

**MFT – ESP Chapter**  
**Comprehensive Disciplinary Contract Proposal:**  
**NEW Site Level Meeting / NEW District Level Hearing/ REVISED Grievance Procedure**

**NOTE** – This is a comprehensive proposal that adds a *Site Level Meeting*, defines the *Due Process Hearing* procedure, and makes revisions to the *Grievance Procedure*. Per the Norms adopted by both sides, the Union proposes a small committee of Union And District negotiation members meet to review this proposal. This proposal is presented as a draft to have a plan to work from as discussion ensues.

**Article 24 Site Level Meeting *NEW ARTICLE***

**NOTE** –Please specifically note that all proposed timelines are highlighted in yellow and open to discussion.

**Article 24 ~~Grievance Procedure~~ Site Level Meeting**

**24.1 Purpose.** Consistent with the purpose that “actions taken to discipline or discharge an employee shall be based upon just cause” and “the principal of progressive discipline” articulated in Section 4 *Rights and Obligations of Employees*, subsection 4.6 *Employee Discipline*, the Site Level Meeting provides a means by which employees subject to discipline or discharge are given timely, fair, due consideration at the site level with an opportunity for resolution within a framework of graduated accountability. Prompt resolution at the site level leads to a better labor management relationship, and retention of employees.

**24.2 Definitions.**

**24.2.1 Alleged Complaint.** Any conflict or dispute alleged by the employer arising from actions of employees alleging violation(s) of employer policies, procedures or practices and merits consideration for resolution, remediation, or discipline at the earliest possible stage and at the most immediate level.

**24.2.2. Days.** Work days excluding Saturday, Sunday and legal holidays as defined by Minnesota law or other recess periods during the employee’s work year.

**24.2.3. Supervisor.** Principal, Assistant Principal, Administrator, Program Coordinator, Site Coordinator, Program Specialist or other personnel who has direct supervision to the employee with an alleged complaint.

**24.2.4. Exclusive Representative.** A Union designee who may include union leadership, stewards, or business agents.

**24.3 Progressive Discipline.** (See “Additional Information” Section, page XX). The following are steps that may be considered.

**NOTE** – Proposed Language for the “Additional Information.” [Steps for remediation are graduated with an emphasis on the lowest step likely to prevent recurrence, allow an opportunity to improve, foster a mutually positive relationship between employer and employee, and promote retention.]

**24.3.1 Non-Disciplinary Outcomes** – may include, but are not limited to the following, none of which is filed in an employee’s personnel file. Non-Disciplinary outcomes are not subject to appeal.

a. **Complaint Withdrawn** – The alleged complaint is found to be unwarranted or a decision is made not to impose any progressive disciplinary steps.

b. **Notices To Supervisors Or Employees.** If during the Site Level Meeting process, it is discovered that supervisors or other employees have misunderstood actions, had misplaced expectations, or misconstrued policies, procedures or practices, which led to an allege complaint being brought and now withdrawn, a supervisor or Employee Relations may take steps to provide clarifications to prevent similar future occurrences.

c. **Coaching And/ Or Training.** The employee is assigned a coach for training purposes, and / or is assigned to take professional development, through the District or outside provider, in person or online with pay provided.

d. **Notices Of Concern/ Letters Of Expectation.** The supervisor issues a written document outlining the complaint, the determination, and future expectations and support, including coaching and training. This letter will be placed with the employee’s supervisor and Employee Relations, but will not be placed in the employee’s personnel file. This step serves as a warning that similar future occurrences may result in further disciplinary action.

e. **Special Assignment.** The supervisor may temporarily reassign or the employee may request that the employee be assigned to another task within the school, or another site within a program, for a period of not more than 20 (twenty) duty days with full wages for the purposes of a cooling off period, onsite coaching, or other remediation need. This period of time could be extended by mutual agreement.

f. Paid administrative leave prior to a decision at the District Level hearing.

**24.3.2 Disciplinary Outcomes**– may include, but are not limited to the following, all of which may be filed in an employee’s personnel file. Disciplinary outcomes are subject to appeal.

a. **Referral To District Level Hearing.** The supervisor does not make a determination on the alleged complaint(s), but rather determines that the decision needs to be made

after a District Level Hearing with Employee Relations, because of conflict of interest, unresolved issues, seriousness of the complaint, or other articulated reasons. This step is not subject to appeal other than being heard through a District Level Meeting.

**b. Notices Of Deficiency / Discipline.** The supervisor issues a written document outlining the complaint, the determination, and the progressive disciplinary steps imposed, which is considered disciplinary, and placed in the personnel file of the employee. This step is subject to appeal with an opportunity for the employee to file for review with Employee Relations for a District Level Hearing, and if not resolved to a grievance.

**c. Suspension or Termination.** A supervisor may recommend, but cannot impose, termination of a suspension with or without pay. Only Employee Relations may impose suspension. This step is subject to appeal with an opportunity for the employee to file for review with Employee Relations for a Due Process Hearing, and if not resolved to a grievance.

**24.4 Complaints.** Any alleged complaint as defined above may start at the Site Level Meeting upon mutual agreement between the District and employee, in keeping with the purpose in Article 24.1 to have complaints resolved at the site level as early as possible. All alleged complaints resulting in administrative leave must start at the District site level.

**24.5 Employer Rights And Obligations.** The employer may remove with pay an employee from their site when a complaint is alleged pending the District Level Hearing.

**24.5.1.** The supervisor alleging an complaint has the opportunity to contact and seek input from Employee Relations, Human Resources, and other departments needed with strict adherence to confidentiality (subsection 24.7).

**24.5.2** No progressive discipline can take place during the pendency of the Site Level Meeting Process.

**24.5.3** No permanent changes in assignment, shift, or duties may take place during this process. No temporary changes in assignment, shift, or duties may take place during this process without mutual agreement, or without notice to Employee Relations and an opportunity for the employee to provide input for the decision.

**24.6 Notice.** The supervisor will provide verbal notification of the alleged complaints to the employee prior to the Site Level Hearing.

**24.6.2 Timing.** The verbal notice must be provided at least 3 (three) duty days before any Site Level Meeting (section 24.10).

**24.6.3. Content.** The verbal notice will provide as known the following:

- a. **Who was involved** – student, staff, parent or caregiver with individual confidentiality protected as required by law.
- b. **What occurred** – A concise statement outlining the nature of the alleged complaint, the actions alleged to constitute a complaint, or the specific provision(s) of this Agreement and or District policy, procedure or practice that are in dispute.
- c. **Where occurred** – The school, site, program location, or other location will be provided, as well as more specific identification of location as known.
- d. **When occurred** – The date and time of the alleged complaint(s) will be provided, as well as duration over hours or days as known.
- e. **Exclusive Representation and Tennesen Warning.** The notice must inform the employee that they have a right to exclusive representation (subsection 24.8 below), and must provide the Tennesen Warning (subsection 24.9 below).

**24.7 Confidentiality.** The notice is strictly confidential. Both sides must not discuss the notice or the alleged complaint(s) to other individuals, except for:

- a. the supervisor may disclose to Employee Relations and Human Resources,
- b. the employee may disclose to their exclusive exclusive representative, union leadership, and stewards, and
- c. The District and Exclusive Representative may talk to other employees whose statements are necessary for understanding the alleged complaint with the understanding that anyone spoken to must adhere to strict confidentiality in not disclosing any information they receive or provide.

**NOTE** – This is placeholder language to address a balance between confidentiality and the need for the District to speak with colleagues to ascertain the veracity of the allegations, and for the employee through the exclusive representative to defend against the allegations.

**24.8. Right Of Employee To Exclusive Representative.** The employee must have the opportunity to identify and meet with an exclusive representative (subsection 24.2.4).

**24.8.1. Preparation.** The employee must have time to meet with their exclusive representative. Exigent circumstances, such as the unavailability of the exclusive representative, will be cause for a continuance of the Initial Information Meeting (subsection 24.10) for up to **3 (three)** additional days.

24.8.2. **Waiver.** An employee who waives their right to exclusive representation for a particular meeting must sign and date a waiver provided by the employer that provides the benefits of representation, and a copy of the waiver must be provided to the employee. Violations will result in any information gained being inadmissible in this process, as well as a subsequent Due Process Hearing or grievance.

24.9. **Tennessee Warning Requirement.** The Minnesota Government Data Practices Act (MGDPA) requires the employer to provide a special notice to employees facing alleged complaints who supply private or public information about themselves to the employer, which is known as the Tennessee Warning (Minn. Stat. §13.04, subd. 2 (2016)). Violations will result in any information gained being inadmissible in this process, as well as at a subsequent Due Process Hearing or grievance.

24.10 **Initial Informative Meeting.** This discussion between the supervisor, employee, and exclusive representative will occur after notice has been provided. By mutual agreement this initial meeting may occur prior to or after the notice is provided, but in no case longer than **10 (ten) duty days** after notice is provided.

24.10.1. **Discussion.** The supervisor will address the alleged complaint(s), and the step(s) within Progressive Discipline that are being contemplated. The employee has the opportunity to provide explanation, clarification, or vindication.

24.11 **Decision.** The decision on imposing progressive discipline will be made only after **at least 3 (three) duty days** after the Initial Informative Meeting to ensure all information is duly considered. Upon mutual agreement, the decision may be imposed at the Initial Informative Meeting. Factors to be taken into consideration include but are not limited to those found in the “Additional Information” Section, page XX.

**NOTE** – Proposed Language for the “Additional Information”

24.11.1 **Factors.** Factors, including but not limited to the following will be considered when rendering a decision.

a. The policy, procedure or practice alleged to have been violated must have been known to the employee through training, distribution or posting of materials, trainings, or other means.

b. The policy, procedure or practice alleged to have been violated must have been consistently enforced for a reasonably period of time.

c. A determination to impose any progressive discipline steps must be proven by substantial and credible evidence.

d. A higher step should not be assessed against one employee that is known not to have been imposed against another employee in the same or a substantially similar complaint. Guidance from Employee Relations may be sought.

e. Progressive discipline steps imposed must be proportional to the gravity of the complaint, taking into account:

i. Mitigating circumstances, such as length of service, good performance record, prompt and sincere contrition, willingness to improve.

ii. Extenuating circumstances, such as poorly communicated directives, inadequate training, insufficient staffing, and frenetic work environment.

iii. Aggravating circumstances, such as poor record of misconduct, malicious intent, belligerence, failure to tell the truth or cooperate, and unwillingness to accept responsibility.

24.11.2 Decision. The decision will be conveyed to the employee and Exclusive Representative.

24.12. Processing During Normal Workday: Processing of the Site Level Meeting shall be during the normal workday whenever possible, and employees shall not lose wages due to their necessary participation.

24.13. Appeals. **Disciplinary Outcome** decisions per subsection 24.3 *Progressive Discipline* may be appealed by the employee within **5 (five) duty days** to Employee Relations for a District Level Hearing.

24.14.1. Content: The employee or Exclusive Representative must provide to the District the reasons for appeal, and request for a District Level Hearing within **5 (five) duty days**.