

**The Federation, AFT Local 1388**  
**GRIEVANCE POLICY (adopted August 06, 2020)**

**I. Statement of Philosophy:**

Representation of unit members is based upon the principle that every unit member is entitled to contractual and legal due process when a dispute arises in the course of their employment. The representation of an individual by the Federation does not indicate that the organization is making a judgement about the conduct of a unit member or about the issue in dispute. The Federation's role is to ensure due process and represent unit members, not to render judgment. Formal grievances may only be filed for violations of the relevant Collective Bargaining Agreement (CBA). When disputes arise that are not violations of a CBA, the Federation may endeavor to resolve such disputes. Such non-contractual assistance may include helping to mediate the dispute, assisting members in administrative hearings, or pursuing litigation to enforce statutory rights.

**II. Grievance Procedure:**

Federation members should review the grievance procedure carefully, as it governs the process for filing and processing grievances, and any failure to follow the procedures can result in the grievance being denied. This is one additional reason why it is important that unit members should contact their union representative as soon as they feel they might have grounds for a grievance. As a general guide, and only for illustration, not intended to be an authoritative description, here are the basic steps of the grievance process:

Step 1. The unit member writes a declaration about the problem. This written declaration will have a timeline that includes the who, what, where, and when of the issue(s).

Step 2. The unit member reviews the appropriate section of the contract and determines if the grievance is a contractual violation or an issue outside of the contract. In other words, was the contract violated? The second question that the unit member should ask is, "Does this issue only impact me or is it a broader issue that affects more than an individual?" After thinking about these two questions, the unit member should set up a meeting with the program or Division Representative to discuss a strategy for the issue. The unit member also has the option of contacting an officer of the Federation Executive Board, including the Chief Grievance Officer.

Step 3. (Informal) Based on the strategy developed on the basis of the meeting between the unit member and Division Representative, an informal meeting with the immediate supervisor should be scheduled with the goal to resolve the issue/grievance within the time limit set forth in the CBA.

Step 4. If the grievance is not resolved at the informal level, the unit member presents the grievance, in writing, to the appropriate administrator as indicated in the CBA within the time limits set forth in the CBA.

Steps 5+. If the grievance is still not resolved, it can be appealed in a timely manner to the next higher-level manager as set forth in the relevant CBA through the various steps of the grievance process. A grievance that is not resolved at the culmination of the grievance process can ultimately be appealed to arbitration by the Federation, or by the member themselves in the cases of appeal of discipline only.

### **III. Conditions of Representation:**

A. To request formal representation by the Federation, the unit member making the request shall submit a timely written request for representation to the Federation's Grievance Chair, a Federation Executive Board member, or the Federation President. If the request is submitted to the Federation's Grievance Chair or a Federation Executive Board member, the request will be forwarded to the Federation's President for review. The initial determination as to whether or not to grant the request for representation shall be made by the Federation President as the executive officer of the union, in consultation with the Grievance Chair and/or the Federation legal counsel and other relevant Federation site representatives. The Federation President's initial determination shall be provided in writing to the unit member making the request.

B. If the Federation President grants the request for representation, the unit member shall:

1. Promptly and fully cooperate with the Grievance Chair or designee, including providing the Federation with any information which the Federation deems necessary for representing the unit member;
2. Be forthcoming and honest with the Grievance Chair or designee about information relevant to the case; and
3. Take no independent action regarding the case without the knowledge and consent of the Grievance Chair or designee.

C. Should the unit member fail to follow the above conditions, the Federation may cease its representation of said unit member. In addition, if a unit member refuses to accept a settlement which the Federation considers reasonable, the Federation may cease its representation of said unit member. If the Federation ceases to represent a unit member, it shall notify the unit member of such decision in writing.

D. The unit member may also rescind authorization for Federation representation by submitting a written notice to the Federation representative in charge of processing the grievance.

E. If the Federation President denies or terminates the request for representation at any stage of the process, the requesting unit member may appeal this decision under section IV, detailed below. The unit member may request that the Federation President re-consider the denial by submitting a written request to the President that includes a detailed statement of why the decision should be reconsidered including, if relevant, a statement of how facts have changed since the initial determination was made. If the Federation President reaffirms the initial denial the requesting unit member may proceed to appeal under section IV below.

### **IV. Stages of Representation:**

A. All unit members have the right to pursue any grievance on their own behalf, up to the level of arbitration. In cases of the appeal of discipline, unit members may proceed to arbitration on their own behalf as well.

B. If the unit member desires representation by the Federation, the Federation's Grievance Chair or Federation designee must be present for or have knowledge of the initial informal dispute resolution meeting.

C. The decision of whether to represent the unit member shall ultimately belong to the Federation. A unit member who is being represented by the Federation shall be entitled to Federation representation at all stages of the grievance. However, the Federation may exercise its right to withdraw representation at any stage of the grievance process, subject to the considerations set forth in subsections G and H below.

D. If a grievance is not resolved prior to arbitration, the Federation will decide whether to submit the matter to arbitration, mediation, or neither.

E. Should the Federation President communicate to the member that the Federation will not be advancing the grievance, the grievant may appeal the matter to the Federation's Grievance Committee within seven calendar days of being notified by the Federation President. The appeal shall be in writing and shall clearly state the reasons for appealing the initial determination of the Federation President. The Grievance Committee shall then decide, on the basis of the written appeal, whether to reverse the initial determination or to grant a closed session hearing with the grievant. If the Grievance Committee sets the appeal for a hearing, it shall decide at the conclusion of the hearing, in an executive committee session, whether or not to proceed to advance the grievance. The Grievance Committee shall communicate their decision to the requesting member in writing via the Federation's Grievance Chair.

F. Should the Federation's Grievance Committee decide against advancing the grievance, the grievant may make a final written appeal to the Federation's Executive Board. The written appeal must be submitted within seven calendar days of receipt of the Grievance Committee's decision. The written appeal must clearly state the reasons for appealing the Grievance Committee's decision, and why the grievant believes the Federation would win the case if it went to arbitration. The Executive Board shall base its decision to reverse or uphold the Grievance Committee's decision on the written appeal supplied by the grievant. Executive Board members who participated in the Grievance Committee's decision shall be excluded from voting on the appeal to the Executive Board, but shall be allowed to speak to the merits of the grievance. A simple majority of the remaining Executive Board members eligible to vote shall be required to reverse or uphold the Grievance Committee's decision. If the Grievance Committee's decision is reversed, the grievance will continue to be processed to the next step in the grievance procedure with Federation representation. The decision of the Executive Board shall be final and not subject to further appeal.

G. Should the need arise for litigation (whether in appeal of an arbitration ruling, on a matter not subject to the grievance process, or otherwise), the Federation President shall, in consultation with the Federation's attorney, make a recommendation to the Federation's Executive Board as to how to proceed. The Executive Board, by majority vote, shall make this final decision. The decision of the Executive Board shall be final and not subject to further appeal.

H. In all cases, the decision on whether to proceed with a case shall be made on the merits of the case, its possible impact on other unit members, the costs involved, whether the matter falls outside the Federation's scope of representation (such as litigation and representation at administrative proceedings), and the likelihood of winning the case.