

TEXAS SCHOOL FOR THE DEAF

STUDENT DISCIPLINE
STUDENTS WITH DISABILITIES

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| 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 [See FNA]</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. Tex. Const. Art. I, Sec. 27</p> <p>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. <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 | <p>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. <i>34 C.F.R. 104.7(b)</i></p> |
| Section 504 | |
| 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 C.F.R. 35.107</i></p> |
| Title IX | <p>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 action prohibited by Title IX of the Education Amendments of 1972. <i>34 C.F.R. 106.8(b)</i> [See FB and FFH]</p> |
| EDUCATION CODE CHAPTER 26 | <p>Parents are partners with educators, administrators, and the board in their children's education. Parents shall be encouraged to actively participate in creating and implementing educational programs for their children. Education Code 26.001(a)</p> <p>Unless otherwise provided by law, a board, an administrator, an educator, or other person may not limit parental rights. Education Code 26.001(c)</p> |
| "PARENT" DEFINED | <p>For purposes of Education Code Chapter 26 (Parental Rights), "parent" includes a person standing in parental relation but does not include a person as to whom the parent-child relationship has been terminated or a person not entitled to possession of or access to a child under a court order. Except as provided by federal law, all rights of a parent under Education Code Title 2 and all educational rights under Family Code 151.003(a)(10) shall be exercised by a student who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Family Code Chapter 31, unless the student has been determined to be incompetent or the</p> |

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COMPLAINT PROCEDURES
PARENTAL RIGHTS

student's rights have been otherwise restricted by a court order. Education Code 26.002
The Board adopts the following procedures to address each complaint that it receives concerning a violation of a right guaranteed by Education Code Chapter 26 (Parental Rights).
Parental rights listed in Education Code Chapter 26 are:

1. Rights concerning academic programs. Education Code 26.003 [See EHA, EIF, FDB, and FMH]
2. Access to student records. Education Code 26.004 [See FL]
3. Access to state assessments. Education Code 26.005 [See EKB]
4. Access to teaching materials. Education Code 26.006 [See EF and EKB]
5. Access to board meetings, other than a closed meeting under the Open Meetings Act. Education Code 26.007 [See BE and BEC]
6. Right to full information concerning a student. Education Code 26.008 [See DF, FFE, and FM]
7. Right to information concerning special education and education of students with learning disabilities. Education Code 26.0081 [See FB]
8. Requests for public information. Education Code 26.0085 [See GBA]
9. Consent required for certain activities. Education Code 26.009 [See EHA, FFE, FL, FM, and FO]
10. Refusal of psychiatric or psychological treatment of child as basis for report of neglect. Education Code 26.0091 [See FFG]
11. Exemption from instruction. Education Code 26.010 [See EMB]

GENERAL PROVISIONS OF COMPLAINT PROCEDURE

Unless otherwise provided by a policy referenced above, students or parents shall be entitled to informal conferences with administrators to resolve their complaints. If such attempts are unsuccessful, the students or parents may take their complaint to the Governing Board. If a complaint involves a problem with a teacher, the student or parent in most circumstances shall be expected to discuss the matter with the teacher before requesting a conference with the principal at Level One.

The student may be represented by an adult at any level of the complaint.

For purposes of this policy, "days" shall mean TSD business days.

Announcement of a decision in the student's or parent's presence shall constitute communication of the decision.

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 FFH.
2. Complaints concerning dating violence shall be submitted in accordance with FFH.
3. Complaints concerning retaliation related to discrimination and harassment shall be submitted in accordance with FFH.
4. Complaints concerning bullying or retaliation relating to bullying shall be submitted in accordance with FFH.
5. Complaints concerning failure to award credit or a final grade on the basis of

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- attendance shall be submitted in accordance with FEC.
6. Complaints concerning student discipline shall be submitted in accordance with FO, 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 gift 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 with the scope of the Individuals with Disabilities Education Act, including complaints concerning identification, evaluation, educational placement, or discipline of a special education student 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.
 11. Complaints concerning a commissioned peace officer who is an employee of TSD must be submitted in accordance with CKE.
 12. Complaints concerning admissions must 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 TSD 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].

EXTRACURRICULAR ACTIVITY COMPLAINTS For 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, the Level Two decision is final and may not be appealed to the Board.

NOTICE TO STUDENTS AND PARENTS TSD shall inform students and parents of this policy through appropriate School publications.

GUIDING PRINCIPLES 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 Process 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.

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| FREEDOM FROM RETALIATION | Neither the Board nor any TSD employee shall unlawfully retaliate against any student or parent for bringing a concern or complaint. |
| GENERAL PROVISIONS | Complaint forms and appeal notices may be filed by hand-delivery, 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 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. |
| Filing | |
| Scheduling Conferences | TSD shall make reasonable attempts to schedule conferences at a mutually agreeable time. If a student or parent fails to appear at a scheduled conference, TSD 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 or signed video 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 TSD 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 | <p>"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.</p> <p>The student or parent may designate a representative through written notice to TSD at any level of this process. If the student or parent designates a representative with fewer than three days' notice to TSD before a scheduled conference or hearing, TSD may reschedule the conference or hearing to a later date, if desired, in order to include TSD's counsel. TSD 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. 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. |
| 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 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.</p> |
| 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 TSD. |

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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 refile is within the designated time for filing.

LEVEL ONE

A student or parent who has a complaint shall request a conference with the Principal or Associate Principal within fifteen days of the time the student or parent knew, or should have known, of the event or series of events causing the complaint. The Principal or Associate Principal shall schedule and hold a conference with the student or parent within ten days of the request. If the complaint is one of sexual harassment or Section 504 discrimination, the Principal shall include the School's Title IX or 504 Coordinator respectively, in the conference.

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 forward it to the appropriate administrator.

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. The Level One conference shall be recorded by the Level One administrator.

Absent extenuating circumstances, the administrator shall provide the student or parent with a written or signed video response within ten days following the conference. The 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 that the administrator believes will help resolve the complaint.

LEVEL TWO

If the outcome of the conference with the Principal or Associate Principal is not to the student's or parent's satisfaction, the student or parent may request, within ten days, a conference with the Superintendent or designee, who shall schedule and hold a conference. The Superintendent or designee may set reasonable time limits for the conference. Prior to or at the time of the conference, the student or parent shall submit a written complaint that includes a statement of the complaint, any evidence in its support, the solution sought, the student's or parent's signature, and the date of the conference with the Principal.

After TSD receives notice of an appeal to Level Two, 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 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 appeal shall be limited to the issues and documents considered at Level One.

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LEVEL THREE

If the outcome of the conference with the Superintendent or designee is not to the student's or parent's satisfaction, the student or parent may submit to the Superintendent a written request to place the matter on the agenda of a future Governing Board meeting.

The Superintendent shall inform the student or parent of the date, time, and place of the meeting. The presiding officer shall establish a reasonable time limit for complaint presentations.

The Superintendent or designee shall provide the Board with the record from Levels One and Two.

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 Governing Board shall hear the complaint and take whatever action it deems appropriate. The Board shall record the presentations made at Level Three.

If the complaint involves concerns or charges regarding an employee, it shall be heard by the Governing Board in closed meeting unless the employee to whom the complaint pertains requests that it be public.

TSD 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 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/video 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.

RIGHT TO ATTEND
SCHOOL ACTIVITIES

Unless limited by court order, a parent appointed as a conservator of a child has at all times the right to attend school activities, including school lunches, performances, and field trips, as allowed by School policy and procedure. Family Code 153.073(a)(6).

OBJECTION TO
SCHOOL
ASSIGNMENT

The parent or person standing in parental relation to any student may object to the student's school assignment. Upon receiving a written petition to request or object to a student's assignment, a board shall follow the procedures set forth at Education

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Code 25.034. Education Code 25.033(2),.034 [See FDB]

CHALLENGE TO
EDUCATION
RECORDS

The School shall give a parent or eligible student, on request, an opportunity for a hearing to challenge the content of the student's education records on the grounds that the information contained in the records is inaccurate, misleading, or in violation of the privacy rights of the student. 34 C.F.R. 99.21 [See FL]

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 the School unless the person has exhausted the School's remedies for resolving the complaint. Education Code 22.0514

"Professional employee of the School" includes:

1. A superintendent, principal, teacher, including a substitute teacher, supervisor, social worker, school counselor, nurse, and teacher's aide employed by the School;
2. A teacher employed by a company that contracts with the School to provide the teacher's services to the School;
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 governing Board of the School; and
6. Any other person whose employment by the School requires certification and the exercise of discretion.

Education Code 22.051(a)

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 School's grading policy applicable to the grade, as determined by the TSD Governing Board.

The 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

REQUESTS FOR
PUBLIC
INFORMATION

The School that receives a request from a parent for public information relating to the parent's child shall comply with Government Code Chapter 552 (Public Information Act). The School shall also comply with the deadlines and provisions set forth at Education Code 26.0085. Gov't Code Ch. 552; Education Code 26.0085

CLOSED MEETING

The Governing 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, Subchapter D. [See BEC]

Record of Proceeding

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 School 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)

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It is the School's responsibility to make and preserve the records of the proceedings before the board. If the School 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 School. The record shall include:

1. A tape recording or a transcript of the hearing at the local level. If a tape recording is used:
2. The tape recording must be complete, audible, and clear; and
3. Each speaker must be clearly identified.
4. All evidence admitted;
5. All offers of proof;
6. All written pleadings, motions, and intermediate rulings;
7. A description of matters officially noticed;
8. If applicable, the decision of the hearing examiner;
9. A tape recording or transcript of the oral argument before the board; and
10. 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: See EHBAB for provisions concerning students with disabilities; see the FO series for provisions concerning student discipline; see FL for provisions concerning student records.

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