

Board Policy Adopted on

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Haliwa-Saponi Tribal School Board of Education Chair

Faculty & Staff Grievance Policy & Procedures

SECTION I

Since grievances should be settled promptly, the grievance procedure must be instigated within ten (10) workdays following either the event giving rise to the grievance or within ten (10) work days following the time when the employee reasonably should have gained knowledge of its occurrence. An employee filing a grievance shall have the right to present witnesses and evidence to support his/her grievance with complete freedom from reprisal. The grievance procedure shall be available to consider any matter relating to the discharge of a school employee when the discharge is for disciplinary reasons, neglect of duty or failure of performance during the contract period.

The grievance procedure is a process by which an employee of *Haliwa-Saponi Tribal School* can bring workplace concerns to upper levels of management. This is a formal process and requires rules be strictly followed. Failure to follow procedures will forfeit your right to this process. In the event of a dispute involving employment practices or the enforcement of the personnel policies contained in this Employee Handbook, and after a good faith effort with the supervisor to thoroughly resolve the dispute, all employees may submit their grievance following the procedures outlined below. The good faith effort shall be documented, including problem identification, possible solutions, selection of resolution, timeline for implementation, and follow-up. This documentation will be included in the personnel file. Failure to follow the procedures and timelines below constitutes a waiver of the employee's right to grieve.

Non-Grievable Issues: The following issues are not eligible for processing through the *Haliwa-Saponi Tribal School* Employee Grievance Procedure:

- Performance responsibilities, expectations, and evaluations;
- Temporary work assignments;
- The selection of an individual to fill a position, unless it is alleged that the selection is in violation of an agency's written policy;
- Termination, demotion, reassignment, furlough, layoff from duties because of lack of work, or other actions resulting from a reduction in the work force or job abolition.
- If the subject of your grievance is related to any of the areas listed above, your grievance cannot be processed through the Employee Grievance Procedure.

SECTION II

Grievances shall be processed as follows:

Informal

The grievant shall discuss the matter with the administrator or designee in an effort to resolve the matter informally. The administrator or designee shall attempt to adjust the grievance and shall respond verbally within five (5) workdays after conclusion of the discussion or discussions.

Formal

Step 1: Written Appeal –

If the grievance considered at the informal state is not settled, the grievant may file a written appeal with the administrator or designee within five (5) workdays after receiving the verbal response required under the Informal Process noted above. Within three (3) days thereafter the administrator or designee shall schedule a meeting with the grievant. The administrator or designee may interview separately anyone who may have knowledge about the grievance. The administrator or designee within (5) workdays after such meeting is concluded shall render a written decision to the grievant.

Step 2: Review Panel -

If the grievance considered in Step 1 is not settled, the grievant may file within seven (7) working days after receiving the written decision of the administrator or designee of the *Haliwa-Saponi Tribal School Board of Education*, a written appeal with the chairman of the Board requesting that the grievance be submitted to a review panel. The review panel shall consist of one member to be appointed by the chairman of the board, one member by the grievant, and the third member, who shall serve as chairman, shall be appointed by the other two members of the panel previously appointed, and he/she shall be appointed within (10) working days after receipt by the chairman of HSTS Board of the grievance appeal. If the third member is not selected by the other members of the panel within the time so limited, he/she shall be appointed by the chairman of the Haliwa-Saponi Tribal Council.

Step 3: Board of Education -

Either party may appeal in writing the decision of the review panel to the *Haliwa-Saponi Tribal School Board of Education* within five (5) working days after the receipt of its recommendation, the matter shall be considered by the Board at a regular or special meeting within forty-five (45) days after receipt of the appeal. Either party may present its side of the controversy in person or by designee. Either party or the Board may call witnesses to help resolve the issue. The matter shall be considered in executive session and the Board may accept, reject, or modify the decision of the panel.

SECTION III

Haliwa-Saponi Tribal School Board of Education Chairman's Duties:

The chairman of the review panel shall have the following duties and powers:

The chairman shall transmit the panel's findings and recommendations to the *Haliwa-Saponi Tribal School Board of Education* with a copy to the grievant no later than ten (10) working days after the completion of the hearing, unless the time is extended pursuant to Section 4. The jurisdiction and authority of the panel and its opinion shall be confined exclusively to the application of the Board's policies, rules, and regulations at issue between the grievant and the Board. The panel shall have no authority to add to, detract from or amend any policy provision or provisions.

The first meeting of the panel shall be held within ten (10) working days after its appointment. The chairman shall give at least five (5) working days notice to all persons involved, unless announced at the regular meeting of the panel when all persons involved are present.

The conduct of the hearing by the review panel shall be as follows:

1. The panel shall determine the propriety of attendance at the hearings of persons not having a direct interest in the hearing.
2. The panel may ask at the beginning of the hearing for statements from the Board and the grievant clarifying the issues involved.
3. Exhibits when offered by the grievant or the Board may be received as evidence by the panel and when so received shall be marked and made a part of the record.

4. The grievant and the Board shall then present their claims, proofs, and witnesses, who shall submit to questions or other examinations. The panel may, at its discretion, vary its procedure but shall afford full and equal opportunity to all parties and witnesses for presentation of any material or relevant proofs.
5. The parties shall produce such additional evidence, as the panel may deem necessary to an understanding and determination of the dispute. The panel shall be the judge of relevancy and materiality of the evidence offered. All evidence shall be taken in the presence of the panel and of the parties.
6. If a panel member becomes incapacitated, preventing his further service on the panel, a replacement shall be named in the same manner as provided in the initial appointment.
7. The decision of the panel shall be arrived at by a majority vote.
8. The panel chairman shall specifically inquire of both the Board and the grievant; whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies, the chairman shall declare the hearing closed.
9. All sessions of the panel shall be taped for the record. Copies of the recorded sessions shall be made available to the grievant or the board upon request.
10. The decision of the panel shall be rendered within thirty (30) working days after the panel has received the appeal.

SECTION IV

Time Limitations- No grievances shall be processed unless it is filed within the time set forth herein. If a decision is not appealed within the time limits as set forth above, the matter shall be deemed settled on the basis of the last answer by the grievant. If an answer is not provided in Steps 1 and 2 within the time limits provided, the grievant may immediately appeal to the next step. The parties to the grievance, by written agreement, may extend any and all of the time periods established in this procedure.

SECTION V

Guidelines:

- A. All sessions held in connection with the processing of grievances, including review panel hearings shall be closed session, and no news releases shall be made.
- B. A representative of his/her choice other than an attorney may accompany a grievant at Steps 1 and 2 of the formal grievance procedure. An attorney at Step 3, may represent the grievant.
- C. Decisions at all levels of the formal procedure will be in writing, setting forth the decisions and reasons therefore, and will be transmitted promptly to all parties involved.
- D. All written and printed matter dealing with the processing of the grievance will be filed separate and away from all personnel files of the participants.
- E. The *Haliwa-Saponi Tribal School Board of Education* agrees to make available to the grievant all information, the disclosure of which is not prohibited or subject to protections or privilege by law, in its possession or control that is relevant to the issues in the grievances.
- F. The grievance and the Board shall bear its own expensed in their grievance procedure, including the cost of copies of records should they be requested by the grievant or other parties involved in the grievance.

- G. Since it is important that grievances be processed as rapidly as possible, the number of days indicated at each level should be considered as a maximum, and every effort should be made to expedite the process.
- H. At each appeal level, copies of forms completed at prior steps shall be furnished to the parties involved.
- I. No reprisals shall be taken against a grievant as a result of his/her use of this procedure. Such alleged reprisals can result in a grievance.

Grievance Forms

Written grievances shall be on forms prepared and approved by the *Haliwa-Saponi Tribal School Board of Education*. These forms shall be available in the school office.