

STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT AND PARENT COMPLAINTS/GRIEVANCES

FNG
(LOCAL)

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, religion, sex, gender, national origin, age, or disability shall be submitted in accordance with the FFH series.
2. Complaints concerning dating violence shall be submitted in accordance with the FFH series.
3. Complaints concerning retaliation related to discrimination and harassment shall be submitted in accordance with the FFH series.
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 within the scope of Section 504, including complaints concerning identification, evaluation, or educational placement of a student with a disability, shall be submitted in accordance with FB and the procedural safeguards handbook.
9. Complaints within the scope of the Individuals with Disabilities Education Act, including complaints concerning identification, evaluation, educational placement, or discipline of a student with a disability, 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 resources shall be submitted in accordance with the EF series.

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11. Complaints concerning a commissioned peace officer who is an employee of the District shall be submitted in accordance with the CKE series.
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.
14. Complaints concerning disputes regarding a student's eligibility for free or reduced-priced meal programs shall be submitted in accordance with COB.

Complaints regarding refusal of entry to or ejection from District property based on Education Code 37.105 shall be filed in accordance with this policy. However, the timelines shall be adjusted as necessary to permit the complainant to address the Board in person within 90 calendar days of filing the initial complaint, unless the complaint is resolved before the Board considers it. [See GKA(LEGAL)]

Notice to Students and Parents

The District shall inform students and parents of this policy through appropriate District publications.

Guiding Principles

Informal Process

The Board encourages students and parents to discuss their concerns with the appropriate teacher, 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.

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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 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.

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 email 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, 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. A student may be represented by an adult at any level of the complaint.

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

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.

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Untimely Filings

All time limits shall be strictly followed unless modified by mutual written consent.

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. If the student or parent does not have copies of these documents, copies may be presented at the Level One conference. After the Level One conference, no new documents may be submitted by the student or parent unless the student or parent did not know the documents existed before the Level One conference.

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.

Level One

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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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.

Absent extenuating circumstances, the administrator shall provide the student or parent a written response within ten days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the administrator may consider information provided at the Level One conference and any other relevant documents or information the administrator believes will help resolve the complaint.

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 ten 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.

After receiving notice of the appeal, the Level One administrator shall prepare and forward a record of the Level One complaint to the Level Two administrator. The 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 may set reasonable time limits for the conference.

The Superintendent or designee shall provide the student or parent a written response within ten days following the conference. The

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written response shall set forth the basis of the decision. In reaching a decision, the Superintendent or designee may consider the Level One record, information provided at the Level Two conference, and any other relevant documents or information the Superintendent or designee believes will help resolve the complaint.

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

Level Three

If the 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 ten days of the date of the written Level Two response or, if no response was received, within ten days of the Level Two response deadline.

The Superintendent or designee shall inform the student or parent of the date, time, and place of the Board meeting at which the complaint will be on the agenda for presentation to the Board.

The Superintendent or designee shall provide the Board the record of the Level Two appeal. The student or parent 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.
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 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 District shall determine whether the complaint will be presented in open or closed meeting in accordance with the Texas Open Meetings Act and other applicable law. [See BE]

The presiding officer may set reasonable time limits and guidelines for the presentation, including an opportunity for the student or parent and administration to each make a presentation and provide re-

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buttal and an opportunity for questioning by the Board. The Board shall hear the complaint and may request that the administration provide an explanation for the decisions at the preceding levels.

In addition to any other record of the Board meeting required by law, the Board shall prepare a separate record of the Level Three presentation. The Level Three presentation, including the presentation by the student or parent or the student's representative, any presentation from the administration, and questions from the Board with responses, shall be recorded by audio recording, video/audio recording, or court reporter.

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

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Note: For provisions regarding parental rights, see FA. For provisions concerning students with disabilities, see EHBAB. For provisions concerning student discipline, see the FO series. For provisions concerning student records, see FL.

**United States
Constitution**

A district shall take no action abridging the freedom of speech or the right of the people to petition the board for redress of grievances. *U.S. Const. Amend. I, XIV* [See FNA]

A board may confine its meetings to specified subject matter and may hold nonpublic sessions to transact business. But when a board sits in public meetings to conduct public business and hear the views of citizens, it may not discriminate between speakers on the basis of the content of their speech or the message it conveys. *Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 828 (1995); *City of Madison v. Wis. Emp. Rel. Comm'n*, 429 U.S. 167, 174 (1976); *Pickering v. Bd. of Educ.*, 391 U.S. 563, 568 (1968)

Texas Constitution

Citizens shall have the right, in a peaceable manner, to assemble together for their common good and to apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address, or remonstrance. *Tex. Const. Art. I, Sec. 27*

There is no requirement that a board negotiate or even respond to complaints. However, a board must stop, look, and listen and must consider the petition, address, or remonstrance. *Prof'l Ass'n of College Educators v. El Paso County Cmty. [College] Dist.*, 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ ref'd n.r.e.)

Federal Laws

Section 504

A district that receives federal financial assistance, directly or indirectly, and that employs 15 or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973. 34 C.F.R. 104.7(b)

Americans with
Disabilities Act

A district that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the Code of Federal Regulations, Title 28, Part 35 (Americans with Disabilities Act regulations). 28 C.F.R. 35.107

Title IX

A district that receives federal financial assistance, directly or indirectly, must adopt and publish grievance procedures providing for prompt and equitable resolution of student complaints alleging any

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action prohibited by Title IX of the Education Amendments of 1972.
34 C.F.R. 106.8(c) [See FB and FFH]

**Complaint
Procedures**

A board shall provide for procedures to consider complaints that a parent's right has been denied. *Education Code 26.001(d)*

A board shall adopt a grievance procedure under which the board shall address each complaint that it receives concerning a violation of a right guaranteed by Education Code Chapter 26 (Parental Rights).

The board is not required by the provision above or Education Code 11.1511(b)(13) (requiring adoption of a process to hear complaints) to address a complaint concerning a student's participation in an extracurricular activity that does not involve a violation of a right guaranteed by Education Code Chapter 26. This provision does not affect a claim brought by a parent under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) or a successor federal statute addressing special education services for a child with a disability.

Education Code 26.011

**Denial of Class
Credit or Final Grade**

If a student is denied credit or a final grade for a class by an attendance committee, the student may appeal the decision to the board. *Education Code 25.092(d)* [See FEC]

**Complaints Against
Professional
Employees**

A person may not file suit against a professional employee of a district unless the person has exhausted the district's remedies for resolving the complaint. *Education Code 22.0514*

"Professional employee of a district" includes:

1. A superintendent, principal, teacher, including a substitute teacher, supervisor, social worker, school counselor, nurse, and teacher's aide employed by a district;
2. A teacher employed by a company that contracts with a district to provide the teacher's services to the district;
3. A student in an education preparation program participating in a field experience or internship;
4. A DPS-certified school bus driver;
5. A member of the board; and
6. Any other person whose employment by a district requires certification and the exercise of discretion.

Education Code 22.051(a)

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Finality of Grades

An examination or course grade issued by a classroom teacher is final and may not be changed unless the grade is arbitrary, erroneous, or not consistent with a district's grading policy applicable to the grade, as determined by the board.

A board's determination is not subject to appeal. This provision does not prohibit an appeal related to a student's eligibility to participate in extracurricular activities under Education Code 33.081. [See FM]

Education Code 28.0214

Closed Meeting

A board may conduct a closed meeting on a parent or student complaint to the extent required or provided by law. *Gov't Code Ch. 551, Subch. D* [See BEC]

Record of Proceedings

An appeal of a board's decision to the commissioner of education shall be decided based on a review of the record developed at the district level. "Record" includes, at a minimum, an audible electronic recording or written transcript of all oral testimony or argument. *Education Code 7.057(c), (f)*

It is a district's responsibility to make and preserve the records of the proceedings before the board. If a district fails to create and preserve the record without good cause, all substantial evidence issues that require missing portions of the record for resolution shall be deemed against the district. The record shall include:

1. A tape recording or a transcript of the hearing at the local level. If a tape recording is used:
 - a. The tape recording must be complete, audible, and clear; and
 - b. Each speaker must be clearly identified.
2. All evidence admitted;
3. All offers of proof;
4. All written pleadings, motions, and intermediate rulings;
5. A description of matters officially noticed;
6. If applicable, the decision of the hearing examiner;
7. A tape recording or transcript of the oral argument before the board; and
8. The decision of the board.

19 TAC 157.1073(d)

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Disruption

It is a criminal offense for a person, with intent to prevent or disrupt a lawful meeting, to substantially obstruct or interfere with the ordinary conduct of a meeting by physical action or verbal utterance and thereby curtail the exercise of others' First Amendment rights. *Penal Code 42.05; Morehead v. State, 807 S.W. 2d 577 (Tex. Crim. App. 1991)*

Student/Parent Complaint Form: Level One

To file a formal complaint, please fill out this form completely and submit it by hand delivery, fax, or U. S. mail to the appropriate administrator within the time established in FNG (LOCAL). All complaints will be processed and heard in accordance with FNG (LEGAL) and (LOCAL) or any exceptions outlined therein.

1. Name _____
2. Student's name (if applicable) _____ Campus/Dept. _____
3. Address (street, city and zip code) _____

4. Home phone (____) _____ Cell phone (____) _____
5. Please describe any efforts you have made to resolve your complaint informally and the responses to your efforts.

6. To whom did you present your informal complaint? _____
Date of conference _____
7. Please state the date of the event or series of events causing the complaint.

8. Please state your complaint, including the individual harm alleged, facts and witnesses, if any, to support your complaint.

9. Please state the remedy of action you seek for this complaint.

10. If you will be represented by another party in pursuing your complaint, please identify the person representing you.

Name of representative _____

Organization's name _____

Address _____

Telephone (____) _____

Parent signature _____ Date submitted _____

Date complaint received by campus/dept. _____

Receiving person at campus/dept. _____

Complainant, please note:

A complaint form that is incomplete in any material way may be dismissed, but may be refiled with all the required information if the refiling is within the designated time for filing a complaint.

Attach to this form any documents you believe will support the complaint: If documents are unavailable when you submit this form, they may be presented no later than the Level One conference. Please keep a copy of the completed form and any supporting documentation for your records.

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EXHIBIT C

LEVEL TWO APPEAL NOTICE

To appeal a Level One decision, or the lack of a timely response after a Level One conference, please fill out this form completely and submit it by hand delivery, fax, or U.S. mail to the Superintendent or designee within the time established in FNG(LOCAL). Appeals will be heard in accordance with FNG(LEGAL) and (LOCAL) or any exceptions outlined therein.

1. Name _____

2. Address _____

Telephone number (____) _____

3. Campus _____

4. If you will be represented in voicing your appeal, please identify the person representing you.

Name _____

Address _____

Telephone number (____) _____

5. To whom did you present your complaint at Level One? _____

Date of conference _____

Date you received a response to the Level One conference _____

6. Please explain specifically how you disagree with the outcome at Level One.

7. Attach a copy of your original complaint and any documentation submitted at Level One.

8. Attach a copy of the Level One response being appealed, if applicable.

Student or parent signature _____

Signature of the student's or parent's representative _____

Date of filing _____

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EXHIBIT D

RESPONSE TO LEVEL TWO APPEAL

Dear _____:

Having considered the appeal you presented at Level Two on _____ (date), I have decided on the following response:

[Note: When preparing the letter, include only one of the following sentences.]

I am unable to grant your appeal. I will uphold the decision made at Level One by _____ (name) and communicated to you in the Level One response.

I wish to grant your appeal and have instructed _____ (name) to find a resolution in keeping with the remedy you seek.

Although I am unable to fully grant your appeal, I have instructed _____ (name) to take the following actions as a partial remedy to your complaint:

Superintendent (or designee)

Complainant, please note:

To appeal this response, you must file a written notice of appeal with the appropriate administrator within the time limits set in FNG(LOCAL). The necessary forms are available at _____ during regular business hours.

EXHIBIT E

LEVEL THREE APPEAL NOTICE

To appeal a Level Two decision, or the lack of a timely response after a Level Two conference, please fill out this form completely and submit it by hand delivery, fax, or U.S. mail to the Superintendent or designee within the time established in FNG(LOCAL). Appeals will be heard in accordance with FNG(LEGAL) and (LOCAL) or any exceptions outlined therein.

1. Name _____

2. Address _____

Telephone number (____) _____

3. Campus _____

4. If you will be represented in voicing your appeal, please identify the person representing you.

Name _____

Address _____

Telephone number (____) _____

5. To whom did you present your appeal at Level Two? _____

Date of conference _____

Date you received a response to the Level Two conference _____

6. Please explain specifically how you disagree with the outcome at Level Two.

7. Do you want the Board to hear this appeal in open session? _____

If so, the Board will consider your request; however, you may not have a legal right under the Texas Open Meetings Act to require a meeting in open session.

8. Attach a copy of your original complaint and any documentation submitted at Level One and a copy of your Level Two appeal notice.

9. Attach a copy of the Level Two response being appealed, if applicable.

Student's or parent's signature _____

Signature of student's or parent's representative _____

Date of filing _____

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EXHIBIT F

BOARD'S RESPONSE TO LEVEL THREE APPEAL

_____ (date)
_____ (name of complainant)
_____ (address of complainant)

Dear _____:

Having heard the presentation of your appeal at Level Three, the Board took the following action at its meeting on _____ (date):

[Note: When preparing the letter or announcing the decision at the Board meeting, include only one of the following sentences.]

We have denied the appeal and have upheld the decision made by the Superintendent (or designee) at Level Two.

We have granted the appeal and have instructed the Superintendent to find a resolution in keeping with the remedy you seek.

We have partially denied and partially granted the appeal and have instructed the Superintendent as follows:

Sincerely,

President of the Board of Trustees

_____ SD