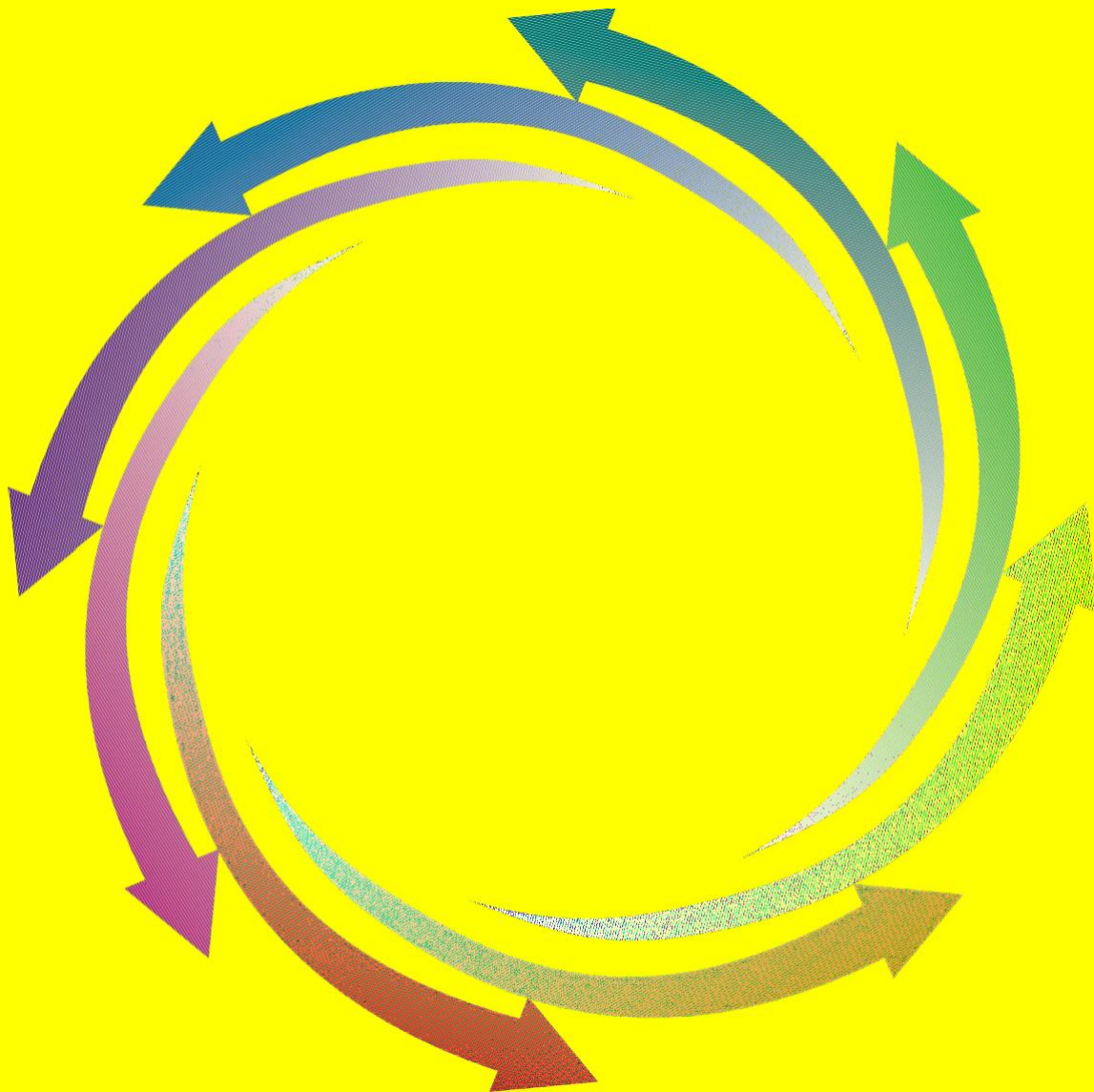


Jefferson County  
Public Schools

# Discrimination Grievance Procedure



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## Section 1: POLICY

The Jefferson County Public School (JCPS) District shall provide a learning and working environment free from discrimination. JCPS is governed by federal, state, and local antidiscrimination laws and acts. To that end, these procedures provide a mechanism of redress for students, parents, guardians, employment applicants, and employees to identify barriers to a discrimination-free learning and working environment. The following grievance procedure is provided as an avenue for the expeditious processing of complaints toward the elimination of unlawful acts of discrimination. Please see Jefferson County Board of Education (JCBE) policies: 03.262 – Harassment/Discrimination (Classified Personnel); 03.162 Harassment/Discrimination (Certified Personnel); 09.41811 – Harassment/Discrimination; 03.113 – Equal Employment Opportunity (Certified Personnel); 03.212 – Equal Employment Opportunity (Classified Personnel); and 09.13 Equal Educational Opportunities (Students).

## Section 2: SCOPE

These procedures shall govern all compliance proceedings for students, parents, employment applicants, and employees of JCPS, to include potential discrimination by third parties. These procedures also include the District's jurisdiction over Title IX complaints. Complaints may be filed if an individual believes that discrimination has occurred as follows:

1. Alleged discriminatory practices on the basis of disability with regard to placement, access to services, treatment, or employment in programs or activities.
2. Alleged discriminatory practices due to an individual's race, color, national origin, age, religion, marital or parental status, political affiliations or beliefs, sex, sexual orientation, gender identity, gender expression, veteran status, genetic information, or disability.
3. Alleged discriminatory practices under Title IX complaints.

4. Alleged retaliation, harassment, or intimidation due to an individual's filing of a grievance or participating in an investigation, proceeding, or hearing regarding a charge of discrimination or due to the opposition of language or conduct, which violates the above-stated policy.

## Section 3: DEFINITIONS

**Allegation** means an incident(s) that the grievant believes constitutes an unlawful form of discrimination.

**Agency** means Jefferson County Board of Education.

**Day** means a scheduled work day for employees and the time allotted for processing employee grievances; a school day for students/parents and the time allotted for processing grievances from the same.

**Discrimination** means making a distinction in the treatment of people due to race, color, national origin, age, religion, marital or parental status, political affiliations or beliefs, sex, sexual orientation, gender identity, gender expression, veteran status, genetic information, or disability.

**Employee** means any person employed by the Jefferson County Board of Education.

**Grievance** is a complaint of discrimination on the basis of race, color, national origin, age, religion, marital or parental status, political affiliations or beliefs, sex, sexual orientation, gender identity, gender expression, veteran status, genetic information, or disability; alleged retaliation; harassment; or intimidation due to participation in an investigation, proceeding, or hearing regarding a charge of discrimination. Any student, parent, employee, or employment applicant may file a grievance.

**Grievant/Complainant** is the person who files a complaint based on alleged discrimination.

**Individual with Disability** means any person who (1) has a physical or mental impairment that substantially limits one or more of such

person’s major life activities; (2) has a record of such impairment; or (3) is regarded as having such an impairment.

**Party** means one or more individuals or a grievant’s representative.

**Respondent** means a party answering the complaint.

**Religion** means all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he or she is unable to reasonably accommodate a student’s, employee’s, or prospective employee’s religious observance or practice without undue hardship on the conduct of the employer’s business.

**Sexual Harassment** is defined as unwelcome sexual advances, requests for sexual favors, other verbal and/or physical behaviors of a sexual nature (including sexual violence), and the use of symbols to create a climate that adversely affects the work environment or educational process.

**Student** means any individual enrolled in Jefferson County Public Schools.

**Superior** is defined as an employee’s immediate supervisor or the school principal in cases originating from a student or parent.

**Title II of the Civil Rights Act of 1964** applies to state and local government entities and, in subtitle A, protects qualified individuals with disabilities from discrimination on the basis of disability in services, programs, and activities provided by state and local government entities. Title II extends the prohibition on discrimination established by Section 504 of the Rehabilitation Act of 1973, as amended.

**Title IV of the Civil Rights Act of 1964** prohibits discrimination on the basis of race, color, sex, religion, or national origin by public elementary and secondary schools and public institutions of higher learning.

**Title VI of the Civil Rights Act of 1964** prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.

**Title VII of the Civil Rights Act of 1964, as amended**, prohibits employment practices that discriminate because of race, color, national origin, sex, and religion. This section also enforces the Uniformed Services Employment and Reemployment Rights Act of 1994, prohibiting employment practices that discriminate because of an individual’s past, current, or future military status, service, or obligation.

**Title IX of the Education Amendments of 1972** is a comprehensive federal law that prohibits discrimination on the basis of sex in any federally funded education program or activity.

## Section 4: REPRESENTATION

1. Individuals who file complaints under these procedures are entitled to be accompanied, represented, and advised by a representative of their choice throughout all stages of the complaint process. Nothing contained therein shall be construed to require any representative to be an attorney-at-law.
2. JCPS may appear by any of its officers, by an employee, or by counsel it authorizes to appear on its behalf.

## Section 5: CONFIDENTIALITY AND ASSURANCES

Information regarding an investigation of alleged discrimination shall be kept confidential to the greatest extent possible. However, information is revealed as law permits, such as Open Records Law KRS 61.870-61.884. Individuals involved in the investigation shall not discuss information regarding the complaint outside the investigation process.

The District will take steps to prevent the recurrence of any prohibited actions and to correct its discriminatory effects on the complainant and others, if appropriate.

The District reserves the right to take whatever interim measures it deems necessary to protect a grievant during the course of an investigation, where applicable. Measures may include, but are not limited to, change in class schedules, change in worksite placement, counseling, and/or tutoring.

Sources of counseling, advocacy, and support may include, but are not limited to, on-site counselors, mental health counselors, and outside community-based counseling programs.

Steps the District may deem necessary in response to substantiated complaints include, but are not limited to, individual/small group training, and/or discipline based on the *JCPS Student Support and Behavior Intervention Handbook* and JCBE Board Policies for employees.

Potential remedies/sanctions: An employee who engages in, or is complicit in, harassment/discrimination of another employee or a student on the basis of any of the protected categories shall be subject to disciplinary action including, but not limited to, termination of employment.

Potential remedies/sanctions: A student who engages in harassment/discrimination of an employee or another student shall be subject to disciplinary action including, but not limited to, suspension or removal to an alternate educational setting.

Students, parents, employee applicants, or employees of JCPS may access the Ethics Point website as a means of confidential reporting of discrimination, harassment, or sexual harassment. This website is monitored by an outside entity that notifies Compliance and Investigations of reports submitted.

All JCPS A-1 schools are staffed with at least one qualified school counselor who is available to any JCPS student.

## Section 6: AMICABLE RESOLUTION

Amicable resolution is encouraged at any stage of proceedings where such resolution is consistent with the provisions and objectives of these procedures.

## Section 7: (Optional) INFORMAL RESOLUTION

### Level I

1. Many problems can be solved by an informal meeting with the aggrieved person and the immediate supervisor. Grievants are encouraged to discuss their complaints with the proper authorities in a prompt manner. A parent or student with a complaint may choose to first discuss the grievance with the school principal or designee involved with the objective of resolving the matter promptly and informally. Employees with a complaint may also choose to first discuss it with their immediate supervisor with the same objective. Complaints of sexual harassment may be discussed with the Director of Compliance and Investigations or first-line supervisor or administrator who is not involved in the alleged harassment.
2. The grievant and the immediate supervisor may confer concerning the grievance with the objective of arriving at a mutually satisfactory resolution. At the conference, the immediate supervisor should inform the grievant of the Board policy on discrimination complaints. The grievant should expect a decision at the end of the informal meeting or within a reasonable time thereafter (within five working days).
3. If the matter is not voluntarily resolved to the satisfaction of the grievant, then within five working days of the informal decision, the grievant may file a formal written complaint and submit it to:

Director of Compliance and Investigations  
Jefferson County Public Schools  
C.B. Young Jr. Service Center  
3001 Crittenden Drive  
Louisville, KY 40209-1104

Necessary forms for filing may be obtained from any JCPS school, from an immediate superior, or from the Director of Compliance and Investigations by calling **485-3341** during normal business hours.

4. All persons submitting complaints shall be given or mailed—by certified mail, return receipt requested—a copy of these procedures.

## Section 8: FORMAL RESOLUTION

### Level II

1. If the complaint or issue is not resolved at Level I, the grievant may file a written complaint with the Director of Compliance and Investigations within five working days of the Level I disposition. A complaint must contain a signed statement from the person claiming to be aggrieved. This statement must be sufficiently precise to identify the aggrieved individual and the operating unit or departmental office or school and to describe generally the action(s) or practice(s) that forms the basis of the complaint. The complaint also must contain a telephone number and address where the complainant or his or her representative may be contacted. Formal grievances should be submitted on the Discrimination Grievance Form (Form B or C).
2. The Director of Compliance and Investigations shall acknowledge receipt of a complaint, in writing, and shall inform the grievant of the date on which the complaint was received.
3. The Director of Compliance and Investigations/ designee shall conduct a complete and fair investigation of the grievance within 25 working days of the clarifying interview with the complainant unless the parties agree in writing to extend that period.

## Section 9: DISMISSAL OF GRIEVANCES

The Director of Compliance and Investigations or designee shall dismiss a grievance or a portion of a grievance (unless the District has been put on notice that an ongoing sexually hostile environment may exist in a building/department or a sexual harassment complaint has been filed):

1. That fails to state a claim under Section 2 sub-paragraph 1, 2, 3, 4;
2. That fails to comply with the applicable time limits contained in Sections 7 and 8, unless the Director of Compliance and Investigations determines, that due to extenuating circumstances, the time limit should be extended;
3. That is the basis of a pending civil action in a United States District Court or State Court in which the complainant is a party, provided that at least 180 days have passed since the filing of the administrative complaint, or that was the basis of a civil action decided by a United States District Court in which the complainant was a party;
 

The exception to dismissal of a complaint pending civil action in a United States District Court or State Court is that a grievant may file a criminal complaint and a grievance relating to Title IX concurrently.
4. Where the complaint has been filed pursuant to a labor-management agreement and/or administrative grievance procedure that permits allegations of discrimination;
5. That is moot or alleges that a proposal to take a personnel action or other preliminary step to taking a personnel action is discriminatory;
6. Where the grievant cannot be located, provided that reasonable efforts have been made to locate the grievant, and the grievant has not responded within 15 days to a notice of proposed dismissal sent to his or her last-known address; or
7. Where the Director of Compliance and Investigations has provided the grievant with a written request to provide relevant information or otherwise proceed with the complaint, and the complainant has failed to respond to the request within ten days of

its receipt or the grievant's response does not address the agency's request, provided that the request included a notice of the proposed dismissal.

resolution, the Director of Compliance and Investigations or designee will prepare a written report of the investigation, which shall include the following:

## Section 10: INVESTIGATION OF COMPLAINTS

1. The following procedures apply:

a. The grievant, the operating unit, departmental office, or any JCPS employee shall produce such documentary and testimonial evidence to the Director of Compliance and Investigations or designee. Statements of witnesses may be required to be made under oath or affirmation. Both parties of the complaint will have the opportunity to present witnesses and other evidence.

b. A respondent, whether identified at the time a formal grievance is filed or during the investigation, must be given an opportunity to respond to all allegations made against him or her. In this respect, the Director of Compliance and Investigations or designee should interview and receive information from the responding official as often as may be necessary to ensure that the responding official has an opportunity to respond to all of the allegations. Pertinent documents (i.e., documents in which the respondent is identified and charged with discrimination or other wrongdoing) intended for inclusion in the investigative file in which the respondent is named must be made available to the official for this purpose. Names of and identifying information of persons, other than

the complainant and the respondent, should be deleted from copies of the documents shown to the respondent in order to protect such persons from unwarranted invasions of privacy.

2. The Director of Compliance and Investigations has the authority to investigate all written grievances. The superintendent may designate other investigators as warranted. If possible, and agreeable with the grievant, the Director of Compliance and Investigations will facilitate the resolution of the grievance at any stage in the proceedings. If the grievant and responding official cannot agree on the

a. A clear statement of the allegations of the grievance and remedy sought by the grievant.

b. A signed statement of the facts, as contended by the party, certifying that the party has read the document.

c. A statement of the facts, as found by the Director of Compliance and Investigations, and identification of evidence to support each fact.

d. A list of all witnesses interviewed and documents reviewed during the investigation.

e. A narrative describing attempts to resolve the grievance.

f. A state of conclusion as to whether the allegation(s) in the grievance are meritorious and explicitly state if discrimination occurred.

g. A preponderance of the evidence (i.e., more likely than not that discrimination occurred) will be the standard used in investigating a complaint.

After receipt of the written grievance, the Director of Compliance and Investigations or designee will complete the investigation and issue a decision within **25 working days** of the clarifying interview. The decision shall state findings of fact and conclusions of law and the reasons, therefore, upon all material issues of fact or law presented on the record and may recommend that action be taken. The decision shall contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of these procedures. A copy of the written report may be requested through the Kentucky Open Records Law KRS 61.870-61.884.

## **Section 11: APPEAL OF DECISIONS**

The following procedures apply when appealing the decisions of the Director of Compliance and Investigations:

1. Within five working days after receipt of the Compliance and Investigations Director's decision, any party may appeal any part of the findings and corrective actions to the superintendent by filing a written appeal from the decision with the superintendent/designee (see Attachment D). The appeal shall briefly state the reasons for the appeal.
2. The superintendent/designee shall review the previously presented information and administrative decisions and conduct any necessary meetings and investigations in order to render a fair and impartial decision.
3. The superintendent/designee shall issue a written decision within five working days after receipt of the appeal from the Compliance and Investigations Director's decision. The superintendent's/designee's decision shall be final. Copies of the final decision shall be sent to all appropriate parties.



# Discrimination Grievance Checklist for Jefferson County Public Schools

The following checklist should be followed for the filing of a grievance alleging discrimination, using the Jefferson County Public Schools' discrimination grievance procedures. This checklist is provided to facilitate understanding of the grievance process.

## Informal Resolution (Optional)

- 1. Discuss the grievance with immediate supervisor, with the purpose of resolving the issue. The principal is the student's immediate supervisor. An exception is that complaints of sexual harassment may be discussed with the Director of Compliance and Investigations first-line supervisor or administrator who is not involved in the alleged harassment.
- 2. Expect a decision at the conclusion of this conference or a reasonable time thereafter.
- 3. Should the immediate supervisor's decision be unsatisfactory in resolving the issue, then, within five working days of the informal decision, file a formal written complaint to:

Director of Compliance and  
Investigations  
Jefferson County Public Schools  
C.B. Young Jr. Service Center  
3001 Crittenden Drive  
Louisville, Kentucky 40209-1104  
485-3341

Necessary forms for filing may be obtained from any JCPS school, from an immediate supervisor, or from the Director of Compliance and Investigations.

## Formal Resolution

- 1. The grievant should submit a formal written complaint on the Discrimination Grievance Form.
- 2. The Director of Compliance and Investigations shall be empowered to investigate all written grievances and take all necessary action to avoid delay and maintain order in the proceedings.
- 3. The Director of Compliance and Investigations may hold a conference to resolve the issue(s).
- 4. The Director of Compliance and Investigations may interview witnesses as part of the fact-finding process.
- 5. The Director of Compliance and Investigations shall issue a decision within 25 working days following the receipt of the formal written grievance, unless the parties agree to extend that period.
- 6. The Director of Compliance and Investigations may facilitate the resolution of the grievance at any stage of the proceedings.
- 7. The Director of Compliance and Investigations will make available, through the KY Open Records Law KRS 61.870-61.884, a copy of the written decision to the grievant and/or the representative.

## Appeal of Compliance and Investigations Director's Decision

- 1. Should the Compliance and Investigations Director's decision be unsatisfactory in resolving the issue, then, within five working days of receipt of the Compliance and Investigations Director's decision, the grievant may file a written appeal to the superintendent/designee. The appeal shall include the reasons for the appeal.
- 2. Within five working days of receipt of appeal, the superintendent/designee shall render a decision. The superintendent's/designee's decision shall be final.

# Student Discrimination Grievance

Mail or deliver this form to:

Director of Compliance and Investigations  
Jefferson County Public Schools  
C.B. Young Jr. Service Center  
3001 Crittenden Drive  
Louisville, KY 40209-1104  
(502) 485-3341

Case Number: \_\_\_\_\_

This form provides the opportunity for a student or parent/guardian to report alleged incidents of discrimination and to secure an equitable, prompt, and appropriate resolution.

<b>Student Information</b>	Student I.D. No.: _____
Name: _____ <small>(Last) (First) (Middle Initial)</small>	
Home Address: _____ <small>(Number and Street) (City) (State) (Zip)</small>	
Age: _____ Date of Birth: _____ Telephone No.: _____	
School: _____ Grade: _____ Homeroom/Classroom: _____	
Name of Parent/Guardian: _____ Daytime Telephone No.: _____	

## Type of Discrimination

Please check:

- Race     Sex     Age     Veteran     Disability     Religion     National Origin  
 Other \_\_\_\_\_

## Statement of Grievance

Identify the harassment/discrimination that you allege has occurred. Be complete, and use full names/titles, dates, exact location(s), and specific occurrence(s), if appropriate.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date(s) discrimination occurred:    Earliest: \_\_\_\_\_    Latest: \_\_\_\_\_

## What results are you seeking by filing this complaint?

Use additional sheet(s) if necessary.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Have you filed this complaint with any other governmental agency or pursuant to a labor-management agreement?     Yes?     No?

If yes, please specify: \_\_\_\_\_

Signature: \_\_\_\_\_    Date: \_\_\_\_\_

# Employee Discrimination Grievance

Mail or deliver this form to:

Director of Compliance and Investigations  
Jefferson County Public Schools  
C.B. Young Jr. Service Center  
3001 Crittenden Drive  
Louisville, KY 40209-1104  
(502) 485-3341

Case Number: \_\_\_\_\_

This form provides the opportunity for an employee to report alleged incidents of discrimination and to secure an equitable, prompt, and appropriate resolution.

## Employee Information

Name: \_\_\_\_\_ Telephone No.: \_\_\_\_\_

Home Address: \_\_\_\_\_  
(Number and Street) (City) (State) (Zip)

Work Location: \_\_\_\_\_ Position Held: \_\_\_\_\_

Work Address: \_\_\_\_\_

Immediate Superior: \_\_\_\_\_ Work Telephone No.: \_\_\_\_\_

## Type of Discrimination

Please check:

Race  Sex  Age  Veteran  Disability  Religion  National Origin

Other \_\_\_\_\_

## Statement of Grievance

Identify the harassment/discrimination that you allege has occurred. Be complete, and use full names/titles, dates, exact location(s), and specific occurrence(s), if appropriate.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date(s) discrimination occurred: Earliest: \_\_\_\_\_ Latest: \_\_\_\_\_

## What results are you seeking by filing this complaint?

Use additional sheet(s) if necessary.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Have you filed this complaint with any other governmental agency or pursuant to a labor-management agreement?  Yes?  No

If yes, please specify: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

# Discrimination Grievance Appeal

Mail or deliver this form to:

Director of Compliance and Investigations  
Jefferson County Public Schools  
C.B. Young Jr. Service Center  
3001 Crittenden Drive  
Louisville, KY 40209-1104  
(502) 485-3341

Case Number: \_\_\_\_\_

This form provides the opportunity for a grievant to submit a written appeal to the superintendent/designee regarding any part of the findings and corrective actions rendered as a result of the investigation conducted by the Director of Compliance and Investigations/designee.

## Grievant Information

Name: \_\_\_\_\_  
(Last) (First) (Middle Initial)

Home Address: \_\_\_\_\_  
(Number and Street) (City) (State) (Zip)

Home & Cell Telephone No.: \_\_\_\_\_ Work Telephone No.: \_\_\_\_\_

Name of Parent/Guardian (applies to student grievants only): \_\_\_\_\_

Parent/Guardian Daytime Telephone No.: \_\_\_\_\_

## Statement of Appeal

Briefly state your reason(s) for submitting this appeal.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## What results are you seeking by filing this complaint?

Use additional sheet(s) if necessary.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Have you filed this complaint with any other governmental agency or pursuant to a labor-management agreement?  Yes?  No?

If yes, please specify: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

