

TEXAS SCHOOL FOR THE DEAF

EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA

PURPOSE OF POLICY	The purpose of this policy is to provide employees an orderly process for the prompt and equitable resolution of complaints. The Board intends that, whenever feasible, complaints be resolved at the lowest possible administrative level.
SPECIFIC POLICIES	This policy shall govern all issues or complaints not otherwise covered by any other specific policies or laws.
DIRECT COMMUNICATION WITH BOARD MEMBERS	Employees shall not communicate with a Board member on issues pending a hearing or an appeal relating to the employee.
DEFINITIONS	The following definitions shall apply:
Termination	Termination is a complete severance of the employment relationship between employer and employee.
Demotion	For <u>contract</u> employees, demotion is an involuntary assignment to a lower pay grade. For <u>classified</u> employees, demotion is an involuntary change in classification title that provides a lower minimum salary rate.
Discipline	Any negative action imposed upon an employee for violation of rules, policies, or regulations of the School.
Representative	At all levels of the grievance process, the employee(s) filing the grievance may be represented at the employee's own expense by a fellow employee, attorney, or person or organization that does not claim the right to strike.
Days	As used in this policy, except where otherwise indicated, days shall be defined as the official business days. Thus, weekend or school closing days are excluded.
Immediate Supervisor	The principal, administrator or other line supervisor in the employee's chain of command who has responsibility for direct supervision of the employee and has authority to initiate action on the employee.
Board	The term "Board" or "Board of Trustees" shall mean the Governing Board of the Texas School for the Deaf ("TSD") or a subcommittee of the Board consisting of at least three board members.
Grievance	A complaint by an employee or group of employees involving wages, hours, or conditions of work or the termination or discipline of any employee. The term grievance does not include a proposed or actual termination of an employee under contract. The terms "complaint/problem" shall be construed to be synonymous with the term grievance and within this policy may be used interchangeably.
Respondent	The person or person(s) against whom a grievance may be, or has been brought.

TEXAS SCHOOL FOR THE DEAF

EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA

NOTIFICATION	Each principal, assistant principal, and other supervisory personnel shall ensure that employees under their supervision are informed of this policy.
NO RETALIATION	No retaliation of any kind shall be taken at any level against any employee for filing a grievance or participating as a witness or representative in the processing of a grievance. Grievances shall not be referred to in an employee's personnel file unless so requested by the employee or ordered by the hearing officer if necessary for execution of the decision.
UNITED STATES CONSTITUTION	<p>The School 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</p> <p>The Board may confine its meetings to specified subjects and may hold nonpublic sessions to transact business. However, when a board sits in public meetings to conduct public business and hear the view of citizens, the Board will not discriminate between speakers on the basis of the content of their speech or the message it conveys.</p> <p>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) [See DG]</p>
WHISTLEBLOWER COMPLAINTS	Employees who allege adverse employment action in retaliation for reporting a violation of law to an appropriate authority shall initiate a complaint under this policy within the time specified by law and policy. In all such cases, if there is a conflict between federal and/or state case and/or statutory law and this policy, federal case and/or statutory law, followed by state case and/or statutory law, shall take precedence over this policy, in the order named.
COMPLAINTS REGARDING SEXUAL HARASSMENT, AMERICANS WITH DISABILITIES ACT AND TITLE IX	Employees who allege sexual harassment or violations of the Americans with Disabilities Act or Title IX may file a grievance directly with the Human Resources Director using the grievance form without first seeking an informal-grievance conference.
COMPLAINTS AGAINST SUPERVISORS ABOUT VIOLATIONS OF THE LAW	Complaints alleging a supervisor's violation of law may be made to the Superintendent beginning at Level II. A complaint alleging a violation of law by the Superintendent may be made directly to the Board beginning at Level III.
COMPLAINTS AGAINST OTHER EMPLOYEES	With rare exceptions, most employee complaints about other employees must be addressed as a supervisory issue and not the grievance process. Requests for exceptions should be addressed to the Superintendent and will be decided by the Superintendent on a case-by-case basis. Complaints of sexual harassment (regardless of whether against a supervisor or against another employee) will always be handled by this grievance process and do not require exception approval by the Superintendent.
CONFIDENTIALITY	All complaints and investigations are treated confidentially to the extent possible, and information is disclosed strictly on a need-to-know basis.

TEXAS SCHOOL FOR THE DEAF

EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA

The identity of the complainant is usually revealed to the parties involved during the investigation, and the HR Director will take adequate steps to ensure the complainant is protected from retaliation during and after the investigation. All information pertaining to a complaint or investigation under this policy will be maintained in secure files with the HR department.

SUPPORTIVE MEASURES Supportive Measures are non-disciplinary, non-punitive measures designed to protect the safety of all parties and may be requested by the complainant or respondent. Human Resources will conduct an individualized assessment of the facts and circumstances of the situation to determine if supportive measures are warranted and appropriate. Supportive measures may include temporary reassignment or leave while an investigation is conducted.

PROCEDURAL RULES The following shall apply:

Filing and Consolidating complaints All grievances or complaints arising out of a single or a related series of events must be addressed in one grievance filing. The grievance must be presented in writing, in a form promulgated by the Superintendent or designee and should contain all pertinent information to be considered in the resolution of the grievance. An employee is precluded from bringing separate or serial grievances or complaints arising from any event or series of events that has or could have been previously grieved.

In a grievance, the burden of proof is on the grievant to demonstrate that actions are arbitrary, capricious, or unlawful.

Incomplete filing The written grievance must contain all of the information requested in the grievance form. Any grievance that is incomplete when filed shall be returned to the grievant who shall then have five calendar days to refile the grievance.

If the grievance is refiled without containing all necessary information, or is incomplete in any material manner, it may be dismissed for such failure.

Equal Employment Opportunity (EEO) Grievances Employee Grievances related to sexual harassment and/or discrimination may be filed directly with the Superintendent or Human Resources Director and are not subject to the 15-day requirement.

Filing with appropriate respondent If the grievance is filed with the wrong supervisor, the supervisor who receives the grievance shall:

1. Enter the date and time of receipt upon the formal grievance papers and endorse same;
2. Forward the grievance to the appropriate individual for processing; and
3. Promptly notify the grievant and the grievant's representative.

Informal Problem-solving Conference Prior to filing a written grievance, the employee and the supervisor(s) shall attempt to resolve the problem informally (here titled the

“informal problem-solving conference”).

The employee must:

1. Schedule the informal conference with the appropriate supervisor(s) within 15 working days of when the employee first knew or should have known of the decision or action causing the problem.
2. Make a good faith effort to resolve the issue with the supervisor.

The Supervisor must:

1. Make a good faith effort to resolve the issue with the employee.
2. Inform the employee in writing of the outcome of the problem-solving conference.
3. Provide Human Resources with documentation of the informal problem solving conference to include:
 - a. Date, time and participants of the conference
 - b. An overview of the issue
 - c. Agreed resolution

The employee or supervisor may request that a Human Resources representative attend the informal problem-solving conference.

FORMAL GRIEVANCE LEVEL
ONE: IMMEDIATE
SUPERVISOR

Employee Responsibilities – Level One Formal Grievance

If the employee is not satisfied with the results of the informal problem-solving conference, a written grievance may be filed with the Human Resources (HR) Director. The written grievance must be filed within fifteen (15) calendar days from the time the supervisor notifies the employee in writing of the summary/outcome of the informal problem-solving conference.

The written grievance must include:

1. the actual date of the event(s) causing the grievance,
2. the facts surrounding the events causing the grievance,
3. the solution sought,
4. the date the grievant requested or scheduled the informal grievance conference,
5. the date and time the informal problem-solving conference took place,
6. the participants in the conference,
7. the result of the conference, including
 - a. The supervisor’s explanation for the events
 - b. The attempted resolution by the supervisor
 - c. Why the attempted resolution did not satisfy the

grievant

HR Director Responsibilities – Level One Formal Grievance

The HR Director shall:

1. Record the date/time the grievance is received as well as the subject of the grievance
2. Forward the grievance to the immediate supervisor

3. Receive and record the resolution of the grievance

Immediate Supervisor Responsibilities – Level One Formal Grievance

At the formal grievance Level I conference, the supervisor shall:

1. Discuss the grievance with the grievant(s), the grievant(s) representative, if any,
2. Take any evidence, either documentary, oral, or both, and
3. Render a decision in writing within ten working days after the meeting.

Upon rendering the decision, the Immediate Supervisor (first-level respondent) shall deliver a copy of the decision to the grievant by either hand or certified mail, return receipt requested, a copy to the grievant's representative by hand or mail, and a copy to the Human Resources Department.

FORMAL GRIEVANCE LEVEL
TWO: APPEAL TO
SUPERINTENDENT OR
DESIGNEE

If the decision of the first-level respondent does not satisfy the grievant, the grievant may file a written notice of appeal, requesting a Level II hearing with the Superintendent's designee, with the HR director within ten calendar (10) days of the date upon which the Level I decision is delivered to the employee officially.

1. Upon receipt of the appeal, the HR Director shall notify the superintendent of the appeal. The superintendent shall designate a supervisor to act on the appeal.
2. The HR Director shall provide the Level II supervisor the written complaint, any supporting records, and the level one written decision.
3. The Level II supervisor shall, within ten days of such appointment, conduct a meeting with the grievant to hear the grievance appeal. The supervisor may, but is not required to, take testimony and accept evidence supporting the grievant or the level one supervisor's decision.

The Level II supervisor must render a decision in writing and provide a draft copy to the Superintendent and the HR Director, along with the evidence submitted, within 15 calendar days.

4. The Superintendent, or her designee, shall, within thirty (30) days of receiving the draft copy of the decision endorse the written decision, or, in writing, modify the draft decision or reject it, and issue their own written decision. In making the determination as to whether to accept, modify or reject the draft decision, the Superintendent, may, but is not required to, take additional testimony, orally or in writing, from such person or persons as they deem appropriate for purposes of rendering a just and proper decision.
5. Upon rendering the decision, the Superintendent or the Superintendent's designee shall deliver a copy of the decision to the grievant by either hand or certified mail, return receipt requested, a copy to the grievant's representative by hand or

mail, and a copy to the Human Resources Department.

6. The HR Director shall receive and record the final decision.

LEVEL THREE; APPEAL TO THE BOARD

An employee may appeal a Level II grievance decision by filing a written notice of appeal with the Superintendent within ten (10) calendar days of the date upon which the superintendent's decision is delivered to such employee. Procedures for appeals to the Board shall be provided by the Superintendent's office upon request.

The Board shall provide a Level III (Stop, Look, and Listen) hearing within 30 days or at the next regularly scheduled Board meeting whichever is greater. Presentations shall be limited to twenty (20) minutes per side.

The Board shall respond, in writing, within ten (10) days of the Governing Board meeting at which the grievant's appeal was heard.

The Board shall electronically record the grievance appeal.

RECORD OF GRIEVANCE DECISIONS

The Human Resources Director shall maintain a record of all employee grievances, including written decisions of the Superintendent and the Governing Board.

CONTINTUED MONITORING

For a period of six months Human Resources, in coordination with the Division Director and Supervisor, will monitor the circumstances surrounding the complaint to ensure the situation has been remedied.

ALTERNATIVE LEGAL REMEDIES

Nothing in this policy may prevent the complainant or the respondent from pursuing formal legal remedies or resolution through local, state or federal agencies or courts including, but not limited to, Texas Workforce Commission Civil Rights Division (<https://www.twc.texas.gov/jobseekers/how-submit-employment-discrimination-complaint>) or the U.S. Equal Employment Opportunity Commission (<https://www.eeoc.gov/how-file-charge-employment-discrimination>.)

TEXAS SCHOOL FOR THE DEAF

EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA

Issued: 05-29-82

Adopted: 05-29-82

Amended: 08-16-91
12-11-92
03-03-95
05-28-03
12-10-10
04-12-19
10-21-22
12-16-22