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## Grievances

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# Grievances

*By Florella H. Johnson and William A. Owings, Ed.D.*

The Virginia Board of Education has adopted a procedure for resolving disputes concerning the application of local board policies, rules, and regulations as they impact the work or disciplinary actions of teachers. It is vital that the principal be aware of the process and the timeline involved in the grievance procedure since the solution should be secured at the lowest administrative level in the process. It is beyond the scope of this article to provide every detail of the grievance process. For a complete detailing of procedure, please refer to Chapter 15, Article 3, Sections 22.1-306 through 22.1-314 of the *Code of Virginia*.

## Grievance Initiation

The grievance must be initiated within fifteen working days of the incident in question or within fifteen days of when the teacher should have reasonably known of the incident. Once this time frame has passed, an incident may not be grieved. Should a question be directed to the school board concerning whether or not an issue is grievable and the board fails to make a determination within a ten day time frame, the matter will be handled as if it were a grievable issue.

## Steps in the Grievance Procedure

Basically, there are five steps in the grievance procedure. The first three steps must be addressed consecutively, but the teacher may elect to bypass step four and request a decision by the school board in step five. The five steps are as follows:

- Step 1 — Informal Conference
- Step 2 — Formal Meeting with the Principal
- Step 3 — Formal Meeting with the Superintendent
- Step 4 — Fact-Finding Panel
- Step 5 — Decision by the School Board

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## Step One

The first step in the grievance procedure is an informal conference between the teacher and the immediate supervisor who may be the principal. The teacher must state the nature of the grievance, and the supervisor must try to solve the dispute in good faith.

## Step Two

If the grievance can not be solved to the satisfaction of the teacher in step one, the teacher must proceed to step two. The teacher has fifteen working days to present the grievance in writing to the principal. The letter must state what relief is expected by the teacher as a result of the grievance.

The formal meeting between the principal and the teacher must be held within five working days of the receipt of the grievance. Should the principal require additional information, a letter to the teacher requesting that information must be sent within five days of receipt of the teacher's grievance letter. The teacher then has ten days to file an answer to the principal, and the meeting between the principal and the teacher must be held within five days after the principal has received the teacher's response.

At the meeting the teacher may present witnesses and be accompanied by a representative. That representative, however, may not be an attorney. Most frequently, the representative will be from the teacher's professional association. The principal must respond to the meeting within five working days.

## Step Three

If the grievance is not settled to the teacher's satisfaction in step two, the teacher may file a written appeal to the superintendent within five days of receiving the written notification from the principal. The appeal must include a copy of the original grievance letter.

A meeting must be held within five working days after receipt of the appeal. At this meeting the superintendent and the teacher may present witnesses, and both parties may be accompanied by a representative. This time the representative may be an attorney. The representative may question and cross-examine witnesses and present legal evidence.

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If a settlement can not be reached in the meeting, the superintendent must respond in writing within five working days. The superintendent may request additional information only if the principal did not make that request at step two.

If the dispute can not be settled to the teacher's satisfaction in step three, the teacher may move to step four or directly to step five.

## Step Four

Should the grievance not be settled in step three, either the teacher or the school board may elect to have a hearing by a fact-finding panel. If the teacher desires to pursue this route, the superintendent must be notified in writing within five working days of receiving the written notice from the superintendent in step three. If the school board elects to pursue this route, written notice of this intent must be sent to the teacher within fifteen days of the answer provided in step three.

The teacher and the superintendent must each select one panel member within five working days. The two panel members must then select one impartial member within five working days. Provisions exist for the selection of the impartial member should the two appointed members not be able to agree.

The hearing before the panel must be held within thirty days from the selection of the third panel member. The panel will set the time, date, and place for the hearing and notify both parties. Each party may be represented by legal counsel. Provisions exist for the procedures to be used by the fact-finding panel.

The fact-finding panel will make a written report which includes the finding of facts and recommendations no later than thirty days after the completion of the hearing. Copies will be sent to the school board, the superintendent, and the teacher.

## Step Five

The teacher may elect to proceed to step five directly from step three. If this is the case, a letter must be sent to the superintendent indicating this intention along with the relief sought within five working days of the receipt of notification in step three. Upon receiving this notification, the school board may elect to have a hearing before a fact-finding panel.

Should the grievance proceed to step five as a result of the outcome of step four, the board may hold a separate hearing or make its determination on the basis of the written evidence provided by the teacher and the written recommendation of the superintendent. The board must give the teacher its written recommendation within thirty days.

In all cases, the school board retains its exclusive and final authority in matters concerning employment and the supervision of personnel.

## Summary

The principal's knowledge of the Virginia grievance procedure is paramount. The five step process is designed to provide an orderly procedure for resolving disputes concerning the application of local board policies, rules, and regulations as they affect the work of teachers and various disciplinary actions.

## RESOURCES

*Code of Virginia*. Chapter 15, Article 3, Sections 22.1-306 through 22.1-314.

VEA/NEA Division of Legal Services. (1988). *Procedure for Adjusting Grievances*. Author.