICT

## Collective Bargaining Agreement

*Between*

**PAUSD**

Palo Alto Unified School District  
25 Churchill Avenue  
Palo Alto, California 94306

— *and* —

**PAEA**

Palo Alto Educators Association  
2483 Old Middlefield Way, Suite 120  
Mountain View, California 940436

## Negotiations 2018-21

*Adopted May 14, 2019*  
*Effective through June 30, 2021*

# ARTICLE V

## Grievance

### A. Definitions

1. A “grievance” is a confidential claim based upon an event or condition relating to the interpretation, meaning, or application of any of the provisions of the Agreement. Actions to challenge or change the policies of the District as set forth in the rules and regulations or administrative regulations and procedures must be undertaken under separate legal processes.
2. A “Grievant” is a person, persons or Association making a claim of improper or illegal interpretation of any of the provisions of this Agreement who is adversely affected by such application or interpretation. When the Association files on behalf of a specifically named Grievant, such Grievant shall be available at each level of this procedure to respond to inquiries by the employer. In addition, the Association may combine two or more grievances for purposes of processing and hearing, provided the individual grievances involve the same issues of fact and same provision of the Collective Agreement, and provided all Grievants involved are present at each level of this procedure and are available to respond to inquiries by the employer.
3. A “day” is any day, except those days during winter or spring vacation, in which the central administrative office of the Palo Alto Unified School District is open for business. Time limits for appeal provided in each level shall begin the day following the day that receipt of a written decision by the parties in interest was due.
4. The “immediate supervisor” is the lowest level supervisor who has been designated to adjust grievances, having immediate jurisdiction over the Grievant. Jurisdictional disputes shall be resolved by the Assistant Superintendent - Human Resources/Administration.

### B. Informal Level

1. Before filing a formal written grievance, the Grievant shall attempt to resolve the grievance by an informal conference with his/her immediate supervisor who shall, within ten (10) days, attempt to resolve the grievance and report back to the Grievant. The immediate supervisor shall discuss with the Grievant those persons he/she plans to involve while attempting to resolve the grievance.
2. The informal level of the grievance shall begin within twenty (20) days after the alleged violation of the contract. The twenty-day limitation shall not apply to alleged violations of the contract which occur while staff members are on sabbatical or straight leave granted by the Board provided that the grievance is filed within twenty (20) days after returning from sabbatical or straight leave.

### C. Formal Level

#### 1. Level I

- a. If the grievance is not resolved to the satisfaction of the Grievant(s) at the informal level, the grievance shall be presented to the immediate supervisor and building principal, if they are not one and the same, within ten (10) days after the informal conference.
- b. This statement shall be a clear, concise statement of the grievance, the circumstances involved, the decision rendered at the informal conference, and the specific remedy sought.
- c. The supervisor shall communicate the decision to the Grievant in writing within ten (10) days after receiving the grievance. If the supervisor does not respond within the time limits, the Grievant may appeal to the next level.
- d. Within the above limits, either party may request and be granted a personal conference.

#### 2. Level II

- a. In the event the Grievant is not satisfied with the decision at Level I, the Grievant may appeal the decision in writing to the Administrator of Human Resources within ten (10) days.
- b. The statement shall include a copy of the original grievance, the decision rendered, and a clear, concise statement of the reasons for the appeal.

- c. Representative(s) of the Association may attend and state their views in any meeting with the Administrator and the aggrieved person, relating to the grievance filed. A grievance may be adjusted without the intervention of the Association, as long as the adjustment is made prior to the arbitration, and the adjustment is not inconsistent with the terms of this Agreement; and provided further, the District shall not agree to a resolution of a grievance until the Association has received a copy of the proposed resolution and has been given the opportunity to file a response.
- d. The Administrator shall communicate the decision within ten (10) days after receiving the appeal. Either the Grievant or the Administrator may request and be granted a personal conference within the above time limit. If the Administrator does not respond within the time limits, the Grievant may appeal to the next level.

**3. Level III**

- a. If the Grievant is not satisfied with the decision at Level II, the Grievant may within ten (10) days appeal the decision in writing to the Superintendent.
- b. This statement shall include a copy of the original grievance and appeal, the decisions rendered, and a clear, concise statement of the reasons for the appeal.
- c. The Superintendent shall communicate the decision to the Grievant within ten (10) days. If the Superintendent does not respond within the time limits provided, the Grievant may appeal to the next level.
- d. Either the Grievant or the Superintendent may request and be granted a conference at a mutually agreed upon time.

**4. Level IV - Mediation**

- a. If the grievance is not resolved to the satisfaction of the Grievant at Level III, the Grievant may appeal, within ten (10) days of the delivery of the Level III decision, the grievance to Level IV.
- b. In such case, the Association and the District will mutually agree upon the identification of a mediator. Upon appointment of the mediator, mediation shall be scheduled according to the availability of the mediator and the parties.
- c. The mediation process shall be completed within twenty (20) days following the Grievant's appeal to Level IV, unless the parties mutually agree to extend the twenty- (20) day time requirement.
- d. If an agreement is reached, the agreement shall be written and shall be signed by all the parties to the mediation. All settlement agreements shall be non-precedential and shall constitute only a settlement of the particular grievance.

**5. Level V - Arbitration**

- a. If the Grievant is not satisfied with the disposition of the grievance at Level IV, the Grievant may, within ten (10) days of the last meeting with the mediator, or within ten (10) days of the expiration of the timeline in Level IV above, submit a request to the Association Grievance Chairperson, requesting that the Association submit the grievance to arbitration. If the Association Grievance Committee approves the request, the Association shall submit the grievance to arbitration by giving written notice to the Superintendent's Office within fifteen (15) days after the date the request is made of the Association by the Grievant.
- b. Within ten (10) days after such written notices of submission to arbitration, the Superintendent's Office and the Association shall request jointly the State Conciliation Services to supply a panel of five (5) names of persons experienced in hearing grievances in public schools. Each party shall alternately strike a name until only one name remains. The remaining panel member shall be the arbitrator. The order of the striking shall be determined by lot.

- c. The fees and expenses of the arbitrator and the hearing shall be borne equally by the District and the Grievant. All other expenses shall be borne by the party incurring them.
- d. Once the arbitrator has been selected, hearings shall commence at the convenience of the arbitrator. The arbitrator shall hear evidence and render a decision on the issue or issues submitted to him. If the parties cannot agree upon a submission agreement, the arbitrator shall determine the issues by referring to the written grievance and the answers thereto at each step.
- e. The arbitrator shall have no power to award punitive damages, make class action awards, except where the class is properly identified at Level I of the procedure, or make money damage awards effective any date earlier than up to one year prior to the date the grievance was filed, except as provided by law.
- f. The arbitrator shall have no power to add to, subtract from, or modify the terms of this Agreement or the written policies, rules, regulations, and procedures of the District.
- g. Issues arising out of the exercise by the Board and administration of its responsibilities under Article IV (District Rights) of this Agreement, including the facts underlying its exercise of such discretion, shall not be subject to this arbitration procedure.
- h. After a hearing and after both parties have had an opportunity to make written arguments, the arbitrator shall submit in writing to all parties his findings and recommendations and shall set forth the arbitrator's reasoning and conclusions on the issues submitted.
- i. The arbitrator's decision is final and binding except that the arbitrator's award must be supported by the preponderance of the evidence and in conformance with law. Such awards are specifically reviewable by the Superior Court pursuant to the processes and procedures set forth under the California Code of Civil Procedure.

#### **D. Miscellaneous**

- 1. No reprisals of any kind shall be taken by the District or the Association against any participant in the grievance procedures.
- 2. A unit member may be self-represented or have a representative of the unit member's own choice at all formal levels of the grievance procedure below Level V.
- 3. When a Grievant is required to appear before an agent of the employer, or the employer, the meeting shall be at a mutually agreed upon time and the Grievant shall be given the reasons for the required appearance.
- 4. All grievances shall be treated as confidential matters and as such only persons who are necessary to the processing of the grievance or to the adjustment of the grievance or necessarily involved in the investigation of the grievance shall have access to information concerning the grievance.
- 5. Nothing contained herein shall deprive any unit member of any legal right that he presently has.
- 6. Any expenses incurred shall be borne by the parties incurring them, except as provided for in Level V.
- 7. Any employee who is requested to appear in such conferences or hearings as a witness during working hours shall be accorded release time, but not the cost of a substitute. Witnesses shall be informed that their testimony shall be kept confidential unless they choose to make it public.
- 8. All documents, communications and records dealing with the processing of a grievance shall be filed in a separate grievance file and shall not be kept in the personnel file of any of the participants.
- 9. Neither the employer nor the Association shall be permitted to assert any grounds or evidence before the arbitrator that was not previously disclosed to the other party. The arbitrator shall consider only those issues that have been carried through prior steps as required by the provisions of the procedure.

The Superintendent, or his designee, and the Association agree to make available to both parties all pertinent information, not privileged under law or employer policies, in their possession or control and which is relevant to the issues raised by the grievance.

10. If the Association and the Superintendent, or the Superintendent's designee, agree in writing, the grievance may be brought directly to any higher level of the grievance procedure. Time limits may be shortened or extended.
11. A grievance may be withdrawn at any level without establishing precedent.
12. A decision rendered at any level shall be considered final unless an appeal is registered within the limit specified. If a decision is not given to the aggrieved party within the time limit, an appeal may be taken to the next level.
13. Nothing in these grievance procedures is meant to deny to either the Association or to the District the right to complain directly to the other, at whatever level seems appropriate, about the handling of issues that appear elsewhere in this contract other than in the articles on Association Rights or District Rights. Such discussions shall not be matters of formal grievance procedures unless both parties agree that formal grievance procedures should be entered into as a possible way of avoiding a contest over unfair labor practices with the Public Employment Relations Board.