

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 a member of the Board regarding District operations except when communication between an employee and a Board member would be inappropriate because of a pending hearing or appeal related to the employee.
FORMAL PROCESS	<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	The District shall inform employees of this policy. Employees shall be provided a copy of the policy at the onset of each school year and shall be informed of revisions as they occur.
FREEDOM FROM RETALIATION	Neither the Board nor any District employee shall unlawfully retaliate against an employee for bringing a concern or complaint.
WHISTLEBLOWER COMPLAINTS	Whistleblower complaints shall be filed within the time specified by law and may be made to the Superintendent or designee beginning at Level Two. Time lines for the employee and the District set out in this policy may be shortened to allow the Board to make a final decision within 60 calendar days of the initiation of the complaint. [See DG]
COMPLAINTS AGAINST SUPERVISORS	Complaints alleging a violation of law by a supervisor may be made to the Superintendent or designee. Complaints alleging a violation of law by the Superintendent may be made directly to the Board or designee.
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.

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EXCEPTIONS	<p>This policy shall not apply to:</p> <ol style="list-style-type: none">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 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]8. Complaints arising from a teacher's evaluation. [See DNA]
GENERAL PROVISIONS	
FILING	<p>Complaint forms and appeal notices may be filed by hand-delivery or the U.S. Postal Service, certified mail, return receipt requested. Hand-delivered filings shall be timely filed if received by the appropriate administrator or designee by the close of business on the deadline. Mail filings shall be timely filed if they are properly addressed with sufficient postage, postmarked by U.S. Postal Service on or before the deadline and received by the appropriate administrator or designated representative no more than three days after the deadline.</p>
RESPONSE	<p>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 the U.S. Postal Service to the employee's mailing address of record. Mailed responses shall be timely if they are postmarked by the U.S. Postal Service on or before the deadline.</p>
DAYS	<p>"Days" shall mean District business days, unless otherwise noted. In calculating time lines under this policy, the day a document is filed is "day zero." The following business day is "day one."</p>

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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 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. 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. 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 District 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 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 on the form at DGBA(EXHIBIT), or in writing in narrative form providing the same information requested in DGBA(EXHIBIT).</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 offering party did not know, or reasonably could not have known, the documents existed before the Level One conference.</p>

Comment [ks1]: R. Stout recommended wording changes

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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.

LEVEL ONE

Complaint forms must be filed:

1. Within 15 days of the date the employee first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint or grievance; and
2. With the lowest level administrator who has the authority to remedy the alleged problem.

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

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 employee within ten days after receipt of the written complaint. The administrator may set reasonable time limits for the conference.

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. **All documents relied upon by the Level One administrator in reaching the Level One decision shall be provided to the employee along with the written decision**

Comment [ks2]: R. Stout recommended additional wording

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 District, within ten days of the date of the written Level One re-

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sponse 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 hold 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 District, 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.

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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 **shall be provided with** ~~may request~~ a copy of the Level Two record **at least three days before the Level Three hearing.**

Comment [ks3]: R. Stout recommended wording change

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

Comment [ks4]: R. Stout recommends to delete

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 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 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.