

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA
(LOCAL)

Complaints

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

Other Complaint
Processes

Employee complaints shall be filed in accordance with this policy, except as required by the policies listed below. Some of these policies require appeals to be submitted in accordance with DGBA after the relevant complaint process [has been followed](#):

1. Complaints alleging discrimination, including violations of Title IX (gender), Title VII (sex, race, color, religion, national origin), ADEA (age), or Section 504 (disability), shall be submitted in accordance with ~~the DIA series~~.
2. Complaints alleging certain forms of harassment, including harassment by a supervisor and violation of Title VII, shall be submitted in accordance with ~~the DIA series~~.
3. Complaints concerning retaliation ~~relating~~[related](#) to discrimination and harassment shall be submitted in accordance with ~~the DIA series~~.
4. Complaints concerning instructional resources shall be submitted in accordance with the EF series.
5. Complaints concerning a commissioned peace officer who is an employee of the District shall be submitted in accordance with the CKE series.
6. Complaints concerning the proposed nonrenewal of a term contract issued under Chapter 21 of the Education Code shall be submitted in accordance with DFBB.
7. Complaints concerning the proposed termination or suspension without pay of an employee on a probationary, term, or continuing contract issued under Chapter 21 of the Education Code during the contract term shall be submitted in accordance with DFAA, DFBA, or DFCA.

Notice to Employees

The District shall inform employees of this policy through appropriate District publications [and on the District's website](#).

~~Guiding Principles~~
Informal Process

The Board encourages employees to discuss their concerns with their supervisor, principal, or other appropriate [campus or District](#) 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.

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~~Direct
Communication with
Board Members~~
~~Employees shall not
be prohibited from
communicating with
a member of the
Board regarding
District operations~~
~~Formal Process
communication
between an
employee and a
Board member
would be
inappropriate
because of a
pending hearing or
appeal related to the
employee~~
Filing
Deadlines

If an employee has engaged in the informal process in an attempt to resolve the complaint with the District and has not reached a resolution during the process, the employee must file a complaint within 15 business 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.

All deadlines shall be strictly followed unless otherwise required by law or modified by mutual written consent.

An employee may initiate the formal process described below by timely filing a written complaint form.

~~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.~~

~~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.~~
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.

The complaint form shall be filed with the lowest level administrator who has the authority to remedy the alleged problem. In most circumstances, the employee shall file Level One complaints with the campus principal for any complaint on a matter related to a campus. For a complaint that arises on a matter that is unrelated to a campus, the complaint shall be filed with the appropriate District-level administrator.

If the complaint seeks relief that, by law or Board policy, may be granted only by the Board; is a complaint about a Board member, or is a complaint about the Superintendent, the complaint shall be initiated at the Board level. A preliminary hearing to develop a record or recommendation for the Board may be conducted by an appropriate administrator. The fact that a complaint may ultimately be decided by the Board does not entitle an employee to proceed directly to Level Three.

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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| <u>Option to Continue Informal Process</u> | <u>Even after initiating the formal complaint process, the employee is encouraged to seek informal resolution of their concerns. An employee whose concerns are resolved may withdraw a formal complaint at any time.</u> |
| <u>Notice of Complaint</u> | <u>A District employee against whom a complaint has been filed shall be provided notice of the complaint in accordance with administrative regulations. The employee shall have sufficient opportunity to submit a written response to the complaint that shall be included in the record of the complaint.</u> |
| 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. Timelines 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 . <u>Complaint forms</u> , <u>Complaints</u> alleging a violation of law by the Superintendent may be submitted directly to the Board or <u>Board's</u> designee. |
| <u>Direct Communication with Board Members</u> | <u>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.</u> |
| General Provisions Filing | Complaint forms and appeal notices may be filed by hand-delivery, by electronic communication, including email and fax , or by 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. Filings submitted by electronic communication shall be timely filed if they are received by the close of business on the deadline, as indicated by the date/time shown on the electronic communication. Mail filings shall be timely filed if they are post-marked by U.S. Mail on or before the deadline and received by the appropriate administrator or designated representative no more than three <u>business</u> days after the deadline. |
| Scheduling Conferences <u>Hearings</u> | The District shall make reasonable attempts to schedule conferences <u>hearings</u> at a mutually agreeable time. If the employee fails to appear at a scheduled conference <u>hearing</u> , the District may hold the conference <u>hearing</u> and issue a decision in the employee's absence. |

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| Response At Levels One and Two, "response" <u>Decision</u> | <p><u>A "decision" shall mean a written communication to the employee from the appropriate administrator. Responses that provides an explanation of the basis of the decision, an indication of each document that supports the decision, and any relief or redress to be provided. A decision shall be issued on the merits of the concern raised in the complaint notwithstanding any procedural errors or the type of relief or redress requested.</u></p> <p><u>The decision shall also include information regarding the filing of an appeal in accordance with this policy. After a hearing at Level Three, the decision shall include information on submitting an appeal to the commissioner.</u></p> <p><u>A decision</u> may be hand-delivered, sent by electronic communication to the employee's email address of record, or sent by U.S. Mail to the employee's mailing address of record. Mailed responses<u>decisions</u> shall be timely if they are postmarked by U.S. Mail on or before the deadline.</p> |
| Days | <p>"Days" shall mean District business days, 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."</p> |
| Representative <u>Representative</u> | <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<u>the employee</u> in the complaint process.</p> <p>The employee may designate a representative through written notice to the District at any level of this process. The representative may participate in person or by telephone conference call. If the employee designates a representative with fewer than three <u>business</u> 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 file To promote efficiency in addressing complaints, the appropriate administrator shall determine if separate or serial complaints arising from <u>any</u>an 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> |

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| | <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.<u>related events shall be consolidated.</u></p> |
| Costs Incurred | <p>Each party shall pay its own costs incurred in the course of the complaint.</p> |
| Complaint and Appeal Forms | <p>Complaints and appeals 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<u>included with</u> the complaint form. If the employee does not have copies of these documents, they<u>copies</u> may be presented at the Level One conference<u>hearing</u>. After the Level One conference, no new documents may be submitted by the employee unless the employee did not know the documents existed before the Level One conference<u>hearing, the employee may supplement the record with additional documents or include additional claims.</u></p> |
| <u>Record</u> | <p><u>A record of each complaint hearing shall be created and retained in accordance with this policy. The record shall include documents submitted by the employee who filed the complaint, documents determined relevant by District personnel, and the decision.</u></p> |
| <u>Remand</u> | <p>A complaint or appeal form that is incomplete in any material aspect may<u>shall</u> be dismissed but may be refiled with all the required information if the refiling is within the designated time for filing.<u>re-filed, if at Level One, and remanded at all other levels in order to develop an adequate record of the complaint.</u></p> <p><u>If an adequate record has not been developed, the appropriate administrator may remand the complaint to a lower level. The Board or Board committee may remand a complaint to a lower level if at the Board level of review an adequate record has not been developed.</u></p> |
| <u>Assignment of Hearing Officer</u> | <p><u>When a District employee is the subject of a complaint, the hearing shall be conducted by an administrator who is in a supervisory or higher organizational role. The District employee who is the subject of the complaint shall recuse themselves from reviewing the complaint at any level in the process.</u></p> |
| <u>Investigation</u> | <p><u>The District may conduct an investigation at any level in the complaint process. If the District and the employee mutually agree, all deadlines shall be suspended during an investigation.</u></p> |

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Audio Recording

As provided by law, an employee shall be permitted to make an audio recording of a ~~conference or~~ hearing under this policy at which the substance of the employee's complaint is discussed. The employee shall notify all attendees present that an audio recording is taking place.

Complaint Levels

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

~~Absent extenuating circumstances, the administrator shall provide the employee a written response within ten days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the administrator may consider information provided at the Level One conference and any other relevant documents or information the administrator~~At Level One, the appropriate hearing officer shall hold a hearing with the employee within 10 calendar days after receipt of the written complaint. The hearing officer may set reasonable time limits for the hearing.

The hearing officer shall provide the employee a decision within 20 calendar days following the hearing. In reaching a decision, the

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Level Two

hearing officer may consider information provided with the complaint form and any other relevant documents or information the hearing officer believes will help resolve the complaint.

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

The appeal notice must be filed in writing, on a form provided by the District, within ~~ten~~ 20 calendar days of the date of the ~~written~~ Level One response decision or, if no ~~response was received,~~ within ten ~~decision has been communicated to the employee, within~~ 20 calendar days of the Level One response decision deadline.

After receiving notice of the appeal, the Level One ~~administrator~~ hearing officer shall prepare and forward a record of the Level One complaint to the Level Two ~~administrator~~. ~~The employee may request~~ hearing officer and provide a copy of the Level One record to the employee.

The Level One record shall include:

1. The original complaint form and any attachments.
2. ~~All~~ Any other documents submitted by the employee at Level One.
3. ~~The~~ If the complaint is against a District employee, the written response of the District employee, if any.
- 3.4. The decision issued at Level One and any attachments.
- 4.5. All other documents relied upon by the Level One ~~administrator~~ hearing officer in reaching the Level One decision.

The ~~Superintendent or designee~~ hearing officer shall schedule a conference ~~within ten~~ hearing officer shall hold a hearing within 10 calendar 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 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~~ hearing officer may set reasonable time limits for the hearing.

The ~~Superintendent or designee~~ hearing officer shall provide the employee a ~~written response~~ decision within ~~ten~~ 20 calendar days following the ~~conference~~. ~~The written response shall set forth the basis of the decision~~ hearing. In reaching a decision, the ~~Superintendent or designee~~ hearing officer may consider the Level One

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Level Three

record, any additional information provided ~~at prior to~~ the Level Two ~~conference~~ hearing, and any other relevant documents or information the ~~Superintendent or designee~~ hearing officer believes will help resolve the complaint.

Recordings of the Level One and Level Two ~~conferences~~ hearings, if any, shall be maintained with the Level One and Level Two records.

If the employee did not receive the relief requested at Level Two or if the time for a ~~response~~ decision 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~~ 20 calendar days of the date of the ~~written~~ Level Two ~~response~~ decision or, if no ~~response was received, within ten~~ decision has been communicated to the employee, within 20 calendar days of the Level Two ~~response~~ decision deadline.

~~The Superintendent or designee shall inform the employee of the date, time, and place of the Board~~ Unless the Board delegates a committee in accordance with law, the Board shall hear the appeal of the Level Two decision.

After receiving notice of the appeal, the Board or Board committee shall hold a meeting to discuss the complaint no later than 60 calendar days after the date on which the Level Two decision was made.

The Superintendent shall inform the employee whether the Board or a Board committee will hear the appeal and of the date, time, and place of the meeting at which the complaint will be on the agenda for presentation to the Board or Board committee.

~~The Superintendent or designee~~ At least five business days before the Board or Board committee meeting, the Superintendent shall provide the employee a description of any information the Board intends to rely on that is not contained in the record created at the previous hearing levels, including any preliminary hearing.

The Superintendent shall provide the Board the record of the Level Two appeal. The employee may request a copy of the Level Two record.

The Level Two record shall include:

1. The Level One record.
2. The notice of appeal from Level One to Level Two.

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~~3. The written response~~Any other documents submitted by the employee at Level Two.

~~3.4. The decision~~ issued at Level Two and any attachments.

~~4.5.~~ All other documents relied upon by the administration in reaching the Level Two decision.

~~The appeal shall be limited to the issues and documents considered at Level Two, except that if at the Level Three hearing the administration intends to rely on evidence not included in the Level Two record, the administration shall provide the employee notice of the nature of the evidence at least three days before the hearing.~~

~~The 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~~employee may request that the complaint be heard in open or closed meeting. The District shall honor that request unless the Texas Open Meetings Act or other applicable law requires otherwise. [See BE]

At the meeting, 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.~~ members.

In addition to any other record of the ~~Board~~ meeting required by law, the Board or Board committee 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 members with responses, shall be recorded by audio recording, video/audio recording, or court reporter.

The Board or Board committee shall then consider the complaint. It ~~may give notice of its~~shall make a 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~~no later than 30 calendar days after the date of the Board or Board committee meeting at which the complaint was presented. The employee shall be provided a decision in accordance with this policy and state law.