

2:55 pm
1/13/20

San Diego Education Association
Proposal To The
Gompers Preparatory Academy

ARTICLE 5: CONTRACTUAL DISPUTE RESOLUTION/GRIEVANCE PROCEDURE

SDEA Counter Passed January 13, 2020
GPA Counter Passed July 9, 2019
SDEA Proposal Passed April 25, 2019

5.1 **Definitions**

5.1.1 A "Contractual Dispute Claim"/grievance" is a claim by one or more unit members or the Union that there has been a violation, misinterpretation or misapplication of a provision of this Agreement.

5.1.2 The "complainant/grievant" is the unit member, unit members, or Union making the claim.

5.1.3 A "work day" is any day ~~a unit member~~ the complainant/grievant is scheduled to work and GPA is open for business.

5.2 **Rights of Representation**

A complainant/grievant may be represented at all stages of the contractual dispute/grievance process by a Union representative(s).

5.3 **No Reprisals**

No reprisals of any kind shall be taken by any member or representative of the administration or the GPA Board against any complainant/grievant, any party in interest, any bargaining unit member, the Union, or any other participant in the grievance procedure by reason of such participation.

5.4 **Procedures**

5.4.1 ~~Informal Level~~ Level One: Supervisor

Every effort should be made to resolve the contractual dispute/grievance informally between the complainant/grievant and the supervisor involved. If the contractual dispute/grievance is with the Director, the complainant/grievant may proceed directly to Level Two. The complainant/grievant must identify the occurrence or omission giving rise to the contractual dispute/grievance in writing and request a meeting ~~concern as a grievance and request an informal meeting~~ with the supervisor involved within ten (10) work days of the occurrence or omission which caused the contractual dispute/grievance. The ~~informal~~ Level One meeting shall take place within five (5) work days of the request unless mutually agreed otherwise by the parties.

5.4.2 ~~Level One~~ Level Two: Director

If the contractual dispute/grievance is not resolved ~~with the grievant at the~~ Informal Level One, the complainant/grievant or representative shall submit ~~the contractual dispute/grievance a concise summary of the grievance~~ to the Director in writing using the approved grievance form (Appendix XB) within five (5) work days from the initial Level One conference, detailing the article or articles of this contract Agreement allegedly violated and any supporting documents or materials. A conference shall take place within five (5) work days of submission of the contractual dispute/grievance summary form unless the parties mutually agree otherwise. A written response will be returned by the Director within five (5) work days of the Level Two conference.

5.4.3 Level ~~Three~~ Two: Board Hearing Conference

If the contractual dispute/grievance is not resolved at Level One Two, then the complainant/grievant or representative may submit the contractual dispute/grievance form, including the Director's Level Two response, to the Secretary of the Board within five (5) work days of the return of the written response by the Director, ~~for a Board conference. A Board conference is a meeting with the Board wherein the grievant and/or representative may make a presentation to the Board, but such is not an evidentiary hearing. The Board Conference shall be scheduled for the next regular Board meeting. Upon receipt of a contractual dispute/grievance by the Secretary of the Board, the Board shall endeavor to meet as soon as is reasonably possible, but not later than the next scheduled board meeting, to create an ad hoc committee (the "Board Dispute Resolution Committee") to hear the contractual dispute/grievance in closed session. The Board Dispute Resolution Committee shall be made up of three (3) members of the Board who are not also employees of GPA. The Board Dispute Resolution Committee shall schedule a hearing with the complainant/grievant and their representative within ten (10) work days of the creation of the Board Dispute Resolution Committee. Both the complainant/grievant or their representative and the supervisor involved will be entitled to present their evidence relating to the contractual dispute/grievance, including witness statements. Within ~~ten~~ fifteen (15) work days of the ~~conference~~ Board Dispute Resolution Committee hearing, the Board Dispute Resolution Committee shall notify the complainant/grievant in writing as to the disposition of the matter. In the event the grievance cannot be resolved satisfactorily, the grievant may proceed to initiate mediation.~~

5.4.4 Level ~~Four~~ Three: Mediation

If the grievance is not resolved with the grievant at Level Three Two, within ten (10) work days from the date of the Level Two Board Dispute Resolution Committee decision, the parties may mutually agree to request that a conciliator/mediator from the State Mediation/Conciliation Service or any other mutually agreeable dispute resolution center, be assigned to assist the parties in the resolution of the complaint/grievance. If an agreement is reached in mediation, the agreement shall be reduced to writing and shall be signed by the parties.

5.4.5 Level ~~Five~~Four: Arbitration

In the event that the parties have not resolved the grievance at Level ~~Three~~wo: Board HearingConference or Level ~~Four~~Three: Mediation (as applicable), the contractual dispute/grievance shall proceed to binding arbitration governed by the following steps:

- 5.4.5.1 The parties shall request a list of seven (7) arbitrators from the State Mediation and Conciliation Services within ten (10) work days from the date of the Level ~~Three~~Four mediation/mutual agreement. Upon receiving the list, each party shall alternatively strike a name until only one (1) name remains. The remaining panel member shall be the arbitrator. The order of the striking shall be by lot. The process of striking names shall be completed within five (5) work days of receipt of the list.
- 5.4.5.2 The parties shall, at least ten (10) work days prior to the first hearing date, exchange lists of their intended witnesses.
- 5.4.5.3 The conduct of the hearing shall be at the discretion of the arbitrator who shall be governed by American Arbitration Association Rules.
- 5.4.5.4 The jurisdiction and authority of the arbitrator selected and the opinions the arbitrator expresses will be confined exclusively to the interpretation of the express provision or provisions of the Agreement at issue between the parties. The arbitrator shall consider only those issues raised by the parties. The arbitrator shall have no power to add to, subtract from, disregard, alter, amend or modify any provisions of this Agreement or impose any limitations or obligations not specifically provided for under the terms of this Agreement. The arbitrator will be without power of authority to make any decision which requires the commission of an act prohibited by law or which is in violation of the terms of this Agreement.
- 5.4.5.5 The decision of the arbitrator shall be submitted to SDEA and the GPA Board and will be final and binding upon the parties.

5.5 Costs

All costs for the services of the conciliator/mediator and/or arbitration, including but not limited to, per diem expenses, travel and subsistence expenses, and the cost, if any, of a hearing room, shall be borne equally by GPA and the Union. Upon mutual agreement, a qualified court reporter shall be employed to record verbatim the hearing. Without mutual agreement, either party may employ and compensate such a reporter. All other costs, except for released-time for the grievant(s), Union representative(s), and witnesses, shall be borne by the party incurring them.

5.6 Miscellaneous

SDEA reserves the right to modify, amend, delete, or add to its proposals throughout the course of the negotiations.

When it is necessary for a representative designated by the Union to investigate a contractual dispute/grievance or attend a contractual dispute/grievance meeting or hearing during the day, ~~she/he~~they shall be provided reasonable release without loss of pay in order to permit participation in the foregoing activities. Any unit member who is requested to appear in such investigations, meetings, or hearings as a witness will be accorded the same right. Any timelines provided herein may be extended by mutual written agreement of the parties.