

**United States
Constitution**

A college district shall take no action abridging the freedom of speech or the right of the people to petition the board for redress of grievances. *U.S. Const. Amend. I, XIV*

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. *Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 828 (1995); *City of Madison v. Wis. Emp. Rel. Comm'n*, 429 U.S. 167, 174 (1976); *Pickering v. Bd. of Educ.*, 391 U.S. 563, 568 (1968) [See DG]

Texas Constitution

The citizens, including college district employees, shall have the right, in a peaceable manner, to assemble together for their common good and apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address or remonstrance. *Tex. Const. Art. I, Sec. 27*

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. *Prof'l Ass'n of College Educators v. El Paso County Cmty District*, 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ ref'd n.r.e.)

Federal Laws

Section 504

A recipient of federal financial assistance 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 34 C.F.R. Part 104 (Section 504 of the Rehabilitation Act of 1973 regulations). Such procedures need not be established with respect to complaints from applicants for employment. *34 C.F.R. 104.7(b), .11*

Americans with
Disabilities Act

A public entity, including a college district, 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 28 C.F.R. Part 35 (Americans with Disabilities Act regulations). *28 C.F.R. 35.107(b), .140*

Title IX

Each recipient of federal financial assistance shall adopt and publish grievance procedures providing for prompt and equitable resolution of employee complaints alleging any action prohibited by 34 C.F.R. Part 106 (Title IX of the Education Amendments of 1972 regulations). *34 C.F.R. 106.8(b); North Haven Bd of Educ. v. Bell*, 456 U.S. 512 (1982)

State Laws

Wages, Hours,
Conditions of Work

Government Code Chapter 617 (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.)

Representative

A college district 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)

A college district 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

Government Code Chapter 551 does not require a governmental body, including a college district board of trustees, to conduct an open meeting to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of an employee or to hear a complaint or charge against an employee. This section does not apply if the employee who is the subject of the deliberation or hearing requests a public hearing. *Gov't Code 551.074*
[See BDA]

Closed Meeting

A board may conduct a closed meeting on an employee complaint to the extent required or provided by law. *Gov't Code 551.082*
[See BDA]

**Whistleblower
Complaints**

Before bringing suit, a public employee, including a college district employee, must initiate action under the grievance or appeal procedures of the employing state or local governmental entity relating to suspension or termination of employment or adverse personnel action before suing under Government Code Chapter 554 (whistleblowers). *Govt Code 554.006* [See DG]