

PUBLIC COMPLAINTS

EF
(LOCAL)

COMPLAINTS	In this policy, the terms “complaint” and “grievance” shall have the same meaning.
OTHER COMPLAINT PROCESSES	Complaints by members of the public or member school districts shall be filed in accordance with this policy, except complaints by employees of the ESC, which shall be filed in accordance with DGBA.
GUIDING PRINCIPLES	The Board encourages the public to discuss concerns and complaints through informal conferences with the appropriate administrator as determined by the Executive Director.
INFORMAL PROCESS	
FORMAL PROCESS	If an informal conference regarding a complaint fails to reach the outcome requested by an individual, he or she may initiate the formal process described below by timely filing a written complaint form. Even after initiating the formal complaint process, individuals are encouraged to seek informal resolution of their concerns. An individual 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 ESC employee shall unlawfully retaliate against any individual for bringing a concern or complaint.
GENERAL PROVISIONS	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 or before the deadline and received by the appropriate administrator or designated representative no more than three days after the deadline.
FILING	
RESPONSE	At Level One, “response” shall mean a written communication to the individual from the appropriate administrator. Responses may be hand-delivered or sent by U.S. Mail to the individual’s mailing address of record. At Level Two, “response” shall mean a written communication to the individual from the deputy director. At Level Three, “response” shall mean a written communication to the individual from the Executive Director or designee. At Level Four, “response” shall mean action or inaction by the Board in open session of a Board meeting. The Board may, at its discretion, follow up its

	<p>action or inaction at a Board meeting concerning the complaint with a written communication to the individual.</p>
DAYS	<p>“Days” shall mean ESC business days. In calculating time lines 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 organization that is designated by an individual to represent the individual in the complaint process.</p> <p>The individual may designate a representative through written notice to the ESC at any level of this process. If the individual designates a representative with fewer than three days’ notice to the ESC before a scheduled conference or hearing, the ESC may re-schedule the conference or hearing to a later date, if desired, in order to include the ESC’s counsel. The ESC 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. An individual 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>
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 individual, at any point during the complaint process. The individual may appeal the dismissal by seeking review in writing within ten days from the date of the written dismissal notice, 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 individual 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 by the individual unless the individual did not know the documents existed before the Level One conference.</p>

A complaint form that is incomplete in any material aspect may be dismissed but may be refiled with all the required information if the refiling is within the designated time for filing a complaint.

LEVEL ONE

Complaint forms must be filed:

1. Within 15 days of the date the individual first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint or grievance; and
2. 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 investigate as necessary and hold a conference with the individual within ten days after receipt of the written complaint. The appropriate administrator may set reasonable time limits for the conference.

The appropriate administrator shall provide the individual a written response within ten days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the administrator may consider information provided at the Level One conference and any other relevant documents or information the administrator believes will help resolve the complaint.

LEVEL TWO

If the individual did not receive the relief requested at Level One or if the time for a response has expired, the individual may request a conference with the appropriate administrator 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 appropriate administrator shall schedule and conduct a conference within ten days after the appeal notice is filed. At the conference, the appropriate administrator shall consider only the issues and documents considered at Level One. The appropriate administrator shall have ten days following the conference to provide the individual a written response.

LEVEL THREE

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

The Executive Director or designee shall schedule and conduct 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 considered at Level Two. The Executive Director or designee shall have ten days following the conference to provide the individual a written response.

LEVEL FOUR

If the individual did not receive the relief requested at Level Three or if the time for a response has expired, he or she 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 of the date of the written Level Three response or, if no response was received, within ten days of the Level Three response deadline.

The Executive Director or designee shall inform the individual 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 the record of the Level Three complaint. The individual may request a copy of the Level Three record.

The Level Three record shall include:

1. The original complaint form and any attachments.
2. All other documents submitted by the individual at Level One.
3. The written responses issued at all levels and any attachments.
4. All other documents relied upon by the previous level administrators in reaching their decisions.
5. The notices of appeal from previous levels.

If at the Level Four hearing the administration intends to rely on evidence not included in the previous record, the administration shall provide the individual notice of the nature of the evidence at least three days before the hearing.

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, including an opportunity for the individual and administration to each make a presentation and provide rebuttal and an opportunity for questioning by the Board. The Board shall hear the complaint and may request that the administration provide an explanation for the decision at the preceding level.

In addition to any other record of the Board meeting required by law, the Board shall prepare a separate record of the Level Four presentation. The Level Four presentation, including the presentation by the individual or his or her 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 the Board does not make 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 Three.