

PERSONNEL-MANAGEMENT RELATIONS  
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA  
(LOCAL)

## PROPOSED POLICY

### PURPOSE

The purpose of this policy is to provide employees an orderly process for the prompt and equitable resolution of complaints/grievances. The Board intends that, whenever feasible, complaints/grievances be resolved at the lowest possible administrative level. The policy shall not be constructed to create new or additional substantive rights beyond those granted by Board policy or law.

### OTHER COMPLAINT PROCESSES

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

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

### NOTICE TO EMPLOYEES

~~The principal of each campus and other supervisory personnel shall ensure that all employees under their supervision are informed of this policy. Employees shall be provided a copy of the policy at the time of employment and whenever it is revised.~~  
**The District shall inform employees of this policy.**

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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 except when communication between an employee and a Board member would be inappropriate because of a pending hearing or appeal related to the employee.
ATTENDANCE	Employees shall be allowed to attend their grievance hearings and with no loss of pay. The employee must provide notice of absence from work to his or her immediate supervisor in accordance with DEC(LOCAL).
FREEDOM FROM RETALIATION	Neither the Board nor the administration shall unlawfully retaliate against any employee for bringing a complaint under this policy.
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. If the complaint is not resolved at that level, the Superintendent's designee shall ensure that the matter reaches the Board expeditiously. Time lines for the employee and the District set out in this policy may be shortened to ensure that the Board's final decision is made within 60 calendar days of the initiation of the complaint. <b>[See DG]</b>
DEFINITIONS	The following definitions shall apply:
DAYS	"Days" shall be defined as District business days in accordance with the District wide calendar, 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."
EMPLOYEE	"Employee" shall be defined as an individual employed by the District and performing work under regular, continuous employment.
GRIEVANCE	A "grievance" is a complaint by an employee or group of employees involving wages, hours, or conditions of work (including but not limited to demotion, suspension without pay, or termination if applicable under this policy). The terms "dispute," "complaint," and "grievance" shall have the same meaning throughout this policy.
GRIEVANT	The term "grievant" includes the employee, employees, or organization filing a grievance on behalf of the employee. The words "grievant" and "employee" shall have the same meaning throughout this policy.
REPRESENTATIVE	A "representative" is any person, including an individual from an association or organization selected by the employee to be present

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and to represent the employee at all levels, so long as the representative does not claim the right to strike. [See DGBA (LEGAL)]

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 business days' notice 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 Legal Counsel. The District may be represented by counsel at any level of the process.

SUPERINTENDENT  
DESIGNEE

For purposes of grievances involving an employee's appraisal, the "Superintendent's designee" shall be the appropriate area superintendent.

For all other grievances, the "Superintendent's designee" shall be the director of employee relations, who also serves as the Level Two Hearing Officer.

GENERAL  
PROVISIONS  
FILING

Grievance forms and appeal notices shall be filed by hand-delivery, ~~or~~ electronic submission **or U.S. Mail** to the Office of Employee Relations. Filings shall be considered timely if received by the Office of Employee Relations by the close of business on the deadline date. **Mail filings shall be timely filed if they are post-marked by the U.S. Mail on or before the deadline.**

A grievance form that is incomplete must be re-filed within five days of the date the grievance form was returned to the employee. The grievance must be filed with all the requested information, in order for the grievance form to be considered timely and a hearing to be scheduled.

COMPLAINTS  
AGAINST  
SUPERVISORS

Complaints alleging a violation of law or unlawful harassment by a supervisor may be made to ~~a different supervisor~~ **the Superintendent or designee**. Complaints alleging a violation of law or unlawful harassment by the Superintendent may be made directly to the Board or Board's designee beginning at Level Three.

CONSOLIDATING  
GRIEVANCES

When two or more complaints are sufficiently similar in nature and a remedy to permit their resolution through one proceeding is possible, the District may consolidate the complaints.

An employee 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.

COST INCURRED

Each party shall pay its own cost incurred in the course of the grievance.

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UNTIMELY FILING	<p>All time limits shall be strictly followed unless modified by mutual written consent.</p> <p>If a grievance form or appeal notice is not filed timely with the Office of Employee Relations, as provided by this policy, the grievance shall be dismissed at any level during the grievance process. The employee shall be provided written notice of the dismissal of the grievance.</p> <p><del>Consideration shall be given for extenuating circumstances in all cases.</del></p> <p>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>
MUTUAL AGREEMENT OF PARTIES	<p>The parties involved may mutually consent to modify the procedures as may be necessary to accomplish the goal of resolving the grievance in the most efficient and expeditious matter possible.</p>
WITHDRAWAL	<p>An employee may withdraw a grievance at any time. Once withdrawn, a grievance may not be re-opened/re-filed.</p>
RESOLUTION	<p>If at any level of the grievance process the employee is granted the relief he or she has requested, the grievance shall be deemed resolved. A resolved grievance may not be appealed to the next level of the process and shall be considered closed.</p>
RESPONSE	<p><b>At Levels One and Two, "response" shall mean a written communication to the employee from the appropriate administrator.</b><del>The employee hearing the grievance shall provide a response to the grievant's complaint within the timelines specified in this policy.</del></p>
GRIEVANCE PROCESS	
BURDEN OF PROOF	<p>In a grievance, the burden of proof shall be on the grievant.</p>
AUDIO RECORDING	<p>As provided by law, an employee shall be permitted to make an audio recording of a conference or hearing under this policy at which the substance of the employee's complaint is discussed. The employee shall notify all attendees present that an audio recording is taking place.</p>
INFORMAL CONFERENCE	<p>Within ten days of the action complained of, the grievant shall have request a meeting with his or her immediate supervisor. The immediate supervisor shall schedule the meeting within <del>five</del> <b>five</b> days of the request.</p>

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If the grievance is resolved during this meeting, the grievant shall be required to complete a statement to the effect that the particular grievance has been resolved. If the matter is not resolved in the informal conference, the grievant may move to Level One.

GRIEVANCE FORM

Grievances shall be submitted in writing on a form prescribed by the District, which may be obtained on the District's website (my.episd.org) or in the Office of Employee Relations.

Copies of any documents that support the grievance must be attached to the grievance form. Except as provided at the Board presentation, after Level One, no new documents may be submitted by the employee unless the employee can demonstrate that the additional evidence was not available to the employee at the time of Level One.

LEVEL ONE

The grievant shall complete the Level One grievance form as prescribed by the District. The Level One form must be received by the Office of Employee Relations within five days of the date of the informal conference with the grievant's immediate supervisor. It must contain the specific factual basis for the grievance. It must identify any particular policy or policies or administrative regulations involved. It must also indicate any remedy or requested relief that the grievant is seeking. The Office of Employee Relations shall forward the grievance to the grievant's immediate supervisor.

If it is determined that a Level One hearing is necessary, it shall be held within ten days of the receipt of the Level One grievance form. The immediate supervisor shall have ~~three-ten~~ days following that hearing within which to respond to the grievant.

If it was deemed that no Level One hearing was necessary, the immediate supervisor shall respond to the grievant within ~~three-ten~~ days from the initial date and receipt of the Level One grievance form.

~~If the only administrator who has authority to remedy the alleged problem is the Superintendent or designee,~~ **In the event that the supervisor cannot resolve the grievance because it is outside his/her authority,** the complaint may begin at Level Two following the procedure, including deadlines, for filing the complaint form at Level One.

LEVEL TWO

If the grievant did not receive the relief requested at Level One, the grievant may appeal to Level Two. This appeal must be in writing and must be received in the Office of Employee Relations within five days of the Level One decision. The Level Two hearing shall be held within ten days of the receipt of the Level One appeal form.

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Following the Level Two hearing and prior to the Level Two response, the Level Two Hearing Officer may, at his or her discretion and as he or she deems necessary, investigate the employee's allegations. Any evidence gathered by the Level Two hearing officer may be used in, and as evidence in support of, the Level Two response. The Level Two hearing officer shall have ~~three~~ **ten** days following the hearing within which to respond to the grievant. Any matter not expressly contained in the written grievance shall not be considered in the appeal.

~~The Level Two hearing officer may assume jurisdiction at any time after the grievant's submission of the grievance form and make a decision regarding the grievance.~~

LEVEL THREE

If the grievant did not receive the relief request at Level Two, the grievant may appeal the decision to the Board. This appeal must be in writing and must be received in the Office of Employee Relations within five days of the Level Two decision.

~~The director of employee relations~~ **Superintendent's 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.

BOARD  
PRESENTATION

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 Office of Employee Relations shall provide the Board with copies of the employee's grievance, all responses, and any written documentation previously submitted by the employee and the administration. The Board shall not consider documentation or other evidence not previously submitted or issues not previously presented unless the grievant and Level Two Hearing Officer both agree.

The Board may remand the grievance back to Level Two if the Board determines that further factual development is needed.

The proceeding before the Board shall be recorded by audiotape. The Board President may set reasonable time limits on complaint presentations. The Board shall listen to the complaint, but is not required to respond or take any action on the matter. The lack of official action by the Board upholds the administrative decision at Level Two.