

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA
(LOCAL)

Guiding Principles	
Informal Process	<p>The Board encourages employees to discuss their concerns and complaints through informal conferences with their supervisor, principal, or other appropriate administrator.</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>
Direct Communication with Board Members	<p>Employees shall not be prohibited from communicating with a member of the Board regarding Department 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. Notwithstanding the foregoing, Employees shall not circumvent this policy by communicating a complaint or grievance regarding Department personnel or operations directly to any member of the Board, except as specifically permitted under the "Complaints against Supervisors" provision of this policy.</p>
Formal Process	<p>If an informal conference regarding a complaint fails to reach the outcome requested by the employee, he or she 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>
Notice to Employees	<p>The Department shall inform employees of this policy through appropriate Department publications.</p>
Freedom from Retaliation	<p>Neither the Board nor any Department 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 and may be made to the Superintendent or designee beginning at Level Two. Time lines for the employee and the Department 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]</p>
Complaints Against Supervisors	<p>Complaints alleging a violation of law by a supervisor may be made to the Superintendent or designee. Complaints involving the</p>

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Superintendent, whether alleging a violation of law or other matter, may be made directly to the Board President.

Complaints

In this policy, the terms “complaint” and “grievance” shall have the same meaning. This policy shall apply to all employee complaints, except as provided below.

Other Complaint Processes

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). [See DIA]
2. Complaints alleging certain forms of harassment, including harassment by a supervisor and violations of Title VII. [See DIA]
3. Complaints concerning retaliation relating to discrimination and harassment. [See DIA]
4. Complaints concerning instructional materials. [See EFA]
5. Complaints concerning a commissioned peace officer who is an employee of the Department. [See CKE]
6. Complaints arising from the proposed nonrenewal of a term contract issued under Chapter 21 of the Education Code. [See DFBB]
7. Complaints arising from 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. [See DFAA, DFBA, or DFCA, respectively]

General Provisions

Filing

Complaint forms and appeal notices may be filed by hand-delivery, by electronic communication, including e-mail and fax, or U.S. Mail. Hand-delivered filings shall be timely filed if received by the appropriate administrator or designee by 4:30 on the deadline. Fax filings shall be timely filed if they are received on or before the deadline, as indicated by the date/time shown on the fax copy. 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.

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Scheduling Conferences	The Department shall make reasonable attempts to schedule conferences at a mutually agreeable time. If the employee fails to appear at a scheduled conference, the Department 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. The response shall include the date of the deadline to file an appeal. 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 Department 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	<p>"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.</p> <p>The employee may designate a representative through written notice to the Department 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 Department before a scheduled conference or hearing, the Department may reschedule the conference or hearing to a later date, if desired, in order to include the Department's counsel. The Department and employee may be represented by counsel at any level of the process.</p>
Consolidating Complaints	<p>Complaints arising out of an event or a series of related events shall be addressed in one complaint. Employees shall not bring 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 Department may consolidate the complaints.</p>
Untimely Filings	<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, 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</p>

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	<p>complaint was dismissed. Such appeal shall be limited to the issue of timeliness.</p>
Costs Incurred	<p>Each party shall pay its own costs incurred in the course of the complaint.</p>
Complaint Form	<p>Complaints under this policy shall be submitted in writing on a form provided by the Department.</p> <p>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.</p> <p>A complaint form that is incomplete in any material aspect may be dismissed, but may be refiled with all the required information if the refiled is within the designated time for filing a complaint.</p>
Audio Recording	<p>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.</p>
Level One	<p>Complaint forms must be filed:</p> <ol style="list-style-type: none">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; and2. With the lowest level administrator who has the authority to remedy the alleged problem. <p>In most circumstances, employees on a school campus shall file Level One complaints with the campus principal; other Department employees shall file Level One complaints with their immediate supervisor.</p> <p>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.</p> <p>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 form to the appropriate administrator.</p>

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

Absent extenuating circumstances, the administrator 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 may consider information provided at the Level One conference and any other relevant documents or information the administrator believes will help resolve the complaint.

Level Two

If the employee did not receive the relief requested at Level One or if the time for a response has expired, the employee may request a conference with the Superintendent or designee to appeal the Level One decision.

The appeal notice must be filed in writing, on a form provided by the Department, 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 Level Two administrator. 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 Superintendent or designee shall schedule a conference within ten days after the appeal notice is filed. The conference shall be limited to the issues presented by the employee at Level One and identified in the Level Two appeal notice. At the conference, the employee may provide information concerning any documents or information relied upon by the administration for the Level One decision. The Superintendent or designee may set reasonable time limits for the conference.

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

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 the Board.

The appeal notice must be filed in writing, on a form provided by the Department, within ten days of the date of the written Level Two response or, if no response was received, within ten days of the Level Two response deadline.

The Superintendent or 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.

The Superintendent or designee shall provide the Board the record of the Level Two complaint. 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 Department 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]

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 Board shall

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hear the complaint and may request that the administration provide an explanation for the decisions at the preceding levels.

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 shall then consider the complaint. It 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.

Original Adoption: 5/18/04
Revision(s): 2/28/06
4/18/06
9/19/06
12/14/10
4/19/11
2/26/13
5/20/14
8/16/16
10/7/16
9/20/17