



UNITED INDEPENDENT SCHOOL DISTRICT AGENDA ACTION ITEM

TOPIC: Approval of First & Final Reading of FNG (LOCAL) Student Rights and Responsibilities /
Student and Parent Complaints/Grievances

SUBMITTED BY: Gloria S. Rendon **OF:** Superintendent's Office

APPROVED FOR TRANSMITTAL TO SCHOOL BOARD: _____

DATE ASSIGNED FOR BOARD CONSIDERATION: May 17, 2017

RECOMMENDATION: It is recommended that the Board approve the First and Final Reading of FNG (LOCAL) Student Rights and Responsibilities / Student and Parent Complaints / Grievances

RATIONALE:

BUDGETARY INFORMATION:

POLICY REFERENCE & COMPLIANCE:

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COMPLAINTS

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

OTHER COMPLAINT
PROCESSES

Student or parent complaints shall be filed in accordance with this policy, except as required by the policies listed below. Some of these policies require appeals to be submitted in accordance with FNG after the relevant complaint process:

1. Complaints alleging discrimination or harassment based on race, color, gender, national origin, disability, or religion shall be submitted in accordance with FFH.
2. Complaints concerning dating violence shall be submitted in accordance with FFH.
3. Complaints concerning retaliation related to discrimination and harassment shall be submitted in accordance with FFH.
4. Complaints concerning bullying or retaliation related to bullying shall be submitted in accordance with FFI.
5. Complaints concerning failure to award credit or a final grade on the basis of attendance shall be submitted in accordance with FEC.
6. Complaints concerning expulsion shall be submitted in accordance with FOD and the Student Code of Conduct.
7. Complaints concerning any final decisions of the gifted and talented selection committee regarding selection for or exit from the gifted program shall be submitted in accordance with EHBB.
8. Complaints concerning identification, evaluation, or educational placement of a student with a disability within the scope of Section 504 shall be submitted in accordance with FB and the procedural safeguards handbook.
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 shall be submitted in accordance with EHBAE, FOF, and the procedural safeguards handbook provided to parents of all students referred to special education.
10. Complaints concerning instructional materials shall be submitted in accordance with EFA.
11. Complaints concerning a commissioned peace officer who is an employee of the District shall be submitted in accordance with CKE.

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12. Complaints concerning intradistrict transfers or campus assignment shall be submitted in accordance with FDB.
13. Complaints concerning admission, placement, or services provided for a homeless student shall be submitted in accordance with FDC.

NOTICE TO STUDENTS
AND PARENTS

The District shall inform students and parents of this policy through appropriate District publications and as authorized by the Superintendent.

BOARD
SUBCOMMITTEE

A panel of three members of the Board shall compose the subcommittee.

GUIDING PRINCIPLES
INFORMAL
PROCESS

The Board encourages students and parents to discuss their concerns with the appropriate teacher, extracurricular sponsor, principal, or other campus administrator who has the authority to address the concerns. Concerns should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.

Informal resolution shall be encouraged but shall not extend any deadlines in this policy, except by mutual written consent.

FORMAL PROCESS

A student or parent may initiate the formal process described below by timely filing a written complaint form.

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.

The process described in this policy shall not be construed to create new or additional rights beyond those granted by law or Board policy, nor to require a full evidentiary hearing or "mini-trial" at any level.

FREEDOM FROM
RETALIATION

Neither the Board nor any District employee shall unlawfully retaliate against any student or parent for bringing a concern or complaint.

GENERAL
PROVISIONS
FILING

Complaint forms and appeal notices may be filed by hand-delivery, by electronic communication, including e-mail and fax, or by U.S. Mail 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. Hand-delivered filings shall be timely filed if received by the appropriate administrator or designee by the close of business on the deadline. Filings submitted by electronic communication shall be timely filed if they are received by the close of business on the deadline, as indicated

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by the date/time shown on the electronic communication. Mail filings shall be timely filed if they are postmarked by U.S. Mail on or before the deadline and received by the appropriate administrator or designated representative no more than three days after the deadline.

If the complaint is not filed with the appropriate administrator, the receiving administrator shall note the date and time the complaint form was received and immediately forward the complaint form to the appropriate administrator.

All complaints shall be signed by the student/parent or representative; however, a representative shall submit written authorization, signed by the student/parent, which specifically allows the representative to act on behalf of the student/parent during the grievance process.

SCHEDULING
CONFERENCES

The District shall make reasonable attempts to schedule conferences at a mutually agreeable time. If a student or parent fails to appear at a scheduled conference, the District may hold the conference and issue a decision in the student's or parent's absence.

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, sent by electronic communication to the student's or parent's e-mail address of record, 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 as determined by the academic calendar, unless otherwise noted. In calculating timelines 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. If the student/parent designates more than one representative, only one representative shall be allowed to be present during any level of the grievance process. Witnesses shall not be allowed during any level of the grievance process; however, witness statements may be tendered at a grievance hearing. The only parties that shall be allowed during the student's or parent's presentation during any level of the grievance process shall be the student, parent/legal guardian, and one representative.

The student or parent may designate a representative through written notice to the District at any level of this process. The repre-

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representative may participate in person or by telephone conference call. If the student or parent 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.

Representatives shall conduct themselves with common courtesy and respect for the rights of others. If at any level a student, parent/legal guardian, or representative is deemed to be unruly, disrespectful, or disruptive to the hearing process, the grievance hearing shall be concluded and student and/or parent and representative shall be issued a decision based on the written record and oral arguments set forth by the student/parent and representative, as applicable. Further, if a grievance hearing is concluded due to unruly conduct by the student, parent/guardian, or representative, the student/parent shall no longer be entitled to live presentations for the grievance at hand and any future grievances filed within the same school year. The grievance at hand and any future grievances during the same school year shall continue under the rules provided in WRITTEN/RECORDED PRESENTATIONS, below.

The District shall have the authority to remove a disruptive representative from the premises. Additionally, after an examination of the facts, if the Superintendent deems the representative has been disruptive in a repetitive manner, he or she may issue a letter of warning to the complainant's representative. If the representative continues to display the same disruptive conduct, the Superintendent may deny the representative further opportunities to represent future complaints.

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 file separate or serial complaints arising from any event or series of events that have been or could have been addressed in a previous complaint. If a student or parent 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 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.

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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 AND
APPEAL FORMS

Complaints and appeals under this policy shall be submitted in writing on a form provided by the District. Copies of any documents that support the complaint should be attached to the complaint form. Once submitted, the grievance shall be limited to the written remedies and documents addressed in the initial complaint. No new remedies, issues, or documents shall be introduced during the grievance proceeding that have not been specifically mentioned or produced in the initial complaint form. Further, the only remedies ruled upon shall be those listed on the initial complaint; remedies requested in an oral manner at any hearing level shall not be considered. Any new issues or remedies shall be addressed in a subsequent complaint form and under the rules and timelines set forth in this policy.

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

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.

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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 statement 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. If the complainant or his or her representative does not adequately address the vague, general, or indefinite complaint within three days of written notification, the complaint shall be dismissed.

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.

AUDIO / VIDEO
RECORDING

As provided by law, a student/parent shall be permitted to make an audio recording of a conference or hearing under this policy in which the substance of the student/parent complaint is discussed. The student/parent shall notify all attendees present that an audio recording is taking place. The student/parent, representative, if designated, and the hearing officer shall be prohibited from video recording the hearing. If the student/parent or representative insist on video recording the hearing, the hearing officer may terminate the hearing at his or her discretion.

MUTUAL AGREEMENT
OF THE PARTIES

The parties involved may mutually consent to modify the procedure as necessary to accomplish the goal of resolving the dispute in the most efficient and expeditious manner possible.

WITHDRAWAL

A student/parent may withdraw his or her complaint at any time. Once withdrawn, a complaint shall not be reconsidered. If the student/parent has designated a representative, the representative need not consent to the complaint being withdrawn.

A dispute shall be considered withdrawn if a student/parent fails to pursue the complaint or otherwise is deemed to be unreasonably protracting the process.

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.

MEDIATION
CONFERENCE

At the time the student/parent files his or her complaint/grievance, the student/parent shall have an informal mediation conference with an administrator prior to entering the formal complaint process. The administrator shall schedule and conduct an informal mediation conference within ten days of receipt of the complaint or at a time mutually agreeable to the parties. At the informal confer-

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ence, the following shall be discussed: (i) the concern, (ii) the justification or rationale for the concern, (iii) the harm sustained or being sustained by the student/parent, and (iv) the remedy sought for resolution. The student/parent and the administrator shall endeavor to reach an agreement resolution of the concern. If resolution is reached, the complaint is resolved. If resolution is not reached, the student/parent may invoke the formal complaint process.

FORMAL PROCESS

The formal complaint process shall consist of three levels. Level One and Level Two shall be closed to the public and the student/parent's designated representative shall be the only other person in attendance. The only exception is that a student may have an adult present with them at a hearing other than the designated representative. If at any point during the grievance process the student/parent and representative, (if designated), are to be present in front of the party being grieved against, the hearing officer shall have the discretion to separate the parties and allow separate presentations. A Level Three presentation to the Board subcommittee shall be held within a properly posted Board meeting. The Board subcommittee shall determine whether the hearing will be held in open or closed session, except that the hearing shall be held in closed session upon the request of the employee who is the subject of the complaint, or as authorized by law. The student/parent shall be afforded a 15-minute hearing at each level of the grievance process; the hearing officer shall have the discretion to provide a 15-minute hearing to administration if deemed necessary. Upon exigent circumstances, the hearing officer at any level may allow more than 15 minutes. No party shall be allowed more time than the other in a grievance hearing.

LEVEL ONE

If resolution of the complaint is not reached at the mediation complaint/grievance level, the student/parent may enter the Level One complaint process and request a formal meeting with the lowest level administrator who has the authority to remedy the alleged problem within seven days of the mediation conference, unless the time has been extended by written agreement. The Superintendent shall appoint another administrator to serve as the Level One hearing officer when the complaint is against the administrator who would normally hear the Level One complaint.

A Level One conference shall be conducted within ten days of notice by the student/parent requesting to enter the Level One complaint process. The administrator shall notify the student/parent of the date, time, and place of the conference at which time the complaint shall be reviewed with the student/parent. The administrator may set reasonable time limits for the conference.

Absent extenuating circumstances, the administrator shall provide the student/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 other relevant documents. The only remedies ruled upon shall be those listed on the initial complaint; remedies requested in an oral manner at any hearing level shall not be considered.

~~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 schedule 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.~~

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 ten days of the Level One response deadline. The student/parent may not appeal any part of a complaint of which said remedy has been granted at a prior level.

After receiving notice of the appeal, the Level One administrator shall prepare and forward a record of the Level One complaint to

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the Level Two administrator. The student or parent 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 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 schedule a conference within ten days after the appeal notice is filed. The conference shall be limited to the issues and documents considered at Level One. At the conference, the student or parent may provide information concerning any documents or information relied upon by the administration for the Level One decision.

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.

Audio recordings of the Level One and Level Two conferences 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 date of the written Level Two response or, if no response was received, within seven days of the Level Two response deadline. The student/parent may not appeal any part of a complaint of which said remedy has been granted at a prior level.

At the Board President's discretion, either a Board subcommittee or the Board shall provide a Level Three hearing within 30 days or at the next available meeting scheduled for such purposes. If the Board President's decision is that the Board hear the grievance, the Board subcommittee hearing shall be bypassed. The same

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rules shall apply to a Board subcommittee hearing and a hearing before the Board.

The Superintendent or designee shall inform the student or parent of the date, time, and place of the Board or Board subcommittee hearing. If a hearing is held before the Board subcommittee, then the subcommittee shall render a recommendation to the Board at the next regularly scheduled Board meeting. No member of the Board subcommittee shall conduct any ex parte communications regarding the case. In regards to the pending grievance, the student/parent and the representative shall not communicate with any Board members. Board members shall not take part in any deliberations or decision making without having first heard all the evidence prior to the hearing.

The Superintendent or designee shall provide the Board or Board subcommittee the record of the Level Two appeal.

The Level Two record shall include:

1. The Level One record.
2. The notice of appeal from Level One to Level Two.
3. The written response issued at Level Two and any attachments.
4. All other documents relied upon by the administration in reaching the Level Two decision. The District reserves the right to redact confidential information, as required by law.
5. Other documents exchanged by the parties at least five days prior to the Level Three hearing.

The appeal shall be limited to the issues and documents considered at Level Two, except that if at the Level Three hearing the administration intends to rely on evidence not included in the Level Two record, the administration shall provide the student or parent notice of the nature of the evidence at least three days before the hearing. The Board or Board subcommittee shall consider only those issues, remedies, and documents presented at the preceding levels and identified in the appeal notice.

The presiding officer of the Board or Board subcommittee may set reasonable guidelines for the presentation, including an opportunity for the student/parent and administration to each make a presentation and provide rebuttal and an opportunity for questioning by the Board or Board subcommittee. The Board or Board subcommittee shall hear the complaint and may request that the administration provide an explanation for the decisions at the preceding levels.

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The Board or Board subcommittee shall prepare a separate record of the Level Three presentation. The Level Three presentation, including the presentation by the student/parent or the student's/parent's representative, any presentation from the administration, and questions from the Board or Board subcommittee with responses, shall be recorded by audio recording.

The Board or Board subcommittee shall then consider the complaint. If a hearing was held before the Board subcommittee, the subcommittee shall render a recommendation to the Board at the next regularly scheduled Board meeting. Upon such recommendation, the Board or Board subcommittee 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 response by the Board upholds the administrative decision at Level Two. If a hearing was held before the Board, the Board may give notice of its decision orally or in writing at any time up to and including the next regularly scheduled Board meeting. If the Board does not make a decision regarding the complaint by the end of the next regularly scheduled meeting, the lack of response by the Board upholds the administrative decision at Level Two.

The District shall determine whether the complaint will be discussed in an open or closed meeting in accordance with the Texas Open Meetings Act and other applicable law. [See BE]

WRITTEN / RECORDED
PRESENTATIONS

After a student or parent has filed three grievances within any school year, he or she shall no longer be entitled to a Level One or Level Two conference or a live presentation before the Board. Rather, in lieu of a conference or live presentation, all pending and future complaints initiated within that school year shall be limited to a written submission and an audio or video recorded presentation not to exceed 15 minutes. The student or parent may attach any evidence he or she deems relevant to the written complaint. The administration's response, if any, shall also be submitted in writing and via audio or video recording not to exceed 15 minutes.

Upon receipt of the written complaint, any evidence, and the audio or video recording, the Level One or Level Two hearing officer and any Board member may, in his or her sole discretion, submit written questions to the student/parent and provide a reasonable deadline for the student/parent to provide a response. Board members shall submit their questions through the Board President, or if instructed by the Board President, through the Board's legal counsel. Although the written submission and audio or video recordings shall

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be in lieu of any live presentation, the remaining grievance procedures set forth herein shall remain applicable.

EXTRACURRICULAR
ACTIVITY
COMPLAINTS

A complaint pertaining to an extracurricular activity, which does not arise from student or parental rights under Chapter 26 of the Education Code, shall not be entitled to a Level One or Level Two conference or a live presentation before the Board. Rather, in lieu of a conference or live presentation, a complaint of this nature shall be limited to a written submission and an audio or video recorded presentation not to exceed 15 minutes. The student or parent may attach any evidence he or she deems relevant to the written complaint. The administration's response, if any, shall also be submitted in writing and via audio or video recording not to exceed 15 minutes.

Upon receipt of the written complaint, any evidence, and the audio or video recording, the Level One or Level Two hearing officer and any Board member may, in his or her sole discretion, submit written questions to the student/parent and provide a reasonable deadline for the student/parent to provide a response. Board members shall submit their questions through the Board President, or if instructed by the Board President, through the Board's legal counsel. Although the written submission and audio or video recordings shall be in lieu of any live presentation, the remaining grievance procedures set forth herein shall remain applicable.

A student or parent alleging a violation of law covered under Chapter 26 of the Education Code must specifically and explicitly articulate the law or provision allegedly violated.