

TENTATIVE AGREEMENT #2
Article III Grievance Procedure
June 23, 2022

ARTICLE III
GRIEVANCE PROCEDURE

- A. A grievance shall be defined as a dispute involving a violation, misinterpretation, or misapplication of a provision(s) of this Contract. The grievance procedures set forth below shall be used for the settlement of said disputes.
- B. General Provisions
1. Only a member of the bargaining unit, a group of members of the bargaining unit, or the Association may file a grievance. Whenever the word "grievant" is used herein it may refer to any of the above.
 2. A grievant may have representation by the Association at any step of the grievance procedure. Representation by the Association shall include the right to speak and to present arguments and evidence on behalf of the grievant.
 3. Nothing in this Article shall be construed to prevent any employee from presenting at any time his/her own grievance, in person or by legal counsel, and having such grievance adjusted without the intervention of the Association, if the adjustment is not inconsistent with the terms of this Contract, and if the Association has been given reasonable opportunity to be present at any meeting called for the resolution of such grievance.
 4. Each written step in the grievance procedure shall be filed on a standard form as agreed to between the parties.
 5. The Association shall inform the Human Resources Department designee(s) of the grievance number, school and grievant's name when a written grievance is filed.
 6. The parties agree to attempt to resolve grievances at the lowest possible level, and shall present documentation and other needed information to that end.
 7. All grievance meetings, ~~including arbitration hearings,~~ shall be held on dates and times mutually agreed to by the parties. during the employee's duty day and within his/her work year, unless the parties mutually agree to hold such meetings at other times. No employee shall suffer loss of pay for attending such meetings as a witness or party to the grievance.

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8. The parties agree that tape recording of any grievance meeting, other than an arbitration hearing, shall not be done without the express permission of all persons present.
9. Either party to a grievance shall be granted a three duty day extension at any step in the processing of the grievance, provided that party notifies the other party, in writing, prior to the date that the time period for that step would elapse. The time limits prescribed herein may be modified by mutual agreement of the parties.
10. Whenever illness or other incapacity of a party to a grievance prevents attendance at a grievance meeting, the time limits shall be extended to such time that the party can be present, except that the grievant may appeal to the next step if the designated administrator is incapacitated beyond ten duty days.
11. If at any step in the grievance procedure, no disposition is made within the time limits prescribed for that step, the grievant shall have the right to proceed to the next step. If the grievant fails to appeal to the next step within the prescribed time limits, his/her right to proceed with the grievance shall be waived.
12. If a grievance arises as the result of a condition which the administrator is without jurisdiction to resolve, the grievance shall be filed directly to the Human Resources Department designee(s), and placed at Step III of the grievance process and a meeting shall be held in an effort to resolve the matter, as provided for in Section C.3. of this article. Prior to scheduling the meeting, the written grievance shall be provided to the Human Resources Department designee(s), with a copy to the Association.
13. A grievant may withdraw his/her grievance at any step, but that same grievance may not be filed a second time, unless it is of a continuous nature.
14. If at any point during the processing of a grievance the grievant elects to seek resolution of a particular issue through a judicial or administrative agency proceeding, s/he shall waive the right to pursue only that particular issue through the grievance procedure.
15. The Board shall assure the grievant and any witnesses freedom from restraint, interference, coercion, discrimination or reprisal in the processing of a grievance in accordance with Florida Statute.

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16. The filing of a grievance shall in no way interfere with the right of the Board to carry out its management responsibilities, subject to the final decision on the grievance. However, the final decision on the grievance shall be in accordance with Florida Statute.
 17. Any grievance pending at the time of expiration of this Contract shall be processed to completion, according to the provisions herein.
 18. 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 official personnel file of the grievant, except those that operationally or statutorily are required to be reflected in the personnel file.
- C. Grievances shall be processed as outlined below. The employee may choose to have representation at all steps of the process.
1. Step I: Good Faith Discussion

If an employee feels s/he has a grievance, the employee shall first meet and discuss the matter in good faith with the administrator in an effort to resolve the matter informally. The employee may have representation by the site association representative or his/her designee. The request for the discussions shall take place within twenty (20) duty days after the employee knew, or should have known, of the incident which is the basis of the potential grievance. The discussion shall take place within six (6) duty days.

In the discussion, the employee shall advise the administrator of the particular section(s) of the Contract the employee believes was (were) violated, and how they allegedly were violated. The employee may also present a solution. Verbal dialogue is encouraged and may continue over the next six (6) duty days, a resolution must be presented and agreed upon or the employee shall receive an explanation as to why the administrator believes the contract was not violated. Any resolution shall not violate the contract and shall be reduced to writing by the site association representation and signed by the administration.

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2. Step II: Written Grievance

Failure to reach an agreement or failure to respond in six (6) duty days will automatically move the grievance to Step III. The grievance form shall be obtained by the employee from the Association office or online at [link]. The Association shall provide the grievance register number for the grievance to the grievant. Changes to the grievance form shall be mutually agreed to by the parties.

If the discussion above does not resolve the issue satisfactorily, the employee may file a written grievance within ten (10) duty days following the employee's receipt of the administrator's response. The written grievance shall be presented by the employee during a meeting with the administrator.

The written grievance shall contain:

- Specific date of alleged violation
- Date of Step I meeting
- A concise statement of the facts upon which the grievance is based
- A reference to the specific section(s) of the Contract allegedly violated
- An explanation as to how the employee believes each cited section was violated
- A suggested remedy by the employee.

Copies of the grievance shall be sent to the Human Resources Department designee(s) and the Association. A response shall be provided by the administrator, in writing, within six (6) duty days from receipt.

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3. Step III: District Level Hearing

If the grievant is not satisfied with the disposition of the grievance by the administrator, s/he may appeal the grievance to the Superintendent/designee. Such appeal shall be made within six (6) duty days of the receipt of the administrator's response, and include the scheduling of a meeting in an effort to resolve the dispute. The meeting shall take place within then (10) duty days of filing and shall include the grievant, his/her representative if requested by the grievant and a member of the Human Resources Department designee(s). Dialogue is encouraged to reach resolution prior to the meeting and both parties shall present any evidence to substantiate their positions in the matter. Within ten (10) duty days of the meeting, the Superintendent/designee shall respond to the grievance in writing.

4. Step IV: Mediation

If the grievant/Association is not satisfied with the disposition of the grievance from the District level hearing, the grievance may be referred to mediation. The grievant/Association and the District shall mutually agree to submit a grievance to mediation. The grievant/Association shall notify the District in writing within six (6) duty days of the conclusion of Step III of the grievant/Association's desire to refer the grievance to mediation. The District shall respond to the request for mediation within three (3) duty days of the written request.

- a. Within six (6) duty days following the agreement of mediation, the grievant/Association shall notify the selected mediation service. The mediation conference shall be scheduled at a mutually convenient location and time.
- b. There shall be one designated spokesperson from each party at the mediation conference.
- c. The mediator shall have the authority to meet separately with either party, but shall not have the authority to compel the resolution of a grievance.
- d. The presentation of facts and considerations shall not be limited to those presented at Step II of the grievance procedure. However, new information shall be shared between the parties prior to the mediation conference. Proceedings before the mediator shall be informal in nature. There shall be no formal evidence rules. No transcript or record of the mediation conference shall be made. The mediator shall attempt to assure that all necessary facts and considerations are revealed to him/her.

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- e. Written material presented to the mediator shall be returned to the party presenting that material at the termination of the mediation conference, except that the mediator may retain one copy of the written grievance solely for the purpose of statistical analysis.
- f. Fees and expenses shall be shared equally by the parties.
- g. Resolution through such mediation shall be reduced to writing and signed by all parties to the grievance.

5. Step V: Arbitration

If resolution is not reached through mediation or mediation is bypassed, the grievance may be submitted to arbitration. The grievant and his/her representative shall, within twenty (20) duty days after receipt of the decision of the Superintendent/designee, notify the District of the intent to submit the grievance to arbitration.

D. Arbitration Provisions

1. Within fifteen (15) duty days of its notice to the Superintendent, the Association shall request the Federal Mediation and Conciliation Service (FMCS) to submit a panel of seven arbitrators who are qualified to hear public sector grievances or may jointly agree to set up a panel of arbitrators from which to make a choice. Upon receipt of the panel, the parties shall select, within twenty-one (21) calendar days, an arbitrator by the alternate striking method or other mutually agreeable method, and shall notify the FMCS of the arbitrator selected. The parties shall not be precluded from mutually agreeing on an arbitrator not on the panel.
2. If for some reason the arbitrator will be unable to serve or the parties mutually agree that no person on the panel is suitable, the parties shall jointly request the FMCS to submit a new panel of seven arbitrators from which an arbitrator will be selected in the same manner.
3. Arbitration hearings shall be scheduled to be held on dates and times mutually agreeable to the parties and the arbitrator; however, the arbitrator shall have the ultimate authority to decide any unresolved issues relating to scheduling. This paragraph represents the entire agreement and supersedes any past practice with regards to arbitration scheduling within sixty (60) calendar days of selection unless the parties agree to extend the timeline or the arbitrator is unavailable within the timeline. All arbitration proceedings shall be conducted under and governed by the rules of the FMCS.

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4. The parties agree to accept the arbitrator's award as binding upon them.
5. The parties shall share equally the cost of arbitration.
6. Should either party request a stenographic transcript of the proceedings, then that party will bear the full costs for said transcript. If both parties mutually agree to a stenographic transcript, then the cost of said transcript will be divided equally between the parties.
7. The arbitrator's decision shall be in writing and shall set forth his/her findings of fact, reasoning and conclusions on issues submitted.

E. Power of the Arbitrator

1. An arbitrator shall not have the power to add to, subtract from, modify, or alter the terms of this Contract.
2. S/he shall have no power to rule on the substantive reasons of the Board not to reemploy an annual contract teacher, placement of an annual contract teacher on a fourth year of annual contract, or the decision not to continue any teacher in any extracurricular activity, provided that said reason does not amount to a violation, misinterpretation, or misapplication of this Contract. The arbitrator, however, shall have the power to rule on the procedural violations of the above.
3. S/he shall have no power to rule on an alleged violation, misinterpretation, or misapplication of School Board policy, provided that there was no violation, misinterpretation, or misapplication of this Contract.

STATUS: As of this 23rd day of June, 2022, tentatively agreed to and closed.

For School Board of Orange County, Florida:

For Orange County Classroom Teachers
Association:



Jeffrey E. Mandel
Chief Negotiator



Wendy L. Doromal
President