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

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.

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

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.

When an employee initiates the informal resolution provisions of this policy, the supervisor, principal, or appropriate administrator shall make reasonable attempts to schedule a conference with the employee and attempt to resolve the employee’s concern within 15 days of the initial complaint. If a resolution is not reached
informally, the employee’s deadline to file the formal grievance process shall be extended five days from the date of the conference held with the immediate supervisor, principal, or appropriate administrator, when applicable.

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 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. Time lines 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. [See DG]

Complaints against Supervisors

Complaints alleging a violation of law by a supervisor may be made to the director of employee relations. 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 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.
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.

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. The District may be represented by counsel at any level of the process.

If the District chooses to be represented by its counsel, it shall notify the employee at least three days before a scheduled interview or hearing, or the employee may reschedule the interview or hearing in order to include the employee’s representative, if desired.

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 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 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.

The District shall expeditiously accommodate the employee’s requests for information subject to the Texas Public Information Act so that documents may be timely received, or the District shall agree to a continuation of the time lines so that documents may be received and used by the employee.

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

**Audio Recording**

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. The employee shall notify all attendees present that an audio recording is taking place.

**Level One**

Complaint forms must be filed:

1. Within 15 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

2. With the lowest level administrator who has the authority to remedy the alleged problem.

Employees shall file Level One complaints with the employee relations office in the department of human resources.

If the only administrator who has authority to remedy the alleged problem is the Superintendent or designee, the complaint may begin at Level Two following the procedure, including deadlines, for filing the complaint form at Level One.
All Level One complaints shall be heard within ten days of the date the employee filed the complaint. A response shall be provided to the employee in writing within ten days of the Level One hearing.

The employee has the option to present the grievance at Level Two if the highest level campus or department administrator is the respondent to the grievance. In this situation, the complaint may 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 employee relations office, the receiving administrator must note the date and time the complaint form was received and immediately forward the complaint form to the employee relations office in the department of human resources.

The director of employee relations shall investigate as necessary and schedule a conference with the employee and hearing officer within ten days after receipt of the written complaint. The director of employee relations may set reasonable time limits for the conference.

The hearing officer, hereafter referred to as the “administrator”, shall provide the employee a written response within ten days following the conference, except in extenuating circumstances. 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.

If the employee did not receive the relief requested at Level One or if the time for a response has expired, the employee may submit an appeal in writing to the director of employee relations.

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 One response or, if no response was received, 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 director of employee relations who shall forward the material to the next level administrator who has jurisdiction over the employee’s area of employment (director, executive director, or assistant superintendent). 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 administrator with jurisdiction 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 administrator with jurisdiction may set reasonable time limits for the conference.

The administrator with jurisdiction 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 with jurisdiction may consider the Level One record, information provided at the Level Two conference, and any other relevant documents or information the administrator with jurisdiction 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.

The administrative response shall be communicated in writing to the employee and the director of employee relations within ten days after the scheduled conference.

**Level Three**

If the employee did not receive the relief requested at Level Two or if the time for a response has expired, the employee may appeal the decision to a designated hearing officer, who shall, in turn, make a written recommendation for disposition to the Board. Hearing officers may be District employees who were not involved in the subject matter of the grievance or the grievance process, or they may be persons not employed by the District.

The Level Three appeal notice must be filed in writing to the director of employee relations, on a form provided by the District, within ten days after receipt of a response or, if no response was received, within ten days of the response deadline at Level Two.

The director of employee relations shall inform the employee of the date, time, and place of the scheduled hearing.
The director of employee relations shall provide the hearing officer the record of the Level Two complaint in advance of any hearing. 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 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 form of presentation of the grievance shall be determined by the designated hearing officer, and all proceedings before the hearing officer shall be recorded by audiotape. Generally, no witnesses shall be presented and no cross examination of witnesses shall occur, unless due process so requires. In each case, the grievant shall be permitted to make a presentation to the designated hearing officer within the time allotted and shall be able to offer such written evidence as the Board or its designated hearing officer may deem relevant. The administration shall, in turn, be entitled to respond to the grievant with its own presentation and written evidence.

The designated hearing officer is not required to consider documentation not previously submitted or issues not previously presented.

If the employee desires to appeal the designated hearing officer’s decision to the Board, the employee shall notify the director of employee relations within ten days of receipt of the hearing officer’s recommendation. The Board shall review the hearing officer’s written recommendation at its first regular meeting following receipt of the notice requesting Board review to the director of employee relations. The employee and the administration shall be given an opportunity to provide a written response to the Board. The Board, at its sole discretion, shall determine whether to review only the written information or to allow oral presentations. The Board shall then make and communicate its decision at any time up to and including the next regularly scheduled Board meeting. The Board may de-
cide to accept, reject, or modify the recommendation of the hearing officer.

If the Board decides to allow 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 employee and the administration shall be limited to ten minutes each. The Board shall hear the complaint and may request that the administration provide an explanation for the decisions at the preceding levels.

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]

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. 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.

The Board 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 at any time, in the opinion of the Superintendent, decisions on grievances appear to conflict with other decisions on grievances, law or regulations, or District policy, the Superintendent may direct that the conflicting decisions be reconsidered or may be the subject of additional consideration by the Superintendent. In the event of such a determination by the Superintendent, the Superintendent shall direct the procedure and time lines for resolving the conflict. The Superintendent may also choose to refer conflicts to the Board or to the hearing officer for reconsideration.