

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA
(LOCAL)

DIRECT
COMMUNICATION
WITH BOARD
MEMBERS

An employee 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.

DISPUTE RESOLUTION
PROCESS

The dispute resolution process provides employees an orderly process for the prompt and equitable resolution of disputes when a concern has not been resolved. The Board intends that, whenever feasible, disputes be resolved at the lowest possible administrative level. This policy shall not be construed to create new or additional rights beyond those granted by Board policy or law.

DEFINITIONS

For purposes of this policy, "days" shall mean calendar days unless otherwise noted in this policy.

For the purposes of this policy, "Superintendent" shall mean the Superintendent or designee.

The terms "dispute," "complaint," and "grievance" shall have the same meaning. A dispute under this policy may include, but shall not be limited to, any of the following:

1. Grievances concerning an employee's wages, hours, or conditions of work, including employment status.
2. Specific allegations of discrimination or harassment in employment on the basis of marital status, sexual orientation, gender identity, and/or gender expression.
3. Specific allegations of unlawful discrimination, such as discrimination based on veteran status or retaliation on the basis of the employee's exercise of constitutional rights, including but not limited to, political affiliation.
4. Whistleblower complaints.

OTHER COMPLAINT
PROCESSES

Employee complaints shall be filed in accordance with this policy, except as provided below:

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.

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4. Complaints concerning instructional materials shall be submitted in accordance with EFA.
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 TO
EMPLOYEES

The principal of each campus and other supervisory personnel shall ensure that employees under their supervision are informed of this policy.

FREEDOM FROM
RETALIATION

Neither the Board nor the administration shall unlawfully retaliate against any employee for bringing a grievance under this policy. [See DG(LEGAL)]

WHISTLEBLOWER
COMPLAINTS

Employees who allege adverse employment action in retaliation for reporting a violation of law to an appropriate authority shall initiate a dispute resolution process under this policy within the time specified by law. [See DG(LEGAL)]

The complaint shall first be filed in accordance with the alternative entry into the dispute resolution process, below. Time lines for the employee and the District set out in this policy may be shortened to enable the Board to make a final decision within 60 days of the initiation of the complaint. [See DG]

COMPLAINTS AGAINST
SUPERVISORS

Complaints alleging a supervisor's violation of law may be made to the next line supervisor who is in vertical alignment with the supervisor against whom the complaint is brought. A complaint alleging a violation of law by the Superintendent may be made to the chief human resources officer under the alternative entry process specified in this policy.

GENERAL
REQUIREMENTS

The dispute resolution form must specify the individual harm alleged. An employee is prohibited from bringing separate or serial grievances regarding the same event or action. All time limits shall be strictly complied with unless modified by mutual consent. Costs of any dispute shall be paid by the party incurring them.

CONSOLIDATION

When the Superintendent determines that two or more individual concerns are sufficiently similar in nature and remedy to permit

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	<p>their resolution through one proceeding, he or she may consolidate the disputes.</p>
REPRESENTATION AT DISPUTE RESOLUTION CONFERENCES	<p>An employee shall be entitled to representation at any and all meetings that directly relate to the issues that are being addressed in the dispute resolution process. An employee may represent himself or herself or be represented by an individual of his or her choosing. The representative may participate in person or by telephone conference call. An employee may not designate a representative who claims the right to strike.</p>
TIME FRAMES	<p>The primary purpose of the dispute resolution process is the resolution of concerns in an expeditious manner. The time frames set forth at each level of the process are maximums and, whenever possible, the decision-maker should render a decision or resolution within a shorter period of time.</p> <p>All time frames shall be counted in calendar days, the first day commencing on the next calendar day after the event triggering the time frame. Time frames shall not include days that are Districtwide designated holidays.</p> <p>Although the employee may not file a separate grievance for failure of the administration to comply with established time frames under this policy, upon notification by the grievant or his or her representative, if it is found that an administrator has failed to meet a designated time line, the Superintendent or designee shall issue written administrative directives to a responsible party. The grievant may seek the relief for the lack of compliance with the time frames as set forth below for each step of the process.</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 individual, at any point during the complaint process. The individual 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.</p>
COMPLAINT FORM	<p>Complaints under this policy shall be submitted in writing on a form provided by the District.</p> <p>Copies of any documents that support the complaint may be attached to the complaint form. If the employee does not have copies of these documents, they may be presented at the Level One or Level Two conferences.</p>

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	<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 refile is within the designated time for filing a complaint. However, no complaint form that has a completed Statement of Concern section and a Remedy Requested section of the form shall be dismissed for failure to submit relevant documentation.</p>
SCHEDULING CONFERENCES	<p>All conferences shall take place during normal District business hours. All participants, including witnesses, shall be released from regular duties and shall suffer no loss of pay or other benefits if, and only if, they receive prior approval from their immediate supervisor. To minimize disruption in the workplace, the supervisor shall work with the hearing officer, the grievant, and the administration, as necessary, to manage the release of employees who are participants in the conference.</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. If the grievant records the conference, then the supervisor or administrator may also record the conference.</p>
MUTUAL AGREEMENT OF THE PARTIES	<p>The parties involved may mutually consent to modify the procedures as may be necessary to accomplish the goal of resolving disputes in the most efficient and expeditious manner possible.</p>
WITHDRAWAL	<p>An employee may withdraw a dispute at any time. Once withdrawn, a dispute may not be reopened.</p> <p>Unless modified by written mutual consent, a dispute shall be deemed withdrawn if an employee fails to pursue the dispute or is otherwise deemed to be unreasonably protracting the process, including failure to attend a scheduled Level I or II conference and/or Level 3 hearing.</p> <p>It is expected that an employee will participate in each phase of the dispute resolution process. Therefore, if the employee is unable to attend any phase of the dispute resolution process, the employee must provide written notification of the employee's intent not to attend the conference or hearing. In the case of a Level I or Level II conference, such notice shall be given to the hearing officer and the District's representative at least 48 hours prior to the start of the conference. In the case of a Level 3 hearing, such notice shall be given to the Board President and the District's representative at least 48 hours prior to the start of the hearing.</p> <p>Each side will be allowed a maximum of two resets of a Level I or Level II conference or Level III hearing twice. If the Level I or Level II conference or Level III hearing does not take place after a se-</p>

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cond reset requested by the grievant, the grievance will be deemed withdrawn, and the dispute may not be reopened.

If the employee desires a representative to appear on the employee's behalf, either in person or via telephone, the notice shall contain a statement indicating that the representative is authorized to proceed with the conference or hearing in the employee's absence. Failure to attend a hearing without the prior notification described above will be deemed a withdrawal of the grievance. Once withdrawn, a dispute cannot be reopened.

INFORMAL
RESOLUTION OF
CONCERNS

Whenever feasible, the Board encourages employees to present and discuss their concerns and complaints through informal conferences with their supervisor, principal, other appropriate campus administrator, and/or department manager or supervisor.

When informal discussions are not feasible and/or fail to resolve the concern or dispute, the employee may obtain a dispute resolution form from the school department or chief schools office, as appropriate, from the Office of Human Resources or by accessing the District's website. The employee may file a request for the formal process described below.

FORMAL PROCESS

The formal process shall consist of Levels One and Two, which are closed to the public. No members of the public may attend except the designated representative. A Level Three presentation to the Board shall be held during a properly posted Board meeting. The determination of whether the hearing shall be opened to the public or held in closed session is within the discretion of the Board, except that the hearing shall be held in closed session upon request by the employee who is the grievant in the dispute. The only exception to the grievant's election to hold the hearing in closed session shall be when the employee against whom the complaint or a charge is brought makes a written request for an open hearing, in which case the hearing shall be opened to the public.

LEVEL ONE

An individual who has been unable to informally resolve a concern/dispute about a wage, hour, or condition of work may initiate a formal dispute. The individual shall file a formal dispute by submitting a completed dispute resolution form within 30 calendar days from the date of the alleged action/decision that forms the basis of the concern/dispute and in accordance with the calculation of time frames as set forth above. If the employee did not learn of the action until a later date, the time shall be counted from the date a reasonable person should have learned of the action/decision through reasonable diligence and in accordance with the calculation of time frames as set forth above.

The completed form must clearly state the dispute regarding an issue of wages, hours, or conditions of work. The form must also

clearly state a valid remedy that a supervisor may lawfully grant. A form may be rejected on the grounds that it is not a valid dispute of wages, hours, or conditions of work or that no valid remedy has been stated or may be granted for the alleged act/decision.

The completed dispute resolution form shall be filed with the principal/department head/work location supervisor who has direct supervision of that particular employee.

The immediate supervisor, or other appropriate administrator or designated supervisor assigned to hold the Level One conference, shall convene a conference with the employee within seven calendar days of receipt of the completed dispute resolution form in accordance with the calculation of time frames as set forth above. The conference is not an evidentiary or due process hearing. The conference is an informal conference for the sole purpose of discussing and resolving concerns or disputes of an employee with respect to wages, hours, or conditions of work.

There shall be no cross-examination of any witnesses, nor shall this conference in any way resemble an evidentiary hearing. Each side shall simply make presentations to the supervisor or the person assigned to hold the Level One conference within the time restrictions set by that person.

After considering the matters presented at the conference and any other information he or she believes to be relevant to the dispute, the supervisor or other person assigned to conduct the Level One conference shall issue a decision or resolution with respect to the dispute held by the employee. The decision/resolution shall be rendered no later than seven calendar days from the date of the conference in accordance with the calculation of time frames as set out above. The decision/resolution shall be provided to the employee on the original dispute resolution form filed by the employee, with attachments, as appropriate.

LEVEL TWO

In the event the employee is not satisfied with the decision/resolution of the Level One hearing officer, or if the administration fails to meet the designated time frame for either convening a conference or rendering a decision within the allotted time frame, the employee may appeal the dispute to Level Two of the dispute resolution process. If the employee does not have the original dispute resolution form, he or she may substitute a true and correct copy of the same for filing at Level Two.

An employee must file the appeal within seven calendar days of receipt of the decision/resolution. If the administration's time line to issue the decision/resolution passes, an employee shall have seven calendar days from the date the decision/resolution was due to file his or her appeal. The appeal must be filed with the next line

supervisor who is in vertical alignment with the supervisor hearing the dispute at Level One, and a copy must be sent to the Superintendent's designee. The time lines at Level Two shall run from the date the appeal request is received by the Superintendent's designee. The Superintendent's designee, in consultation with the Superintendent's appropriate direct report, shall identify the Level Two hearing officer, who may or may not be a current District employee. The Level Two hearing officer shall convene a conference within ten calendar days of the date of receipt of the dispute resolution form in accordance with the calculation of time frames as set forth above. The Level Two hearing officer shall have satisfied his or her duty to convene the conference, for purposes of following prescribed time lines, by contacting the employee or his or her representative, offering available dates and times for the hearing that shall occur at a mutually agreed-upon time, with mutual effort to schedule the conference within that prescribed time frame. If the employee who filed the dispute is unable to attend or cannot secure the representation of choice for the scheduled conference date and time, the Level Two hearing officer shall convene the conference at a mutually agreed-upon date and time.

The conference is not an evidentiary or due process hearing; it is an informal conference for the sole purpose of resolving concerns or disputes brought up by an employee with respect to wages, hours, or conditions of work. The conference shall be recorded by a court reporter paid for by the District. The employee shall be allotted a specific amount of time to present his or her concerns. The employee may also present witnesses and may submit any available documentation. The administration shall be allotted the same amount of time to present its position and shall be allowed to present witnesses and submit any documentation on the issues addressed at the conference.

There shall be no cross-examination of witnesses, nor shall this conference in any way resemble an evidentiary hearing. Each side shall simply make presentations to the Level Two hearing officer within the time restrictions set by the Level Two hearing officer.

The Level Two hearing officer, after considering the matters presented at the conference and any other information he or she may have, shall arrive at a decision or resolution regarding the dispute. The decision/resolution shall be rendered no later than seven calendar days from the date on which the Level Two hearing officer receives the transcript of the conference in accordance with the calculation of time frames as set forth above. The decision shall be provided to the employee and the administration and/or their representatives on the original dispute resolution form filed by the grievant or as an affixed attachment to that document. The deci-

sion shall be deemed rendered upon confirmation of delivery via facsimile or electronic transmission, with the original to follow, or by proof of mailing of the original document.

LEVEL THREE

If either the administration or the employee is not satisfied with the decision/resolution of the Level Two hearing officer, either party may appeal the dispute to Level Three of the dispute resolution process. Additionally, if a decision/resolution is not rendered within the allotted time frame following receipt of the transcript of the conference by the Level Two hearing officer, the employee may appeal to Level Three. No appeal to Level Three may be initiated by the administration without consulting with the Office of the General Counsel.

The Board shall not conduct a Level Three hearing until after a Level Two hearing has been convened and a transcript of the hearing is available for the Board's review.

The appeal to the Board shall be filed within seven calendar days of the decision/resolution. If the Level Two hearing officer's time line to issue the decision/resolution passes, an employee shall have seven calendar days from the day the decision/resolution was due to file his or her appeal. An appeal shall be filed by forwarding the original dispute resolution form or a true and correct copy, including all attachments and decisions rendered, to the Board Services Office, Level One of the Houston ISD's Hattie Mae White Education Support Center. A Level Three hearing request form or a cover letter addressed to the Board President containing a clear request for a hearing must accompany the dispute form, attachments, and decisions rendered to date.

The Board shall attempt to hear the dispute within 30 calendar days of its receipt, but the Board is not required to hear the dispute within that time frame. Both parties, the employee, and the administration representative shall make oral arguments before the Board within time restrictions set by the Board. An appeal to the Board shall be based on the record developed at Level Two. No new documents may be submitted by the employee or the administration as part of the proceedings before the Board. In addition to any other record of the Board meeting required by law, the Board shall prepare a separate record of any Level Three presentation it allows. Any Level Three presentation, including the presentation by the employee or the employee's representative, any presentation from the administration or its representative, and questions from the Board with responses shall be recorded by audio recording, video/audio recording, or court reporter, at the discretion of the District.

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After hearing and considering the concern of the employee or the administration and the response by the other party, the Board may choose to issue a disposition of the dispute or not to act on it. If the Board chooses to issue a disposition, it shall be done in writing, no later than at the next regularly scheduled Board meeting. The disposition shall be addressed to the employee and to the administration or its representative.

ALTERNATIVE ENTRY
INTO THE FORMAL
DISPUTE RESOLUTION
PROCESS

An alternative method for entry into the formal dispute resolution process shall be used to address:

1. Concerns that are not under the authority of an employee's immediate supervisor;
2. If an employee is dissatisfied with the result of an investigation concerning specific good-faith allegations of unlawful discrimination on the basis of race, color, religion, sex (including allegations of sexual harassment), national origin, age, disability, ancestry, marital status, veteran status, political affiliation, sexual orientation, gender identity, and/or gender expression; or
3. The employee exercising his or her constitutional rights.

Concerns of this nature shall specify the individual harm being alleged.

If the employee believes that the alternative entry into the dispute resolution process is appropriate for issues other than those stated in the previous paragraph, the employee shall transmit the dispute resolution form directly to the chief human resources officer, and a copy shall be sent to the employee's immediate supervisor. The chief human resources officer or designee shall determine whether the dispute presented should enter at Level One or Level Two of the dispute resolution process, as well as the appropriate administrator to hear and resolve the dispute. The chief human resources officer or designee shall have five business days from the date the dispute is received to inform both the employee and the hearing officer identified to hear and resolve the dispute, in writing, the procedural entry level for that dispute and the hearing officer for that level, in accordance with the calculation of time frames as set forth above.

Notification from the chief human resources officer or designee to the named hearing officer shall include the original dispute resolution form or a true and correct copy of the same.

Receipt of notification by the hearing officer shall trigger time frames for the designated level of the grievance process in accordance with the calculation of time frames as set forth above, except that the time frame to contact the employee or his or her repre-

sentative to schedule a hearing shall not exceed 14 calendar days from the date that the dispute was filed with the chief human resources officer. The dispute shall proceed using the time lines and procedures for the relevant level as outlined above.