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1	IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO
2	MICHAEL J. GURULE,
3	Plaintiff-Appellant,
4	v. No. 34,169
5	ALBUQUERQUE PUBLIC SCHOOLS,
6	Defendants-Appellees.
7 8	APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY Alan M. Malott, District Judge
	Santiago E. Juarez Albuquerque, NM
11	for Appellant
13	Modrall, Sperling, Roehl, Harris & Sisk, P.A. Jennifer G. Anderson Barry J. Berenberg Albuquerque, NM
16	for Appellees
17	MEMORANDUM OPINION
18	BUSTAMANTE, Judge.
19	Plaintiff-Appellant Michael J. Gurule ("Plaintiff") appeals the district court's
20	grant of Defendant-Appellee Albuquerque Public Schools' (APS) motion to dismiss
21	and for summary judgment. [DS 3; RP 92] Our notice proposed to affirm. Plaintiff

filed a memorandum in opposition, which we have duly considered. Unpersuaded, we affirm.

[2] In this Court's notice, we proposed to affirm the district court's grant of APS'

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motion to dismiss and for summary judgment for the following reasons. [CN 5] First, we explained that an employee must exhaust internal grievance procedures prior to filing suit for breach of contract based on an employer's failure to follow internal policies. *Lucero v. Bd. of Regents of Univ. of New Mexico*, 2012-NMCA-055, ¶ 12, 278 P.3d 1043. Contrary to *Lucero*, Plaintiff did not make any assertion or complaint within the fifteen days specified in the negotiated agreement. [DS 3; RP 73, 93; CN 6] Also contrary to the procedure set forth in the negotiated agreement, [RP 46] Plaintiff failed to inform Human Resources when he was originally denied leave of his position that the denial was contrary to any provision of the employee agreement. [DS 2-3; CN 6] Our notice further explained that the negotiated agreement applied to the circumstances in the present case. [CN 6-7]

In response, Plaintiff's memorandum in opposition does not set forth any new arguments, but instead reiterates the standard of review, [MIO 2] and reemphasizes his position that he substantially complied with the notice requirement. [MIO 1-2] We remain unpersuaded. As explained in our notice, even though Plaintiff learned in 2012 that he may have been entitled to leave when he requested it in 2009, he did not

1	take any action, [CN 6; RP 73] and Plaintiff's conversation with Human Resources
2	took place when he was originally denied leave in 2009. [DS 2-3] Significantly,
3	Plaintiff did not tell Human Resources in 2009 that there had been any particular
4	provision of the employee agreement that had been violated, contrary to what is
5	provided for in the negotiated agreement; [RP 46] Plaintiff merely told Human
6	Resources that he did not agree with their decision. [DS 2-3]
7	Finally, Plaintiff asks this Court what more he was required to do. [MIO 1] As
8	discussed above and in our notice, Plaintiff was required to exhaust the administrative
9	remedies available to him, as set forth in the negotiated agreement. [CN 5-7]
10	For the reasons stated above and in this Court's notice of proposed disposition,
11	we affirm.
12	{6} IT IS SO ORDERED.
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14	MICHAEL D. BUSTAMANTE, Judge
15	WE CONCUR:
16 17	JAMES J. WECHSLER, Judge
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او ا	CYNTHIA A. FRY, Judge