

ALMA D'ARTE CHARTER HIGH SCHOOL

EMPLOYEE POLICY

Policy No. EP0008

Adopted: 02/18/20

Amended:

SUBJECT: EMPLOYEE GRIEVANCE POLICY

PURPOSE: To provide a policy and procedure for the reporting and resolution of legitimate employment-related concerns of the employees of Alma d'arte Charter High School. The Governance Council recognizes that employees are an invaluable resource and a vital part of the Alma d'arte's mission and goals and should be provided with a means of resolving employment-related complaints. The Governance Council serves will be the final authority in a grievance or legal issue.

DEFINITIONS:

(A) "*Grievant*" shall mean an employee who is personally and directly affected by a condition for which he or she seeks a resolution.

(B) A "*grievance*" is an allegation by a unit employee, group of unit employees, or the National Education Association of Alma Las Cruces and its representatives, that there has been a violation, misinterpretation, or misapplication of a specific provision(s) of the Collective Bargaining Agreement.

(C) *Resolution(s)* shall be the proposed written decision by the appropriate administrator(s), or Governance Council in response to the grievance.

(D) *Parties in interest* shall be the grievant and the supervisor or other employee(s) of Alma d'arte whose conduct or actions are the subject of the grievance.

REQUIREMENTS:

(A) The following situations are **not** grievable under this policy:

1. situations in which the remedy for the alleged violation exclusively resides in some person, agency, or authority other than the Governance Council;
2. situations as to which a different procedure or remedy has been provided by the Governance Council through policy
3. situations as to which the procedure within Alma d'arte is prescribed by New Mexico state statures or federal authority; and
4. situations involving a grievance by a contractor with Alma d'arte.

(B) A grievance cannot be filed by a former employee after the effective date of resignation, termination or discharge of employment.

(C) Failure of the grievant to follow the procedure in the succeeding steps as listed below, use of improper grievance forms, or use of a bypass procedure through any other means not listed in this process shall render the grievance null and void at the discretion of the Governance Council.

(D) Should a grievant file a Charge of Discrimination with the U.S. Equal Employment Opportunity Commission, the Human Rights Division of the New Mexico Department of Labor or File a complaint with the Office for Civil Rights for the U.S. Department of Education regarding the matter to be grieved, the grievance will be dismissed without further action. The seeking of other remedies permitted by law or by a union collective bargaining agreement will render a grievance under this policy null and void.

(E) Once the grievance has been resolved or rejected, it may not be reinstated by the same grievant.

EMPLOYEE GRIEVANCE RESOLUTION PROCEDURE

(A) The employee should initially attempt to resolve the complaint with the immediate supervisor. If the complaint cannot be resolved with the immediate supervisor, the employee may follow the chain of command to appeal decisions made by the supervisor and continue to attempt resolution of the complaint as per the procedural steps outlined in this policy.

(B) Mediation will always be an acceptable form of resolution at any step in this process. Mediation may be requested by either party at any time but will only be utilized by mutual agreement of the parties. All efforts will be made to locate and acquire the services of a person trained in mediation to act as a mediator. The parties must agree on the selection of the mediator.

PROCEDURAL REQUIREMENTS:

(A) A grievance must be initiated within 10 work days of the date upon which the grievant became aware of the circumstances which gave rise to the grievance.

(B) No persons shall suffer retaliation, recrimination, discrimination, harassment, or be otherwise adversely affected because of his or her use of this grievance procedure.

(C) At each step of the grievance procedure, the immediate supervisor will be responsible for documentation of all meetings related to the grievance. Documentation includes: 1) the initial grievance form completed by the employee, 2) all subsequent meetings with the immediate supervisor, and 3) any meetings with the Governance Council.

(D) Whenever possible, any grievance conference or meeting at any level shall be scheduled during a mutually convenient time that does not conflict with the regularly scheduled school program.

(E) A grievant requiring the attendance and testimony of other employees shall have the right to bring such witnesses as are willing to testify in his or her behalf, and any necessary substitutes or released time shall be provided and the expense borne by the Alma d'arte High School when meetings must be scheduled during the school day.

(F) A separate file shall be maintained by the school for grievances. All documents produced during the processing of a grievance shall be filed therein. All parties shall maintain confidentiality with regard to the proceedings and the resolution of the grievance. Nothing in this policy shall prevent the Alma d'arte from using information from a grievance in defense of any legal action initiated against Alma, its administrators or employees.

(G) Nothing contained herein shall be construed to limit in any way the ability of Alma d' arte and the grievant to resolve any grievance by informal means, and nothing herein shall be construed as requiring resort to the formal procedures when grievable problems arise.

(H) A grievant may terminate the process at any time if he or she indicates in writing a desire to do so, accepts the resolution at that level, or fails to pursue his or her grievance by filing at the next level within the specified time limit.

(I) The time limit at any level may be extended by mutual agreement between the grievant, on one hand and the supervisor, CAO/Principal, or Governance Council.

PROCEEDURAL STEPS

(A) STEP 1 (Informal Conference)

Prior to the filing of a formal written grievance, the grievant shall first discuss his or her grievance with his or her immediate supervisor in a good faith attempt to resolve the grievance prior to the filing of a formal grievance. In the case of a claim of sexual harassment in which the grievant's supervisor is the subject of the claim, the grievant may initiate the grievance at the next supervisory level above that of the subject supervisor in accordance with the Alma d'arte Sexual Harassment Policy.

(B) STEP 2 (CAO/Principal)

If the grievant is not satisfied with the resolution of the grievance at Step 1, or if the supervisor fails to issue a proposed resolution within the limit set forth above, the grievant may file a written grievance with the CAO/Principal, within five work days after the resolution was rendered or was due, if none was received. The CAO/Principal shall conduct a closed informal meeting with the parties in interest to the grievance within five

working days after receipt of the grievance. The meeting with the CAO/Principal shall be as informal as possible and shall be conducted as he or she feels is appropriate for a full understanding of the grievance. The CAO/Principal shall have the right to ask any questions of the interested parties as he or she deems necessary. Within five work days following the hearing, the CAO/Principal shall render his or her written proposed resolution to the grievant. In arriving at his or her decision, the CAO/Principal has discretion in fashioning such relief, if any, as it believes is appropriate, regardless of the relief requested.

(C) STEP 3 (Governance Council)

If the grievant is not satisfied with the resolution of the grievance at Step 2 with regard to the specific issues of the grievance, the grievant may make a written request to the Governance Council for a meeting with the GC within five working days after the CAO/Principal's resolution was rendered or was due, if none was received. The Governance Council shall schedule an informal meeting within ten working days of receipt of the grievance. The procedure for the meeting shall be as follows:

1. Each party in interest to the grievance shall have the opportunity to present oral statements an/or written evidence limited to 10 minutes each. The presentation shall be limited to a review of evidence previously presented to the CAO/Principal, unless the Governance Council in its discretion, allows new evidence to be presented during the hearing.
2. Since grievances are "personnel matters" related to the employee the meeting will be conducted in a closed executive session.
3. The Governance Council may make such inquiries of any party in interest as it deems necessary or appropriate.

(D) The Governance Council shall render a written decision within ten days. In arriving at its decision, the Governance Council has complete discretion in fashioning such relief, if any, as it believes is appropriate, regardless of the relief requested.