

**WINDHAM SCHOOL  
DISTRICT**

**NUMBER: WBP-07.26 (rev. 4)**

**DATE: February 10, 2023**

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**SUPERSEDES: WBP 07.26 (rev. 3)  
December 12, 2013**

## **WINDHAM BOARD POLICY**

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**SUBJECT: EMPLOYEE GRIEVANCE PROCEDURES**

**AUTHORITY: Tex. Educ. Code §19.009; Tex. Gov't Code §617.005**

Reference: Texas Education Code §11.171; Texas Government Code Chapter 554

**APPLICABILITY: Windham School District**

### **EMPLOYMENT AT WILL CLAUSE:**

This policy does not constitute an employment contract or guarantee of continued employment and does not create a legally enforceable interest or limit the superintendent's authority to implement personnel policies. The Windham School District (WSD) reserves the right to revise this policy at any time.

### **POLICY:**

The Windham School District promotes fairness in the workplace by providing employees a grievance process to address work-related complaints. The intent of these procedures is to resolve work-related complaints at the lowest possible administrative level.

### **DEFINITIONS:**

"Employment-Related Matter" includes issues such as performance evaluations, disciplinary actions, hours of work or assignment, and working environment. Whether a matter is employment-related is determined by the grievance coordinator.

"Grievance" is a formal written complaint regarding an employment-related matter submitted to the grievance coordinator by an employee on an Employee Grievance Form (Attachment A).

"Grievant" is an employee who submits a grievance in accordance with this policy.

"Grievance Coordinator" is the employee designated by the superintendent to receive and process grievances and advise employees of the available options to resolve employment-related

disputes. If a grievance alleges that the grievance coordinator violated law or policy or other reasonable concern of a conflict of interest exists, the superintendent will assign to another employee the duties of the grievance coordinator.

“Representative” is a person who represents a grievant in a grievance meeting. The grievant may be represented at personal expense by any person or organization that does not claim the right to strike.

“Workday” is a day designated as a scheduled day of work by the WSD calendar.

## **PROCEDURES:**

### I. Overview

WSD encourages employees to resolve employment-related conflicts informally before filing a grievance. However, when a matter cannot be or is not resolved to the satisfaction of the employee, the employee may seek relief or a remedy through the grievance process.

### II. Notice to Employees

Employees receive a copy of this policy during new hire training. Additionally, this policy is available on the WSD website. The name and contact information for the grievance coordinator is available on the WSD website and must be plainly displayed in a common area in each campus and in the WSD administrative complex.

### III. General Procedures

Subject to exceptions listed below, employees may submit a grievance regarding an employment-related matter. An employee may contact the grievance coordinator or WSD Human Resources Department to confidentially discuss the grievance process or specific grievance matters. Employees are responsible for understanding and complying with the requirements of the grievance process and seeking clarification when necessary.

#### A. Non-Grievable Issues

Issues that are not grievable include:

1. Administrative separation;
2. Resignation;
3. Employee classification and reclassification;
4. Final decisions regarding the denial of sick leave pool;
5. Actions mandated by law or court orders;

6. Reduction-in-force;
7. Designation for ineligibility for rehire;
8. Issues subject to other review processes, such as termination and suspension without pay of a certified educator; and
9. An action that has not yet occurred.

**B. Grievance Submission Requirements**

A grievance must:

1. Be submitted to the grievance coordinator on the Employee Grievance Form (Attachment A) by email, fax, U.S. mail, or hand delivery no later than 15 workdays from the day the employee knew or should have known of the action or situation giving rise to the grievance;
2. Include only one specific action or issue along with the resulting adverse effect;
3. Request a remedy (except a request that another employee be disciplined) within the authority of WSD to grant; and
4. Include a signed, written statement from each witness, if grievant presents witness testimony.

**C. Representatives**

Although a grievant must personally sign and submit a grievance, a grievant may choose, at the grievant's expense, to have a representative assist in the preparation of a grievance or attend a grievance meeting with the grievant.

1. A grievant who fails to identify a representative when submitting a grievance form must provide the grievance coordinator the name and contact information of a representative no later than 24 hours prior to a grievance meeting.
2. WSD will communicate only with the grievant in matters related to the grievance and grievance meeting. The grievant is responsible for providing information, including documents, to the representative.

**D. Witnesses**

1. A witness must have firsthand knowledge of the subject of the grievance.

2. A grievant may submit witness statements with their Employee Grievance Form and present witnesses on the grievant's behalf in a grievance meeting
3. A grievant who fails to identify a witness when submitting a grievance form must provide the grievance coordinator the name and contact information of a witness no later than 24 hours prior to a grievance meeting.
4. A decision authority may consult and receive information from any person who may be a witness, and may include any witness in a grievance meeting.

#### E. Grievance Review

Within 10 workdays, the grievance coordinator will review a submitted grievance for compliance with policy and accept or reject.

##### 1. Rejection

- a. The grievance coordinator may reject an incomplete or noncompliant grievance, or request clarification or additional information from grievant, at the discretion of the grievance coordinator.
- b. If a grievance includes an equal employment opportunity (EEO) related issue, such as an allegation of illegal discrimination, retaliation, discourteous conduct of a sexual nature, or offensive words or actions based on a person's protected class, the grievance coordinator will reject the grievance and forward the complaint to WSD Human Resources Department.
- c. The grievance coordinator will return a rejected grievance to the grievant, provide the reason for rejection, and close the file.
- d. A grievant has one opportunity to correct a rejected grievance within five workdays from the date the grievant receives the rejection notice. No further submissions regarding the same subject will be accepted.

##### 2. Acceptance

The grievance coordinator will notify a grievant when a grievance is accepted and forward the grievance to the appropriate decision authority.

## F. Decision Authority

### 1. Level One

- a. The level one decision authority is the lowest level supervisor in the employee's chain of command authorized to grant the requested relief. If the grievance alleges that the decision authority violated law or policy or other reasonable concern of a conflict of interest exists, the grievance will be assigned to the level two decision authority.
- b. Within 20 workdays from the date a level one decision authority receives a grievance, the decision authority will review the grievance and send to the grievance coordinator the grievance form indicating the decision authority's decision and all materials collected and created while considering the grievance.
- c. A level one decision authority may hold a grievance meeting. If a grievance meeting is held, the response to the grievance coordinator is due within five days from the meeting.
- d. A grievant may appeal the decision of a level one decision authority to the level two decision authority.

### 2. Level Two

- a. The level two decision authority is the applicable regional principal or department director. If the grievance alleges the level two decision authority violated law or policy in the workplace or other reasonable concern of a conflict of interest exists, the grievance will be assigned to the applicable division director or designee.
- b. Within 20 workdays from the date a level two decision authority receives a grievance, the decision authority will review the grievance and hold a grievance meeting. Within five workdays from the date of a grievance meeting, a decision authority will send to the grievance coordinator the grievance form indicating the decision authority's decision and all materials collected and created while considering the grievance.
- c. the decision of a level two decision authority may be appealed to the superintendent at level three.

### 3. Level Three

- a. The level three decision authority is the superintendent or

superintendent's designee.

b. Superintendent

- i. The superintendent will review grievance and recommendation from designee, if applicable, and send to the grievance coordinator the grievance form indicating the superintendent's decision and all materials collected and created while considering the grievance.
- ii. The superintendent may hold a grievance meeting at the superintendent's sole discretion.
- iii. The superintendent's decision is final.

c. Designee

- i. Within 20 workdays from the date a designee receives a grievance, the designee will review the grievance and send to the superintendent a recommendation to grant or deny the requested relief and all materials collected and created while considering the grievance.
- ii. A designee may hold a grievance meeting at the designee's sole discretion. If a grievance meeting is held, the recommendation to the superintendent is due within five days from the date of the meeting.

G. Grievance Meeting

1. General

A grievance meeting is an informal opportunity for a decision authority to receive information from the grievant or other persons which may not be included in the submitted grievance. A decision authority may hold meeting by telephone, video conference, or in person, at the decision authority's discretion. The decision authority determines a meeting's structure.

2. Scheduling and Notification

A decision authority must schedule a meeting within ten days of receiving a grievance, to be held no later than five days and no earlier than 48 hours from when the grievant receives written notice of the meeting's scheduled time.

### 3. Absence or Unavailability

- a. If a grievant is unavailable or fails to appear at a meeting, a decision authority may respond to the grievance without a meeting or may reschedule the meeting to be held within five workdays, if there is good cause for a grievant's absence.
- b. The unavailability of a representative or witness is not grounds to cancel or reschedule a grievance meeting.

### 4. Conduct

Participants must conduct themselves in a professional manner. A decision authority may terminate a meeting at any time and respond to the grievance without a meeting. Misconduct during a hearing may lead to disciplinary action and disqualify an individual from participating in future grievance meetings.

### H. Response

The grievance coordinator will respond to grievant with a decision authority's decision promptly after receiving the decision.

### G. Appeal

A grievant may appeal a decision from a level one or two decision authority by submitting a grievance appeal form (Attachment B) no later than five workdays from receiving the decision response from the grievance coordinator.

## IV. Miscellaneous

### A. Prohibited Use of State Resources

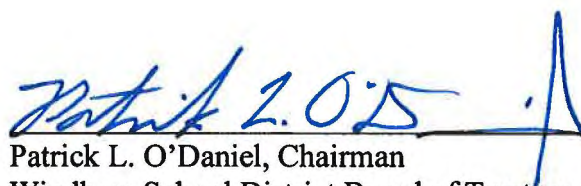
1. A grievant, a grievant's representative, or a grievant's witness may not use WSD or state resources, including time, in the preparation or submission of a grievance or to prepare for a grievance meeting.
2. A representative who is a WSD employee must obtain approval to attend a grievance meeting during work hours and use discretionary or compensatory time or leave without pay to attend meeting.

B. A decision authority must provide to the grievance coordinator a written explanation for failing to comply with a due date in the grievance process. The failure to comply with a due date does not invalidate the grievance process or a decision authority's decision and does not provide grievant a right to relief.

C. A decision authority may request and receive promptly from any WSD employee

information the decision authority considers useful in the decision-making process.

- D. When calculating maximum time periods or due dates for an action in the grievance process, the first day after an event (e.g., an incident or the date of receipt of disciplinary document, or grievance decision) is the first day counted. The end of a maximum time period or due date that falls on a weekend or holiday will be extended to the next regular workday.
- E. A grievance, grievance appeal, or grievance response is considered submitted when emailed, faxed, placed in U.S. mail, or hand delivered.

  
Patrick L. O'Daniel, Chairman  
Windham School District Board of Trustees



**EMPLOYEE GRIEVANCE**



An employee who wishes to file a grievance must complete this form entirely and submit the completed form to the WSD grievance coordinator in accordance with procedures established in WBP-7.26, "Employee Grievance Procedures."

<b>Date of Alleged Incident:</b>		
<b>Grievant Name:</b>		<b>Work Location:</b>
<b>Job Title:</b>		<b>Supervisor:</b>
You may elect to identify a representative when submitting a grievance or an appeal.		
<b>Representative:</b> Address/Telephone:		
You must include and submit a witness statement with this form for a witness statement to be considered.		
<b>Witness:</b> Position:		<b>Witness:</b> Position:
The complaint, adverse effect and requested relief must be summarized, clearly stated, and legibly written or typed in the appropriate spaces below or on an attached sheet. If you describe a complaint, adverse effect, or requested relief on a separate attachment, write "see attachment" in each appropriate space below.		
<b>Complaint:</b> Be specific. Include relevant dates, persons, and details of the action or issue causing the grievance.		
<b>Adverse Action:</b> Explain how the action or issue adversely affected you.		
<b>Requested Relief or Remedy:</b> Specify the remedy you are requesting. The remedy must be within the authority of WSD to grant and may not be a request for another employee to be disciplined.		
<b>Employee Signature:</b>		<b>Date:</b>

Grievance Coordinator ♦ P. O. Box 40 ♦ Huntsville, TX 77342-0040 ♦ 291-5300

