

COMPLAINTS

This policy provides employees with descriptions of orderly informal and formal processes for the prompt and equitable resolution of grievances when a concern has not been resolved. The Board intends that, whenever feasible, grievances be resolved at the lowest possible administrative level. This policy shall not be construed to create new or additional rights beyond those granted by Board policy or law.

The terms "complaint" and "grievance" shall have the same meaning. A grievance under this policy may include, but shall not be limited to, any of the following:

1. Grievances concerning an employee's wages, hours, or conditions of work.
2. Specific allegations of unlawful discrimination in employment on the basis of sex (including allegations of sexual harassment), race, religion, national origin, age, or disability.
3. Specific allegations of unlawful discrimination or retaliation on the basis of the employee's exercise of constitutional rights.
4. Whistleblower complaints.

OTHER COMPLAINT
PROCESSES/
EXCLUSIONS

Employee complaints shall be filed in accordance with this policy, except as required by the policies listed below. Some of these policies require appeals to be submitted in accordance with DGBA after the relevant complaint process or are excluded from eligibility for consideration under this policy:

1. Complaints alleging discrimination, including violations of Title IX (gender), Title VII (sex, race, color, religion, national origin), ADEA (age), or ADA/Section 504 (disability), shall be submitted in accordance with DIA.
2. Complaints alleging certain forms of harassment, including harassment by a supervisor and violation of Title VII, shall be submitted in accordance with DIA.
3. Complaints concerning retaliation relating to discrimination and harassment shall be submitted in accordance with DIA.
4. Complaints concerning instructional materials shall be submitted in accordance with EFA.
5. Complaints concerning a commissioned peace officer who is an employee of the District shall be submitted in accordance with CKE.

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6. Complaints concerning the proposed nonrenewal of a term contract issued under Chapter 21 of the Education Code shall be submitted in accordance with DFBB.
7. Complaints concerning the proposed termination or suspension without pay of an employee on a probationary, term, or continuing contract issued under Chapter 21 of the Education Code during the contract term shall be submitted in accordance with DFAA, DFBA, or DFCA.
8. Complaints related to reports to Child Protective Services or Adult Protective Services made pursuant to the requirements of Section 261.101 of the Texas Family Code.
9. Complaints where the relief sought by the grievant has already been granted at a prior administrative level or through informal conference or other similar means.
10. Complaints where the grievant fails to state specific relief sought that applies to the grievant directly, or that cannot be granted by the hearing officer or Board.

NOTICE TO
EMPLOYEES

The District shall inform employees of this policy through appropriate District publications.

GUIDING PRINCIPLES

The Board encourages employees to discuss their concerns with their supervisor, principal, or other appropriate administrator who has the authority to address the concerns. Concerns should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.

INFORMAL PROCESS

Although encouraged, an informal conference with the principal or other appropriate administrator is not required prior to filing a complaint under this policy, and does not stop, pause, or toll the timelines set forth in this policy. The timelines included herein apply regardless of the conduct or results of an informal conference. Informal resolution shall be encouraged but shall not extend any deadlines in this policy, except by mutual written consent.

DIRECT
COMMUNICATION
WITH BOARD
MEMBERS

Employees shall not be prohibited from communicating with a member of the Board regarding District operations except when communication between an employee and a Board member would be inappropriate because of a pending hearing or appeal related to the employee.

FORMAL PROCESS

An employee may initiate the formal process described below by timely filing a written complaint form.

Even after initiating the formal complaint process, employees are encouraged to seek informal resolution of their concerns. An em-

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ployee whose concerns are resolved may withdraw a formal complaint at any time.

The process described in this policy shall not be construed to create new or additional rights beyond those granted by law or Board policy, nor to require a full evidentiary hearing or "mini-trial" at any level.

FREEDOM FROM
RETALIATION

Neither the Board nor any District employee shall unlawfully retaliate against any employee for bringing a grievance under this policy. [See DG]

WHISTLEBLOWER
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Whistleblower complaints shall be filed within the time specified by law and may be made to the Superintendent or designee beginning at Level Two. Complaint forms alleging a violation of law by the Superintendent may be submitted directly to the Board or designee. [See DG]

COMPLAINTS AGAINST
SUPERVISORS

Complaints alleging a violation of law by a supervisor may be made to the Superintendent or designee. Complaint forms alleging a violation of law by the Superintendent may be submitted directly to the Board or designee.

GENERAL
PROVISIONS
FILING

Complaint forms and appeal notices may be filed by hand-delivery, electronic communication, including e-mail and fax, or U.S. Mail. Hand-delivered filings shall be timely filed if received by the appropriate administrator or designee by the close of business on the deadline. Filings submitted by electronic communication shall be timely filed if they are received by the close of business on the deadline, as indicated by the date/time shown on the electronic communication. Mail filings shall be timely filed if they are post-marked by U.S. Mail on the deadline and received by the appropriate administrator or designated representative.

Level One grievances must be filed with the campus principal, if the employee works on a campus, or the director or executive director of the department in which the employee works.

Level Two grievance appeals must be filed with the Employee Hearing officer in the Department of Human Resources.

Level Three grievance appeals must be filed directly with the office of the Superintendent.

Failure to file a grievance with the appropriate District official listed above shall not constitute proper filing, and the applicable timeline for filing shall continue to run and not be tolled in any way. Should a grievant not file with the appropriate District official as set forth in this policy, and the timeline expires, any subsequent filing of the grievance shall be considered untimely.

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RESPONSE	<p>At Levels One and Two, “response” shall mean a written communication to the employee from the appropriate administrator. Responses may be hand-delivered, sent by electronic communication to the employee’s e-mail address of record, or sent by U.S. Mail to the employee’s mailing address of record. Mailed responses shall be timely if they are postmarked by U.S. Mail on or before the deadline.</p>
DAYS	<p>“Days” shall mean District business days, unless otherwise noted. In calculating timelines under this policy, the day a document is filed is “day zero.” The following business day is “day one.”</p>
REPRESENTATIVE	<p>“Representative” shall mean any person who or an organization that does not claim the right to strike and is designated by the employee to represent him or her in the complaint process.</p> <p>The employee may designate a representative through written notice to the District at any level of this process. The representative may participate in person or by telephone conference call. If the employee designates a representative with fewer than three days’ notice to the District before a scheduled hearing, the District may reschedule the hearing to a later date, if desired, in order to include the District’s counsel. The District may be represented by counsel at any level of the process.</p>
CONSOLIDATING COMPLAINTS	<p>Complaints arising out of an event or a series of related events shall be addressed in one complaint. Employees shall not file separate or serial complaints arising from any event or series of events that have been or could have been addressed in a previous complaint.</p> <p>When two or more complaints are sufficiently similar in nature and remedy sought to permit their resolution through one proceeding, the District may consolidate the complaints.</p>
GROUP GRIEVANCES	<p>Public employees may present grievances individually or as a group.</p> <p>When the Superintendent or designee determines, based upon his or her own discretion or with information provided, that two or more individual grievances are sufficiently similar in nature and remedy to permit their resolution through one proceeding, he or she may consolidate the grievances. The factors to be considered by the Superintendent or designee include but are not limited to the common nature of the complaint and remedy sought, common interests of the grievants, and the timeliness of each individual’s complaint.</p>
UNTIMELY FILINGS	<p>All timelines shall be strictly followed unless modified by mutual written consent.</p>

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	<p>If a complaint form or appeal notice is not timely filed, the complaint may be dismissed, on written notice to the employee, at any point during the complaint process.</p>
COSTS INCURRED	<p>Each party shall pay its own costs incurred in the course of the complaint.</p>
INITIATING GRIEVANCE	<p>Unless otherwise specified in policy, an employee shall initiate a grievance as provided at LEVEL ONE, below.</p>
PREREQUISITES	<p>A grievance shall be considered by the Level One administrator only when it complies with all of the following requirements:</p> <ol style="list-style-type: none">1. The grievance must be in writing on a form or in the format provided by the District, dated, and signed by the grievant or by his or her representative. Any documentation the grievant would like considered during the grievance should be attached to the form.2. The grievance must contain a statement of the facts and circumstances upon which the grievance is based, including the names of any persons involved or who have information relating directly to the grievance, the date, and a description of the event(s) or incident(s) giving rise to the grievance.3. The grievance must contain:<ol style="list-style-type: none">a. A reference to the law or policy alleged to have been violated or the dissatisfaction raised by the employee;b. The resulting harm or damage alleged to have occurred; andc. The remedy or remedies sought.4. The grievance must be timely filed.5. The grievance must include the name, address, telephone number, and e-mail address of the person who will represent the grievant, if any.6. If two or more individuals seek to file a grievance as a group, each individual grievant must sign the employee complaint form required at Level One.
AUDIO RECORDING	<p>As provided by law, an employee shall be permitted to make an audio recording of a conference or hearing under this policy at which the substance of the employee's complaint is discussed. The employee shall notify all attendees present that an audio recording is taking place. The District shall have the option of audio recording any conference or hearing under this policy.</p>

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LEVEL ONE

An employee who has a grievance shall request a hearing with the principal or immediate supervisor by submitting the grievance in writing on a form or in the format provided by the District to the appropriate individual as listed above. The grievance must be filed within ten days of the time the employee first knew or should have known of the event or series of events about which the employee is complaining. All documentary evidence relied upon by the employee must be submitted at Level One. Additional material may only be provided by the employee at Level Two in response to documentary evidence produced or relied upon by the Superintendent or designee at Level Two [see LEVEL TWO, below].

The principal or supervisor shall schedule the hearing within ten days after receipt of the written request. If the grievant fails to appear at a scheduled hearing, the hearing may nevertheless go forward without the grievant. The principal or supervisor shall respond in writing no more than ten days following the hearing, except where there are extenuating circumstances that prevent the principal or supervisor from doing so.

LEVEL TWO

If the outcome of the hearing at Level One is not to the employee's satisfaction or if the time for a response has expired, the employee may request a hearing with the Superintendent or designee to discuss the grievance. The request shall be in writing on a form or in the format provided by the District and must be filed no later than ten days following receipt of a written response or, if no written response is received, no later than ten days after the response deadline. [See DGBA(EXHIBIT)]

The Superintendent or designee shall schedule the hearing within ten days after receipt of the written request. The Superintendent or designee shall respond in writing no later than ten days following the hearing.

If during the consideration of the grievance at Level Two the Superintendent or designee determines that additional information may be necessary in order to render a decision, the time for responding to the employee shall be extended by ten days. Any documentary evidence upon which a decision is based at Level Two shall be provided to the employee to the extent permitted by law.

Should the employee choose to submit a response, clarification, or further documentary evidence in response to additional information provided to the employee by the Superintendent or designee, the employee must do so within ten days of receipt of these additional materials. The Level Two decision will then be rendered or the complaint will be remanded to Level One within ten days after the receipt of the employee's reply. If the employee chooses not to

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submit a response to the additional information provided by the District, the normal timelines for issuing a decision will be followed.

LEVEL THREE

If the outcome of the hearing at Level Two is not to the employee's satisfaction or if the time for a response has expired, the employee may request to place the matter on the agenda of a future Board meeting. [See BE(LOCAL)] The request shall be in writing on a form or in the format provided by the District and must be filed within ten days following receipt of a written response or, if no written response is received, within ten days of the response deadline. [See DGBA(EXHIBIT)]

The Superintendent or designee shall inform the employee of the date, time, and place of the meeting.

The Superintendent or designee shall provide the Board with copies of the employee's original grievance, all responses, and any written documentation previously submitted by the employee and the administration. No new documentary evidence may be submitted at Level Three.

The presiding officer may set reasonable time limits. The Board shall hear the grievance and may request a response from the administration. The District shall make an audiotape record of the Level Three proceeding before the Board.

The Board shall then make and communicate its decision orally or in writing at any time up to and including the next regularly scheduled Board meeting. If for any reason the Board fails to reach a decision regarding the complaint by the end of the next regularly scheduled meeting, the lack of a response by the Board upholds the administrative decision at Level Two.

CLOSED MEETING

If the grievance involves the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the employee bringing the grievance, it may be heard by the Board in closed meeting unless the employee bringing the grievance requests that it be heard in public.

EXCEPTION

However, if the grievance involves a complaint or charge against another District employee or a Board member, it shall be heard in closed meeting unless an open meeting is requested in writing by the employee or Board member against whom the complaint or charge is brought.