

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE GRIEVANCES

DGBA
(LOCAL)

Guiding Principles	<p>The Board encourages employees to discuss their concerns with their supervisor or other appropriate administrator who has the authority to address the concerns.</p> <p>Concerns should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.</p> <p>Informal resolution shall be encouraged but shall not extend any deadlines in this policy, except by mutual written consent.</p>
Informal Process	
Formal Process	<p>An employee 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>
Complaints Against Supervisors	<p>Complaints alleging a violation of law by a supervisor may be made to the College President or designee. Complaint forms alleging a violation of law by the College President may be submitted directly to the Board or designee.</p>
Notice to Employees	<p>The College District shall inform employees of this policy through appropriate College District publications.</p>
Freedom from Retaliation	<p>Neither the Board nor any College District employee shall unlawfully retaliate against an employee for bringing a concern or complaint.</p>
Whistleblower Complaints	<p>Whistleblower complaints shall be filed within the time specified by law. Such complaints shall first be filed in accordance with Level Three, below. Time lines for the employee and the College District 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]</p>
Complaints	<p>In this policy, the terms “complaint” and “grievance” shall have the same meaning.</p>
Other Complaint Processes	<p>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:</p>

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1. Complaints alleging discrimination, including violations of Title IX (gender), Title VII (sex, race, color, religion, national origin), ADEA (age), or Section 504 (disability). [See DIAA and DIAB]
2. Complaints alleging certain forms of harassment, including harassment by a supervisor and violations of Title VII. [See DIAA and DIAB]
3. Complaints concerning retaliation relating to discrimination and harassment. [See DIAA and DIAB]
4. Complaints concerning a commissioned peace officer who is an employee of the College District. [See CHA]
5. Complaints concerning an employment preference for former foster children. [See DC]
6. Complaints arising from the dismissal of term contract faculty members. [See DMAA]
7. Complaints concerning the nonrenewal of term contract employees and those arising from the nonrenewal of term contract faculty members. [See DMAB]
8. Complaints concerning the withdrawal of consent to remain on campus. [See GDA]

General Provisions

Filing

Complaint forms and appeal notices may be filed by hand-delivery, by electronic communication, including email 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 post-marked 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.

Scheduling
Conferences

The College District shall make reasonable attempts to schedule conferences at a mutually agreeable time. If the employee fails to appear at a scheduled conference, the College District may hold the conference and issue a decision in the employee's absence.

Response

At Levels One, Two, and Three, "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 email address of record, or sent by U.S. Mail to the employee's mailing address of record. Mailed responses

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shall be timely if they are postmarked by U.S. Mail on or before the deadline.

Days

“Days” shall mean College 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” 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 College District at any level of this process. If the employee designates a representative with fewer than three days’ notice to the College District before a scheduled conference or hearing, the College District may reschedule the conference or hearing to a later date, if desired, in order to include the College District’s counsel. The College 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.

When two or more complaints are sufficiently similar in nature and remedy sought to permit their resolution through one proceeding, the College 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.

Costs Incurred

Each party shall pay its own costs incurred in the course of the complaint.

**Complaint and
Appeal Forms**

Complaints and appeals under this policy shall be submitted in writing on a form provided by the College District.

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 by the employee unless the employee did not know the documents existed before the Level One conference.

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.

Presentation

An employee may be provided with an administrative review conference, as appropriate, as outlined at Level One, Level Two, Level Three, Level Four, and Level Five, below. The employee may also be provided a presentation of the complaint to the Board as specified at Level Five, below, unless the Board grants a hearing.

In some instances, it will be appropriate to skip a level or levels of the complaint process if the nature of the complaint or the remedy requested is not appropriate for the initial level or levels. Administrative determinations regarding the appropriate level at which to hold a complaint conference will be made promptly upon receipt of a timely written complaint.

Hearing

If an employee alleges in writing specific facts that, if true, would constitute a violation of the employee's common law, statutory, or constitutional rights, an investigation of such allegations shall be conducted by the appropriate administrator after receipt of the complaint. The results of an investigation may be considered at any level of the complaint process. If the employee does not accept the College President's resolution at Level Four and requests a Board hearing, the College President shall schedule a hearing as specified at Level Five, below.

Level One

An employee shall file a complaint on the proper form with the lowest level administrator who has the authority to address the complaint 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. In most circumstances, the Level One complaint shall be filed with the employee's immediate supervisor.

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 to the appropriate administrator.

The appropriate administrator shall schedule 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 with a written response. In the event an in-

vestigation is necessary, the administrator shall have 15 days following the conference to provide the employee with a written response.

Level Two

If the outcome of the complaint conference at Level One is not to the employee's satisfaction, the employee may appeal to the dean of the employee's immediate supervisor within ten days from receipt of the Level One response. The appeal notice must be filed in writing on a form provided by the College District.

The appropriate dean shall schedule a conference with the employee within ten days after receipt of the appeal notice. At the conference, only the issues and documents presented at Level One and identified in the Level Two appeal notice, as well as the Level One response and any related investigation and/or documents shall be considered. The appropriate dean shall have ten days following the conference to provide the employee with a written response.

Level Three

If the outcome of the complaint conference at Level Two is not to the employee's satisfaction, the employee may appeal to a grievance committee within ten days. The appeal notice must be filed in writing on a form provided by the College District. The grievance committee shall hold a conference with the employee within ten days from receipt of the Level Two appeal notice. At the conference, only the issues and documents considered at Level Two shall be considered. The grievance committee shall have ten days following the conference to provide the employee with a written response.

The grievance committee shall consist of three faculty members and/or professional staff and two administrators appointed by the College President.

Level Four

If the outcome of the complaint conference at Level Three is not to the employee's satisfaction, the employee may appeal to the College President within ten days from receipt of the Level Three response. The appeal notice must be filed in writing on a form provided by the College District. The College President or designee shall hold a conference with the employee within ten days from receipt of the Level Three appeal notice. At the conference, only the issues and documents considered at Level Three shall be considered. The College President or designee shall have ten days following the conference to provide the employee with a written response.

Level Five

Presentation

If the outcome at Level Four is not to the employee's satisfaction, the employee may submit a written request to place the matter on

the agenda of a future Board meeting. The request must be in writing and must be filed within ten working days after receipt of the Level Four response. The College President shall inform the employee of the date, time, and place of the meeting [see BD].

The presiding officer may set reasonable time limits and procedural guidelines for the complaint presentations. The Board shall listen to the complaint and any responsive presentation from the administration. The Board shall consider only those issues and documents presented at the preceding levels and identified in the appeal notice. The Board is not required to respond or take any action on the matter, unless at its sole discretion, the Board determines some response is warranted.

The Board may give notice of any 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, the lack of a response by the Board upholds the administrative decision at Level Four.

Hearing

A "hearing" may be more extensive than a complaint presentation; however, nothing in this policy shall be construed to confer "due process" or "due course of law" rights to an employee who is provided with a hearing. An employee who is granted a hearing shall be afforded that hearing either with the Board in a meeting that includes the hearing as an item in the posted agenda or with the Board's designee. If the Board conducts the hearing, it shall make and communicate its decision at any time up to and including the next regularly scheduled Board meeting.

If the Board's designee conducts the hearing, he or she shall make a recommendation to the Board at the first regular meeting following the hearing that affords adequate time to prepare a written recommendation. The employee shall be provided a copy of the recommendation before the meeting and shall be given an opportunity at the meeting to respond to the recommendation either orally or in writing. The Board shall then make and communicate its decision at any time up to and including the next regularly scheduled Board meeting.

Closed Meeting

If the complaint involves the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the employee, it will be heard in a closed meeting unless the employee requests it to be public. If the complaint involves complaints or charges about another employee, it will be heard in a closed meeting unless the employee complained about requests it to be heard in public.