

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA
(LOCAL)

GUIDING PRINCIPLES	The Board encourages employees to discuss their concerns and complaints through informal conferences with their supervisor or other appropriate administrator.
INFORMAL PROCESS	Concerns should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.
FORMAL PROCESS	<p>If an informal conference regarding a complaint fails to reach the outcome requested by the employee, he or she may initiate the formal process described below by timely filing a written complaint form.</p> <p>Even after initiating the formal complaint process, employees are encouraged to seek informal resolution of their concerns. An employee whose concerns are resolved may withdraw a formal complaint at any time.</p> <p>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.</p>
FREEDOM FROM RETALIATION	Neither the Board nor any ESC employee shall unlawfully retaliate against an employee for bringing a concern or complaint. [See DG]
NOTICE TO EMPLOYEES	The Executive Director or designee and other supervisory personnel shall inform employees of this policy.
SPECIFIC COMPLAINTS	For more information on how to proceed with complaints regarding alleged discrimination, including violations of Title IX or Section 504, see DAA.
OTHER REVIEW PROCESSES	Complaints alleging certain forms of harassment shall be processed in accordance with DHA. This policy shall apply to all other employee complaints.
DEFINITIONS	For purposes of this policy, terms are defined as follows:
COMPLAINT / GRIEVANCE	<p>The terms “complaint” and “grievance” shall have the same meaning. A complaint under this policy may include:</p> <ol style="list-style-type: none">1. Grievances concerning an employee’s wages, hours, or conditions of work;2. Specific allegations of unlawful discrimination in employment based on the employee’s sex, race, religion, national origin, age, or disability;3. Specific allegations of unlawful discrimination or retaliation based on the employee’s exercise of legally protected rights;

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4. Specific allegations of adverse personnel action based on the employee's good faith report to an appropriate law enforcement authority of a violation of a law by the ESC or an ESC employee, i.e., "whistleblower complaints" [see DG]; or
5. Complaints arising from the dismissal or termination of an at-will employee. [See DC]

FILING

Complaint forms and appeal notices may be filed by hand-delivery, 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. Fax filings shall be timely filed if they are received on or before the deadline, as indicated by the date/time shown on the fax copy. Mail filings shall be timely filed if they are postmarked by U.S. Mail on the deadline and received by the appropriate administrator or designated representative no more than three days after the deadline.

RESPONSE

At Levels One and Two, "response" shall mean a written communication to the employee from the appropriate administrator. Responses may be hand-delivered 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 the deadline and received by the employee or designated representative no more than three days after the response deadline.

DAYS

"Days" shall mean ESC business days. In calculating time lines under this policy, the day a document is filed is "day zero," and all deadlines shall be determined by counting the following day as "day one."

REPRESENTATIVE

"Representative" means 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.

The employee may designate a representative through written notice to the ESC at any level of this process. If the employee designates a representative with fewer than three days' notice to the ESC before a scheduled conference or hearing, the ESC may reschedule the conference or hearing to a later date, if desired, in order to include the ESC's counsel.

WHISTLEBLOWER
COMPLAINTS

Whistleblower complaints shall be filed within the time specified by law. Such complaints shall first be filed in accordance with LEVEL TWO, below. Time lines for the employee and the ESC set out in this policy may be shortened to allow the Board to make a final decision within 60 days of the initiation of the complaint. [See DG]

GENERAL PROVISIONS	<p>Complaints arising out of an event or a series of related events shall be addressed in one complaint. Employees shall not bring 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 ESC may consolidate the complaints.</p>
UNTIMELY FILINGS	<p>All time limits shall be strictly followed unless modified by mutual written consent.</p> <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. The employee may appeal the dismissal by seeking review in writing within ten days, starting at the level at which the complaint was dismissed. Such appeal shall be limited to the issue of timeliness.</p>
COSTS INCURRED	<p>Each party shall pay its own costs incurred in the course of the complaint.</p>
COMPLAINT FORM	<p>Complaints under this policy shall be submitted in writing on a form provided by the ESC.</p> <p>Copies of any documents that support the complaint should be attached to the complaint form. If the employee does not have copies of these documents, they may be presented at the Level One conference. After the Level One conference, no new documents may be submitted unless the employee did not know the documents existed before the Level One conference.</p> <p>A complaint form that is incomplete in any material aspect may be dismissed, but may be refiled with all the requested information if the refiling is within the designated time for filing a complaint.</p>
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.</p>
LEVEL ONE	<p>Complaint forms must be filed:</p> <ol style="list-style-type: none">1. Within 15 days of the date the employee first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint or grievance; and2. With the lowest level administrator who has the authority to remedy the alleged problem.

If the only administrator who has authority to remedy the alleged problem is the Executive Director or designee, the complaint may begin at Level Two following the procedure, including deadlines, for filing the complaint form at Level One.

If the complaint is not filed with the appropriate administrator, the receiving administrator must note the date and time the complaint form was received and immediately forward the complaint form to the appropriate administrator.

The appropriate administrator shall hold a conference with the employee within ten days after receipt of the written complaint.

The administrator shall have ten days following the conference to provide the employee a written response.

LEVEL TWO

If the employee did not receive the relief requested at Level One or if the time for a response has expired, the employee may request a conference with the Executive Director or designee to appeal the Level One decision.

The appeal notice must be filed in writing, on a form provided by the ESC, within ten days after receipt of a response or, if no response was received, within ten days of the response deadline at Level One.

The Executive Director or designee shall hold a conference within ten days after the appeal notice is filed. At the conference, the Executive Director or designee shall consider only the issues and documents presented at Level One and identified in the Level Two appeal notice. The Executive Director or designee shall have ten days following the conference to provide the employee a written response.

LEVEL THREE

If the employee did not receive the relief requested at Level Two or if the time for a response has expired, the employee may appeal the decision to the Board.

The appeal notice must be filed in writing, on a form provided by the ESC, within ten days after receipt of a response or, if no response was received, within ten days of the response deadline at Level Two.

The Executive Director or designee shall inform the employee of the date, time, and place of the Board meeting at which the complaint will be on the agenda for presentation to the Board.

The Executive Director or designee shall provide the Board with copies of the complaint form, all responses, all appeal notices, and all written documentation previously submitted by the employee or

the administration. The Board shall consider only those issues and documents presented at the preceding levels and identified in the appeal notice.

The ESC shall determine whether the complaint will be presented in open or closed meeting in accordance with the Texas Open Meetings Act and other applicable law. [See BE]

The presiding officer may set reasonable time limits and guidelines for the presentation. The Board shall hear the complaint and may request that the administration provide an explanation for the decisions at the preceding levels.

In addition to any other record of the Board meeting required by law, the Board shall prepare a separate record of the Level Three presentation. The Level Three presentation, including the presentation by the employee or the employee's representative, any presentation from the administration, and questions from the Board with responses, shall be recorded by audio recording, video/audio recording, or court reporter.

The Board shall then consider the complaint. It may give notice of 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.