
U.S. Constitution	<p>An ESC shall take no action abridging the freedom of speech or the right of the people to petition the Board for redress of grievances. <i>U.S. Const. Amend. I, XIV</i></p> <p>The Board may confine its meetings to specified subject matter and may hold nonpublic sessions to transact business. But when the Board sits in public meetings to conduct public business and hear the views of citizens, it may not discriminate between speakers on the basis of the content of their speech or the message it conveys. <i>Rosenberger v. Rector & Visitors of Univ. of Virginia</i>, 515 U.S. 819, 828 (1995); <i>City of Madison v. Wis. Emp. Rel. Comm'n</i>, 429 U.S. 167, 174 (1976); <i>Pickering v. Bd. of Educ.</i>, 391 U.S. 563, 568 (1968) [See DG]</p>
Texas Constitution	<p>Employees shall have the right, in a peaceable manner, to assemble together for their common good and to apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address, or remonstrance. <i>Tex. Const. Art. I, Sec. 27</i></p> <p>There is no requirement that the Board negotiate or even respond to complaints. However, the Board must stop, look, and listen and must consider the petition, address, or remonstrance. <i>Professional Association of College Educators v. El Paso County Community [College] District</i>, 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ <i>ref'd n.r.e.</i>)</p>
Federal Laws	
Section 504	<p>An ESC that receives federal financial assistance, directly or indirectly, and that employs 15 or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973. <i>34 C.F.R. 104.7(b)</i>, . 11</p>
Americans with Disabilities Act	<p>An ESC that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the Code of Federal Regulations, Title 28, Part 35 (Americans with Disabilities Act regulations). <i>28 C.F.R. 35.107</i>, . 140</p>
Title IX	<p>An ESC that receives federal financial assistance, directly or indirectly, shall adopt and publish grievance procedures providing for prompt and equitable resolution of employee complaints alleging any action prohibited by Title IX of the Education Amendments of 1972. <i>34 C.F.R. 106.8(b)</i>; <i>North Haven Bd. of Educ. v. Bell</i>, 456 U.S. 512 (1982)</p>

State Laws

Wages, Hours,
Conditions of Work

The prohibition against collective bargaining and strikes [see DGA] does not impair the right of employees to present grievances concerning their wages, hours of employment, or conditions of work, either individually or through a representative that does not claim the right to strike. *Gov't Code 617.005*

The term "conditions of work" should be construed broadly to include any area of wages, hours, or conditions of employment, and any other matter that is appropriate for communications from employees to employer concerning an aspect of their relationship. *Atty. Gen. Op. JM-177 (1984)*; *Corpus Christi Fed. of Teachers v. Corpus Christi Indep. Sch. Dist.*, 572 S.W.2d 663 (Tex. 1978)

The statute protects grievances presented individually or individual grievances presented collectively. *Lubbock Prof'l Firefighters v. City of Lubbock*, 742 S.W.2d 413 (Tex. App.—Amarillo 1987, writ ref'd n.r.e.)

Whistleblower
Complaints

Before bringing suit, an employee who seeks relief under Government Code Chapter 554 (whistleblowers) must initiate action under the ESC's grievance or appeal procedures relating to suspension or termination of employment or adverse personnel action. *Gov't Code 554.005* [See DG]

Representative

An ESC cannot deny an employee's representative, including an attorney, the right to represent the employee at any stage of the grievance procedure, so long as the employee designates the representative and the representative does not claim the right to strike. *Lubbock Prof'l Firefighters v. City of Lubbock*, 742 S.W.2d 413 (Tex. App.—Amarillo 1987, writ ref'd n.r.e.); *Sayre v. Mullins*, 681 S.W.2d 25 (Tex. 1984)

An ESC should meet with employees or their designated representatives at reasonable times and places to hear grievances concerning wages, hours of work, and conditions of work. The right to present grievances is satisfied if employees have access to those in a position of authority to air their grievances. However, that authority is under no legal compulsion to take action to rectify the matter. *Atty. Gen. Op. H-422 (1974)*; *Corpus Christi Indep. Sch. Dist. v. Padilla*, 709 S.W.2d 700 (Tex. App.—Corpus Christi, 1986, no writ)

Open Meetings Act

The Board is not required to conduct an open meeting to hear a complaint or charge against an employee. However, the Board may not conduct a closed meeting if the employee who is the subject of the hearing requests a public hearing. *Gov't Code 551.074* [See BEC]

Closed Meeting

A Board may conduct a closed meeting on an employee complaint to the extent required or provided by law. [See BEC]