Complaints

In this policy, the terms “complaint” and “grievance” shall have the same meaning.

Other Complaint Processes

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:

1. Complaints alleging discrimination, including violations of Title IX (gender), Title VII (sex, race, color, religion, national origin), ADEA (age), or 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 resources shall be submitted in accordance with EF.

5. Complaints concerning a commissioned peace officer who is an employee of the District shall be submitted in accordance with CKE.

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.

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 resolution shall be encouraged but shall not extend any deadlines in this policy, except by mutual written consent.

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. However, employees are encouraged to utilize the District’s procedures for resolving issues.

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 employee 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.

Neither the Board nor any District employee shall unlawfully retaliate against an employee for bringing a concern or complaint.

Whistleblower complaints shall be filed within the time specified by law and may be made to the Superintendent or designee beginning at Level Two. Timelines for the employee and the District set out in this policy may be shortened to allow the Board to make a final decision within 60 calendar days of the initiation of the complaint.

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

Complaint forms and appeal notices may be filed by hand-delivery, by electronic communication, including e-mail and fax, or by 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 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.

The District shall make reasonable attempts to schedule conferences at a mutually agreeable time. If the employee fails to appear at a scheduled conference, the District may dismiss the complaint. If the complaint is dismissed, it may be refiled, but only within the original time period for filing a complaint.
Response

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.

Days

“Days” shall mean District business days, unless otherwise noted. In calculating time lines under this policy, the day a document is filed is “day zero.” The following business day is “day one.”

Representative

“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.

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 conference or hearing, the District may reschedule the conference or hearing to a later date, if desired, in order to include the District’s counsel. A representative may not represent the employee/grievant without the grievant present unless the grievant has designated the representative through written notice to the District. The District may be represented by counsel at any level of the process.

Consolidating Complaints

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. If the District determines a complaint has been or could have been addressed in a previous complaint, the complaint shall be dismissed by written notice to the employee.

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.

Untimely Filings

All time limits shall be strictly followed unless modified by mutual written consent.

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 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.

<table>
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<tr>
<th>Costs Incurred</th>
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<td>Each party shall pay its own costs incurred in the course of the complaint.</td>
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<th>Complaint and Appeal Forms</th>
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<td>Complaints and appeals under this policy shall be submitted in writing on a form provided by the District.</td>
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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 at the time of filing, they may be presented at the Level One conference. After the Level One conference, no new documents may be submitted by the employee unless the employee did not know the documents existed before the Level One conference, or unless requested by the administrator hearing the complaint.

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

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<th>Audio Recording</th>
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<td>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. Prior to the start of any audio recording, the employee shall notify all attendees present of his or her intent to audio record the conference.</td>
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<th>Level One</th>
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<td>Complaint forms must be filed:</td>
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<td>1. Within ten 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; and</td>
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<tr>
<td>2. With the lowest level administrator who has the authority to remedy the alleged problem.</td>
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In most circumstances, employees on a school campus shall file Level One complaints with the campus principal. Other District employees shall file Level One complaints with their immediate supervisor.

All complaints shall be filed at Level One. Upon review, the Superintendent or designee, at his or her sole discretion, shall assign the appropriate administrator to hear the complaint, and shall determine whether the complaint can be more appropriately addressed at Level Two based on the information submitted and relief sought.
If the only administrator who has authority to remedy the alleged problem is the Superintendent or designee, the complaint may, at the Superintendent or designee’s discretion, 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 investigate as necessary and schedule a conference with the employee within ten days after receipt of the written complaint. The administrator may set reasonable time limits for the conference.

Absent extenuating circumstances, the administrator shall provide the employee 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 employee did not receive the relief requested at Level One or if the time for a response has expired and an extension due to extenuating circumstances has not been agreed upon, the employee may request a conference with the Superintendent or designee to appeal the Level One decision.

The appeal notice must be filed in writing to the Superintendent or designee, on a form provided by the District, within ten days of the date of the written Level One response or, if no response was received and no extension was agreed upon, within ten days of the Level One response deadline.

After receiving notice of the appeal, the Level One administrator shall prepare and forward a record of the Level One complaint to the Level Two administrator. The employee may request a copy of the Level One record.

The Level One record shall include:

1. The original complaint form and any attachments.
2. All other documents submitted by the employee at Level One.
3. The written response issued at Level One and any attachments.
4. All other documents relied upon by the Level One administrator in reaching the Level One decision.

The Level Two administrator shall schedule a conference within ten days after the appeal notice is filed. The conference shall be limited to the issues and documents considered at Level One. At the conference, the employee may provide information concerning any documents or information relied upon by the administration for the Level One decision. The Level Two administrator may set reasonable time limits for the conference. The Level Two administrator shall not be required to consider documentation not submitted or issues not presented at Level One.

The Level Two administrator shall provide the employee 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 Level Two administrator may consider the Level One record, information provided at the Level Two conference, and any other relevant documents or information the Level Two administrator believes will help resolve the complaint.

Recordings of the Level One and Level Two conferences, if any, shall be maintained with the Level One and Level Two records.

**Level Three**

If the employee did not receive the relief requested at Level Two or if the time for a response has expired and an extension due to extenuating circumstances has not been agreed upon, the employee may appeal the decision to the Board.

The appeal notice must be filed in writing, on a form provided by the District, within ten days of the date of the written Level Two response or, if no response was received and no extension was agreed upon, within ten days of the Level Two response deadline.

The Level Two administrator shall prepare and forward to the Superintendent or designee the record of the Level Two appeal. The Superintendent or designee shall provide a copy of the Level Two record to the Board. The employee may request a copy of the Level Two record.

The Level Two record shall include:

1. The Level One record.
2. The notice of appeal from Level One to Level Two.
3. The written response issued at Level Two and any attachments.
4. All other documents relied upon by the administration in reaching the Level Two decision.
The Superintendent 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 appeal shall be limited to the issues and documents considered at Level Two, except that if at the Level Three hearing the administration intends to rely on evidence not included in the Level Two record, the administration shall provide the employee notice of the nature of the evidence at least three days before the hearing. The Board shall not be required to consider documentation not previously submitted or issues not previously presented.

The District 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]

At the Board’s discretion, the Board may hear the complaint based on an oral presentation or upon written submission. If the complaint is heard on oral presentation, the presiding officer may set reasonable time limits and guidelines for the presentation, including an opportunity for the employee 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 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 if the complaint is heard on oral 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.

If the complaint is heard on oral presentation, 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 Two.

If the complaint is heard on written submission, the Board shall consider the complaint based on written submission at a scheduled Board meeting. It may give notice of its decision orally or in writing at any time up to and including the next regularly scheduled Board meeting after the Board considers the complaint. The written submission shall serve as the record of the Level Three proceeding.
before the Board, except that the Board is not required to consider documentation not previously submitted or issues not previously addressed.