

**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*

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*

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. *29 U.S.C. 794; 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*

**District Grievance
Policy**

Levels of Review

The board shall adopt a grievance policy to address grievances received by the district. *Education Code 26A.001(a)*

The policy must provide for the following levels of review, except as provided below:

1. Review by the principal of the district campus at which the grievance is filed or the principal's designee or, for a grievance that arises from subject matter unrelated to a campus, an administrator at the school district's central office;
2. If established by the policy, an appeal to an administrator at the school district's central office;
3. An appeal to the superintendent of the school district or the superintendent's designee; and

4. An appeal to the board of trustees of the school district.

A review or appeal on a grievance must be conducted by a person with the authority to address the grievance unless a preliminary hearing is necessary to develop a record or a recommendation for the board of trustees of the school district.

Education Code 26A.001(b), (c)

General
Requirements

The policy must:

1. Prohibit the board or a district employee from retaliating against a student or parent of a student who files a grievance in accordance with the policy;
2. Require a person involved in reviewing a grievance under the policy to recuse himself or herself from reviewing the grievance if the person is the subject of the grievance;
3. Provide for a higher level of review if the person who would otherwise review the grievance is required to recuse himself or herself;
4. Provide for the creation and retention of a record of each hearing on the grievance, including documents submitted by the person who filed the grievance or determined relevant by school district personnel and a written record of the decision, including an explanation of the basis for the decision and an indication of each document that supports the decision;
5. Allow the person who filed the grievance to supplement the record with additional documents or add additional claims;
6. Allow for a member of the board to file a grievance with the district, but prohibit the member from voting on matters related to that grievance;
7. Allow for a remand to a lower level of review to develop a record at any time, including at the board level of review;
8. Require the district to direct a grievance that is filed with the incorrect administrator to the appropriate administrator and consider the grievance filed on the date on which the grievance was initially filed;
9. Require the district to issue a decision on the merits of the concern raised in the grievance, notwithstanding procedural errors or the type of relief requested;
10. Unless otherwise required by law, allow for a hearing or meeting at which the grievance will be discussed to be open or

closed at the request of the person who filed the grievance;
and

11. For a grievance before the board, require that the person who filed the grievance be provided at least five business days before the date on which the meeting to discuss the grievance will be held a description of any information the board of trustees intends to rely on that is not contained in the record;
and
12. For a grievance before the board, require the meeting at which the grievance is discussed be recorded by video or audio recording or by transcript created by a certified court reporter.

Education Code 26A.001(e)

Deadlines

The policy must provide at least 20 days to file an appeal after the date on which a decision on the grievance was made.

Appeal

Hearings

For a hearing that is not before the board of trustees of the school district, the policy must require:

1. The district to hold a hearing not later than the 10th day after the date on which the grievance or appeal was filed; and
2. A written decision to be made not later than the 20th day after the date on which the hearing was held that includes any relief or redress to be provided and information regarding filing an appeal, including the timeline to appeal under this provision and Education Code 7.057, if applicable; and
3. For a hearing before the board, the policy must require the board to:
 - a. Hold a meeting to discuss the grievance not later than the 60th day after the date on which the previous decision on the grievance was made; and
 - b. Make a decision on the grievance not later than the 30th day after the date on which the meeting is held.

Education Code 26A.002

Report

Each school district shall annually submit a report on grievances filed in the district during the preceding year. *Education Code 26A.001(g)* [See FNG]

Posting of
Procedures and
Forms

The district's internet website and student handbook must include procedures for resolving grievances, standardized forms for filing a grievance, and a method for filing a grievance electronically. *Education Code 26A.003* [See FNG]

Closed Meeting

A board may conduct a closed meeting on a public complaint to the extent required or provided by law. [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)

Note: Public complaints regarding instructional and library materials are addressed at EFA and EFB, respectively, and complaints against peace officers are addressed at CKE.
