

TO: Juneau School District Board of Education
FROM: Board Members Holst, Kelly, and Stepetin Sr.
DATE: July 8, 2021
SUBJECT: Grievance 2021-01: Recommendation by the Grievance Panel

Below are the Panel's findings and recommendation concerning Grievance 21-01, issued in accordance with Article 23, Section 2, Step 4 of the negotiated collective bargaining agreement (CBA) between the Juneau School District Board of Education (Board) and Juneau Education Association, of which the grievant is a beneficiary.

For the reasons explained below, the Panel recommends the grievance be referred back to the Juneau School District (District) for proper consideration of the grievance steps.

I. PROCEDURAL HISTORY

On June 22, 2021, the grievant submitted a letter to the Board. In his letter, the grievant stated that he had sent in a request for unused sick leave, that it was denied, and he had appealed the decision to Human Resources and met with Superintendent Dr. Weiss. The grievant asked the Board to proceed to step 4 of the grievance process and requested that he be paid the \$150 per day for his unused sick leave before he retired. No further information was provided regarding the grievance.

On June 30, 2021, at the request of the Board president, the grievant provided additional information. This information clarified that the grievance involved cash-out of personal leave, and included an email chain from District payroll and the Human Resource Director in which the Director informed the grievant that his failure to apply for cash out of his personal leave prior to the end of the school year resulted in forfeiture of that leave. The grievant also provided an email chain from Superintendent Dr. Weiss where the grievant requested a meeting. The chain ends with Superintendent Dr. Weiss thanking the grievant for his time and saying she knew she did not resolve all the issues.

Following receipt of this information, a hearing was scheduled before the Panel on July 6, 2021. On the day of the hearing, the District provided additional documents regarding the grievant's retirement, as well as a statement regarding the District's position on the grievance. The Panel held the hearing and provided an opportunity for the grievant and District to state their positions and answer the Panel's questions.

On July 8, 2021, the grievant submitted an additional document to the Board regarding his July 2nd paycheck. However, this information was not considered by the Panel in reaching its recommendation.

II. FINDINGS

After review of the record provided by the grievant and the District, it is apparent that the grievance process was not followed, which denied the District the opportunity to fully understand and potentially resolve the grievance prior to the Panel's hearing. As provided below, the Panel finds that in order to meet the CBA's requirements and ensure the parties have a complete opportunity to discuss the grievance and potentially work to a resolution, it is necessary to refer the grievance back to Step 3.

Pre-Grievance Procedure

Under Article 23, Section 2, an employee is first required to try to resolve any incident or problem through informal conversations with their immediate supervisor. The grievant provided testimony that this occurred, and that his immediate supervisor did not think she had the authority to resolve problems related to his personal leave cash-out. The Panel accepts this informal conversation occurred and allowed the grievant to initiate the grievance process.

Step 1

Article 23, Section 2, Step 1 requires the employee to present the grievance in writing to their supervisor within thirty (30) work days, excluding summer vacation, after the aggrieved employee knew of the act or condition on which the grievance is based. The grievance must state the alleged violation and all pertinent information and resolution sought. The employee's supervisor is required to arrange for a meeting within five (5) working days after receiving the grievance and provide the employee with a written answer within five (5) work days after the meeting.

This step was not followed. There is no evidence that the grievant provided his supervisor a written grievance beyond his informal conversation, and no written response from his supervisor was provided. However, the Panel accepts that the grievant's supervisor may not have the authority to resolve this particular grievance. While the Panel does not find Step 1 was followed, it does not find remanding this grievance back to Step 1 is beneficial to either party.

Step 2

Article 23, Section 2, Step 2 requires that if the grievance is not resolved in Step 1, the employee "shall refer the grievance in writing, stating the alleged violation, all pertinent information, and the supervisor's response to the Human Resource Director or designee...within ten (10) workdays after the receipt of Step 1 answer." The Human Resource Director is required to arrange for a meeting with the employee within ten (10) workdays after receipt of the appeal. Upon conclusion of the meeting, the Human Resource Director has ten (10) workdays to provide a written decision to the employee.

This step was not followed. The grievant provided an email chain dated June 4, 2021 between District Payroll, Human Resources, and himself regarding personal leave cash-out, but there is no evidence that this email was intended as a grievance. The District was not afforded the opportunity to arrange a meeting with the grievant or otherwise provide a formal response. However, the Human Resource Director's response to the grievant was unequivocal regarding denial of the personal leave cash-out. While the Panel does not find that this step was satisfied and could remand the grievance back to this step due to the failure of the grievant to follow the

appropriate process, it does not find that the Human Resource Director's written response to a formal grievance would change.

Step 3

Article 23, Section 2, Step 3 requires that if the grievance is not resolved in Step 2, the employee "shall refer the grievance, in writing, stating the alleged violation, all pertinent information, and the supervisor's response to the Superintendent or designee, within ten (10) work days after receipt of the Step 2 answer." The Superintendent must arrange to meet with the employee within ten (10) work days after receipt of the appeal, and issue a written decision within ten (10) workdays of the meeting.

This step was not followed. The grievant provided a vague email chain between Superintendent Dr. Weiss and himself that only alluded to a discussion on various topics, including personnel issues, and that his issues were not all resolved. There is no formal response from Superintendent Dr. Weiss or any indication that she was fully apprised of the nature of the grievant's request. While the Superintendent provided the Panel with a statement and testimony on the day of the hearing regarding the District's position, it is apparent that the District did not have the opportunity to fully apprise itself of the grievant's complaint or work through the issues presented.

The Panel recommends the Board remand the grievance back to this step to provide the parties an opportunity to fully discuss the grievance. The steps in the grievance process are intended to help the parties to resolve disputes and ensure a grievant has exhausted all of his available avenues before involving the Board. Allowing a grievant to forego every required step in the grievance process and go directly to the Board would eviscerate the requirements of the CBA and deny the District and grievant a fair opportunity to work through their disputes prior to a hearing.

Personal Leave

In referring the grievance back to the District, the Panel recognizes the District has provided its interpretation of Article 18, Section 2, Personal Leave. The Section provides as follows:

Each certificated employee will be entitled to four (4) days of paid personal leave annually, and will be allowed to carry a maximum of ten (10) days each year. At the end of the school year, if more than ten (10) days remain unused, the District will pay the teacher \$150 per day for any unused days over the allowable ten (10) days. Teachers can cash out unused leave at any time during the school year at a rate of \$150 per day, prorated.

The Panel reads this section to apply to situations regarding the carrying-over of personal leave between school years. It is silent regarding situations where an employee retires, resigns, or is otherwise terminated after the school year. If a Step 3 meeting occurs, the Panel recommends the parties to fully examine the intent of this section and if it applies to the employees who are not continuing their employment with the District during the next school year.

III. RECOMMENDATION

For the reasons explained above, the Panel recommends remanding the grievance back to the District so that the proper grievance steps may be followed. The grievant shall have ten (10) work days to refer his grievance in writing to Superintendent Dr. Weiss or her designee and allow for the required meeting to discuss this grievance and issue a written decision.