

TEXAS SCHOOL FOR THE DEAF

STUDENT RIGHTS AND RESPONSIBILITIES: STUDENT AND PARENT COMPLAINTS

FNG

UNITED STATES CONSTITUTION

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]

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. *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. *Professional Association of College Educators v. El Paso County Community [College] District*, 678 S.W.2d 94 (Tex. App.-El Paso 1984, writ ref'd n.r.e.)

EDUCATION CODE CHAPTER 26

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)

Unless otherwise provided by law, a board, an administrator, an educator, or other person may not limit parental rights. Education Code 26.001(c)

'PARENT' DEFINED

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 student's rights have been otherwise restricted by a court order. Education Code 26.002

COMPLAINT PROCEDURES

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

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]

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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 calendar days.

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

LEVEL ONE

A student or parent who has a complaint shall request a conference with the Principal or Associate Principal within ten 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 seven 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.

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. 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.

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 the next regular 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.

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The Governing Board shall hear the complaint and take whatever action it deems appropriate.

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.

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 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

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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 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 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)

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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