

ARTICLE 3: RIGHTS OF PROFESSIONAL EDUCATORS

Section A - Due Process

1. No professional educator shall be subject to a written reprimand or unpaid suspension, without just cause. Reprimands shall be made privately and not in the presence of students, parents, unit members or members of the community.
2. Although any violation of this provision may be used as a basis for a grievance, the Article does not apply to the evaluation or dismissal of contract or probationary professional educators or the nonrenewal of professional educator contracts nor does it apply to assignment to or retention in extended responsibility assignments. Although assignment to or retention in extended responsibility assignments is excluded from the provisions of this section, the District will not arbitrarily remove a professional educator from an extended responsibility assignment during the term of the assignment. This shall not be construed as a limitation on the District's ability to remove and/or replace a professional educator at the end of the assignment.
3. Professional educators subjected to non-renewal or dismissal shall be afforded the procedural rights of due process in accordance with ORS 342.835 (probationary) or 342.865-915 (contract professional educators).
4. All members holding TSPC licenses may be dismissed as provided under ORS 342.805-342.905. Any non-TSPC-licensed member not eligible for an appeal to Fair Dismissal Appeals Board, if in his/her fourth or later consecutive year of employment with the district, may appeal dismissal through the grievance procedure of this Agreement, but any arbitrator hearing such a grievance must apply the standards used by the Fair Dismissal Appeals Board for review of dismissal of a contract professional educator, as set forth in ORS 342.865-342.905.

Section B - Complaint Procedure

1. Definition of a Complaint

- 4.a. A complaint is an allegation against a professional educator, an expression of dissatisfaction or concern, or a protest about a professional educator that is submitted to an administrator either **orally** ~~verbally~~ or in writing. A complaint may be submitted by a parent, a student, another employee, or other person.
- ~~2.~~ b. A serious complaint may include allegations of illegal actions, violations of the law, and/or policy violations that require immediate referral to law enforcement agencies, Department of Human Services (DHS), **TSPC. ODE**, or other appropriate state agency.

Such serious complaints are excluded from the terms of Sections B and C of this article and do not require adherence to the stated timelines and/or procedures.

2. Complaint Processing

3. If a complaint is made against a professional educator to an administrator, supervisor or Board member, such a complaint shall **not** be processed **beyond Level 1 unless the complainant is willing to reduce the complaint to writing and sign it. Oral complaints shall not result in disciplinary action nor affect a professional educator's evaluation.**

Written complaints shall be processed under the following circumstances:

- a. If the District intends to make a record of the complaint in the professional educator's evaluation report; or,
- b. If the District intends to place a record of the complaint in the professional educator's personnel file or to take any other disciplinary action against the professional educator; or,
- c. If in the District's judgment, the complaint is sufficiently relevant to the professional educator's performance as to require a conference.

Section C - Complaint Procedure

1. Level 1 - Informal Resolution Meeting with the Professional Educator

- a. In compliance with Section B, above, a complaint shall initially be processed by the professional educator's immediate administrator/supervisor. **The intent of informal resolution is to make the professional educator aware of the problem and find a mutually acceptable solution.**
- b. Upon receipt of a written or oral complaint about a professional educator, the administrator shall encourage the complainant to discuss the complaint directly with the professional educator in confidence and to attempt to resolve the complaint informally.
- c. If the complainant is unwilling to meet with the professional educator alone, the administrator shall **provide the option of a mediated discussion. The District will arrange for a mutually agreeable third party to assist the parties in reaching an acceptable solution. This mediated discussion shall happen within ten (10) days of receiving the complaint.**

If the complaint involves colleagues, the professional educator(s) may request mediation through the EAP provider. Both parties must be willing to participate

in mediation. The administrator shall contact the EAP provider to arrange this service.

d. If the complaint is not resolved at Level 1 or the complainant refuses to meet with the professional educator, the complaint will be investigated at Level 2. All Level 2 investigations will require the complaint to be reduced to writing and signed by the complainant. ~~-attempt to arrange a meeting at which the administrator, the complainant, and the professional educator discuss the complaint and attempt to resolve the issues. This meeting shall occur within ten (10) licensed professional educator working days from the date the administrator first received the complaint.~~

e. Any complaint resolved at level 1 shall not be used in the professional educator's evaluation or in any disciplinary action, or inserted in the professional educator's working or personnel file. Such complaint shall be considered resolved and not be used against the employee in any subsequent action by the District.

~~d. If the complainant is unwilling to meet with the professional educator, the administrator shall meet with the professional educator to discuss the complaint, and to attempt to resolve the issues. This meeting shall occur within ten (10) licensed professional educator working days from the date the administrator first received the complaint. During this discussion of the complaint, the professional educator will be presented with the complaint in writing if a written complaint has been submitted by the complainant or if the professional educator requests that the complaint be reduced to writing. Unless protected by law, the written complaint shall include the name of the person(s) making the complaint, the nature of the complaint, and the requested remedy, if any.~~

2. **Level 2 - Formal Investigation Documenting the Complaint**

a. If a complainant signs a written complaint and refuses to meet directly with the professional educator, the professional educator's immediate supervisor shall initiate a fair investigation of the complaint within five (5) days of receiving the complaint.

b. The immediate supervisor shall notify the professional educator about any written complaint and provide a copy of the written complaint at least 24 hours before any meeting with the professional educator.

c. At the initial meeting, the professional educator shall have the opportunity to ask questions and present their response to the allegations presented in the complaint.

3. Disposition of the Complaint

a. **Within ten (10) days of the initial meeting, the District will meet with the professional educator to share the disposition of the complaint.**

b. **If the administrator determines that the complaint has merit but deems it not**
~~c. When the complaint regards a matter that the administrator determines not to be serious enough to document, the administrator may resolve the matter verbally and will not be required to prepare a written summary of the complaint and the resolution. In this instance, the written summary will not be put in the **working or** personnel file.~~

~~b. c.~~ If the administrator determines that the complaint is valid and serious, or that it is important to document for District records, the administrator shall make a written record of the complaint, the resolution that was reached, and any recommendations to the professional educator. The record to be placed in the professional educator's **working or** personnel file shall include at least the following information:

- 1) Name of the professional educator against whom the complaint is made
- 2) The date and nature of the complaint made
- 3) The name of the complainant(s)
- 4) The administrative investigative report
- 5) The disposition of the complaint

~~c. When the administrator has judged the complaint serious enough to be reduced to writing, he/she shall complete the written report and meet again with the professional educator to review the written report within fifteen (15) licensed professional educator working days from the date of the complaint meeting.~~

4) **d. The District may request that the professional educator sign a copy of the disposition to indicate receipt only.** The professional educator shall sign the written report to indicate that he/she has read the document and received a copy of it. 2) The professional educator may attach a written statement to the document **to be included with the documentation in the files.**

~~3) The written report shall be placed in the professional educator's personnel file.~~

~~d.~~ **e. Upon request from the professional educator, the district shall provide a copy of all components of the investigation, including interview notes, communication, and any pertinent research/fact finding that was conducted.**

f. Any complaint which the administrator chooses not to discuss with the professional educator or which is not discussed within the required time or is found to have no basis shall not be used in the professional educator's evaluation or in any disciplinary action, or inserted in the professional educator's working or personnel file. Such complaints shall be considered void and not be used against the professional educator in any subsequent action by the District.

3. Level 3 - Appeal to Superintendent Regarding a Complaint

If dissatisfied with the report findings, the professional educator may request a conference with the Superintendent to be held within ten (10) days of receipt of request. After hearing from all parties involved, the Superintendent shall issue a written statement of the complaint and the corrective action or improvement recommended, if appropriate. Such statement will be furnished to the professional educator within ten (10) days of the Superintendent's conference.

4. Mediation of Complaints

~~If the complaint involves colleagues and the administrator is unable to resolve the issues, the professional educator(s) may request mediation through the EAP provider. Both parties must be willing to participate in mediation. The administrator shall contact the EAP provider to arrange this service.~~

5. 4. Right to Representation at Meetings Concerning a Complaint

The professional educator(s) shall have a right to representation at any meeting in any level of this process. ~~If a professional educator being questioned in any investigation concerning any complaint comes to feel that the questioning or investigation might lead to an adverse personnel action against that professional educator, that professional educator may request to be represented at that time by a representative of the Association or other representative of the professional educator's choice. At the time the professional educator makes his/her request for representation, the questioning of that professional educator shall stop until an appropriate representation representative is present; the meeting will be rescheduled to occur within the next 48 hours. "Adverse personnel action" is defined as any action taken by a supervisor or administrator which may adversely affect the present or future employment or the conditions of employment of that professional educator~~

Section D - Right to Representation--Professional Educator Discipline

1. Investigatory Meetings

Should an investigatory meeting be warranted, the **administrator shall provide professional educators shall have notice of the purpose of the meeting. The District shall also alert the professional educator of their right to bring representation to any investigatory meeting.** ~~The professional educator may request representation if the professional educator feels the investigation might lead to adverse personnel action.~~ The meeting shall be conducted in person in a private setting.

2. Disciplinary Representation

a. **During any meeting, a professional educator shall be entitled to Association representation, should the educator believe the meeting may lead to discipline.**

~~A professional educator shall be entitled to have present a representative of the Association during any meeting which might reasonably be expected to lead to disciplinary action.~~ When a request for such representation is made, no action shall be taken with respect to the professional educator, until such **representation** ~~representative~~ of the Association is present. At the time the professional educator makes his/her request for representation, the questioning of that professional educator must stop until an appropriate representative **representation** is present; the meeting will be rescheduled to occur within the next 48 hours.

b. **The District shall notify a** ~~A professional educator shall have~~ **of** the right to **bring** ~~a representative~~ **representation to any** ~~at all meetings where discipline may occur. and all plan of assistance meetings. A professional educator shall not have the right to a representative during evaluation meetings.~~

Section E – Personnel Files

1. Administrators who supervise a professional educator may maintain a working file, which shall be open for inspection upon a request by the professional educator to the administrator. Access to working files shall be made available by appointment and will be supervised. **When the administrator is no longer assigned to supervise the educator, the working file will be given to the professional educator or destroyed.**

2. The District will maintain all material related to its investigation of a professional educator that resulted in a finding that wrongdoing was not substantiated in an investigatory file. This file shall be accessible only to the professional educator or his/her designee, the Superintendent or his/her designee, to the appropriate licensing agency, or upon lawful subpoena.

3. No written evaluation, reprimand, warning, complaint, or other disciplinary material will be placed in a professional educator's personnel file unless the professional educator has had the opportunity to review such material. This includes investigatory reports by law enforcement officials, reports from the Department of Human Services (DHS), and reports to Teachers Standards and Practices Commission **and the Oregon Department**

of Education. The material shall be signed by the professional educator before it is placed in the professional educator's personnel file. The professional educator's signature on the copy to be filed does not necessarily indicate agreement with the contents thereof. The professional educator will also have the right to submit a written response to such materials which shall be attached to all file copies. Should the professional educator refuse to sign such documents, the administrator will note the professional educator's refusal to sign on the document and place it in the personnel file.

4. In accordance with Oregon Revised Statutes, each professional educator's personnel file shall be open for inspection by the professional educator but shall be open only to such other persons as are officially designated by the District, professional educator, or the legally designated representative of the professional educator's estate. Administrative working files and investigatory files regarding allegations of misconduct are considered personnel files for purposes of the confidentiality provisions of this Agreement. Access to personnel files will be made available by appointment and will be supervised.

5. The professional educator shall pay for the cost of any copying requested.

6. In accordance with Oregon Revised Statutes, ~~a professional educator may request~~ **any** material(s) in his/her **a professional educator's working and/or** personnel file (excluding evaluations and disciplinary materials) **will** be removed from his/her/**their** file after three (3) years, **per the educator's request**. The request shall be made to the Human Resources Director. ~~If the request is denied, the professional educator may appeal to the Superintendent.~~

7. Commendations may be placed in the personnel file by the professional educator's administrator, direct supervisor, the Superintendent, or a Board member. A commendation may also be submitted by the professional educator or another person with the approval of any District administrator.

8. A professional educator who has received a written disciplinary action to be placed in the professional educator's personnel file may request review by the Superintendent within ten (10) days after receiving notice of such action. If review is requested, the document will not be placed in the professional educator's personnel file until the Superintendent's review is completed.

Section F- Personal Life

The personal life of professional educators is not an appropriate concern of the District except where it relevantly affects the professional educator's fitness for, or performance of, his/her assigned duties.

Section G- Non-Discrimination

The District will not discriminate against any professional educator regarding any term or condition of employment on the basis of race, religion, national origin, union activity, sex, age, marital status, disability, gender identity or sexual orientation. Any grievance based on this section may not proceed beyond step 3 (school board) of the grievance procedure.

Section H- Parking

When a member parks a personal vehicle on school property, a member will not be required to agree to searches of the vehicle by agents of the District. The member shall not be subject to discipline from the District for refusing a search. Any search of the vehicle shall be made by the police.