

APS GUIDELINES FOR ALLEGING VIOLATIONS OF COLLECTIVE BARGAINING RESOLUTION OR COLLECTIVE BARGAINING AGREEMENT

Guidelines as of January 30, 2023

A. Process and Procedure for Alleging Violation of the Collective Bargaining Resolution or the Collective Bargaining Agreement

1. An Exclusive Representative can allege a violation arising out of the interpretation of the Collective Bargaining Resolution (CBR) or the Collective Bargaining Agreement (CBA) for its bargaining unit members.
2. The School Board can allege prohibited conduct with respect to the CBR, a violation of the CBR, or a violation of the CBA.
3. A filing by either the Exclusive Representative or the School Board must include the following:
 - i. The date of the event(s);
 - ii. A description of the event(s);
 - iii. The nature of the alleged violations, including the specific section(s) of the CBR or CBA;
 - iv. A statement of the requested relief.
4. Any allegation by the Exclusive Representative must be raised and submitted to the Director of Labor Relations (Director) within 90 calendar days of the alleged violation in accordance with Section 9.E. of the collective bargaining resolution.
5. Upon receipt of the filing, the Director will select a third-party neutral (Official) to handle the matter. The Director will send the filing to the Official with the Exclusive Representative included on the communication.
6. The Director or the Exclusive Representative will have ten (10) calendar days to respond with an answer to the allegations. The answer will be sent to the party that initiated the filing with the Official included on the communication.
7. After reviewing the initial complaint and answer, the Official will notify the parties whether a recommendation can be made based upon the documents provided or if a hearing is necessary.
8. If the Official opts to make a recommendation based upon the written record, the Official has thirty (30) calendar days from receipt of the party's answer to the initial filing to issue a written recommendation.
9. If the Official determines that a hearing is necessary, the hearing must be held within thirty (30) calendar days from the receipt of the party's answer to the initial filing.
 - i. Each party, at their own expense, is entitled to a representative that may be an attorney. When the hearing date is set, each party must disclose whether it will be represented by an attorney. If either party is being represented by an attorney, the other party is able to do the same.
 - ii. There will be a court reporter to transcribe the hearing. Copies of the hearing transcript will be provided to the Official, the Employer, and the Exclusive Representative.
 - iii. The Official will issue a written recommendation within thirty (30) calendar days of the hearing to the Clerk of the School Board with copies to the Employer and the Exclusive Representative.

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10. The cost of the Official, and any other related expense including the court reporter and the transcript, will be borne equally by the Employer and the Exclusive Representative.
11. Nothing shall prohibit or impede the Employer and Exclusive Representative from reaching a settlement to resolve the matter.
12. In accordance with Va. Code § 3.3-4366, alternative dispute resolution procedures entered into by school boards shall be nonbinding.
13. The Official's recommendation will be submitted for final consideration by the School Board.
14. The School Board may make a decision based on the record including the written recommendation of the Official.
 - i. Either party may file a response to the Official's recommendation with the School Board within ten (10) calendar days and may request a hearing before the School Board.
 - ii. This response must be filed with the clerk of the School Board and must include the other party on this communication.
15. At the School Board's option, it may conduct a hearing to review the case.
16. The hearing will be set within thirty (30) calendar days of the School Board's receipt of the written recommendation from the Official, and the Exclusive Representative will be given at least fifteen (15) calendar days' written notice of the date, time, and place of the hearing.
 - i. The hearing processes set forth in Section A.9.i. and A.9.ii. are applicable to a hearing before the School Board.
 - ii. There will be a court reporter to transcribe the hearing. Copies of the hearing transcript will be provided to the School Board, the Employer, and the Exclusive Representative. Costs will be borne equally by the Employer and the Exclusive Representative.
 - iii. The hearing will be conducted in closed session, and the School Board shall establish the rules for the conduct of the hearing. Such rules shall include the opportunity for opening statements and to present all material or relevant evidence, including testimony of witnesses and the right of all parties or their representatives to cross-examine the witnesses. Witnesses may be questioned by the School Board.
 - iv. The School Board's attorney, assistants, or representatives, if he/she or they represented a participant in the prior proceedings, the Exclusive Representative, and the Exclusive Representative's attorney, shall be excluded from any closed session of the School Board which has as its purpose reaching a decision in this matter. However, immediately after a decision has been made and publicly announced, the School Board's attorney or representative may join the School Board in closed session to assist in the writing of the decision.
17. The School Board will provide its decision within thirty (30) calendar days of receipt of the written recommendation from the Official or the hearing.