

ARTICLE TWENTY-TWO GRIEVANCE PROCEDURE

It is the declared objective of the parties to encourage the prompt and informal resolution of employee complaints as they arise and to provide recourse to orderly procedures for the satisfactory adjustment of complaints. A resolution should occur at the earliest possible step in every case that can reasonably be resolved.

In order to accomplish its stated purpose, a grievance conference must be attended by those individuals who may be able to promote resolution or, if resolution is not possible in a particular case, to provide the necessary information for a fair determination of the grievance. At the Chancellor's level, principals will be expected to attend or to have a suitable representative present at the conference. Failure to attend may result in sustaining the grievance on procedural grounds.

A. Definition

A "grievance" shall mean a complaint by an employee in the bargaining unit (1) that there has been as to him/her a violation, misinterpretation or inequitable application of any of the provisions of this Agreement or (2) that he/she has been treated unfairly or inequitably by reason of any act or condition which is contrary to established policy or practice governing or affecting employees, except that the term "grievance" shall not apply to any matter as to which (1) a method of review is prescribed by law, or by any rule or regulation of the State Commissioner of Education having the force and effect of law, or by any bylaw of the Board of Education or (2) the Board of Education is without authority to act.

In the case of per session employees, a "grievance" shall mean a complaint by a per session employee that there has been as to him/her a violation, misinterpretation or inequitable application of any of the provisions of this Agreement covering his/her particular per session employment.

In the case of teachers assigned, education administrators, education officers, education analysts, adult education teachers covered by this Agreement, lead teachers, math and literacy coaches, mentors, substitute vocational assistants, and teacher's assistants, a "grievance" shall mean a complaint by such an employee that there has been as to him/her a violation, misinterpretation or inequitable application of any of the provisions of this Agreement covering his/her employment as a teacher assigned, an education administrator, an education officer, an education analyst, a WNYE teacher, an adult education teacher covered by this Agreement, a lead teacher, a math and literacy coach, a mentor, a substitute vocational assistant or a teacher's assistant.

As used in this article, the term "employee" shall mean also a group of employees having the same grievance.

B. Adjustment of Grievances

Grievances of employees within the bargaining unit shall be presented and adjusted in the following manner:

1. General Procedures

a. School Level (Step 1)

Any employee within the bargaining unit may, either orally or in writing, present a grievance to the head of the school within thirty school days after the employee has knowledge of the act or condition which is the basis of the complaint. A grievance which is presented in writing shall set forth specifically the act or condition and the grounds on

which the grievance is based, the contractual provision which is alleged to have been violated and the remedy sought. A Step 1 Grievance Form such as the one set forth in Appendix C shall be used, but failure to use the form will not result in forfeiture of the grievance. A grievance which is technically flawed at Step 1 may be promptly amended or refiled without regard to the stated time limitations.

The employee and the head of the school shall confer on the grievance with a view to arriving at a mutually satisfactory resolution of the complaint. At the conference, the employee may appear personally or he/she may be represented by a Union representative or by any teacher of his/her choice in the school; but where the employee is represented he/she must be present. The Union representative shall be the chapter leader or his/her alternate in the school or, where there is no Union member in the school, any other designated Union representative.

Whenever a grievance presented to the head of the school by the employee personally or through a personal representative would involve the application or interpretation of the terms of this Agreement, or would affect the working conditions or welfare of the employees in the bargaining unit, he/she shall give the chapter leader or his/her alternate in the school the opportunity to be present and state the views of the Union, except that, where there is no Union member in the school, the Union may be represented by any other designated Union representative.

The head of the school shall communicate his/her decision to the aggrieved employee and to his/her representative and to any Union representative who participated in this step within five school days after receiving the complaint. Where the grievance has been presented in writing, the decision shall be in writing and the decision shall include supporting reasons in response to the information supplied by the grievant on the Step 1 Grievance Form or its equivalent.

b. Chancellor (Step 2)

If the grievance is not resolved at Step 1 the Union may appeal from the decision at Step 1 to the Chancellor addressed to the attention of the Deputy Executive Director, Office of Labor Relations and Collective Bargaining within 15 school days after the Step 1 decision was given to the employee. The appeal shall be in writing, shall set forth specifically the reasons for the appeal, and shall be accompanied by a copy of the decision at Step 1. It shall also state the name of the employee's Union representative.

The Chancellor or his/her designated representative shall meet and confer with the Union representative and the aggrieved employee with a view to arriving at a mutually satisfactory resolution of the complaint. The Union representative and the aggrieved employee shall be given at least two school days notice of the conference and an opportunity to be heard. The Union representative may be the representative at Step 1 or a representative designated by the Union grievance department, or both.

Notice of the conference shall also be given to the head of the school. The head of the school will be expected to attend the conference or to have a suitable representative present at the conference in order to promote resolution of the grievance or, if resolution is not possible, to provide the necessary information for a fair determination of the grievance.

The Chancellor shall communicate his/her decision in writing, together with the supporting reasons, to the aggrieved employee and to the Union representative who participated in this step, within 20 school days after receiving the appeal.

The head of the school shall also receive a copy of the decision at this step. The Union shall receive a copy of any decision at this step.

2. Procedures for Special Groups of the Teaching Staff

a. The procedures set forth in paragraph 1 of this Article shall apply to all employees in the unit, except that:

(1) In the case of teachers of the homebound, the grievance shall be presented at Step 1 to the borough supervisor.

(2) In the case of per session employees, the grievance shall be presented at Step 1 to the head of the particular per session activity or his/her designated representative and at Step 2 to the Chancellor or his/her designated representative. The Union representative at each step shall be a member of the Union's grievance committee. The decision at Step 1 shall be communicated within five working days after receiving the complaint of employees employed in summer per session activities and within 10 school days after receiving the complaint of employees employed in all other per session activities. However, grievances arising under Article 15C 2 (Retention), 4 (Selection of New Per Session Teachers) or 6 (Reduction in Per Session Positions) must be presented within two workdays after the employee has knowledge of the act or condition which is the basis of the complaint. The decision at Step 1 shall be communicated within two working days after receiving the complaint. The grievance may be appealed by the Union to the Chancellor within five working days after the decision at Step 1 has been received. The Chancellor shall communicate his/her decision within ten working days after receipt of the appeal. If the grievance is not resolved at the Chancellor's level, it may be appealed to arbitration by the Union within 15 working days and the parties shall arrange for the prompt hearing of the grievance at arbitration. The parties will make every effort to process these grievances more expeditiously than the time limits prescribed above. The arbitrator shall render the award within five days after the close of the hearing.

(3) Chapter 683 grievances regarding summer assignments shall be heard according to the following procedure:

(a) All internal District 75 postings, vacancy notices and turnaround (retention rights) lists will be prominently posted and made available to employees in all District 75 sites.

i. All internal application notices/postings for District 75 staff who do not claim retention rights shall be posted in the schools no later than April 30.

ii. Retention rights turnaround documents shall be posted in the schools no later than May 15.

iii. The Final Assignment list shall be posted in all schools no later than June 7.

(b) Subsequently, an employee who has a complaint regarding a non-per session summer assignment shall attempt to resolve it informally. If the complaint has not been resolved, the complainant shall file a grievance with the Superintendent no later than the 10th workday from the posting of the final assignment list, or in the case of assignments that were not contained in the final assignment list, no later than the 10th workday from knowledge of the assignment which is the basis for the complaint. The Superintendent or his or her designee shall meet and confer with the aggrieved employee with a view to arriving at a mutually satisfactory resolution of the complaint. The employee shall be entitled to Union representation. The employee shall be present at this conference. The Superintendent shall communicate his/her decision in writing, together with supporting

reasons, to the aggrieved employee and to the Union District Representative within five (5) working days after having received the appeal.

If the grievance is not resolved at the Superintendent's level, the Union may appeal the decision to the Chancellor within five (5) working days after the decision by the Superintendent or his or her designee has been issued. The appeal shall be in writing, shall set forth specifically the reasons for the appeal and shall be accompanied by a copy of the appeal and decision at Step I. The Chancellor or his/her designated representative shall meet and confer with the Union Representative and the aggrieved employee with a view to arriving at a mutually satisfactory resolution of the complaint.

The Chancellor shall communicate his/her decision in writing, together with the supporting reasons, to the aggrieved employee and to the Union Representative who participated in this step within five (5) working days after receiving the appeal. If the grievance is not resolved at the Chancellor's level, or if no decision is issued within five (5) working days from the receipt of the appeal, the UFT may proceed to arbitration. The UFT shall notify the Superintendent and the Board's Office of Labor Relations and Collective Bargaining of its intent to proceed to arbitration no later than the Monday following Labor Day of the year in which the grievance arose.

The Superintendent shall also receive a copy of the decision at this Step. The Union shall receive a copy of any decision at this Step.

(4) In the case of adult education teachers covered by this Agreement, the grievance shall be presented at Step 1 to the Executive Director or head of the particular program and at Step 2 to the Chancellor. The Union representative at each step shall be a member of the Union's grievance committee. The decision at Step 1 shall be communicated within 10 working days after receiving the complaint of the employee.

(5) In the case of teachers assigned, education administrators, education officers and education analysts, the grievance shall be presented at Step 1 to the appropriate community superintendent or his/her designee, assistant superintendent for high schools, or the Executive Director responsible for the office, and at Step 2 to the Chancellor. The Union representative at each step shall be a member of the Union's grievance committee. The decision at Step 1 shall be communicated within 10 working days after receiving the complaint of the employee.

(6) In the case of lead teachers and math and literacy coaches, the grievance shall be presented at Step 1 to the principal and at Step 2 to the Chancellor. The Union representative at each step shall be a member of the Union's grievance committee. The decision at Step 1 shall be communicated within 10 working days after receiving the complaint of the employee.

(7). In the case of mentors the grievance shall be presented at Step 1 to the Regional Director of New Teacher Induction and at Step 2 to the Chancellor. The Union representative at each step shall be a member of the Union's grievance committee. The decision at Step 1 shall be communicated within 10 working days after receiving the complaint of the employee.

b. The special procedures set forth in paragraph 4 of this Article shall not apply to per session employees, adult education teachers covered by this Agreement, teachers assigned, education administrators, education officers and education analysts.

3. Special Procedures for Grievances Relating to Salary and Leave Matters

Any grievance relating to salary and leave matters shall be filed by the Union directly with the Executive Director of the Division of Human Resources. In such cases, the provisions of the general procedures relating to Step 2 shall apply to the presentation and adjustment of the grievance at the level of the Executive Director except that (1) the grievance shall be filed within a reasonable time not to exceed three months after the employee has knowledge of the act or condition which is the basis of the complaint and (2) the employee need not be present at the conference. The Executive Director shall render a decision on behalf of the Chancellor and such decision shall be considered a decision at the level of the Chancellor under this Article.

4. Special Procedures for Grievances Arising out of School Reorganization

Where the grievance arises out of school reorganization and involves class size, teacher programs or assignments and is not covered by paragraphs 5 or 6 below, the time limits prescribed in B1 above shall be modified in these respects:

a. The grievance must be presented within two school days after the employee has knowledge of the act or condition which is the basis of the complaint, except that conformity to class size limits shall not be the subject of grievance during the first ten school days of each term.

b. The head of the school shall communicate his/her decision within two school days after receiving the complaint.

c. The grievance must be appealed by the Union to the Chancellor (Step 2) within five school days after the decision at Step 1 has been received.

d. The Chancellor shall communicate his/her decision within ten school days after receipt of the appeal.

e. If the grievance is not resolved at Step 2, it may be appealed to arbitration by the Union within 15 school days and the parties shall arrange for the prompt hearing and resolution of the grievance at arbitration.

f. The Union shall designate an order of priority for arbitration of unresolved reorganization grievances involving teacher programs or assignments. Such grievances shall be expeditiously arbitrated. Grievances heard on or before October 5th shall be decided, and the award rendered within five days. If the grievance is sustained, it shall be implemented immediately. If not rendered by October 10th, an arbitration award sustaining a grievance shall be implemented no later than the next reorganization.

5. Expedited Reorganization Grievance Procedure

The parties are committed to resolving reorganization grievances on an expedited basis. To that end, they have jointly adopted the appropriate and agreed upon standards for determining these cases in the hope that school administration and UFT representatives will be able to resolve many of these matters locally, without the need to resort to arbitration. The parties intend joint training to familiarize those involved with the cases in the agreed upon standards and the new procedure being adopted.

a. Reorganization arbitrations shall be scheduled during the last two (2) weeks of June, and the first three (3) weeks in September. If necessary, cases may be heard through the end of September. For reorganizations that take place in February, arbitrations shall be scheduled during the month of February. Complaints arising at any time during the school year will follow the expedited time frame detailed below. These arbitrations shall count toward the one hundred forty (140) arbitration dates that are permitted to be scheduled per year for all UFT grievances.

b. The current deadlines by which teachers must receive their programs shall continue.

c. The chapter leader shall be considered a proper grievant in all grievances relating to program deadlines and contractually mandated consultations, including allegations that postings are inconsistent with an agreement reached at contractually mandated consultations.

d. An employee shall notify the principal or his or her designee of a complaint within two (2) school days, after the employee has knowledge of the act or condition which is the basis for the complaint. Within two (2) school days following notification, the principal or his or her designee must meet with the employee in an effort to resolve the complaint. The employee may choose to be accompanied by the chapter leader. If the complaint remains unresolved, the employee shall have two (2) school days from the date of the grievance conference to file a grievance appeal with the Superintendent. A copy of the grievance appeal shall be forwarded to the chapter leader and the UFT district representative.

e. A Demand for Arbitration shall be filed contemporaneously with the district level grievance, with a copy to be forwarded to the appropriate Superintendent(s) and the Board's Office of Labor Relations and Collective Bargaining.

f. Both the employee and principal, or his or her designee, must attend a conference conducted by the Superintendent or his or her designee. The UFT district representative or his or her designee shall be present to observe the process and represent the UFT. The conference shall be held within three (3) school days of receipt of the district level grievance appeal. The Superintendent or his or her designee shall have four (4) school days from the conference to render a decision on the grievance.

g. The decision shall set forth reasons. If no decision is issued within four (4) school days of the conference, the UFT may proceed to arbitration. The UFT shall notify the Superintendent(s) and the Board's Office of Labor Relations and Collective Bargaining of its intent to proceed to arbitration.

h. Arbitrations may commence as early as seven (7) school days from the initial filing of the grievance and shall proceed using procedures detailed in paragraph F of this Article.

i. Only the following issues are appropriate reorganization grievances within the meaning of this subsection 5:

Article 7 (A, B, C, D, E, F, J and K)

1. Program Preference

- a. Grade level
- b. More/less difficult
- c. Subject
- d. Sessions
- e. Special classes
- f. Special education classes

2. Special Teaching Positions

3. Cluster Positions

4. Compensatory Time Positions

5. Rotation

6. Number of Preparations

- 7. Numbers of Rooms
- 8. Postings
- 9. Consultations

6. Expedited Procedure for Class Size and Group Size Grievances

The parties are committed to resolving class size and group size grievances on an expedited basis. To that end, they have jointly adopted the appropriate and agreed upon standards for determining these cases in the hope that school administration and UFT representatives will be able to resolve many of these matters locally, without the need to resort to arbitration. The parties intend joint training to familiarize those involved with the cases in the agreed upon standards and the new procedure being adopted.

a. During the first ten (10) school days of each term, the chapter leader and the principal shall attempt to resolve informally all class size and group size problems within the school. It is expected that during the first ten (10) school days, the principal will consult and seek assistance from the superintendent and the chapter leader will consult with the UFT district representative to attempt to resolve all class size and group size problems. Complaints arising at any time during the school year will follow the expedited time frame detailed herein.

b. If the principal and chapter leader cannot resolve class size and group size problems within the school, after the first ten (10) school days, the Union may file a demand for arbitration within two (2) school days of their failure to resolve the grievance.

Such demand shall be filed by facsimile, or any other agreed upon method, to the affected Superintendent(s) and the Board's Office of Labor Relations and Collective Bargaining.

c. Arbitrations shall commence within five (5) school days of the demand for arbitration. The class size arbitrations shall count toward the one hundred forty (140) arbitration dates that are permitted to be scheduled per year for all UFT grievances and shall proceed using procedures detailed in paragraph G of this Article. Group size arbitrations do not count toward the 140 arbitration dates, and shall proceed pursuant to paragraph G of this Article.

7. Priority Handling of Grievances

The Board and the Union will consult periodically on the priority of handling grievances pending at Step 3 with a view to expediting the processing of grievances which require prompt disposition.

8. Initiation or Appeal of Special Types of Grievances or Complaints

a. Grievances arising from the action of officials other than the head of a school may be initiated with and processed by such officials in accordance with the provisions of Step 2 of this grievance procedure. Where appropriate, such grievances may be initiated with the Chancellor by the Union.

b. Where a substantial number of employees in more than one school (or, in the case of teachers of the homebound, in more than one borough) have a complaint arising from the action of authority other than the head of a school (or borough supervisor) the Union, upon their request, may initiate a group grievance in their behalf.

c. The Union has the right to initiate or appeal a grievance involving alleged violation of the Agreement. Such grievance shall be initiated with the appropriate community or assistant superintendent or where appropriate, with the Chancellor.

9. Appearance and Representation

Conferences held under this procedure shall be conducted at a time and place which will afford a fair and reasonable opportunity for all persons entitled to be present to attend. When such conferences are held during Board of Education working hours, all persons who participate shall be excused without loss of pay for that purpose.

10. Time Limits

a. Failure at any step of this procedure to communicate the decision on a grievance within the specified time limits shall permit the aggrieved employee to proceed to the next step. Failure at any step of this procedure to appeal a grievance to the next step within the specified time limits shall be deemed to be acceptance of the decision rendered at that step.

b. The time limits specified in any step of this procedure may be extended, in any specific instance, by mutual agreement.

C. Arbitration

A grievance dispute which was not resolved at the level of the Chancellor under the grievance procedure may be submitted by the Union to an arbitrator for decision if it involves the application or interpretation of this Agreement. Grievances involving the exercise of Board discretion under any term of this Agreement may be submitted to arbitration to determine whether the provision was disregarded or applied in a discriminatory or arbitrary or capricious manner so as to constitute an abuse of discretion, namely: whether the challenged judgment was based upon facts which justifiably could lead to the conclusion as opposed to merely capricious or whimsical preferences, or the absence of supporting factual reasons.

A grievance may not be submitted to an arbitrator unless a decision has been rendered by the Chancellor under the grievance procedure, except as provided in Section B6b of this Article, and except in cases where, upon expiration of the 20-day time limit for decision the Union filed notice with the Chancellor of intention to submit the grievance to arbitration and no decision was issued by the Chancellor within five school days after receipt of such notice.

The proceeding shall be initiated by the Union filing with the Board a notice of arbitration. The notice shall be filed within 15 school days after receipt of the decision of the Chancellor under the grievance procedure or, where no decision has been issued in the circumstance described above, three days following the expiration of the five school day period provided above. The notice shall include a brief statement setting forth precisely the issue to be decided by the arbitrator and the specific provision of the Agreement involved. The parties shall jointly schedule the arbitration hearings.

A panel of seven arbitrators shall be designated by mutual agreement of the parties to serve for any case or cases submitted to them in accordance with their ability to promptly hear and determine the case or cases submitted;

Arbitrators shall serve one year terms which extend from September 1 through August 31 of the following year. Arbitrators who are selected after September 1 shall hear cases for a minimum of one year, with a term ending on August 31;

Arbitrators will be continued for additional one year terms, unless either party discontinues the services of any of the panel arbitrators by notification to the other party by May 15 that such arbitrators shall not be selected for an additional term. Arbitrators not selected by the parties to serve an additional term will be notified jointly by the parties;

Arbitrators who are not continued for an additional term shall finish any case they have begun hearing;

If a panel arbitrator(s) is not continued for an additional one year term, a replacement(s) shall be selected to serve on the panel by the mutual agreement of the parties. Should agreement not be reached in sufficient time to ensure that the replacement arbitrator(s) commences service on September 1, the parties shall maintain the same number of hearing dates which would have existed if the replacement arbitrator(s) could have provided dates starting in September. The parties further agree to schedule the same number of dates, regardless of the number of arbitrators on the panel, normally scheduled in a school year. This maintenance of service shall be accomplished in the following manner:

- a. First, by requesting additional hearing dates from the panel arbitrators; and
- b. If necessary, by requesting hearing dates from arbitrators previously agreed upon for this purpose; and
- c. If necessary, by requesting that the American Arbitration Association provide simultaneously to each party an identical list of names of persons chosen from the Panel of Labor Arbitrators, as outlined in Rule 12 of the A.A.A. Labor Arbitration Rules (as amended and in effect January 1, 1992).

The parties agree to enter into a stipulation of facts whenever possible in advance of the hearing.

The parties seek the most expeditious decisions in arbitrations and will not normally file briefs or order transcripts. If either or both parties order transcripts, it shall be on an expedited basis. The parties may agree to file post-hearing briefs. However, if a party unilaterally files a brief, it shall be filed within five working days of the hearing or receipt of the transcript, if one is ordered. The other party shall have the right to file a reply brief within five working days of receipt of the brief.

The voluntary labor arbitration rules of the American Arbitration Association shall apply to the proceedings insofar as they relate to the hearings and fees and expenses.

The arbitrator shall issue his/her decision not later than 30 days from the date of the closing of the hearings or, if oral hearings have been waived, then from the date of transmitting the final statements and proofs to the arbitrator. The decision shall be in writing and shall set forth the arbitrator's opinion and conclusions on the issues submitted. The arbitrator shall limit his/her decision strictly to the application and interpretation of the provisions of this Agreement and he/she shall be without power or authority to make any decision:

1. Contrary to, or inconsistent with, or modifying or varying in any way, the terms of this Agreement or of applicable law or rules or regulations having the force and effect of law;

2. Involving Board discretion under the provisions of this Agreement, under Board by-laws, or under applicable law, except that the arbitrator may decide in a particular case whether the provision was disregarded or applied in a discriminatory or arbitrary or capricious manner so as to constitute an abuse of discretion, namely whether the challenged judgment was based upon facts which justifiably could lead to the conclusion as opposed to merely capricious or whimsical preferences or the absence of supporting factual reasons.

3. Limiting or interfering in any way with the powers, duties and responsibilities of the Board under its by-laws, applicable law, and rules and regulations having the force and effect of law.

The decision of the arbitrator, if made in accordance with his/her jurisdiction and authority under this Agreement, will be accepted as final by the parties to the dispute and both will abide by it.

The arbitrator may fashion an appropriate remedy where he/she finds a violation of this Agreement. To the extent permitted by law, an appropriate remedy may include back pay. The arbitrator shall have no authority to grant a money award as a penalty for a violation of this Agreement except as a penalty is expressly provided for in this Agreement.

The arbitrator's fee will be shared equally by the parties to the dispute.

The Board agrees that it will apply to all substantially similar situations the decision of an arbitrator sustaining a grievance and the Union agrees that it will not bring or continue, and that it will not represent any employee in, any grievance which is substantially similar to a grievance denied by the decision of an arbitrator.

D. General Provisions as to Grievances and Arbitration

1. The filing or pendency of any grievance under the provisions of this Article shall in no way operate to impede, delay or interfere with the right of the Board to take the action complained of, subject, however, to the final decision on the grievance.

2. Nothing contained in this Article or elsewhere in this Agreement shall be construed to permit the Union to present or process a grievance not involving the application or interpretation of the terms of this Agreement in behalf of any employee without his/her consent.

3. Nothing contained in this Article or elsewhere in this Agreement shall be construed to deny to any employee his/her rights under Section 15 of the New York Civil Rights Law or under the State Education Law or under applicable Civil Service Laws and Regulations.

4. (a) Procedural arbitrability objections based upon the asserted:

Untimeliness of a grievance or appeal, or failure to follow or properly adhere to contractual grievance procedures will, normally, be raised at the Chancellor's level. In instances where the employer could not reasonably have been able to raise such a claim at the Chancellor's level, but intends to raise such a claim at the arbitration level, for the first time, the employer shall communicate to the Union within one week prior to the scheduled hearing of such intent.

(b) These guidelines are not intended to be applied to preclude a party from raising an arbitrability objection at a hearing where such preclusion would appear to be unfair or substantially prejudicial to a party's interest in the ultimate outcome of a case.

(c) Nothing contained herein shall be construed as a waiver of any substantive arbitrability objection or to preclude any other resort to judicial proceedings as provided by law.

E. Expedited Arbitration Procedure for the Lead Teacher Applicant Pool

The purpose of this procedure is to carry out the intent of the parties set forth in Article 11 IV A10 to resolve promptly all disputes regarding the Applicant Pool of Lead Teachers subject to expedited arbitration.

To the extent possible, each expedited arbitration shall be completed by the last day of June of the school year in which the application was made. The parties to the arbitration shall make all necessary reasonable efforts to complete the procedure by the deadline, including shortening the time frames if necessary.

1. Every Regional Personnel Committee that rejects an application for inclusion in the pool shall notify the rejected candidate of the right to challenge the decision according to this procedure.

2. The Appellant — a candidate who is not selected by the Regional Personnel Committee — shall initiate the challenge by filing a written request for review with the United Federation of Teachers Coordinator. The request must be filed within five calendar days (not counting weekends and holidays) after the Appellant receives the Personnel Committee's decision and right-to-challenge notice. The Appellant is limited to filing no more than three review requests.

3. The request shall include the name, address and phone number of the Appellant, the Regional Pool applied for, and a statement that the review of the Regional Personnel Committee's decision is requested. A form for this purpose shall be available from the Board, the Union and the School Personnel Committee.

4. Upon receiving the request, the UFT Coordinator shall notify the Regional Personnel Committee and the arbitrator that a request for review has been filed. The Regional Personnel Committee shall immediately respond to the UFT Coordinator with the following information: the names of the successful candidates; the qualifications for the position; and the reasons it rejected the Appellant. The UFT Coordinator shall then send that information to the Appellant.

5. The Chancellor and the UFT President or their designees shall jointly select an arbitrator (or arbitrators) to arbitrate these cases. The Board and the Union shall share the arbitrators' fees equally.

6. The parties to the proceeding shall be the Regional Personnel Committee and the Appellant(s). If there is more than one Appellant who was rejected for the same Regional Pool, the arbitrator shall consolidate and hear together their requests for review.

7. The arbitrator shall schedule the hearing to start not later than seven (7) days (not counting weekends and holidays) after the UFT Coordinator received the request for review.

8. In order to develop a full and complete basis for a decision, the arbitrator shall inquire fully into all matters in issue. The Appellant(s) should be prepared to state the basis of the challenge and may do so at any time during the hearing. The Regional Personnel Committee should be prepared to support the basis for its decision.

9. The arbitrator shall issue a written, signed award within five (5) days of the close of the hearing. If the arbitrator sees the need for an opinion, it shall be in summary form.

10. If the arbitrator sustains the challenge, the Appellant shall be included in the Regional Pool applied for.

11. The arbitrator's power and authority under this procedure shall be only to resolve an Appellant's challenge to the decision of the Regional Personnel Committee. The arbitrator's decision shall be limited strictly to the application and interpretation of the Plan's applicable provisions. Other grievances or complaints arising in a school shall be resolved through the procedures appropriate to them.

12. The parties shall accept as final the arbitrator's award and abide by it if it is made in accordance with the jurisdiction and authority granted under this procedure.

13. Regarding the hearings, fees and expenses, the proceedings shall follow the Expedited Labor Arbitration Procedures of the American Arbitration Association as amended and effective on September 1, 1993, as long as they do not conflict with the procedures described above.

F. Arbitrations Pursuant to the Expedited Reorganization Grievance Procedure

Arbitrations filed pursuant to the Expedited Reorganization Grievance Procedure in B5 above shall be processed as follows:

1. Each Arbitrator shall hear up to five (5) reorganization grievances in a day. Where possible, grievances from the same school and/or borough shall be scheduled on the same day.

2. The arbitration shall be informal and proceed in the following manner:

a. The parties shall provide the Arbitrator at the beginning of each case all relevant documents, such as, but not limited to: 1) Postings; 2) Preference sheets; 3) Resumes; and 4) Seniority lists.

b. The Grievant and the Principal, or his or her designee, must be in attendance. Each side shall have thirty (30) minutes to present their respective cases. The Arbitrator may extend this time limit. Only disputed facts shall be presented to the Arbitrator.

c. Witnesses for the Union and the Board shall be limited to discuss only those facts in dispute.

d. In order to develop a full and complete basis for a decision, the Arbitrator shall inquire fully into all matters at issue.

3. Each Arbitrator shall be given precedential reorganization decisions with the agreed upon reorganization standards. No other decisions shall be presented except relevant regular panel member decisions decided subsequent to July 1, 2001.

4. At any time prior to issuance of an award, either party may decide that a case may have precedential value and shall be referred for an arbitration hearing pursuant to Article 22C, and the rules applicable to that procedure shall apply. The next panel member in the established rotation shall be assigned the case.

5. The Arbitrator shall issue an Award within five (5) school days of the arbitration hearing. Such Award may be transmitted by facsimile directly to the parties, including the Board's Office of Labor Relations and Collective Bargaining and the UFT's Grievance/Arbitration Department. Arbitrators shall not issue written Opinions unless jointly requested by the parties. The Award is non-precedential unless the parties jointly request a formal written Opinion.

6. All sustained Awards shall be implemented within five (5) school days of issuance, unless otherwise specified by the Award, except that decisions rendered on or after October 10th shall be implemented no later than the next reorganization.

7. The Arbitrator shall retain jurisdiction until the next reorganization unless otherwise specified in the Award.

8. If an Arbitrator is unable to complete his or her assignment before issuing his or her Award, the American Arbitration Association shall appoint the next panel member in the established rotation.

G. Arbitrations Pursuant to the Expedited Procedure for Class Size and Group Size Grievances Arbitrations filed pursuant to the Expedited Procedure for Class Size and Group Size Grievances in B6 above shall be processed as follows:

1. Each arbitrator shall hear up to five (5) schools' class size and/or group size cases in a day. Where possible, schools within the same superintendency shall be scheduled on the same day.

2. The arbitration hearing shall be expedited in the following manner:

a. The Union shall provide the Arbitrator with a standardized form, agreed upon by the parties, with the following agreed upon information at the beginning of each case:

(1). Name of Teacher (for identification purposes only)

(2). School

(3). District

(4). Classes/Groups which are oversized

(5). Registers of each class/group on the grade or subject/course name, as applicable, being grieved

(6). Prior grievance history

b. The UFT District Representative and Superintendent, or their designee, shall each have thirty (30) minutes to present their respective cases. The Arbitrator may extend this time limit. Only disputed facts shall be presented to the Arbitrator.

c. Witnesses for the Union and the Board shall be limited to discuss only those facts which are in dispute.

d. In order to develop a full and complete basis for a decision, the Arbitrator shall inquire fully into all matters at issue.

e. Each Arbitrator shall be given precedential class/group size decisions with the agreed upon class/group size decision summaries. No other decisions shall be presented except relevant regular panel member decisions decided subsequent to July 1, 2001.

f. At any time prior to issuance of an award, either party may decide that a case may have precedential value and shall be referred for an arbitration hearing pursuant to Article 22C, and the rules applicable to that procedure shall apply. The next panel member in the established rotation shall be assigned the case.

g. The Arbitrator shall issue an Award within five (5) school days of the arbitration hearing. Such Award shall be transmitted by facsimile directly to the UFT District Representative, the Superintendent(s), the UFT Grievance/Arbitration Department and the Board's Office of Labor Relations and Collective Bargaining. The Award shall include the following information:

(1) Sustained or denied.

(2) If sustained, the guidelines for compliance (e.g., equalization, new class or monetary penalty).

(3) If denied, the basis for the denial.

Arbitrators shall not issue written Opinions unless jointly requested by the parties. The Award is non-precedential unless the parties jointly request a formal written Opinion.

h. All sustained Awards shall be implemented within five (5) school days of issuance. No class that ultimately complies with the contractual maximum class size limitations shall constitute an Article 7M3 class size exception, except that said Awards can be used for grievance history background.

i. The Arbitrator shall retain jurisdiction over his or her decision. If a sustained Award is not implemented within five (5) school days, the Arbitrator shall convene a conference between the Board's Office of Labor Relations and Collective Bargaining and the UFT's Grievance/Arbitration Department within five (5) school days, but no earlier than October 1st in the case of class size grievances.

j. If the Board asserts that it cannot comply with the Arbitrator's Award, it must set forth a plan of action to remedy the class size or group size violation. If the Board has acted in good faith, and the plan of action is not unreasonable, it will be accepted by the Arbitrator.

k. If the Arbitrator concludes that the Board's plan of action is not appropriate, he or she shall be empowered, on a non-precedential basis, to issue a Supplemental Award within five (5) school days, as follows: For elementary schools, the school may be directed to add one additional paraprofessional for every two oversized classes in a grade, or at the school's option, one teacher for every four classes, with a minimum of one hour teacher coverage per oversize class. For all other school organizations, the school may be directed to implement a comparable remedy appropriate to the level. In the case of group size awards, the Arbitrator may impose a monetary penalty.