

AFSCME Local 258 REPRESENTATION POLICY

The purpose of this policy to discuss representation by AFSCME Local 258 (the Union) in three areas. The first is grievances under the contract between the EGUSD and the Union. The second is complaints under the EGUSD Uniform Complaint Procedure. The third is disciplinary actions.

The Union believes that a problem at the worksite is best resolved informally, at the lowest possible level, and that trained Stewards are the best persons to represent employees, because they know the workplace, the exact nature of the work, and all the parties involved.

The Union represents all bargaining unit employees, regardless of Union membership, in grievances filed over alleged violations of the provisions of the collective bargaining agreement between AFSCME and the EGUSD.

The Union does not automatically represent employees in matters outside the scope of the collective bargaining agreement, including disciplinary actions and complaints filed under the EGUSD Uniform Complaint Procedure. Employees involved in these matters are free to choose any representative they wish for them. The Union will evaluate all requests for this type of representation. The Union will consider the impact of the representation on the bargaining unit as a whole, the facts of the case itself, the merit or lack of merit in the case, decisions of arbitrators, hearing officers or other bodies in similar matters, the cost of the representation and other items. If it decides to represent in these matters, it shall do so in accordance with the provisions of this Representation Policy. The Union will decide these matters on a case by case basis.

The Union does not typically provide attorneys for representation. However, if the Executive Board believes that the interests of the employee and the Union can best be served by hiring an attorney for a particular matter, it may do so on a case by case basis.

The Union also believes that the employee is obligated to cooperate and share in the process of resolution in terms of time and resources.

GRIEVANCES AND ARBITRATION

The Union, as the exclusive representative, has an obligation under the Education Employee Relations Act (EERA) to represent all bargaining unit employees in a fair, thorough and diligent manner in grievances that arise under the contract. We will do our best to meet this standard and the procedures that follow will tell you how to obtain representation in grievances and how to raise questions about these matters.

DISCIPLINARY ACTIONS

A disciplinary action is imposed by the District against an employee. Disciplinary actions are formal letters of reprimand, suspensions, disciplinary demotions and dismissal from employment. They are not appealed by filing a grievance under our contract. The rules for discipline are instead set by the Education Code and disciplinary actions are subject to appealed through the Office of Administrative Hearings. The Union is NOT obligated to handle these cases. The law provides that an employee may have any representative they want in these proceedings, whether an attorney or some other person.

COMPLAINTS

The term "complaint" as used herein refers to complaints as defined in the EGUSD Uniform Complaint Procedure, and complaints of discrimination under State and Federal laws. These complaints involve issues that are not part of the contract. Employees are free to pursue these complaints on their own, and the Union is NOT obligated to handle these cases.

I. GRIEVANCES

- A. Whenever an employee or group of employees in the AFSCME bargaining unit believe that they have been adversely affected by a violation of the contract, they should immediately contact the Union office and inform the Union of the facts of the violation. Union membership is not required for the Union to represent employees in grievances.
- B. The Union will appoint a Steward to represent the employee or employees. The Steward will investigate the facts of the issue.
- C. If, after investigation, the Steward determines that a grievance is warranted, the grievance will be filed and pursued in accordance with Article 4 of the contract.
- D. Employee(s) must keep in contact with the Steward. If at any time during the grievance process the employee(s) fails to keep in contact with the AFSCME representative, acts independently, refuses to follow recommended actions, or otherwise fails to cooperate, the Union will inform the employee(s) in writing of their obligations. If the issue of lack of cooperation is not resolved to the satisfaction of the AFSCME representative, then the AFSCME representative may cease representing the employee(s) and shall inform the employee(s) that they are declining further representation.
- E. If, after investigation, the Steward determines that a grievance does not exist, they shall inform the employee(s). The Steward will also inform them of their right to file a grievance on their own, the time limits of the grievance procedure, and of the right to appeal the Steward's decision not to pursue the grievance further.
- F. If, after receipt of a decision from management at any level of the grievance procedure, or at any other time during the process, the Steward believes that the grievance lacks merit and should not be pursued, the Steward will file the grievance at the next highest level to preserve the time limit for the employee(s) and shall inform the employee(s) in writing of their decision not to pursue the grievance further. If this occurs, the employee(s) may pursue the grievance on their own through the steps of the grievance procedure, but may not submit a grievance to arbitration. Only the Union has this authority.
- G. If the employee(s) disagrees with the decision of the AFSCME representative, they may file a written appeal with the President within seven (7) calendar days. The President will direct the appeal to the Arbitration/Appeals Committee. The Arbitration/Appeals Committee will schedule a meeting to review the merits of the case, and issue a decision in writing to the employee(s) within twenty (20) calendar days. In its review of the merits of the case, the Committee may consult with the employee(s), the Steward, the Chief Steward, a Business Agent, other involved persons or legal counsel. The employee(s) will be notified in writing of when and where the Committee meeting is to be held, and their right to attend. The appropriate Business Agent will be present, and the AFSCME representative who handled the case will be invited to attend. The Committee will consider all facts relevant to the case, including decisions of arbitrators in similar cases, other bodies' rulings in similar matters, the Union and the employer's interpretations of the agreements or other employment rules, evidence of the employee's lack of cooperation and the cost involved in pursuing the case.

II. ARBITRATION

- A. If the grievance is denied by HR, the Union will petition for arbitration and will inform the employee(s) in writing that it has done so, but has not judged the merits of the case.
- B. The Arbitration/Appeals Committee will then meet to decide whether the case merits arbitration. The employee(s) will be notified in writing of when and where the Arbitration/Appeals Committee will meet with the Business Agent and the Steward who has handled the case when it reviews the case and may consult with the employee(s), the Steward, the Chief Steward, other involved person(s) or legal counsel. The Committee will consider all the facts relevant to the case, including decisions of arbitrators or other bodies ruling on similar matters, the Union's and the employer's interpretation of the agreement or other employment rules, the potential impact of an arbitration ruling, and the cost of continuing the case. The Arbitration/Appeals Committee will inform the AFSCME representative and the employee(s) in writing within ten (10) days of its decision. If the decision is to recommend arbitration, it will inform the Executive Board and will request funding.
- C. Should the employee(s) and/or the AFSCME representative disagree with the decision of the Arbitration/Appeals Committee, they have the right to appeal the decision in writing (at their own expense) to the Executive Board. The Executive Board will only review the appeal to assure that the Arbitration/Appeals Committee has discharged its duties and acted in a fair, thorough and diligent manner in reaching its decision. The Executive Board will provide an answer to the employee(s) and/or the AFSCME representative within seven (7) days after reviewing the matter.

III. DISCIPLINARY ACTION APPEALS

- A. If a bargaining unit employee is served with a notice of proposed disciplinary action and wishes to have Union representation, the employee must immediately notify the AFSCME representative and/or the Business Agent. The representative or Business Agent will advise the employee to sign the request for a Skelly hearing and notify them of the date, time and location of it. The representative or Business Agent will investigate the facts of the case. If the representative or Business Agent determines that because of criminal and/or civil suit pending or other legal matters related to the employment issue, that an attorney may be advisable, they will advise the employee of the option of obtaining representation by an attorney at his or her own expense. In most cases the Union will represent the employee at the Skelly hearing in order to obtain the discovery information of the case.
- B. If, after the Skelly hearing, the District has refused to withdraw the proposed disciplinary action and the employee wishes to pursue the matter, the AFSCME representative will, in consultation with the Business Agent, Union officers, and/or an attorney, recommend whether the Union should represent the employee in the formal appeal of the disciplinary action.
- C. Before the Union determines whether it will represent the employee in the formal appeal of the action, the Business Agent will conduct an investigation into the merits of the appeal. The employee shall have an obligation to cooperate with the investigation. After the investigation is concluded, if the Business Agent believes that valid grounds for an appeal do not exist, or that it is not otherwise in the best interest of the Union to represent the employee in their appeal of the proposed disciplinary action, they shall inform the employee that the Union has declined to provide representation in the appeal of the disciplinary action. The Business Agent shall also inform the employee of their right to represent themselves or to have any other representative of their choice in the appeal.

In all appeals in which the Union agrees to provide representation to an employee, the employee shall complete and sign a representation agreement, a copy of which is attached to this policy. If the employee does not sign the agreement, the Union will not continue representation.

If at any time the employee wants to retain an attorney, they are free to do so at their own expense. In such an occurrence the Union will give the employee a copy of the Union's file on the matter, and will withdraw from representation by notifying the employer and/or the hearing office from the Office of Administrative Appeals. The Union WILL NOT act as co-representative with an attorney. The Union does not hold itself out to warrant or guarantee that its representation will be the same as that provided by an attorney or other representative. Any employee who decides that they want representation other than that provided by the Union is free to make arrangements at their own expense.

- D. If at any time during the process the employee fails to keep in contact with the Business Agent, acts independently of the Union, refuses to follow recommended actions or otherwise fails to cooperate, the Business Agent will inform the employee in writing of their obligations. If the lack of cooperation is not resolved to the satisfaction of the Business Agent, they may cease representing the employee and shall inform the employee in writing that the union is declining further representation. The Business Agent shall also inform the employee of the employee's right to represent themselves or to have any other representative of their choice on the appeal. In such an occurrence, the Union will give the employee a copy of the Union's file on the matter, and withdraw from representation by notifying the employer and the administrative law judge if one has been selected.
- E. If the employee disagrees with the decision of the Business Agent, they may appeal by filing a written appeal with the President within seven (7) calendar days. The President shall direct the Arbitration/Appeals Committee to review the decision. The Arbitration/Appeals Committee will then meet to decide whether the case merits continued representation. The employee will be notified in writing of when and where the Arbitration/Appeals Committee will meet to review the case, with the AFSCME representative present who has handled the case. The Committee shall consult with the employee, the Steward, the Chief Steward, other involved persons and/or legal counsel. The Committee will consider all the facts relevant to the case, including decisions of hearing officers, arbitrators or other bodies ruling on similar matter, the Union's and the employer's interpretations of the applicable rules, regulations, policies, law, or other relevant documents, evidence of the employee's lack of cooperation, and the cost of continuing the case. The Arbitration/Appeals Committee will inform the Business Agent and the employee in writing within ten (10) days of its decision.
- F. Should the employee disagree with the decision of the Arbitration/Appeals Committee they have the right to appeal the decision in writing (at their own expense) to the Executive Board. The Executive Board will only review the appeal to assure that the Arbitration/Appeals Committee has discharged its duties and acted in a fair, thorough and diligent manner in reaching its decision. The Executive Board will provide a written answer to the employee within seven (7) days after reviewing the matter.
- G. Appeals of AWOL separations from employment are subject to Section III of this Representation Policy.

IV. Complaints

- A. If a bargaining unit employee wishes the Union to represent them in connection with a complaint covered by the EGUSD Uniform Complaint procedure, the employee should promptly notify the Business Agent and or an AFSCME representative.

- B. Before the Union determines whether it will represent the employee in connection with a Complaint, the assigned AFSCME representative shall conduct an investigation of the merits of the employee's complaint specifically described in the Uniform Complaint procedure. The employee shall have an obligation to cooperate with the investigation. If after investigation, the AFSCME representative believes that valid grounds for a Complaint do not exist or that it is otherwise not in the best interest of the Union to represent the employee in connection with the complaint, they shall inform the employee that the Union has declined to provide representation in connection with the complaint. The AFSCME representative shall also inform the employee of the employee's right to represent themselves in connection with the complaint.
- C. The employee shall have the same right of appeal as is found in Section III of this Representation Policy.
- D. In the case of complaints of illegal discrimination and administrative complaints that can also be filed with various local, state and federal agencies, the AFSCME representative will do their best to inform the employee of their rights to file with these other agencies.

V. Arbitration/Appeals Committee

- A. The Arbitration/Appeals Committee shall consist of the President, the Vice-President who is also the Chief Steward and one member of the Executive Board, selected by the President and Vice-President at the time the Committee is convened. The Vice-President shall serve as the Chairperson of the Committee. The employee(s) and the AFSCME representative shall be told who will be on their Arbitration/Appeals Committee when it convenes for their case.
- B. Arbitration/Appeals Committee meetings will be held at a location and time that is convenient for the affected employee(s). For example, a grievance of a swing shift employee shall be heard by the Arbitration/Appeals Committee at a time when the employee is off work.
- C. An AFSCME representative can be a Steward, Chief Steward, Officer, Business Agent or other qualified Union Member appointed by the Vice-President to act on the Union's behalf in representational matters. For an arbitration or appeal of a disciplinary action, the AFSCME Representative is typically the Business Agent. Committee members shall be free from bias, prejudice or capriciousness, and should always work to provide the best representation possible for the Union and the employee(s).