

No. _____



UNITED INDEPENDENT SCHOOL DISTRICT AGENDA ACTION ITEM

TOPIC: _____ Second Reading of Local Policies in Update 83 _____

SUBMITTED BY: Gloria S. Rendon OF Asst. to the Superintendent

APPROVED FOR TRANSMITTAL TO SCHOOL BOARD: _____

DATE ASSIGNED FOR BOARD CONSIDERATION: _____ November 18, 2008 _____

RECOMMENDATION:

It is recommended that the United ISD Board of Trustees approve Second Reading of LOCAL Policies in Update 83

- DGBA(LOCAL): PERSONNEL-MANAGEMENT RELATIONS - EMPLOYEE COMPLAINTS/GRIEVANCES
- FNG(LOCAL): STUDENT RIGHTS AND RESPONSIBILITIES - STUDENT AND PARENT COMPLAINTS/GRIEVANCES
- FOC(EXHIBIT): STUDENT DISCIPLINE: PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING
- GBAA (EXHIBIT): INFORMATION ACCESS – REQUESTS FOR INFORMATION
- GF(LOCAL): PUBLIC COMPLAINTS

RATIONALE:

BUDGETARY INFORMATION:

BOARD POLICY REFERENCE AND COMPLIANCE:

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA
(LOCAL)

GUIDING PRINCIPLES	The Board encourages employees to discuss their concerns and complaints through informal conferences with their supervisor, principal, or other appropriate administrator.
INFORMAL PROCESS	Concerns should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.
DIRECT COMMUNICATION WITH BOARD MEMBERS	Employees shall not be prohibited from communicating with Board members 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	<p>If an informal mediation 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>
FREEDOM FROM RETALIATION	Neither the Board nor any District employee shall unlawfully retaliate against an employee for bringing a concern or complaint. [See DG]
NOTICE TO EMPLOYEES	The principal of each campus and other supervisory personnel shall inform employees of this policy.
SPECIFIC COMPLAINTS	<p>For more information on how to proceed with complaints regarding:</p> <ol style="list-style-type: none">1. Alleged discrimination, including violations of Title IX or Section 504, see DAA.2. Instructional materials, see EFA.3. A commissioned peace officer who is an employee of the District, see CKE.
OTHER REVIEW PROCESSES	<p>Complaints alleging certain forms of harassment, including harassment by a supervisor, shall be processed in accordance with DIA.</p> <p>Complaints arising from any of the following must be addressed through the local and statutory processes indicated below:</p>

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA
(LOCAL)

1. ~~The proposed nonrenewal of a term contract issued under Chapter 21 of the Texas Education Code, in accordance with DFBB.~~
2. ~~The proposed termination or suspension without pay of an employee on a probationary, term, or continuing contract issued under Chapter 21 of the Texas Education Code during the contract term, in accordance with DFAA, DFBA, or DFCA, respectively.~~

~~This policy shall apply to all other employee complaints.~~

DEFINITIONS

~~For purposes of this policy, terms are defined as follows:~~

COMPLAINT/
GRIEVANCE

~~The terms "complaint" and "grievance" shall have the same meaning. A complaint under this policy may include:~~

1. ~~Grievances concerning an employee's wages, hours, or conditions of work;~~
2. ~~Specific allegations of unlawful discrimination in employment based on the employee's sex, race, religion, national origin, age, or disability;~~
3. ~~Specific allegations of unlawful discrimination or retaliation based on the employee's exercise of legally protected rights; or~~
4. ~~Specific allegations of adverse personnel action based on the employee's good faith report to an appropriate law enforcement authority of a violation of a law by the District or a District employee, i.e., "whistleblower complaints." [See DG]~~
5. ~~Complaints arising from the dismissal or termination of an at-will employee. [See DCD]~~
6. ~~Complaints arising from the termination at end of year of the probationary contract of a professional employee. [See DFAB]~~

FILING

Complaint forms and appeal notices may be filed by hand-delivery, fax, or 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. 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 the deadline and received by the appropriate administrator or designated representative no more than three days after the deadline. Complaints shall be filed with the complainant's immediate supervisor.

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA
(LOCAL)

RESPONSE	At Levels One and Two, "response" shall mean a written communication to the employee from the appropriate administrator. Responses may be hand-delivered 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 the deadline and received by the employee or designated representative no more than three days after the response deadline.
DAYS	"Days" shall mean District business days. In calculating time lines under this policy, the day a document is filed is "day zero," and all deadlines shall be determined by counting the following day as "day one."
REPRESENTATIVE	"Representative" means 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.
DESIGNATION OF REPRESENTATIVE	The employee may designate a representative through written notice to the District at any level of this process. 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. <u>The District may be represented by counsel at any level of the process.</u>
WHISTLEBLOWER COMPLAINTS	Whistleblower complaints shall be filed within the time specified by law. Such complaints shall first be filed in accordance with LEVEL TWO, below. 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 (sixty) <u>calendar</u> days of the initiation of the complaint. Complaints that do not meet the elements of a whistleblower grievance, by law, shall be routed to begin at Level One.
<u>COMPLAINTS</u>	<u>In this policy, the terms "complaint" and "grievance" shall have the same meaning. The policy shall apply to all employee complaints, except as provided below.</u>
<u>EXCEPTIONS</u>	<u>This policy shall not apply to:</u> <ol style="list-style-type: none"><u>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]</u><u>2. Complaints alleging certain forms of harassment, including harassment by a supervisor and violations of Title VII. [See DIA]</u><u>3. Complaints concerning retaliation relating to discrimination and harassment. [See DIA]</u>

4. Complaints concerning instructional materials. [See EFA]
5. Complaints concerning a commissioned peace officer who is an employee of the District. [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
CONSOLIDATING
COMPLAINTS**

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. If the employee submits a grievance that is a duplicate of a prior grievance, the Department of Human Resources may dismiss the complaint without the necessity of a hearing.

When 2 (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 shall be dismissed, on written notice to the employee. The employee may appeal the dismissal by seeking review in writing within 10 (ten) days, 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 FORM

Complaints 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.

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA
(LOCAL)

	<p>A complaint form that is incomplete in any material aspect may be dismissed, but may be refilled with all the requested information if the refilling is within the designated time for filing a complaint.</p>
STATEMENT OF PARTICULARS	<p>If a complaint is found to be too vague, general or indefinite at any level of this policy, the time lines at the complaint level shall be held in abeyance, during which time the complainant shall be required to prepare a written statements of particulars, setting out with specificity the act(s) and/or omission(s) complained of in order to afford the respondent with fair notice and an opportunity to adequately respond in writing to each charge or offer a remedy.</p> <p>The Superintendent's designee may conduct a pre-hearing conference or make such other orders as may be deemed necessary or appropriate to clarify issues, afford the respondent with fair notice and an opportunity to respond, and assist in the resolution process.</p>
COMPLAINTS AGAINST SUPERVISORS	<p>Complaints alleging a supervisor's violation of law or the supervisor's unlawful harassment of the employee may be made to the Superintendent who will assign a hearing officer to hear such grievance, beginning at the mediation conference level beginning at Level Two. A complaint alleging a violation of law or the Superintendent's or the Superintendent's unlawful harassment of an employee, may be made directly to the Board beginning at Level Three.</p>
MEDIATION CONFERENCE	<p>An employee who has a complaint shall have an informal mediation conference with the immediate supervisor except that a District ombudsman may be in attendance herein to resolve the complaint, prior to entering the formal complaint process. The immediate supervisor shall schedule and conduct an informal mediation conference within 5 (five) days of receipt of the complaint or at a time mutually agreeable to the parties. At the informal conference, the following will be discussed: (i) the concern, (ii) the justification or rationale for the concern, (iii) the harm sustained or being sustained by the employee, and (iv) the remedy sought for resolution.</p> <p>The employees, the immediate supervisor and/or the district ombudsman shall endeavor to reach an agreement resolution of the concern. If resolution is reached, the complaint is resolved. If resolution is not reached, the employee may invoke the formal complaint process.</p>
OMBUDSMAN	<p>The ombudsman shall be appointed by the Superintendent. The ombudsman shall be an employee who is responsible for serving as a resource to employees by assisting in preventing or eliminating conditions that are not conducive to a positive working environment. Although the ombudsman shall not mandate resolution, the ombudsman may make recommendations to the employee</p>

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA
(LOCAL)

and/or the immediate supervisor for resolution of concerns. Recommendations of the ombudsman are for the sole purpose of resolving controversial issues and may not be used by the party complaining or the party being complained against for any purpose.

If resolution of the complaint is not reached at the informal complaint level, the employee may enter the formal complaint process and request a formal meeting with the immediate supervisor within 7 (seven) days of the informal conference, unless the time has been extended by written agreement. The employee shall submit with the request a formal complaint in writing. Unless otherwise agreed between the parties, a Level One conference shall be conducted within 10 (ten) days of receipt of the written complaint, as hereinafter set out. The supervisor shall notify the employee of the date, time, and place of the conference at which time the complaint shall be reviewed with the employee.

DESIGNATED
PARTIES

For purposes of hearing a complaint at both the informal and formal complaint conference, the designated party shall be assigned by the Superintendent.

LEVEL ONE

Complaint forms must be filed:

1. Within 15 (fifteen) 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.

In most circumstances, employees on a school campus should file Level One complaints with the campus principal; other District employees shall file Level One complaints with their immediate supervisor.

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.

The immediate supervisor shall hold a conference with the employee within 10 (ten) days after receipt of the written complaint as provided by the "Formal Complaint Process Levels," indicated above. **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.**

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA
(LOCAL)

LEVEL TWO

The administrator shall have 14 (fourteen) days following the conference to provide the employee a written response.

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 District, within 7 (seven) days after receipt of a response or, if no response was received, within 7 (seven) days of the response deadline at Level One. **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 hold a conference within 10 (ten) days after the appeal notice is filed. At the conference, the Superintendent or designee shall consider only the issues, remedies, and documents presented 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 have 14 (fourteen) days following the conference to provide the employee a written response. **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, shall be maintained with the Level One and Level Two records.

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA
(LOCAL)

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 District, within 7 (seven) days after receipt of a response or, if no response was received, within 7 (seven) days of the response deadline at Level Two.

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 with copies of the complaint form, all responses, all appeal notices, and all written documentation previously submitted by the employee or the administration. **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 Board shall consider only those issues, remedies and documents presented at the preceding levels and identified in the appeal notice.

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]

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.** The Board shall hear the complaint and 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 for any reason the Board fails to reach 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.

First Reading: October 15, 2008: Revisions as per update 83

STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT AND PARENT COMPLAINTS/GRIEVANCES

FNG
(LOCAL)

GUIDING PRINCIPLES	The Board encourages students and parents to discuss their concerns and complaints through informal conferences with the appropriate teacher, principal, or other campus administrator.
INFORMAL PROCESS	Concerns should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.
FORMAL PROCESS	<p>If an informal conference regarding a complaint fails to reach the outcome requested by the student or parent, the student or parent may initiate the formal process described below by timely filing a written complaint form.</p> <p>Even after initiating the formal complaint process, students and parents are encouraged to seek informal resolution of their concerns. A student or parent 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>
FREEDOM FROM RETALIATION	Neither the Board nor any District employee shall unlawfully retaliate against any student or parent for bringing a concern or complaint.
NOTICE TO STUDENTS AND PARENTS	The District shall inform students and parents of this policy.
COMPLAINTS	In this policy, the terms "complaint" and "grievance" shall have the same meaning. This policy shall apply to all student and parent complaints, except as provided below.
EXCEPTIONS	<p>This policy shall not apply to:</p> <ol style="list-style-type: none">1. Complaints alleging discrimination or harassment based on race, color, gender, national origin, disability, or religion. [See FFH]2. Complaints concerning dating violence. [See FFH]3. Complaints concerning retaliation related to discrimination and harassment. [See FFH]4. Complaints concerning bullying. [See FFI]5. Complaints concerning loss of credit on the basis of attendance. [See FEC]6. Complaints concerning removal to a disciplinary alternative education program. [See FOC]

STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT AND PARENT COMPLAINTS/GRIEVANCES

FNG
(LOCAL)

7. Complaints concerning expulsion. [See FOD and the Student Code of Conduct]
8. Complaints concerning identification, evaluation, or educational placement of a student with a disability within the scope of Section 504. [See FB]
9. Complaints concerning identification, evaluation, educational placement, or discipline of a student with a disability within the scope of the Individuals with Disabilities Education Act. [See EHBA, FOF, and the parents' rights handbook provided to parents of all students referred to special education]
10. Complaints concerning instructional materials. [See EFA]
11. Complaints concerning a commissioned peace officer who is an employee of the District. [See CKE]
12. Complaints concerning intradistrict transfers or campus assignments. [See FDB]

GENERAL
PROVISIONS
FILING

Complaint forms and appeal notices may be filed by hand-delivery, fax, or 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. 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.

RESPONSE

At Levels One and Two, "response" shall mean a written communication to the student or parent from the appropriate administrator. Responses may be hand-delivered or sent by U.S. Mail to the student's or parent'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. 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 organization that is designated by the student or parent to represent the student or parent in the complaint process. A student may be represented by an adult at any level of the complaint.

The student or parent may designate a representative through written notice to the District at any level of this process. If the student or parent designates a representative with fewer than three days'

STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT AND PARENT COMPLAINTS/GRIEVANCES

FNG
(LOCAL)

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.

CONSOLIDATING
COMPLAINTS

Complaints arising out of an event or a series of related events shall be addressed in one complaint. A student or parent 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.

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 student or parent, at any point during the complaint process. The student or parent 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 FORM

Complaints 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 student or parent does not have copies of these documents, copies may be presented at the Level One conference. After the Level One conference, no new documents may be submitted by the student or parent.

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

STATEMENT OF
PARTICULARS

If a complaint is found to be too vague, general or indefinite at any level of this policy, the time lines at the complaint level shall be held in abeyance, during which time the complainant shall be required to prepare a written statements of particulars, setting out with specificity the act(s) and/or omission(s) complained of in order to afford the respondent with fair notice and an opportunity to adequately respond in writing to each charge or offer a remedy.

The Superintendent's designee may conduct a pre-hearing conference or make such other orders as may be deemed necessary or appropriate to clarify issues, afford the respon-

STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT AND PARENT COMPLAINTS/GRIEVANCES

FNG
(LOCAL)

dent with fair notice and an opportunity to respond, and assist in the resolution process.

LEVEL ONE

Complaint forms must be filed:

1. Within 15 days of the date the student or parent 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.

In most circumstances, students and parents shall file Level One complaints with the campus principal.

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.

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.

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

The administrator shall provide the student or parent a written response within 14 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 relevant documents or information the administrator believes will help resolve the complaint.

LEVEL TWO

If the student or parent did not receive the relief requested at Level One or if the time for a response has expired, the student or parent 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 District, within seven days of the date of the written Level One response or, if no response was received, within seven 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 student or parent may request a copy of the Level One record.

STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT AND PARENT COMPLAINTS/GRIEVANCES

FNG
(LOCAL)

The Level One record shall include:

1. The original complaint form and any attachments.
2. All other documents submitted by the student or parent 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 hold a conference within ten days after the appeal notice is filed. The conference shall be limited to the issues presented by the student or parent at Level One and identified in the Level Two appeal notice. At the conference, the student or parent may provide information concerning any documents or information relied on 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 student or parent a written response within 14 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 student or parent did not receive the relief requested at Level Two or if the time for a response has expired, the student or parent may appeal the decision to the Board.

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

The Superintendent or designee shall inform the student or parent 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 student or parent may request a copy of the Level Two record.

The Level Two record shall include:

STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT AND PARENT COMPLAINTS/GRIEVANCES

FNG
(LOCAL)

1. The Level One record.
2. The written response issued at Level Two and any attachments.
3. All other documents relied upon by the administration in reaching the Level Two decision.

If, at the Level Three hearing, the administration intends to rely on evidence not included in the records, the administration shall provide the student or parent notice of the nature of the evidence at least three days before the hearing.

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]

The presiding officer may set reasonable time limits and guidelines for the presentation including an opportunity for the student or parent and administration to each make a presentation and provide rebuttal and an opportunity for questioning by the Board. The Board shall 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 student or parent or the student'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.

STUDENT DISCIPLINE
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC
(EXHIBIT)

The following are felony offenses listed in Title 5 of the Penal Code, Offenses Against the Person.

Section 19.02: Murder

Section 19.03: Capital Murder

Section 19.04: Manslaughter

Section 19.05: Criminally Negligent Homicide

Section 20.02: Unlawful Restraint (if [1] the person restrained was younger than 17 years of age, [2] the actor recklessly exposes the victim to a substantial risk of serious bodily injury, [3] the actor restrains an individual the actor knows is a public servant while the public servant is lawfully discharging an official duty or in retaliation or on account of an exercise of official power or performance of an official duty, or [4] the actor while in custody restrains any other person)

Section 20.03: Kidnapping

Section 20.04: Aggravated Kidnapping

Section 20.05: Unlawful Transport

Section 20A.02: Trafficking of Persons

Section 21.02: Continuous Sexual Abuse of Young Child or Children

Section 21.11: Indecency with a Child

Section 21.12: Improper Relationship between Educator and Student

Section 21.15: Improper Photography or Visual Recording

Section 22.01: Assault (if the actor intentionally, knowingly, or recklessly causes bodily injury to [1] a person the actor knows is a public servant while the public servant is lawfully discharging an official duty, or in retaliation or on account of an exercise of official power or performance of an official duty as a public servant; [2] a person the actor knows is a security officer [see Occupations Code 1702.002, 1702.221] while the person is performing a duty as a security officer; [3] a person the actor knows is emergency services personnel while the person is providing emergency services; [4] a person who contracts with the government to perform a service at a correctional facility [see Penal Code 1.07(a)(14)] or a secure correctional or detention facility for juveniles [see Family Code 51.102(13), (14)]; and [5] under certain circumstances, a family member)

Section 22.011: Sexual Assault

Section 22.015: Coercing, Soliciting, or Inducing Gang Membership

Section 22.02: Aggravated Assault

Section 22.021: Aggravated Sexual Assault

Section 22.04: Injury to a Child, Elderly Individual, or Disabled Individual

GUIDELINES FOR COPY CHARGES

The charges in this exhibit, to recover costs associated with providing copies of public information, are based on estimated average costs to governmental bodies across the state. When actual costs are 25 percent higher than those used in these rules, governmental bodies other than agencies of the state may request an exemption in accordance with 1 TAC 70.4.

Copy charges are as follows:

1. Standard-paper copy. The charge for standard-paper copies reproduced by means of an office machine copier or a computer printer is \$.10 per page or part of a page. Each side that has recorded information is considered a page.
2. Nonstandard copy. The charges for nonstandard copies are:
 - a. Diskette — \$1.00
 - b. Magnetic tape — actual cost
 - c. Data cartridge — actual cost
 - d. Tape cartridge — actual cost
 - e. Rewritable CD (CD-RW) — \$1.00
 - f. Non-rewritable CD (CD-R) — \$1.00
 - g. Digital video disc (DVD) — \$3.00
 - h. JAZ drive — actual cost
 - i. Other electronic media — actual cost
 - j. VHS video cassette — \$2.50
 - k. Audio cassette — \$1.00
 - l. Oversize paper copy (e.g., 11" x 17", greenbar, bluebar, not including maps and photographs using specialty paper) — \$.50
 - m. Specialty paper (e.g., Mylar, blueprint, blueline, map, photographic) — actual cost

Personnel charges are as follows:

1. If a particular request requires the services of a programmer in order to execute an existing program or to create a new program so that requested information may be accessed and copied, the District may charge for the programmer's time. The hourly charge for a programmer is \$28.50 an hour. Only programming services shall be charged at this hourly rate. Districts that do not have in-house programming capabilities shall comply with requests in accordance with Government Code 552.231. [See CQ]

INFORMATION ACCESS
REQUESTS FOR INFORMATION

GBAA
(EXHIBIT)

2. The charge for labor costs incurred in processing a request for public information is \$15.00 an hour. The labor charge includes the actual time to locate, compile, manipulate data, and reproduce the requested information.
3. A labor charge shall not be billed in connection with complying with requests that are for 50 or fewer pages of paper records, unless the documents to be copied are located in two or more separate buildings that are not physically connected to each other or a remote storage facility. For purposes of this provision, two buildings connected by a covered or open sidewalk, an elevated or underground passageway, or a similar facility, are not considered to be separate buildings.
4. A labor charge shall not be recovered for any time spent by an attorney, legal assistant, or any other person who reviews the requested information:
 - a. To determine whether the District will raise any exceptions to disclosure of the requested information under Government Code, Subchapter C, Chapter 552; or
 - b. To research or prepare a request for a ruling by the attorney general's office pursuant to section 552.301 of the Government Code. [See CQ]
5. When confidential information pursuant to a mandatory exception of the Act is mixed with public information in the same page, a labor charge may be recovered for time spent to redact, blackout, or otherwise obscure confidential information in order to release the public information. A labor charge shall not be made for redacting confidential information for requests of 50 or fewer pages, unless the request also qualifies as a labor charge pursuant to Government Code 552.261(a)(1) or (2).

Overhead charges are as follows:

1. Whenever any labor charge is applicable to a request, the District may include in the charges direct and indirect costs, in addition to the specific labor charge. This overhead charge would cover such costs as depreciation of capital assets, rent, maintenance and repair, utilities, and administrative overhead. If the District chooses to recover such costs, a charge shall be made in accordance with the methodology described in item 3 below. Although an exact calculation of costs will vary, the use of a standard charge will avoid complication in calculating such costs and will provide uniformity for charges made statewide.
2. An overhead charge shall not be made for requests for copies of 50 or fewer pages of standard paper records unless the request also qualifies for a labor charge pursuant to Government Code 552.261(a)(1) or (2).
3. The overhead charge shall be computed at 20 percent of the charge made to cover any labor costs associated with a particular request. For example, if one hour of labor is used for a particular request, the formula would be as follows: Labor charge for locating, compiling, and reproducing, $\$15.00 \times .20 = \3.00 ; or programming labor charge, $\$28.50 \times .20 = \5.70 . If a request requires one hour of labor charge for locating, compiling, and reproducing information ($\$15.00$ per hour); and one hour of programming labor charge ($\$28.50$ per hour), the combined overhead would be: $\$15.00 + \$28.50 = \$43.50 \times .20 = \8.70 .

INFORMATION ACCESS
REQUESTS FOR INFORMATION

GBAA
(EXHIBIT)

Microfiche and microfilm charges are as follows:

1. If the District already has information that exists on microfiche or microfilm and has copies available for sale or distribution, the charge for a copy must not exceed the cost of its reproduction. If no copies of the requested microfiche or microfilm are available and the information on the fiche or film can be released in its entirety, the District should make a copy of the fiche or film. The charge for a copy shall not exceed the cost of reproduction. Districts that do not have in-house capability to reproduce microfiche or microfilm are encouraged to contact the Texas State Library before having the reproduction made commercially.
2. If only a master copy of information in microform is maintained, the charge is \$.10 per page for standard-size paper copies plus any applicable labor and overhead charge for more than 50 copies.

Remote document retrieval charges are as follows:

1. Due to limited on-site capacity of storage of documents, it is frequently necessary to store information that is not in current use in remote storage locations. Every effort should be made by the District to store current records on-site. To the extent that the retrieval of documents results in a charge to comply with a request, it is permissible to recover costs of such services for requests that qualify for labor charges under current law.
2. If the District has a contract with a commercial records storage company, whereby the private company charges a fee to locate, retrieve, deliver, and return to storage the needed record(s), no additional labor charge shall be factored in for time spent locating documents at the storage location by the private company's personnel. If after delivery to the District, the boxes must still be searched for records that are responsive to the request, a labor charge is allowed in accordance with item 2 under personnel charges, above.

Computer resource charges are as follows:

1. The computer resource charge is a utilization charge for computers based on the amortized cost of acquisition, lease, operation, and maintenance of computer resources, which might include, but is not limited to, some or all of the following: central processing units (CPUs), servers, disk drives, local area networks (LANs), printers, tape drives, other peripheral devices, communications devices, software, and system utilities.
2. These computer resource charges are not intended to substitute for cost recovery methodologies or charges made for purposes other than responding to public information requests.
3. The charges in this section are averages based on a survey of governmental bodies with a broad range of computer capabilities. Each district using this cost recovery charge shall determine which category(ies) of computer system(s) used to fulfill the public information request most closely fits its existing system(s) and set its charge accordingly:

INFORMATION ACCESS
REQUESTS FOR INFORMATION

GBAA
(EXHIBIT)

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INFORMATION ACCESS
REQUESTS FOR INFORMATION

GBAA
(EXHIBIT)

<u>Type of System</u>	<u>Rate</u>
Mainframe	\$10.00 per CPU minute
Midsized	\$ 1.50 per CPU minute
Client/Server	\$ 2.20 per clock hour
PC or LAN	\$ 1.00 per clock hour

4. The charge made to recover the computer utilization cost is the actual time the computer takes to execute a particular program times the applicable rate. The CPU charge is not meant to apply to programming or printing time; rather, it is solely to recover costs associated with the actual time required by the computer to execute a program. This time, called CPU time, can be read directly from the CPU clock, and most frequently will be a matter of seconds. If programming is required to comply with a particular request, the appropriate charge that may be recovered for programming time is described above, at Personnel Charges. No charge should be made for computer print-out time. For example, if a mainframe computer is used, and the processing time is 20 seconds, the charges would be as follows: $\$10.00 / 3 = \3.33 ; or $\$10.00 / (60 / 20) = \3.33 .

A district that does not have in-house computer capabilities shall comply with requests in accordance with Government Code 552.231. [See CQ]

The actual cost of miscellaneous supplies, such as labels, boxes, and other supplies used to produce the requested information, may be added to the total charge for public information.

Governmental bodies may add any related postal or shipping expenses that are necessary to transmit the reproduced information to the requesting party.

Pursuant to Office of the Comptroller of Public Accounts' rules, sales tax shall not be added on charges for public information. (34 TAC, Part 1, Chapter 3, Subchapter O, Sections 3.341 and 3.342).

A district that accepts payment by credit card for copies of public information and that is charged a transaction fee by the credit card company may recover that fee.

1 TAC 70.3, 70.10

PUBLIC COMPLAINTS

GF
(LOCAL)

GUIDING PRINCIPLES	The Board encourages the public to discuss concerns and complaints through informal conferences with the appropriate administrator.
INFORMAL PROCESS	Concerns should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.
FORMAL PROCESS	<p>If an informal conference regarding a complaint fails to reach the outcome requested by an individual, 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, individuals are encouraged to seek informal resolution of their concerns. An individual 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>
FREEDOM FROM RETALIATION	Neither the Board nor any District employee shall unlawfully retaliate against any individual for bringing a concern or complaint.
COMPLAINTS	In this policy, the term "complaint" and "grievance" shall have the same meaning. This policy shall apply to all complaints from the public except as provided below.
EXCEPTIONS	<p>This policy shall not apply to:</p> <ol style="list-style-type: none">1. Complaints concerning instructional materials. [See EFA]2. Complaints concerning a commissioned peace officer who is an employee of the District. [See CKE]
GENERAL PROVISIONS	Complaint forms and appeal notices may be filed by hand-delivery, fax, or 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. 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.
FILING	
RESPONSE	At Levels One and Two, "response" shall mean a written communication to the individual from the appropriate administrator. Responses may be hand-delivered or sent by U.S. Mail to the individual's mailing address of record. Mailed responses shall be timely if they are postmarked by U.S. Mail on or before the deadline.

PUBLIC COMPLAINTS

GF
(LOCAL)

DAYS	<p>"Days" shall mean District business days. In calculating time lines under this policy, the day a document is filed is "day zero." The following business day is "day one."</p>
REPRESENTATIVE	<p>"Representative" shall mean any person who or organization that is designated by an individual to represent the individual in the complaint process.</p> <p>The individual may designate a representative through written notice to the District at any level of this process. If the individual 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.</p>
CONSOLIDATING COMPLAINTS	<p>Complaints arising out of an event or a series of related events shall be addressed in one complaint. An individual 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>
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>
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 District.</p> <p>Copies of any documents that support the complaint should be attached to the complaint form. If the individual 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 individual unless the individual 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>

**STATEMENT OF
PARTICULARS**

If a complaint is found to be too vague, general or indefinite at any level of this policy, the time lines at the complaint level shall be held in abeyance, during which time the complainant shall be required to prepare a written statements of particulars, setting out with specificity the act(s) and/or omission(s) complained of in order to afford the respondent with fair notice and an opportunity to adequately respond in writing to each charge or offer a remedy.

The Superintendent's designee may conduct a pre-hearing conference or make such other orders as may be deemed necessary or appropriate to clarify issues, afford the respondent with fair notice and an opportunity to respond, and assist in the resolution process.

LEVEL ONE

Complaint forms must be filed:

1. Within 15 days of the date the individual 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.

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.

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.

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

The administrator shall provide the individual a written response within 14 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 relevant documents or information.

LEVEL TWO

If the individual did not receive the relief requested at Level One or if the time for a response has expired, he or she 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 District, within seven days of the date of the written Level One response or, if no response was received, within seven 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 individual 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 individual 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 hold a conference within ten days after the appeal notice is filed. The conference shall be limited to the issues presented by the individual at Level One and identified in the Level Two appeal notice. At the conference, the individual 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 individual a written response within 14 days following the conference. The written response shall set forth the basis for 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 individual did not receive the relief requested at Level Two or if the time for a response has expired, he or she may appeal the decision to the Board.

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

The Superintendent or designee shall inform the individual 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 with the record of the Level Two complaint. The individual may request a copy of the Level Two record.

The Level Two record shall include:

1. The Level One record.
2. The written response issued at Level Two and any attachments.
3. All other documents relied upon by the administration in reaching the Level Two decision.

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 individual notice of the nature of the evidence at least three days before the hearing.

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]

The presiding officer may set reasonable time limits and guidelines for the presentation including an opportunity for the individual and administration to each make a presentation and provide rebuttal and an opportunity for questioning by the Board. The Board shall 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 individual or his or her 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.