

PUBLIC COMPLAINTS

GF
(LEGAL)

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| UNITED STATES CONSTITUTION | <p>The District shall take no action abridging the freedom of speech or the right of the people to petition the Board for redress of grievances. <i>U.S. Const. Amend. I, XIV</i></p> <p>The Board may confine its meetings to specified subject matter and may hold nonpublic sessions to transact business. But when the 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. <i>Rosenberger v. Rector & Visitors of Univ. of Virginia</i>, 515 U.S. 819, 828 (1995); <i>City of Madison v. Wis. Emp. Rel. Comm'n</i>, 429 U.S. 167, 174 (1976); <i>Pickering v. Bd. of Educ.</i>, 391 U.S. 563, 568 (1968)</p> |
| TEXAS CONSTITUTION | <p>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. <i>Tex. Const. Art. I, Sec. 27</i></p> |
| RESPONSE TO COMPLAINTS | <p>There is no requirement that the Board negotiate or even respond to complaints. However, the Board must stop, look, and listen and must consider the petition, address, or remonstrance. <i>Professional Association of College Educators v. El Paso County Community [College] District</i>, 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ ref'd n.r.e.)</p> |
| FEDERAL LAWS SECTION 504 | <p>A district that receives federal financial assistance, directly or indirectly, and that employs fifteen 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. <i>29 U.S.C. 794; 34 CFR 104.7(b)</i></p> |
| AMERICANS WITH DISABILITIES ACT | <p>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). <i>28 CFR 35.107</i></p> |
| CLOSED MEETING | <p>The Board may conduct a closed meeting on a public complaint to the extent required or provided by law. [See BEC]</p> |
| RECORD OF PROCEEDINGS | <p>An appeal of the 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. <i>Education Code 7.057(c), (f)</i></p> |

It is the District's responsibility to make and preserve the records of the proceedings before the Board. If the 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)

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. Cr. App. 1991)*

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

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| COMPLAINTS | In this policy, the terms "complaint" and "grievance" shall have the same meaning. |
| OTHER COMPLAINT PROCESSES | <p>Complaints by members of the public 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 GF after the relevant complaint process:</p> <ol style="list-style-type: none">1. Complaints concerning instructional materials shall be filed in accordance with EFA.2. Complaints concerning a commissioned peace officer who is an employee of the District shall be filed in accordance with CKE. |
| GUIDING PRINCIPLES | <p>The Board encourages the public to discuss concerns with an appropriate 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.</p> <p>Informal resolution shall be encouraged but shall not extend any deadlines in this policy, except by mutual written consent.</p> |
| INFORMAL PROCESS | |
| FORMAL PROCESS | <p>An individual may initiate the formal process described below by timely filing a written complaint form.</p> <p>Even after initiating the formal complaint process, individuals are encouraged to seek informal resolution of their concerns. An individual whose concerns are resolved may withdraw a formal complaint at any time.</p> <p>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.</p> |
| FREEDOM FROM RETALIATION | Neither the Board nor any District employee shall unlawfully retaliate against any individual for bringing a concern or complaint. |
| 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. |

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| SCHEDULING CONFERENCES | The District shall make reasonable attempts to schedule conferences at a mutually agreeable time. If the individual fails to appear at a scheduled conference, the District may hold the conference and issue a decision in the individual's absence. |
| RESPONSE | At Levels One and Two, "response" shall mean a written communication to the individual from the appropriate administrator. Responses may be hand-delivered, sent by electronic communication to the individual's e-mail address of record, or sent by U.S. Mail to the individual'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. In calculating time lines under this policy, the day a document is filed is "day zero." The following business day is "day one." |
| REPRESENTATIVE | <p>"Representative" shall mean any person who or organization that is designated by an individual to represent the individual in the complaint process.</p> <p>The individual may designate a representative through written notice to the District at any level of this process. If the individual 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.</p> |
| CONSOLIDATING COMPLAINTS | Complaints arising out of an event or a series of related events shall be addressed in one complaint. An individual 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. |
| UNTIMELY FILINGS | <p>All time limits shall be strictly followed unless modified by mutual written consent.</p> <p>If a complaint form or appeal notice is not timely filed, the complaint may be dismissed, on written notice to the individual, at any point during the complaint process. The individual 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> |
| COSTS INCURRED | Each party shall pay its own costs incurred in the course of the complaint. |

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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 individual does not have copies of these documents, they may be presented at the Level One conference. After the Level One conference, no new documents may be submitted by the individual unless the individual 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 refiled is within the designated time for filing.

LEVEL ONE

Complaint forms must be filed:

1. Within 15 days of the date the individual 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.

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 individual 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 individual 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 individual did not receive the relief requested at Level One or if the time for a response has expired, he or she 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 individual 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 individual 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 individual 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 individual 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 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 individual did not receive the relief requested at Level Two or if the time for a response has expired, he or she 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 individual 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 individual 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 individual 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 individual 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.

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 individual or his or her 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.

EDINBURG CONSOLIDATED INDEPENDENT SCHOOL DISTRICT
EDINBURG, TEXAS

GF

PUBLIC COMPLAINT FORM – LEVEL ONE

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

1. Name: _____

2. Address: _____

Telephone number: (_____) _____

3. If you will be represented in voicing your complaint, please identify the person representing you.

Name: _____

Address: _____

Telephone number: (_____) _____

4. Please describe the decision or circumstances causing your complaint (give specific factual details).

5. What was the date of the decision or circumstances causing your complaint?

6. Please explain how you have been harmed by this decision or circumstance. _____

7. Please describe any efforts you have made to resolve your complaint informally and the responses to your efforts.

With whom did you communicate? _____

On what date? _____

8. Please describe the outcome or remedy you seek for this complaint. _____

Signature _____ Date of filing: _____

Complainant, please note: A complaint form that is incomplete in any material way may be dismissed, but may be re-filed with all the required information if the re-filing is within the designated time for filing a complaint. If more space is needed please use additional pages as necessary.

Attach to this form any documents you believe will support the complaint; if unavailable when you submit this form, they may be presented no later than the Level One conference. Please keep a copy of the complete form and any supporting documentation.

NONDISCRIMINATION STATEMENT

It is the policy of Edinburg C.I.S.D. not to discriminate on the basis of sex, age, handicap, religion, race, color or national origin in its educational programs. Es política del Distrito Escolar de Edinburg el no discriminar por razones con base en sexo, edad, religión, raza, color, origen nacional, ni por discapacidad dentro de sus programas educacionales.

EDINBURG CONSOLIDATED INDEPENDENT SCHOOL DISTRICT
EDINBURG, TEXAS

GF

PUBLIC COMPLAINT FORM - 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 or U.S. mail to the Superintendent or designee within the time established in GF (Local). Appeals will be heard in accordance with GF (Legal) and (Local) or any exceptions outlined therein.

1. Name: _____

2. Address: _____

Telephone number: (_____) _____

3. If you will be represented in voicing your complaint, please identify the person representing you.

Name: _____

Address: _____

Telephone number: (_____) _____

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

Date of conference? _____

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

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

Signature _____ Date of filing: _____

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EDINBURG CONSOLIDATED INDEPENDENT SCHOOL DISTRICT
EDINBURG, TEXAS

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PUBLIC COMPLAINT FORM - 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 or U.S. mail to the Superintendent or designee within the time established in GF (Local). Appeals will be heard in accordance with GF (Legal) and (Local) or any exceptions outlined therein.

1. Name: _____

2. Address: _____

Telephone number: (_____) _____

3. If you will be represented in voicing your complaint, please identify the person representing you.

Name: _____

Address: _____

Telephone number: (_____) _____

4. To whom did you present your complaint at Level Two? _____

Date of conference? _____

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

6. Do you want the Board to hear this appeal in open session? _____
(Please be aware that the Texas Open Meeting Act may prevent the Board from granting a request for open session.)

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

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

Signature _____ Date of filing: _____

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