



Grievance and Dismissal Procedure for Employees

It is the policy of the board, in keeping with the ultimate goal of serving the educational welfare of children, to develop and practice reasonable and effective methods of resolving difficulties that may arise among employees. The intent is to reduce potential areas of grievances and to establish and maintain recognized channels of communications between staff and administration. The purpose of this procedure is to secure, at the lowest possible level, equitable solutions to the problems that arise from time to time and affect employees.

A. Informal Resolution

It is desirable for an employee and his or her immediate supervisor to resolve problems through free and informal communication. When informal procedures fail or are inappropriate or when the employee requests formal procedures, a grievance will be processed pursuant to the steps set forth in this policy.

B. Definitions

1. Days

In counting days, the first day will be the first full working day following receipt of the grievance or appeal.

2. Final Administrative Decision

A final administrative decision is a decision of a school administrator from which no further appeal to any other school administrator or NCCA board is available.

3. Grievance

A grievance is a written claim by an employee regarding specific decision(s) made by another employee and alleging that such decision(s) have adversely affected the person making the claim. The following allegations are the only bases upon which an employee may file a grievance:

- a. that there has been a violation, misapplication, or misinterpretation of state or federal law, regulations, or policies or a NC Cyber Academy ("NCCA") board policy; or
- b. that an employee's employment status or the material terms or conditions of the employee's employment have been adversely affected because of race, religion, sex, pregnancy, sexual orientation, gender identity national origin, color, age, or disability.

4. Grievant

The grievant is the employee making the claim.

5. Appeal

An appeal is a written claim by an employee who has received a Notice of Dismissal. Such employees may appeal based solely on the following allegations:

- a. that there has been a violation, misapplication, or misinterpretation of state or federal law, regulations, or policies or a NCCA board policy; or
- b. that the dismissal was because of race, religion, sex, pregnancy, sexual orientation, gender identity national origin, color, age, or disability.

6. Parties in Interest

"Parties in interest" refers to the grievant and the person against whom the grievance or appeal is filed.

C. Timeliness of Process

Failure by a school administrator at any step to communicate a decision within the specified time limit will permit the grievant to appeal the grievance to the next step unless the school administrator has provided the grievant with written notice of the delay and the reason for the delay. A school administrator shall have no more than five (5) school days beyond a specified time limit to communicate a decision to the grievant.

Failure by the grievant at any step to appeal a grievance to the next step within the specified time limit will be considered acceptance of the decision at that step.

D. General Requirements

1. At all times during the grievance process, all parties in interest and their representatives must conduct themselves in a professional manner.
2. The board or an employee of the school system will take no reprisals of any kind against any party in interest or other employee solely because of the employee's participation in a grievance filed and decided pursuant to this policy.
3. Each decision will be in writing, setting forth the decision and the specific reason therefore, and will be transmitted promptly to all parties in interest.
4. The board and administration will cooperate with the grievant and representative in the investigation of any grievance and will furnish the grievant or representative information pertinent to the grievance without cost to the grievant or the employee against whom the grievance is filed.
5. Should, in the judgment of the Superintendent or designee the investigation or processing of any grievance require the absence of the grievant or representative from regular work assignments, such absences will be excused without loss of pay or benefits
6. A grievance may be withdrawn at any time. Once a grievance is voluntarily withdrawn, it cannot be reopened.

E. Process for Grievance (Non-Dismissals)

1. Filing a Grievance

- a. A grievance must be filed as soon as possible but no longer than five (5) school days after disclosure or discovery of the facts giving rise to the grievance.
- b. a. All grievances must be in writing. The written grievance must include the following information: (1) the name of the NCCA employee or other NCCA official whose decision or action is at issue; (2) most current contact information for the grievant; (3) specification of one or more of the bases for which an employee may file a grievance; (4) the date of the decision or action at issue; (5) specification of the adverse action that is the subject of the grievance; (6) specification of any attempts to resolve the decision or action at issue through an informal process; (7) if applicable, specification of state or federal law, regulations, or policies or a NCCA board policy that the grievant believes has been violated, misapplied, or misinterpreted with an explanation for why the appellant believes there has been a violation; (8) if applicable, facts supporting why the

grievant believes to have been subject to discrimination based upon race, religion, sex, pregnancy, sexual orientation, gender identity national origin, color, age, or disability; (9) any documentation relevant to the grievance and (10) the specific resolution desired.

2. Step 1 - Immediate Supervisor Review

- a. The employee shall submit the grievance in writing to the employee's immediate supervisor. If the grievant's written grievance complies with subsection B.3. above, the immediate supervisor shall meet with the grievant at a mutually agreed-upon time within five school days after receipt of the grievance for up to one (1) hour. The immediate supervisor shall review with the grievant the basis for the NCCA adverse action that is the subject of the grievance. Next, the grievant shall be permitted to respond to provide any statement or facts related to the allegations identified in the grievance consistent with subsection B.3.a. or B.3.b. above. The immediate supervisor shall have the authority to limit the discussion to the topics identified in subsection B.3.a. or B.3.b. above. If the grievant's Step 1 written grievance does not comply with subsection B.3., the initial adverse action shall be the final decision.
- b. The immediate supervisor shall conduct any investigation of the facts necessary before rendering a decision.
- c. The immediate supervisor shall provide the grievant with a written response to the grievance as soon as possible, but no later than 10 school days after the meeting. The written response shall have the following information:
 - i. Date and time of the meeting;
 - ii. Summary of statements the grievant made;
 - iii. Summary of statements the immediate supervisor made;
 - iv. A clear statement of whether the immediate supervisor will uphold the adverse action or reverse the adverse action;
 - v. Specification of the facts supporting the decision; and
 - vi. Listing of all documents reviewed by the immediate supervisor.
- d. If the grievant is dissatisfied with the immediate supervisor's response, the grievant may proceed to Step 2 if the grievant meets the conditions of Step 2.

3. Step 2 - Next Level Supervisor Review

- a. If the grievant is dissatisfied with the immediate supervisor's response for one of the reasons specified below in E.3.b.i. – E.3.b.iii., the grievant may appeal in writing the immediate supervisor's decision to the immediate supervisor's direct supervisor (second level supervisor) for review within five school days of receipt of the immediate supervisor's response.
- b. A grievant shall not proceed to Step 2 solely because the grievant disagrees with the immediate supervisor's decision. The grievant's second level written grievance must allege one or more of the following.
 - i. Information in the immediate supervisor's decision constituted a violation, misapplication, or misinterpretation of state or federal law, regulations, or policies or a NCCA board policy; or
 - ii. The immediate supervisor's decision contains a material mistake of fact; or

- iii. The immediate supervisor's decision was because of the grievant's race, religion, sex, pregnancy, sexual orientation, gender identity, national origin, color, age, or disability.
- c. If the grievant's Step 2 written grievance complies with subsection E.3. above, the second level supervisor shall arrange for a meeting with the grievant to take place within five (5) school days of the receipt of the appeal. The grievant shall only provide information in support of the allegations based on subsections E.3.b.i. – E.3.b.iii. above. The second level supervisor shall have the authority to limit the discussion to the topics identified in E.3.b.i. – E.3.b.iii. above. If the grievant's Step 2 written grievance does not comply with subsection E.3., the Step 1 decision shall be the final decision.
- d. The second level supervisor shall provide the grievant with a written response to the grievance as soon as possible, but no later than 10 school days after the meeting. The written response shall have the following information:
 - i. Date and time of the meeting;
 - ii. Summary of statements the grievant made;
 - iii. Summary of statements the second level supervisor made;
 - iv. A clear statement of whether the second level supervisor will uphold or reverse the immediate supervisor's decision;
 - v. Specification of the facts supporting the decision; and
 - vi. Listing of all documents reviewed by the second level supervisor.

4. Step 3 – Superintendent's Review

- a. The Step 3 grievance process in this subsection only applies to grievances that are not based on a dismissal and will only apply if the Superintendent is not the immediate or second level supervisor.
- b. If the grievant is dissatisfied with the second level supervisor's decision, the grievant may submit a grievance in writing to the Superintendent for review within three (3) school days of receipt of the second level supervisor's decision.
- c. The Superintendent's review shall only be a review of the grievance record. The Superintendent shall review each of the grievant's written grievances and supporting documentation and review each of the supervisors' decisions and supporting documentation.
- d. If the supervisors have accurately followed each stage of the grievance process, and if the supervisors' decisions are based on a preponderance of the facts provided in the record, the Superintendent shall uphold the Step 2 decision. If the stages of the grievance process have not been followed accurately or if either of the supervisors' decisions are not supported by a preponderance of the facts in the record, the Superintendent has the sole discretion to either remand the grievance back to Step 2 with instructions for correction or reverse the Step 2 decision. If the grievance process has been properly followed and if the Step 2 decision is supported by a preponderance of the facts, the Superintendent shall uphold the Step 2 decision.
- e. The Superintendent shall provide the grievant with a written decision as soon as possible, but no later than 10 school days after receipt of the Step 3 appeal. If the written decision remands the appeal back to Step 2 or reverses the Step 2 decision, the Superintendent's written decision must

specify the reason or reasons why. If the Superintendent upholds the Step 2 decision, the written decision must specify that the stages of the appeal process have been properly followed and that the Step 2 decision is supported by a preponderance of the facts.

- f. Step 3 shall constitute the final agency decision for all grievances except for grievances based on dismissals of teachers, dismissals of direct reports to the Superintendent, and other grievances for direct reports to the Superintendent.
5. Step 3a – Superintendent’s Review for Direct Reports
- a. The Step 3a grievance process in this subsection only applies to grievances that are not based on a dismissal and will only apply if the Superintendent is the immediate or second level supervisor.
 - b. When filing a grievance with the Superintendent as a direct report, the grievant shall comply with E.1.a. and E.1.b. above.
 - c. The direct report shall submit the grievance in writing to the Superintendent. If the grievant’s written grievance complies with subsection B.3. above, the Superintendent shall meet with the grievant at a mutually agreed-upon time within five (5) school days after receipt of the grievance for up to one (1) hour. The Superintendent shall review with the grievant the basis for the NCCA adverse action that is the subject of the grievance. Next, the grievant shall be permitted to respond to provide any statement or facts related to the allegations identified in the grievance consistent with subsection B.3.a. or B.3.b. above. The Superintendent shall have the authority to limit the discussion to the topics identified in subsection B.3.a. or B.3.b. above. If the grievant’s Step 3a written grievance does not comply with subsection B.3., the initial adverse action shall be the final decision.
 - d. The Superintendent shall conduct any investigation of the facts necessary before rendering a decision.
 - e. The Superintendent shall provide the grievant with a written response to the grievance as soon as possible, but no later than ten (10) school days after the meeting. The written response shall have the following information:
 - i. Date and time of the meeting;
 - ii. Summary of statements the grievant made;
 - iii. Summary of statements the Superintendent made;
 - iv. A clear statement of whether the Superintendent will uphold the adverse action or reverse the adverse action;
 - v. Specification of the facts supporting the decision; and
 - vi. Listing of all documents reviewed by the Superintendent.
 - f. a. If the grievant is dissatisfied with the Superintendent’s response, the grievant may proceed to Step 3b if the grievant meets the conditions of Step 3b.
6. Step 3b - Board Executive Committee Review for Superintendent’s Direct Reports
- a. If the grievant is dissatisfied with the Superintendent’s response for one of the reasons specified in E.3.b.i. – E.3.b.iii., the grievant may appeal in writing the Superintendent’s decision to the Chair

- of the Executive Committee of the Board within five (5) school days after receipt of the Superintendent's response.
- b. A grievant shall not proceed to Step 3b solely because the grievant disagrees with the Superintendent's decision. The grievant's second level grievance must allege one or more of the following.
 - i. Information in the Superintendent's decision constituted a violation, misapplication, or misinterpretation of state or federal law, regulations, or policies or a NCCA board policy; or
 - ii. The Superintendent's decision contains a material mistake of fact; or
 - iii. The Superintendent's decision was because of the grievant's race, religion, sex, pregnancy, sexual orientation, gender identity, national origin, color, age, or disability.
 - c. If the grievant's Step 3b written grievance complies with subsection E.6. above, the Executive Committee of the Board will review the grievance at the next regularly scheduled Executive Committee meeting that is at least five (5) school days, but no later than ten (10) school days after receipt of the grievant's Step 3b grievance. If the Executive Committee does not have a regularly scheduled meeting during this time frame, the Executive Committee shall schedule a special called meeting during this time frame to consider the grievance.
 - d. The Step 3b review of the Executive Committee shall only be a review of the grievance record. The Executive Committee shall review each of the grievant's written grievances and supporting documentation and review the Superintendent's decision and supporting documentation.
 - e. If the Superintendent accurately followed each stage of the grievance process, and if the Superintendent's decision is based on a preponderance of the facts provided in the record, the Executive Committee shall uphold the Superintendent's decision. If the stages of the grievance process have not been followed accurately or if the Superintendent's decision is not supported by a preponderance of the facts in the record, the Executive Committee has the sole discretion to either remand the grievance back to Step 3a with instructions for correction or reverse the Step 3a decision. If the grievance process has been properly followed and if the Step 3a decision is supported by a preponderance of the facts, the Executive Committee shall uphold the Step 3a decision.
 - f. The Superintendent shall provide the grievant with a written decision as soon as possible, but no later than five (5) school days after consideration of the Step 3a appeal. If the written decision remands the appeal back to Step 3a or reverses the Step 3a decision, the Executive Committee's written decision must specify the reason or reasons why. If the Executive Committee upholds the Step 3a decision, the written decision must specify that the stages of the appeal process have been properly followed and that the Step 3a decision is supported by a preponderance of the facts.
 - g. Step 3b shall constitute the final agency decision for grievances based on grievances for direct reports to the Superintendent, except for grievances based on dismissal.

F. Appeal Process for Dismissals

1. Step 1 - Filing an Appeal with the Superintendent

- a. Teachers or employees who report directly to the Superintendent who have received a Notice of Dismissal (“appellant”) may file a written appeal to the Superintendent for the reasons specified above in subsection B.5. An appellant shall not file a written appeal solely because the appellant disagrees with the dismissal decision.
- b. The appeal must be filed as soon as possible but no longer than three (3) school days after the appellant received of the Notice of Dismissal. For appeals filed in a timely manner, the effective date of the dismissal will be stayed until conclusion of the appeal process, unless the dismissal is overturned on appeal.
- c. The written appeal must include (1) the name and most current contact information of the appellant; (2) if applicable, specification of state or federal law, regulations, or policies or a NCCA board policy that the appellant believes has been violated, misapplied, or misinterpreted with an explanation for why the appellant believes there has been a violation; (3) if applicable, facts supporting why the appellant believes to have been subject to discrimination based upon race, religion, sex, pregnancy, sexual orientation, gender identity national origin, color, age, or disability; (4) any documentation relevant to the appeal and (5) the specific resolution desired.
- d. The Superintendent shall schedule a meeting with the appellant and with the Chief Operations Officer at a mutually agreeable time within five (5) school days after receiving the written notice of appeal. The Superintendent shall allow the appellant to provide information in support of the allegations identified in the written appeal. The Superintendent shall have the authority to limit the discussion to the topics identified in the written appeal. The Chief Operations Officer shall ensure that the proper appeal process is followed. If the appellant’s written appeal does not comply with subsection F.1.c. above, the Notice of Dismissal shall constitute the final agency decision.
- e. The Superintendent shall review the Notice of Intent to Discipline with any documentation, the Notice of Dismissal with any documentation, the Notice of Appeal with any documentation, any documents submitted by the appellant in connection with the dismissal, and evaluate the information discussed in the appeal meeting with the appellant. Based on this review and evaluation, the Superintendent shall make a determination about 1) whether NCCA violated, misapplied, or misinterpreted any state or federal law, regulations, or policies or NCCA board policies or 2) whether NCCA discriminated against appellant based upon race, religion, sex, pregnancy, sexual orientation, gender identity national origin, color, age, or disability.
- f. If the Superintendent determines that NCCA violated either of the standards noted directly above, the Superintendent shall recommend that the Board overturn its decision to dismiss the appellant. If the Superintendent determines that NCCA did not violate either of the standards noted directly above, the Superintendent shall recommend that the Board uphold its decision to dismiss the appellant.
- g. The Superintendent shall provide the appellant with a copy of the Superintendent’s written recommendation to the Board as soon as possible, but no later than five (5) school days after the Superintendent’s appeal meeting with the appellant. The Superintendent’s written recommendation shall include 1) summary of the facts supporting the dismissal; 2) evaluation of NCCA’s compliance with board policies; 3) a summary explaining the Superintendent’s determination about whether NCCA discriminated against appellant based upon race, religion,

sex, pregnancy, sexual orientation, gender identity national origin, color, age, or disability; and 4) a specific recommendation for the board to either uphold the dismissal or overturn the dismissal.

- h. The Superintendent shall also provide the Board with a copy of the appellant's Notice of Dismissal and Notice of Appeal.

2. Step 2 – NCCA Board Review

- a. The Superintendent shall submit the written recommendation to the Board President with a copy to the Board Vice President as soon as possible, but no later than five (5) school days after the Superintendent's appeal meeting with the appellant.
- b. The board shall calendar the appeal review for the next regularly scheduled board meeting that occurs at least five (5) school days after receipt of the Superintendent's appeal recommendation. At the board's discretion, the board may schedule a special meeting to consider the appeal prior to the next regularly scheduled meeting that occurs five (5) school days after receipt of the Superintendent's recommendation.
- c. The board shall review the Notice of Dismissal, the Notice of Appeal, and the Superintendent shall adopt the Superintendent's recommendation unless 1) NCCA did not adopt the Superintendent's appeal recommendation.
- d. The board shall follow board policies or other laws and regulations; 2) there are a preponderance of facts supporting discrimination based on race, religion, sex, pregnancy, sexual orientation, gender identity national origin, color, age, or disability; or 3) the preponderance of the facts do not support the conclusion.
- e. The board shall send its decision to the appellant within three (3) school days after the board meeting to consider the appeal.
- f. The Step 2 appeal shall constitute the final agency decision for appeals based on dismissal.