



ESP EMPLOYMENT PROBLEMS

Where to go, what to do

aeahelpdesk.org



Arizona
Education
Association



aaahelpdesk.org
(877) 828-1983

Employment Problems

As part of a public school's educational support professionals (ESP) team, you perform many important tasks to assist students and others. Sometime during your career you may face an employment problem, such as unreasonable discipline, a wage or salary dispute, or false accusations of misconduct.

Resolving employment problems can be time consuming and frustrating. Some problems can be solved by a simple phone call or meeting, with help from an association representative. Other problems are more difficult to solve, in part, because policies or laws may not favor employee rights. Local policies control most ESP employment problems. State and federal laws occasionally provide answers, especially for overtime, wage and salary, and safety disputes.

Few problems can be solved by simply turning the problem over to someone else to "handle." You must devote time, energy, patience, and possibly some financial resources to solving the problem. As an AEA member, you are eligible to receive assistance and information on a wide variety of employment problems. Sometimes a member wants help with a problem that is not covered by an association program, such as personal problems, I.R.S. questions, or workers' compensation. AEA staff can explain the programs and coverage available and may offer alternatives to you.

Reminder

AEA has many programs designed to help you, and its staff may have just the information or strategy you need!

Types of Assistance

AEA helps members in many ways. That assistance can include:

- Information from association publications
- Access to www.arizonaaea.org and www.aeahelpdesk.org
- Training at association workshops and seminars
- Assistance in filing grievances
- Assistance in appeals of unfair discipline
- Assistance in bargaining for better district policies
- Research, such as copies of laws and policies
- Advice and strategy from Organizational Consultants
- Referral to other agencies and experts
- Legal consultations with an AEA-assigned attorney
- Representation by an AEA-assigned attorney at dismissal hearings
- Liability insurance for most work-related lawsuits
- Reimbursement for most work-related criminal defense expenses, if exonerated (acquitted or charges dropped)



Association assistance varies depending upon the nature and severity of your problem. Your local representative or AEA Organizational Consultant will assist you with most employment problems, such as grievances and disciplinary appeals. AEA Organizational Consultants are educational employment “specialists,” full-time staff assigned to work with local associations. Your Organizational Consultant may suggest a strategy to the local representative working on your problem, may assist you directly, or may refer you to other agencies or experts.

If you face an extremely serious employment problem, such as dismissal or accusations of criminal conduct that could lead to dismissal, your AEA Organizational Consultant can refer you to the AEA General Counsel for a consultation with an AEA-assigned attorney.

AEA’s General Counsel works full-time on behalf of AEA and its members and must approve all requests for legal consultations funded by the AEA Legal Defense Fund.

Grievance Process

If you believe your employer has violated district policy, you may be able to file a grievance or other type of staff complaint. Some employers limit grievances to violations of certain official policies. Other employers permit grievances on a wider variety of issues.

If informal efforts fail to solve your problem, generally a grievance or other staff complaint is the best way to proceed. A grievance is a reasonably quick and low cost method for solving problems. Some districts have short deadlines for filing grievances. Find out the deadline in your district and contact your association quickly!

In order to succeed with your grievance, you should research the official policies adopted by the governing board. You should present all available evidence that supports your position. That evidence could include contracts, policies, memos, and statements from you and other witnesses. More detailed suggestions can be found in AEA’s “Guide to Grievances.” The AEA booklet is available from AEA staff.

The association’s role is to assist you and help make the grievance process as fair as possible. Many local associations have trained grievance representatives to assist you in filing and pursuing the grievance or staff complaint. Your representative may help you state your position and do the research needed to locate relevant policies and evidence. Your Organizational Consultant, a full-time AEA staff person, may provide additional advice and research or may represent you more directly.

Reminder

Act quickly to obtain association assistance with your grievance or disciplinary appeal. **Don’t miss your deadline!**

Employee Discipline

You may be able to appeal or object to an unfair reprimand, suspension, or other discipline. Contact your local representative or Organizational Consultant quickly – just as soon as you learn that you have been disciplined or are under investigation that could lead to discipline. The association representative can assist you and help explain your rights.

Liability Protection

Lawsuits and Criminal Charges

Lawsuits by a Parent or Student: Your active association membership provides you with a professional liability insurance policy. You are covered if a parent or student sues you for something that occurs while you are doing your job. You can be sued in your employment capacity for a variety of reasons, including student injury, property damage, or discrimination based on race. Your NEA/AEA liability policy covers legal defense expenses and court-ordered judgments, up to \$1 million for most claims and up to \$300,000 for civil rights claims.

Look through your insurance policy for more detailed coverage information. For example, the policy does not cover vehicle operation. A helpful brochure containing answers to common insurance questions also is available from AEA staff.

Accusations of Criminal Conduct: If you are accused of serious criminal conduct related to your employment (such as theft of school property, sexual contact with a student, or assaulting a student), call your representative or Organizational Consultant **immediately** and advise them of the accusations against you. **Be careful before you tell your side of the story to your employer or anyone else.** Seek the advice of an attorney first. Except for confidential communications to your attorney, most information you tell others may be used against you in a criminal case. Your Organizational Consultant can refer you to the AEA General Counsel for a consultation with an AEA-assigned attorney regarding any employment problems that result from the criminal accusations. For example, an AEA-assigned attorney can defend you at a dismissal hearing or negotiate a resignation settlement on your behalf.

If you are exonerated (acquitted or all charges dropped) of most work-related criminal charges, your NEA/AEA liability insurance will reimburse you for criminal defense expenses up to \$35,000. You can also be reimbursed for up to \$1,000 for a bail bond premium.

Reminder

Your NEA/AEA liability insurance helps protect members faced with frivolous lawsuits and false criminal accusations. The power of your association is the foundation for this remarkable protection.



Personal assaults at work: If a student assaults you at work, your NEA/AEA liability insurance can reimburse you up to \$500 for damage to personal property, such as broken glasses and torn clothing.

Tips for Wage Issues

Be sure to keep careful track of all the hours you work. If you have two or more different kinds of jobs, let your association representative know your duties to be sure you are correctly paid. If you are paid by the hour, work over 40 hours in a workweek, and do not receive overtime pay, immediately contact your association representative.

Discipline by State Board of Education

“Noncertificated persons” can be disciplined by the State Board of Education (SBE) under a law passed in 2021.

Who are these noncertificated persons?

These ARE school employees who (a) do not have a certificate and (b) are required or allowed to provide services directly to students without being supervised by (essentially within the sight of) a certificated employee.

They are NOT school employees who are (a) transportation employees, (b) food service employees, (c) maintenance workers, or (d) employees not required to have a fingerprint clearance card.

Noncertificated employees can be investigated by the SBE for immoral and unprofessional conduct just like certificated employees. If the SBE finds that the noncertificated employee commits misconduct, it can prohibit the employee’s employment at a district or charter school for up to five years.

Before hiring a noncertificated person, charters and school districts must search the Arizona Department of Education system to ascertain whether an applicant has been disciplined by the SBE. SBE investigatory files are available to any school or school district, or contractor to a school providing educators, to which the noncertificated person has applied for employment. These files are also available to other state licensing agencies as well as other agencies similar to the SBE in other states.

Publicly available information:

AZ State Board of Education Discipline Search tool – <https://azsbe.az.gov/teacher-certification-ppac/discipline-search>

OACIS public portal – <https://oacis.azed.gov/PublicOACIS/NormalPages/Educators.aspx>

Eligibility

You are eligible for assistance with employment problems if you are an active AEA member and you were an active AEA member at the time of the alleged conduct leading to the adverse action by your employer. Other AEA, NEA, and liability insurance policies may affect coverage. If you have further questions, ask your Organizational Consultant.

Resources

If you or your local association have a specific problem, please contact your Organizational Consultant or www.aeahelpdesk.org. If you need the name, phone number or address of your Organizational Consultant, please call AEA at (602) 264-1774 or (800) 352-5411 (toll-free outside the Phoenix area).

You can request AEA advocacy booklets from AEA staff which contain information about legal issues of interest to school employees.

Many workshops, seminars, and opportunities for professional development are also available from AEA. Contact your AEA Organizational Consultant for further information.



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A Final Note

For more information and assistance, contact your local association, aeahelpdesk.org, or your AEA Organizational Consultant.

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This brochure is a general guide for AEA members and is not intended to provide complete information or legal advice on specific problems. Changes in laws and cases may modify the information provided. To find Arizona statutes on the Internet, go to www.azleg.gov.



Arizona Education Association

345 East Palm Lane, Phoenix, AZ 85004-1532

(602) 264-1774 • (800) 352-5411

Fax (602) 240-6887

www.arizonaaea.org

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