

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA
(LOCAL)

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 construed to create new or additional substantive rights beyond those granted by Board policy or law.

DEFINITIONS

~~In t~~In this policy:

COMPLAINTS

DAYS

THE FOLLOWING DEFINITIONS SHALL APPLY IN "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.

COMPLAINT

THE TERMS "COMPLAINT" SHALL MEAN A GRIEVANCE 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" SHALL INCLUDE THE EMPLOYEE, EMPLOYEES, OR ORGANIZATION FILING A COMPLAINT ON BEHALF OF THE EMPLOYEE. THE WORDS "GRIEVANT" AND "EMPLOYEE" SHALL HAVE THE SAME MEANING THROUGHOUT THIS POLICY.

REPRESENTATIVE

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"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.

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 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

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	<p><u>DISTRICT'S COUNSEL. THE DISTRICT MAY BE REPRESENTED BY COUNSEL AT ANY LEVEL OF THE PROCESS.</u></p>
<p><u>SUPERINTENDENT'S DESIGNEE</u></p>	<p><u>FOR PURPOSES OF COMPLAINTS INVOLVING AN EMPLOYEE'S APPRAISAL, THE "SUPERINTENDENT'S DESIGNEE" SHALL BE THE APPROPRIATE AREA SUPERINTENDENT.</u></p>
	<p><u>FOR ALL OTHER COMPLAINTS, THE EXECUTIVE DIRECTOR OF EMPLOYEE RELATIONS SHALL BE THE SUPERINTENDENT'S DESIGNEE DIRECTOR OF EMPLOYEE RELATIONS, WHO ALSO SERVES AS THE LEVEL TWO HEARING OFFICER.</u></p>
<p><u>COMPLAINTS</u></p>	<p><u>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:</u></p>
<p><u>OTHER COMPLAINT PROCESSES</u></p>	<p><u>Employee complaints shall be filed in accordance with this policy, except as provided below:</u></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), 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.
<p><u>NOTICE TO EMPLOYEES</u></p>	<p><u>THE DISTRICT SHALL INFORM The principal of each campus and other supervisory personnel shall ensure that all employees under</u></p>

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	<p>their supervision are informed of this policy <u>THROUGH APPROPRIATE DISTRICT PUBLICATIONS.</u></p>
	<p>WITHIN TEN DAYS. Employees shall be provided a copy of the ACTION COMPLAINED OF, policy at the <u>GRIEVANT SHALL HAVE REQUESTED A MEETING WITH HIS OR HER IMMEDIATE SUPERVISOR. THE IMMEDIATE SUPERVISOR SHALL SCHEDULE THE MEETING WITHIN FIVE DAYS</u> time of <u>THE REQUEST.</u></p>
<p><u>INFORMAL CONFERENCE</u></p>	<p>IF THE COMPLAINT employment and whenever it is <u>RESOLVED DURING THIS MEETING, THE GRIEVANT SHALL BE REQUIRED TO COMPLETE A STATEMENT TO THE EFFECT THAT THE PARTICULAR COMPLAINT HAS BEEN RESOLVED. IF THE MATTER IS NOT RESOLVED IN THE INFORMAL CONFERENCE, THE GRIEVANT MAY MOVE TO LEVEL ONE</u> revised.</p>
<p>DIRECT COMMUNICATION WITH BOARD MEMBERS</p>	<p>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.</p>
<p><u>FORMAL PROCESS</u></p>	<p><u>AN EMPLOYEE MAY INITIATE THE FORMAL PROCESS DESCRIBED BELOW BY TIMELY FILING A WRITTEN COMPLAINT FORM.</u></p> <p><u>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.</u></p> <p><u>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.</u></p>
<p>FREEDOM FROM RETALIATION</p>	<p>Neither the Board nor any District employee shall unlawfully retaliate against an employee for bringing a concern or complaint.</p>
<p>WHISTLEBLOWER COMPLAINTS</p>	<p>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 <u>SUPERINTENDENT'S DESIGNEE</u> Superintendent 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. <u>[SEE DG]</u></p>

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COMPLAINTS AGAINST
SUPERVISORS

Complaints alleging a violation of law by a supervisor may be made to the Superintendent or designee. COMPLAINT FORMS ~~Complaints~~ alleging a violation of law by the Superintendent may be SUBMITTED ~~made~~ directly to the Board or designee.

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. 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 DAYS AFTER THE DEADLINE.

A COMPLAINT THAT IS INCOMPLETE MUST BE RE-FILED WITHIN FIVE DAYS OF THE DATE THE COMPLAINT FORM WAS RETURNED TO THE EMPLOYEE. THE COMPLAINT MUST BE FILED WITH ALL THE REQUESTED INFORMATION, IN ORDER FOR THE COMPLAINT FORM TO BE CONSIDERED TIMELY AND A HEARING TO BE SCHEDULED.

SCHEDULING CONFERENCES

THE DISTRICT SHALL MAKE REASONABLE ATTEMPTS TO SCHEDULE CONFERENCES AT A MUTUALLY AGREEABLE TIME. IF THE EMPLOYEE FAILS TO APPEAR AT A SCHEDULED CONFERENCE, THE DISTRICT MAY HOLD THE CONFERENCE AND ISSUE A DECISION IN THE EMPLOYEE'S ABSENCE.

RESPONSE

AT LEVELS ONE AND TWO, "RESPONSE" SHALL MEAN A WRITTEN COMMUNICATION TO THE EMPLOYEE FROM THE APPROPRIATE ADMINISTRATOR. RESPONSES MAY BE HAND-DELIVERED, SENT BY ELECTRONIC COMMUNICATION TO THE EMPLOYEE'S E-MAIL ADDRESS OF RECORD, 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 OR BEFORE THE DEADLINE.

CONSOLIDATING COMPLAINTS

COMPLAINTS ARISING OUT OF AN EVENT OR A SERIES OF RELATED EVENTS SHALL BE ADDRESSED IN ONE COMPLAINT. EMPLOYEES SHALL NOT FILE SEPARATE OR SERIAL COMPLAINTS ARISING FROM ANY EVENT OR SERIES OF

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<p><u>CONSOLIDATION</u></p>	<p><u>EVENTS THAT HAVE BEEN OR COULD HAVE BEEN ADDRESSED IN A PREVIOUS COMPLAINT.</u></p> <p>When the Superintendent determines that two or more individual complaints are sufficiently similar in nature and remedy <u>SOUGHT</u> to permit their resolution through one proceeding, <u>THE SUPERINTENDENT</u> he or she may consolidate the complaints.</p>
<p><u>COST INCURRED</u></p>	<p><u>EACH PARTY SHALL PAY ITS OWN COST INCURRED IN THE COURSE OF THE COMPLAINT.</u></p>
<p><u>COMPLAINT AND APPEAL FORMS</u></p>	<p>Complaints <u>AND APPEALS</u> shall be <u>SUBMITTED IN WRITING ON A FORM PRESCRIBED BY THE DISTRICT, WHICH MAY BE OBTAINED ON THE DISTRICT'S WEBSITE (MY.EPISD.ORG)</u> heard in informal administrative conferences. All complaints arising out of an event or <u>IN THE OFFICE</u> related series of <u>EMPLOYEE RELATIONS.</u></p>
<p><u>GENERAL PROVISIONS</u></p>	<p><u>COPIES OF ANY DOCUMENTS THAT SUPPORT THE COMPLAINT</u> events must be <u>ATTACHED TO THE COMPLAINT FORM.</u> <u>EXCEPT AS PROVIDED AT THE BOARD PRESENTATION, AFTER LEVEL ONE, NO NEW DOCUMENTS MAY BE SUBMITTED BY THE</u> addressed in one complaint. An employee <u>UNLESS THE EMPLOYEE CAN DEMONSTRATE THAT THE ADDITIONAL EVIDENCE WAS NOT AVAILABLE TO THE EMPLOYEE AT THE TIME OF LEVEL ONE.</u></p>
<p><u>UNTIMELY FILINGS</u></p>	<p><u>ALL TIME LIMITS SHALL BE STRICTLY FOLLOWED UNLESS MODIFIED BY MUTUAL WRITTEN CONSENT.</u></p> <p><u>IF A COMPLAINT FORM OR APPEAL NOTICE IS NOT TIMELY FILED, AS PROVIDED BY THIS POLICY, 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> precluded from bringing separate or serial complaints concerning events that have previously been addressed through the grievance procedures.</p>
<p><u>REPRESENTATIVE</u></p>	<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>

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TIME LINES

~~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 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.~~

~~The time lines in this policy are mandatory. Failure to comply with them constitutes a waiver by the grievant of the grievance, and no action shall be taken on the grievance, except in extenuating circumstances agreed upon by both parties. All time lines issues may be appealed to the Board.~~

All forms, letters, or documents designated to be received by specific individuals are to be in the possession of the individual or his or her designee or designated representative by ~~THE CLOSE~~4:30 p.m. of BUSINESS ON the limiting date as set out in this policy. Receipt of a required document by a grievant's designated representative (if any) shall be the equivalent of receipt by the grievant, and receipt by the Superintendent's designee (executive director, employee relations) shall be the equivalent of receipt by the Superintendent. ~~When it is not feasible to complete delivery as specified above, the form, letter, or document will be considered timely received if placed in the U.S. mail, prepaid as registered or certified mail on or before the limiting date as set out in this policy. A receipt from the post office will be required to validate the prepaid mailing of the form, letter, or document. The date of delivery recorded on the domestic return receipt will be used to determine any further time lines.~~

All references to time line days are to weekdays, excluding District calendar holidays. Employees on scheduled District vacation may make prior arrangements with the Superintendent or designee for an extended time line.

MUTUAL
AGREEMENT OF
PARTIES

THE PARTIES INVOLVED MAY MUTUALLY CONSENT TO MODIFY THE PROCEDURES AS MAY BE NECESSARY TO ACCOMPLISH THE GOAL OF RESOLVING THE COMPLAINT IN THE MOST EFFICIENT AND EXPEDITIOUS MATTER POSSIBLE.

WITHDRAWAL

AN EMPLOYEE MAY WITHDRAW A COMPLAINT AT ANY TIME. ONCE WITHDRAWN, A COMPLAINT MAY NOT BE RE-OPENED/RE-FILED.

RESOLUTION

IF AT ANY LEVEL OF THE COMPLAINT PROCESS THE EMPLOYEE IS GRANTED THE RELIEF HE OR SHE HAS REQUESTED, THE COMPLAINT SHALL BE DEEMED RESOLVED.

	<p><u>A RESOLVED COMPLAINT SHALL NOT BE APPEALED TO THE NEXT LEVEL OF THE PROCESS AND SHALL BE CONSIDERED CLOSED.</u></p>
<p><u>BURDEN OF PROOF</u></p>	<p><u>IN A COMPLAINT, THE BURDEN OF PROOF SHALL BE ON THE GRIEVANT.</u></p>
<p>AUDIO RECORDING</p>	<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>
<p><u>LEVEL ONE APPRAISALS GRIEVANCE PROCEDURES</u></p>	<p>The appropriate associate superintendent shall act as the Superintendent's designee for grievances regarding employee appraisals.</p> <p>1. Informal Conference: The grievant shall have an oral discussion regarding the grievance within ten days of the action complained with the grievant's immediate supervisor. If the grievance is resolved in the oral discussion, the grievant shall be required to execute a statement to the effect that the particular grievance has been settled. If the matter is not resolved in the oral discussion, the grievant may move to Step 1, Submission in Writing.</p> <p>If the oral discussion is not held within the ten-day time line, no action will be taken and the grievance will be considered waived.</p>
<p><u>LEVEL ONE</u></p>	<p>2. Submission in Writing: The grievant shall complete <u>THE LEVEL ONE COMPLAINT</u> in writing a grievance form <u>AS</u> prescribed by the District. <u>THE LEVEL ONE</u>This Step 1, <u>Standard Grievance</u> form must be received by the immediate supervisor or designee within five days of the <u>DATE OF THE</u> informal conference. It must contain the specific factual basis for the <u>COMPLAINT</u>grievance. It must identify any particular policy or policies or administrative <u>REGULATIONS INVOLVED. IT MUST ALSO INDICATE ANY REMEDY OR REQUESTED RELIEF THAT THE GRIEVANT IS SEEKING.</u> <u>THE IMMEDIATE SUPERVISOR SHALL FORWARD A COPY OF</u> regulation or regulations involved. The immediate supervisor or designee will sign the Step 1 form immediately upon receipt and return one copy to the grievant and forward one copy to the Superintendent. If the written grievance is not timely received, no action will be taken and the grievance will be considered waived.</p> <p>3. Determination of Grievable Complaint: If the immediate supervisor decides the complaint is grievable, he or she shall</p>

~~respond in accordance with Step 2, Immediate Supervisor's Action Regarding Grievable Complaint form.~~

~~If the immediate supervisor decides the complaint is not grievable, this decision must be received by the Superintendent and the grievant within ten days after the immediate supervisor's receipt of the Grievance Form. Before deciding that the complaint TO is not grievable or not timely, the OFFICE OF EMPLOYEE RELATIONS grievant's immediate supervisor should first consult with the executive director of employee relations.~~

~~IF IT IS DETERMINED THAT A LEVEL ONE HEARING IS NECESSARY, IT SHALL BE SCHEDULED WITHIN TEN DAYS OF THE RECEIPT OF THE LEVEL ONE COMPLAINT FORM. ABSENT EXTENUATING CIRCUMSTANCES, THE Any determination by an immediate supervisor SHALL HAVE TEN DAYS FOLLOWING THAT HEARING WITHIN WHICH TO RESPOND TO THE that the complaint is not grievable, shall be reviewed by the Superintendent if the grievant.~~

~~IF IT WAS DEEMED THAT NO LEVEL ONE HEARING WAS NECESSARY, THE IMMEDIATE SUPERVISOR SHALL RESPOND TO THE GRIEVANT WITHIN TEN DAYS FROM THE INITIAL DATE appeals to the Superintendent, and RECEIPT OF THE LEVEL ONE COMPLAINT FORM.~~

~~IN THE EVENT THAT THE SUPERVISOR CANNOT RESOLVE THE COMPLAINT BECAUSE IT IS OUTSIDE HIS OR 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 the appeal TO LEVEL TWO. THIS APPEAL MUST BE IN WRITING AND MUST BE is received IN by the OFFICE OF EMPLOYEE RELATIONS Superintendent within five days of the LEVEL ONE decision. THE LEVEL TWO HEARING SHALL BE SCHEDULED WITHIN TEN DAYS of the RECEIPT OF THE LEVEL ONE APPEAL FORM.~~

~~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 TEN DAYS FOLLOWING THE HEARING~~

LEVEL THREE

~~WITHIN WHICH TO RESPOND TO THE GRIEVANT. ANY MATTER NOT EXPRESSLY CONTAINED IN~~ immediate supervisor. ~~If the written COMPLAINT SHALL NOT~~ appeal is not timely received, no action will be taken and the grievance will be considered ~~IN THE APPEAL~~ non-grievable.

If the Superintendent determines that the complaint is grievable, the Superintendent shall (within ten days) instruct the immediate supervisor to answer the grievance in accordance with Step 2, Immediate Supervisor's Action Regarding Grievable Complaint.

If the Superintendent decides the complaint is not grievable, the immediate supervisor and the grievant ~~DID NOT~~ shall receive THE RELIEF REQUEST AT LEVEL TWO, THE this decision within ten days after receipt of the immediate supervisor's decision.

If the grievant does not agree with the Superintendent's decision, he or she may appeal THE this decision to the Board. This appeal must be IN WRITING AND MUST BE received IN by the OFFICE OF EMPLOYEE RELATIONS Superintendent within five days of the LEVEL TWO DECISION grievant's receipt of the Superintendent's decision. If the written appeal is not timely received, no action will be taken and the complaint will be considered concluded.

THE SUPERINTENDENT'S DESIGNEE SHALL INFORM THE EMPLOYEE OF THE DATE, TIME, AND PLACE OF ~~if the Board MEETING AT WHICH~~ determines that the complaint is grievable, the grievant and the immediate supervisor shall be notified in writing. The immediate supervisor shall then answer the grievance in accordance with Step 2, Immediate Supervisor's Action Regarding Grievable Complaint.

If the Board determines that the complaint is not grievable, the grievant and the immediate supervisor shall be so notified in writing.

- ~~4. Immediate Supervisor's Action Regarding Grievable Complaint:~~ The immediate supervisor shall respond to the grievance and shall deliver a copy of the response to the grievant and the Superintendent, within ten days of receipt of the grievance, or receipt of the Superintendent's decision, or the decision of the Board that the complaint is grievable. The prescribed form established by the District will be used. If the facts are disputed or if the grievant has additional information that was not presented at the informal conference, then the immediate supervisor shall hold a conference with the grievant and/or his or her representative prior to the filing of the response; otherwise, a conference may be held at the discretion of the immediate supervisor. If the grievant is satisfied with the response, no further action will take place. If the grievant is not satisfied, he or she may appeal.

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LEVEL TWO

~~5. Appeal: If the grievant is not satisfied with the immediate supervisor's response or lack thereof, he or she may appeal to the Superintendent. This appeal must be in writing. It must be received by the Superintendent within five days of the decision of the immediate supervisor. If the written appeal is not timely received, no action will be taken and the grievance will be considered concluded. Any matter not expressly contained in the written grievance shall not be considered in the appeal. No new matter may be added to the grievance by the grievant after its submission to the employee's immediate supervisor.~~

~~The Superintendent shall respond in writing to the grievance in accordance with Step 3, Superintendent's Response to a Grievance or Grievance Appeal. The response will be on a form prescribed by the District. The grievant shall receive the Superintendent's response within ten days of the receipt of the appeal of the grievance. If there are no factual disputes regarding the grievance, any conference with the grievant and/or his or her representative and the immediate supervisor is discretionary with the Superintendent. Otherwise, a conference shall be held prior to the Superintendent's response.~~

~~If the grievant is satisfied with the Superintendent's decision, then no further action will take place.~~

LEVEL THREE

~~If the grievant is not satisfied, he or she may appeal the decision of the Superintendent to the Board. This appeal must be received in the Superintendent's office within five days of the Superintendent's decision. This matter will be placed on the agenda of a regular or special Board meeting within the next three regular Board meetings for PRESENTATION TO THE BOARD grievances filed effective 90 days after the adoption of this policy. If the written appeal is not timely received, no action will be taken and the grievance will be considered concluded.~~

~~6.8. Superintendent May Assume Jurisdiction: At any time after the grievant's submission of the grievance form, the Superintendent may assume jurisdiction and determine the grievance. If the grievant is not satisfied with the Superintendent's decision, he or she may appeal the decision of the Superintendent to the Board. This appeal must be received by the Superintendent within five days of the decision of the Superintendent. If the written appeal is not timely received, no action will be taken and the grievance will be considered concluded.~~

BOARD
PRESENTATION

The DISTRICT Superintendent shall DETERMINE WHETHER inform the COMPLAINT WILL BE PRESENTED IN OPEN employee or CLOSED the employee's representative of the date, time, and

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~~place of the meeting~~ IN ACCORDANCE WITH THE TEXAS OPEN MEETINGS ACT AND OTHER APPLICABLE LAW. [SEE BE]

~~at least 72 hours in advance.~~ The OFFICE OF EMPLOYEE RELATIONS Superintendent or designee shall provide the Board with copies of the employee's COMPLAINT 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 Superintendent both agree.

~~THE~~ ~~However, the~~ Board may remand the COMPLAINT BACK-grievance to LEVEL TWO the Superintendent 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 the Superintendent's level.

~~There shall be no reprisal, discrimination, retaliatory action, or adverse treatment of any employee who follows this policy in good faith.~~

CLOSED
MEETING

~~If the complaint involves the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the employee bringing the complaint, it shall be heard by the Board in closed meeting unless the employee bringing the complaint requests it to be heard in public. However, if the complaint constitutes a complaint or charge against another District employee, it shall be heard in closed meeting unless an open hearing is requested in writing by the employee against whom the complaint or charge is brought.~~