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### Clarification of Evaluation Grievance Timeline

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#### The Background:

The Tennessee Board of Education Teacher and Principal Evaluation Policy 5.201 and Tennessee Code Annotated §49-1-302, require the development of a local-level evaluation grievance procedure to provide a means for evaluated teachers and principals to challenge only the accuracy of the data used in the evaluation and the adherence to the evaluation policies. Local boards of education must adopt local level grievance procedures in compliance with the grievance portion of Policy 5.201. Section (3) (a) of the Local Level Grievance Procedure portion of Policy 5.201 includes a timeline for teachers and principals to file grievances by specifically stating, “A grievance must be filed no later than 15 days from the end of summative evaluation, otherwise it will be considered untimely and invalid.” The current policy does not define “summative evaluation”.

The Department of Education recommends making the following revisions to Policy 5.201:

- 1) Delete the current language in Section (3) (a) of the Local Level Grievance Procedure portion of Policy 5.201 and substitute instead the following:

*To resolve grievances as expeditiously as possible pursuant to section (1)(d) above, grievances may be filed at the end of each of the three components of the evaluation model – 1) qualitative appraisal; 2) student growth measures; and 3) other measures of student achievement. A grievance must be filed no later than 15 days from the date teachers and principals receive the results for each component, otherwise the grievance will be considered untimely and invalid.*

- 2) Delete the word “summative” from Section (3) (e) (4) of the Local Level Grievance Procedure portion of Policy 5.201.
- 3) Delete the phrase, “no later than 15 days from the end of the summative evaluation” from Section (4) (a) (1) of the Local Level Grievance Procedure portion of Policy 5.201 and replace it with the phrase, “pursuant to the timeline listed in Section (3) (a).”

#### The Master Plan Connection:

This item supports the Board’s *Master Plan* by providing student access to effective school leaders and teachers by ensuring teacher and principal evaluations are conducted in compliance with state law and state board of education policy.

**First to the Top Connection:**

This item supports the FTTT goals by ensuring all teachers and principals are evaluated annually with an opportunity to grieve procedural errors in the evaluation process as required by the First to the Top Act of 2010.

**The Recommendation:**

The Department of Education recommends adoption of the above referenced revision on final reading. The SBE staff concurs with this recommendation.

## **Local-Level Grievance Procedure**

### (1) Purpose.

- (a) To comply with Tenn. Code Ann. §49-1-302 which requires, “the development of a local-level evaluation grievance procedure to provide a means for evaluated teachers and principals to challenge only the accuracy of the data used in the evaluation and the adherence to the evaluation policies adopted by the State Board of Education.”
  - 1. “Accuracy of the data” means only that the data identified with a particular teacher is correct.
  - 2. Minor procedural errors in implementing the evaluation model shall be resolved at the lowest possible step in the grievance procedure but shall not constitute grounds for challenging the final results of an evaluation. Minor procedural errors shall be defined as errors that do not materially affect or compromise the integrity of the evaluation results. The final results of an evaluation may only be challenged if the person being evaluated can demonstrate, no later than during step II of the grievance procedure that the procedural errors made could materially affect or compromise the integrity of the evaluation results. The department of education shall provide guidance on which procedural errors may materially affect or compromise the results of the evaluation.
- (b) To efficiently and fairly resolve grievances regarding procedural errors in the evaluation process, not to address disputes regarding employment actions taken based on the results of an evaluation. More significant due process rights are provided pursuant to state law to teachers when actual employment actions are taken.
- (c) To ensure evaluations are fundamentally fair because correct procedures have been followed.
- (d) To address grievances objectively, fairly, and expeditiously by resolving them at the lowest possible step in the procedure.
- (e) To provide teachers and principals a process for resolving grievances without fear, discrimination, or reprisal.

### (2) Responsibility.

- (a) LEAs shall be responsible for the proper effectuation of this policy at the local level.

(b) Local Boards of Education shall charge Directors with the responsibility for ensuring that all teachers, principals and administrators are aware of the provisions of this policy, including the identification of the administrator designated to conduct Step I of this procedure.

(3) Basic Standards.

(a) To resolve grievances as expeditiously as possible pursuant to section (1)(d) above, grievances may be filed at the end of each of the three components of the evaluation model – 1) qualitative appraisal; 2) student growth measures; and 3) other measures of student achievement. A grievance must be filed no later than 15 days from the date teachers and principals receive the results for each component, otherwise the grievance will be considered untimely and invalid. Nothing shall preclude a teacher or principal from filing a grievance at any time prior to the deadlines stated herein.

(b) The State Department of Education or LEAs may develop and make available to teachers standard grievance forms. No grievance may be denied because a standard form adopted by a LEA has not been used as long as the components required by this policy are included.

(c) At the informal hearing before the Director of Schools, an attorney or a representative of an employee may speak on behalf of the employee.

(d) An attorney may represent a grievant before the local board of education, which is the final step of this procedure. The grievant and the local board of education may have counsel present at discussions prior to the final step.

(e) Each grievance submitted at every step of the process provided below shall contain:

1. the teacher or principal's name, position, school, and additional title if any;
2. the name of the teacher or principal's immediate supervisor;
3. the name of the evaluator/reviewer;
4. the date the challenged evaluation was received;
5. the evaluation period in question;
6. the basis for the grievance;
7. the corrective action desired by grievant; and
8. sufficient facts or other information to begin an investigation.

(f) A failure to state specific reasons shall result in the grievance being considered improperly filed and invalid.

(g) All student achievement data used in evaluations must be made available to individual educators prior to the completion of their evaluations.

(4) Procedures. Grievances shall be processed by working through the 3 steps to finality as follows:

(a) Step I—Evaluator

1. Written grievance submitted to evaluator pursuant to the timeline listed in Section (3) (a).
2. Administrative investigation and fact finding.
3. Decision clearly communicated in writing to grievant within fifteen (15) days of receipt of the complaint.
4. To allow disputes to be resolved at the lowest level possible, the Evaluator may take any action necessary, based on the circumstances, to immediately correct any procedural errors made in the evaluation process.

(b) Step II—The Director of Schools or his/her designee who shall have had no input or involvement in the evaluation for which the grievance has been filed.

1. Written grievance and prior step decision submitted to the Director of Schools or his/her designee within fifteen (15) days of receipt of decision from Step I. The designee cannot be used in cases involving a principal's evaluation.
2. Informal discussion or hearing of facts, allegations, and testimony by appropriate witnesses as soon as practical.
3. Investigation, fact finding, and written final decision communicated to grievant in writing within fifteen (15) days of discussion.
4. To allow disputes to be resolved at the lowest level possible, the Director of Schools may take any action necessary, based on the circumstances, to immediately correct any procedural errors made in the evaluation process.

(c) Step III—Local Board of Education

1. Teachers and principals may request a hearing before the local board of education by submitting a written grievance and all relevant documentation to the local board of education within fifteen (15) days of receipt of decision from Step II.
2. The board of education, based upon a review of the record, may grant or deny a request for a full board hearing and may affirm or overturn the decision of the Director of Schools with or without a hearing before the board;

3. Any hearing granted by the board of education shall be held no later than thirty (30) days after receipt of a request for a hearing.
4. The local board of education shall give written notice of the time and place of the hearing to the grievant, Director of Schools and all administrators involved.
5. The local board of education's decision shall be communicated in writing to all parties, no later than thirty (30) days after conclusion of the hearing.
6. The local board of education shall serve as the final step for all grievances.