

## **Article 5**

### **Employee Rights**

**A. Organizing**

Members of the bargaining unit for which the Association is the exclusive representative have the right to form, join and participate in the activities of labor organizations of their own choosing for the purpose of representation in collective bargaining with their public employer in matters concerning employment relations. No District representative shall interfere with or take reprisals against any member for exercising these rights.

**B. Conformance with Law**

Nothing contained herein shall be construed to deny any **employee unit member** his/her rights under the Constitution and Laws of the United States and the State of Oregon.

**C. Required Meetings or Hearings**

Whenever any **employee unit member** is required to appear before a building supervisor, Superintendent, Board, or any member thereof, for an interview which may lead to demotion, suspension or dismissal, then the **employee unit member** shall be given prior written notice of the reason(s) for such a meeting and shall be entitled to have present an Association representative of his/her choosing.

**D. Evaluation of Pupils**

1. The teacher or licensed **employee unit member** shall maintain responsibility to determine grades and other evaluations of students. No grade or evaluation shall be changed without discussion with the teacher or licensed **employee unit member**, unless unavailable, and the approval of the Superintendent of the District. The ~~teacher or licensed employee unit member~~ shall be notified in writing if a grade or evaluation is changed.
2. Tasks defined under OAR 584-036-0011 for licensed teachers include:
  - a. planning instruction;
  - b. establishing a classroom climate conducive to learning;

- c. implementing plans for instruction;
- d. evaluating student achievement; and
- e. directing instructional assistants.

Therefore, ~~teachers~~ unit members may use paraprofessionals instructionally only to provide instructional assistance under the direct supervision of the licensed teacher unit member and not as a substitute for the licensed teacher unit member.

**E. Just Cause**

No ~~teacher~~ unit member ~~in the bargaining unit~~ shall be disciplined, ~~reprimanded or reduced in basic salary~~ without just cause. In applying discipline the District shall conduct a fair and objective investigation and, as appropriate, utilize progressive discipline. All information forming the basis for disciplinary action will be made available to the ~~teacher~~ unit member and the Association at the ~~teacher's~~ unit member's request. Any violation of this provision may be used as a basis for a grievance.

However, this Article does not apply to the dismissal of permanent or probationary ~~teachers~~ unit members or the non-renewal of probationary ~~teachers'~~ unit members' contracts (such matters are excluded because they are governed by the Fair Dismissal Law), nor does it apply to assignment to or retention in Extended Responsibility assignments. If a ~~teacher~~ unit member is to be disciplined or given a reprimand by any member of the administration, s/he will be given prior written notice of the subject(s) for such a meeting and shall be entitled to have a representative of the Association present.

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**F. Due Process**

No unit member ~~permanent teacher~~ shall be dismissed ~~and no probationary teacher shall be discharged, removed from employment, or non-renewed~~ without due process. Due process for the purpose of this article is defined as:

1. The ~~employee~~ unit member will be told the reasons and given the information forming the basis for such action prior to any final action.

2. The **employee unit member** will have the opportunity to respond to the charges.
3. The **employee unit member** will have an opportunity to discuss the matter with his/her supervisor.
4. Upon request, the **employee unit member** shall be allowed to **be heard by the Board prior to the Board taking action on a recommendation for dismissal.** ~~meet informally with the Board, prior to any final action, at which time the Board shall discuss the reasons for such action(s).~~
5. The **employee unit member** shall have the right of **Association** representation. The **employee unit member** will have the right to appeal only the procedure of paragraph F through the grievance procedure of this Agreement.

**G. Professional Communication**

Administrative criticism of an **employee unit member** shall be appropriately private and delivered in a professional and respectful manner. Any grievance regarding administrative criticism may proceed through Level Three and end there.

**H. Procedures and Timelines for Evaluation**

1. Declaration of Intent  
The purpose of the evaluation procedure is to improve instruction, encourage individual growth and assure that all **unit members** ~~licensed staff~~ are performing at an acceptable level.
  - a. Evaluation of **unit members** ~~licensed staff~~ shall be done on the established District forms and shall be based upon individual goals and District Performance Standards as described in the District Professional Development and Evaluation Program.
  - b. Recognizing that the Association and the District have developed and agreed to the evaluation cycles and procedures (sections 2 and 3) as described in the District Professional Development and Evaluation Program, any adjustments in Board policy or



administrative procedure related to the program shall require the participation and agreement of both parties.

## 2. Evaluation Cycles

- a. The determination of the length of the evaluation cycle for unit members ~~licensed staff~~, including any changes to the length of the cycle shall be determined using the procedures outlined in the District Professional Development and Evaluation Program.
- b. It is expected that while unit members ~~teachers~~ on multi-year cycles would only be given a formal evaluation at the completion of that cycle, regular observations (including feedback) would continue.

## 3. Evaluation Procedure

The procedure for all unit members ~~licensed staff covered by this Agreement~~ shall be set forth in the District Professional Development and Evaluation Program and shall include:

- a. An annual goal-setting conference with the administrator assigned to evaluate them. Goal setting shall be based upon the unit member's ~~licensed staff's~~ status from the previous school year, as outlined in the District Professional Development and Evaluation Program. In the event that there is disagreement concerning the goals set by a unit ~~licensed staff~~ member in Collaborative or Directed Improvement status (as outlined by the District Professional Development and Evaluation Program), the goals shall be determined by the Superintendent or designee.
- b. At least one formal observation per evaluation cycle shall be preceded by a pre-observation conference. A post-observation conference, including a written assessment provided to the unit ~~licensed staff~~ member, will be held within five (5) working days following the formal observation. In the event multiple observations are scheduled, the post-observation conference shall be held within five (5) working days following the last formal observation.

**c. A summative evaluation conference with the administrator assigned to evaluate the unit member. The District recognizes that the summative evaluation of a member is the culmination of an ongoing process that includes assessment and feedback to the member. Administrators shall make the member aware of performance issues that arise prior to rating the member as “needs improvement” (2) or “unsatisfactory (1)” in that performance area on the summative evaluation.**

**de.** Specialists

One administrator will be assigned as the primary evaluator for any specialists whose assignments include two (2) or more buildings. The designated administrator will complete the goal setting process with the **unit licensed staff** member, as outlined in the District’s Professional Development and Evaluation Program. Observations from all administrators will be turned over to the designated administrator for final evaluation. In the event of conflicting assessments of a shared specialist, the Superintendent or designee shall be responsible for reconciling the differences. This is not to infer that a composite evaluation will result, but only that all parties shall understand the nature of the difference.

The assignment of the designated administrator will be made by the Executive Director of Human Resources. If the specialist objects to the administrator assigned, s/he must arrange for a conference within three (3) days after receiving notification of the assigned administrator, to request consideration for changing the primary evaluator.

**e.f.** The Association and the District must agree in advance in order for a TOSA to be involved in the evaluation of licensed staff. **A TOSA or any other unit member shall not be involved in the evaluation of unit members.**

**4. Plan of Awareness**

Should concerns be noted about a licensed **staff unit** member’s classroom performance, then the District will initiate a Plan of Awareness using the procedures and forms outlined in the District’s Professional Development and Evaluation Program.

5. Program of Assistance

a. Procedure for Placement on a Program of Assistance

- i. A ~~probationary or permanent licensed staff~~ **unit** member who has been declared as not meeting District standards and/or Oregon State Statutes 342.835, 342.865 may be ~~designated as On-Notice~~ **placed** on a Program of Assistance.

Should a deficiency be noted which is related more to discipline than to classroom performance, the District will initiate progressive disciplinary measures rather than a Program of Assistance. In this case, however, the District will adhere to the just cause and due process provisions in this Article.

- ii. Whenever a **unit certified staff** member's placement on a Program of Assistance results from substandard classroom performance, a minimum of two formal observations, with written assessments, shall precede such action.
- iii. During a conference the administrator shall give the **unit licensed staff** member written notification indicating placement on a Program of Assistance. A copy of the written notification shall be given to the Association President.

**iv. Any modification to the Program of Assistance by the evaluator shall not be implemented without first communicating with the unit member and the authorized Association representative.**

b. Procedure While ~~On-Notice~~ on a Program of Assistance

- i. Not later than ten (10) school days after placement on a Program of Assistance, the evaluator, with the participation of the **unit licensed staff** member and the authorized Association representative, shall have developed a planned Program of Assistance using the procedures and forms outlined in the District Professional Development and



Evaluation Program. The completed Program of Assistance shall be reviewed by the Superintendent or designee. If there is any disagreement regarding the Program of Assistance, it shall be resolved by the Superintendent designee.

- ii. The Program of Assistance shall include identification of the District performance standards not being met, expectations of how performance standards can be met, the procedure for monitoring progress during the Program, the assistance to be offered (including the opportunity to request outside administrative observations), the timeline for improvement, and completion of the Program.
  - iii. The Superintendent or designee may be called upon to make an observation followed by a written evaluation and conference, prior to the final resolution of the Program of Assistance.
- c. Procedure for the Resolution of Program of Assistance Status
- i. If the unit licensed staff member has demonstrated compliance with stated recommendations to meet performance standards, as determined by the evaluator, the unit licensed staff member shall be removed from the Program of Assistance category. Upon successful completion of a Program of Assistance, the District shall notify the unit licensed staff member and the Association of that fact in writing within five (5) working days.
  - ii. After the final evaluation has been completed and failure to make satisfactory improvement has been demonstrated, one or more of the following alternatives are available to the evaluator in ascertaining the future employment status of the ~~On-Notice~~ unit licensed staff member: extension (not to be more than one year of a Program of Assistance placement) or, if necessary, termination of services. If a third year probationary employee unit member has failed to be removed from the Program of Assistance by March 1 of that year, the only resolution is termination.

iii. When a unit licensed staff member has been satisfactorily removed from a Program of Assistance, his/her employment status shall be considered such that no further action shall be deemed appropriate by the evaluator and/or building supervisor which could be construed as additional punitive action regarding that particular Program of Assistance placement.

~~iv. Any modification to the evaluation process will not take place prior to communication with the authorized Association representative.~~

6. Application

It is understood that only the procedure of Section H will be subject to the grievance procedures of the Agreement. The content of the evaluations will not be subject to the grievance procedure.

7. Representation

The ~~employee~~ unit member shall have the right to Association representation throughout the Program of Assistance steps of this procedure.

8. Monitoring of Evaluation Process

The established Evaluation Committee shall be comprised equally of RSD and REA representatives and will continue to meet on an on-going basis for the purpose of monitoring the implementation of the District Professional Development and Evaluation Program. The committee will seek feedback on the implementation from administrators and unit licensed staff members and will make recommendations to the District and the Association regarding adjustments to the program. These recommendations will be submitted no later than May 1st of each year during the duration of this agreement, to both the District and the Association for consideration. In accordance with Section H.1.b, any action regarding these recommendations shall require negotiation by and agreement of both the District and the Association.

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I. **Personnel Files**

1. ~~Employees~~ Unit members and/or their representatives shall have the right to, upon request and in the presence of an administrator, review



the contents of their District personnel file and to receive copies of any documents contained therein.

2. Working files may be kept by building administrators. Unit members and/or their representatives shall have the right, upon request and in the presence of the administrator, to review the contents of the building working file and to receive copies of any documents contained therein. ~~All materials contained in the building working file for evaluation shall, upon the completion of the final yearly certified written evaluation, either be destroyed or transferred to the District personnel file. The above statement is not to be construed to limit the building administrator's right to retain copies of materials.~~
3. ~~In the event of disciplinary action against an employee, evidence considered during any proceedings shall be, when possible, limited to those allegations supported by statements in the District personnel file of the employee on the date when disciplinary action is initiated. This limitation shall not apply to evidence gathered by agencies outside the District's jurisdiction.~~
3. No material that could be construed as negative will be placed in the District personnel file unless the unit member employee has had an opportunity to review the material. The employee unit member will acknowledge that s/he has had an opportunity to review such material by offering his/her signature to the copy to be filed, with the express understanding that such signature in no way indicates agreement with contents thereof. The employee unit member shall have the right to submit a written response to such materials which will be reviewed by the Executive Director of Human Resources and attached to the file copy.
45. Access to an unit member's employee's personnel file shall be limited to persons who have a valid need to inspect the file for purposes related to legitimate District interests and who have obtained the prior approval of the Executive Director of Human Resources. All persons reviewing a personnel file, other than Human Resources personnel, shall indicate such review by entering their name, position, and the date on a log kept in each file.

## J. Complaints

A complaint is negative information received from a third party and conveyed to the administration (or Board) with the intent that the administration take action.

### 1. Informal Process

The supervisor ~~will~~ **may** encourage the complainant to meet with the **employee unit member** and discuss the complaint. The administrator will confer with the member and/or the complainant in order to resolve the complaint.

### 2. Formal Process

If the complaint is not resolved through informal discussion with the administrator, and the complaint might result in a negative evaluation, discipline or placement in the personnel file, the following procedure will apply:

- a. ~~An~~ **employee unit member** shall be informed in writing of the complaint.
- b. The building principal or his/her designee shall meet with the **employee unit member** to discuss the complaint. The **unit member** will receive a copy of the complaint at or before this meeting. **Any complaint shall include the following information: name of the employee against whom the complaint is made, the date and nature of the complaint, and the name of the complainant.**
- c. The meeting shall occur within ten (10) working days of receipt of the complaint if both parties are available or as soon thereafter as possible.
- d. Before **any negative evaluation or disciplinary action occurs as a result of a complaint, written complaint is placed in an employee's personnel file,** the District shall investigate the complaint and determine the complaint's validity. The results of the investigation indicating the area(s) of the written complaint found to be valid or invalid shall be reduced to writing and attached to the complaint.



~~e. If the complaint is placed in the employee's personnel file it shall include at least the following information: name of the employee against whom the complaint is made, the date and nature of the complaint, signature of the complainant, and the statement of validity. The employee shall have the right to attach a written response to the complaint.~~

ef. The District will notify the **employee unit member** of the disposition of the complaint in a timely manner. **The unit member shall have the right to attach a written response to any discipline that is placed in the personnel file as a result of a complaint.**

3. General Provisions (These apply to both informal and formal processes.)

a. Oral, ~~unsigned or Anonymous~~ complaints shall not be:

- i. used by the district as a basis for discipline **unless independently corroborated evidence is obtained through the investigation;**
- ii. reflected in the ~~teacher's~~ **unit member's** evaluation ~~or to be placed in the member's~~ personnel file **unless independently corroborated evidence is obtained through the investigation.**

~~iii. reduced to writing by any district administrator.~~

~~b. When investigating oral, unsigned or anonymous complaints, the District may only use independently corroborated evidence for discipline or evaluation purposes.~~

**be.** Any party involved in the complaint process shall be assured freedom from criticism, discrimination, or reprisal in processing a complaint.

**cd.** The **employee unit member** shall have the right to Association representation of his/her choice in any meeting involving a complaint.



**K. Final Evaluation**

A final written evaluation of an **employee unit member** who leaves employment with the District at the conclusion of the school year, will be mailed to the **employee unit member** upon completion.

**L. Personal Life**

The personal life of a **teacher unit member** is not an appropriate concern of the District unless it interferes with the **teacher's unit member's** contractual responsibilities. The personal property of **teachers unit members** shall not be subject to search by any district representative without a search warrant or prior approval of the **teacher unit member**, except in cases where there is reasonable suspicion of imminent danger to students, or facilities.

**M. Workplace and Environmental Safety**

The District will comply with State and Federal laws and regulations pertaining to environmental concerns, workplace safety and a healthful working environment.

**Teachers Unit members** who notice unsafe or hazardous conditions in their work environment may report such conditions **to their supervisor or on the Safety Input Form which will be routed to the Building Administrator and the designated District office official.** A copy of the form will be **completed by the designated District official and** returned within two (2) weeks to the **teacher unit member** with written information regarding the District's response. Should an environmental hazard(s) be discovered during the District's investigation of the **information safety concern reported** on the Safety Input Form, **bargaining** unit members who work at the worksite will be notified of the hazard. In addition, when an environmental investigation is conducted, any written report will be made available at the worksite. **Updates shall be provided during the course of the investigation as available via the Building Administrator as received from Facilities staff. If the District is the entity creating the report then it shall include the following: findings and results; any action needed to mitigate the condition in question; and a timeframe for expected completion of any work deemed necessary to remedy the condition.** **Should the unsafe or hazardous conditions result in an Oregon Health and Safety Administration (OSHA) investigation, then a copy of the findings of the investigation will be made available to all unit members who work at the affected site.**

**N. Anti-Discrimination**

The District acknowledges that it is subject to various state and federal laws relating to discrimination based on age, race, religion, sex, marital status, national origin, sexual orientation, gender, disability, union activity or membership or non-membership in the Association.

The parties agree to encourage individuals who claim discrimination issues to use whatever currently existing procedures under the law or Board policy exist to redress these issues.

**O. Student Performance Data**

Any attempt to use student performance data for evaluation purposes and transfers shall take into consideration all of the following:

1. multiple measures of **teacher a unit member's** effectiveness based on widely accepted standards of teaching that encompass a range of appropriate teaching behaviors,
2. the use of multiple evaluation methods,
3. evidence of student academic growth and learning based on multiple measures of student progress.

Student performance on tests shall not serve as a basis for disciplinary action.

**P. Teaching Materials**

If the District is unable, for any reason, to provide the materials, equipment and/or training necessary for implementing a District program, the District will not hold members accountable for implementation of that program. The District determines what materials, equipment and/or training are necessary to implement a District program.