

<b>Purpose</b>	The purpose of this policy is to provide employees an orderly process for the prompt and equitable resolution of complaints. The Board intends that, whenever feasible, complaints be resolved at the lowest possible administrative level. The policy shall not be construed to create new or additional substantive rights beyond those granted by Board policy or law.
<b>Definitions</b>	In this policy, the following definitions shall apply:
Days	“Days” shall be defined as District business days in accordance with the District-wide calendar, unless otherwise noted. In calculating timelines under this policy, the day a document is filed is “day zero.” The following business day is “day one.”
Employee	“Employee” shall be defined as an individual employed by the District and performing work under regular, continuous employment.
Complaint	A “complaint” shall mean a grievance by an employee or group of employees involving wages, hours, or conditions of work (including, but not limited to, demotion, suspension without pay, or termination if applicable under this policy). The terms “dispute,” “complaint,” and “grievance” shall have the same meaning throughout this policy.
Grievant	The term “grievant” shall include the employee, employees, or organization filing a complaint on behalf of the employee. The words “grievant” and “employee” shall have the same meaning throughout this policy.
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. The District may be represented by counsel at any level of the process.
Superintendent’s Designee	For purposes of complaints involving an employee’s appraisal, the “Superintendent’s designee” shall be the appropriate area Superintendent.  For all other complaints, the executive director of employee relations shall be the Superintendent’s designee.

## Complaints

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:

**Other Complaint Processes**

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**

The District shall inform employees of this policy through appropriate District publications.

Within ten days of the action complained of, the grievant shall have requested a meeting with his or her immediate supervisor. The immediate supervisor shall schedule the meeting within five days of the request.

**Informal Conference**

If the complaint is resolved during this meeting, the grievant shall be required to complete a statement to the effect that the particular complaint has been resolved. If the matter is not resolved in the informal conference, the grievant may move to Level One.

**Direct Communication with Board Members**

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.

**Formal Process**

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.

**Freedom from Retaliation**

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

**Whistleblower Complaints**

Whistleblower complaints shall be filed within the time specified by law and may be made to the Superintendent or designee beginning at Level Two. If the complaint is not resolved at that level, the Superintendent’s designee shall ensure that the matter reaches the Board expeditiously. Timelines for the employee and the District set out in this policy may be shortened to ensure that the Board’s final decision is made within 60 calendar days of the initiation of the complaint. [See DG]

**Complaints Against Supervisors**

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

**General Provisions**

Filing

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 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.

A complaint that is incomplete must be re-filed within five days of the date the complaint form was returned to the employee. The complaint must be filed with all the requested information in order for the complaint form to be considered timely and a hearing to be scheduled.

PERSONNEL-MANAGEMENT RELATIONS  
EMPLOYEE COMPLAINTS/GRIEVANCES

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Scheduling Conferences	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 hold the conference and issue a decision in the employee's absence.
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.
Consolidating Complaints	<p>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.</p> <p>When two or more complaints are sufficiently similar in nature and remedy sought to permit their resolution through one proceeding, the Superintendent may consolidate the complaints.</p>
Cost Incurred	Each party shall pay its own cost incurred in the course of the complaint.
Complaint and Appeal Forms	<p>Complaints and appeals shall be submitted in writing on a form prescribed by the District, which may be obtained on the District's website, <a href="http://my.episd.org">my.episd.org</a>, or in the Office of Employee Relations.</p> <p>Copies of any documents that support the complaint must be attached to the complaint form. Except as provided at the Board presentation, after Level One, no new documents may be submitted by the employee unless the employee can demonstrate that the additional evidence was not available to the employee at the time of Level One.</p>
<b>Untimely Filings</b>	<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, as provided by this policy, 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 of 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>
<b>Timelines</b>	All forms, letters, or documents designated to be received by specific individuals are to be in the possession of the individual or his

or her designee or designated representative by the close of business on the limiting date as set out in this policy. Receipt of a required document by a grievant's designated representative (if any) shall be the equivalent of receipt by the grievant, and receipt by the Superintendent's designee (executive director, employee relations) shall be the equivalent of receipt by the Superintendent.

All references to timeline days are to weekdays, excluding District calendar holidays. Employees on scheduled District vacation may make prior arrangements with the Superintendent or designee for an extended timeline.

<b>Mutual Agreement of Parties</b>	The parties involved may mutually consent to modify the procedures as may be necessary to accomplish the goal of resolving the complaint in the most efficient and expeditious matter possible.
<b>Withdrawal</b>	An employee may withdraw a complaint at any time. Once withdrawn, a complaint may not be re-opened/re-filed.
<b>Resolution</b>	If at any level of the complaint process the employee is granted the relief he or she has requested, the complaint shall be deemed resolved. A resolved complaint shall not be appealed to the next level of the process and shall be considered closed.
<b>Burden of Proof</b>	In a complaint, the burden of proof shall be on the grievant.
<b>Audio Recording</b>	As provided by law and under this policy, an employee shall be permitted to make an audio recording of a conference or hearing at which the substance of the employee's complaint is discussed. The employee shall notify all attendees present that an audio recording is taking place.
<b>Level One</b>	<p>The grievant shall complete the Level One complaint form as prescribed by the District. The Level One form must be received by the immediate supervisor within five days of the date of the informal conference. It must contain the specific factual basis for the complaint. It must identify any particular policy or policies or administrative regulations involved. It must also indicate any remedy or requested relief that the grievant is seeking. The immediate supervisor shall forward a copy of the complaint to the Office of Employee Relations.</p> <p>If it is determined that a Level One hearing is necessary, it shall be scheduled within ten days of the receipt of the Level One complaint form. Absent extenuating circumstances, the immediate supervisor shall have ten days following that hearing within which to respond to the grievant.</p>

If it was deemed that no Level One hearing was necessary, the immediate supervisor shall respond to the grievant within ten days of the initial date and receipt of the Level One complaint form.

In the event that the supervisor cannot resolve the complaint because it is outside his or her authority, the complaint may begin at Level Two following the procedure, including deadlines, for filing the complaint form at Level One.

**Level Two**

If the grievant did not receive the relief requested at Level One, the grievant may appeal to Level Two. This appeal must be in writing and must be received in the Office of Employee Relations within five days of the Level One decision. The Level Two hearing shall be scheduled within ten days of the receipt of the Level One appeal form.

Following the Level Two hearing and prior to the Level Two response, the Level Two hearing officer may, at his or her discretion and as he or she deems necessary, investigate the employee's allegations. Any evidence gathered by the Level Two hearing officer may be used in, and as evidence in support of, the Level Two response. The Level Two hearing officer shall have ten days following the hearing within which to respond to the grievant. Any matter not expressly contained in the written complaint shall not be considered in the appeal.

**Level Three**

If the grievant did not receive the relief request at Level Two, the grievant may appeal the decision to the Board. This appeal must be in writing and must be received in the Office of Employee Relations within five days of the Level Two decision.

The Superintendent's 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.

**Board Presentation**

The District shall determine whether the complaint will be presented in open or closed meeting in accordance with the Texas Open Meeting Act and other applicable law. [See BE]

The Office of Employee Relations shall provide the Board with copies of the employee's complaint, all responses, and any written documentation previously submitted by the employee and the administration. The Board shall not consider documentation or other evidence not previously submitted or issues not previously presented unless the grievant and Level Two hearing officer both agree.

The Board may remand the complaint back to Level Two if the Board determines that further factual development is needed.

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The proceeding before the Board shall be recorded by audiotape. The Board President may set reasonable time limits on complaint presentations. The Board shall listen to the complaint, but is not required to respond or take any action on the matter. The lack of official action by the Board upholds the administrative decision at Level Two.