

## POLICIES AND PROCEDURES

Subject: Public Complaints and Hearings Policy Reference: G-XXXII

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Approval Auth: Board of Trustees Approved: \_\_\_\_\_

Remarks: \_\_\_\_\_

Date: June 22, 2010

### **PUBLIC COMPLAINTS AND HEARINGS**

The Board encourages the public to discuss concerns and complaints through informal conferences with the appropriate administrator. Concerns should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.

If an informal conference regarding a complaint fails to reach a satisfactory conclusion, the complainant may initiate the formal process described below by timely filing a written complaint. 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.

### **PROVISIONS**

The process described herein 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.

Complaint forms and appeal notices may be filed by hand-delivery, fax, or 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. Fax filings shall be timely filed if they are received on or before the deadline, as indicated by the date/time shown on the fax copy. Mail filings shall be timely filed if they are postmarked 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.

At Levels One, Two, and Three "response" shall mean a written communication to the individual from the appropriate administrator. Responses may be hand-delivered 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" shall mean College District business days, unless designated as "calendar days." In calculating time lines under this policy, the day a document is filed is "day zero," and all deadlines shall be determined by counting the following day as "day one." Days the College District is closed shall not be included in the calculation.

"Representative" shall mean any person who or organization that is designated by an individual to represent the individual in the complaint process. The individual may designate a representative through written notice to the College District at any level of this process. If the individual designates a representative with fewer than three days' notice to the College District before a scheduled conference or hearing, the College District may reschedule the conference or hearing to a later date, if desired, in order to include the College District's counsel. The College District may be represented by counsel at any level of the process. Each party shall pay its own costs incurred in the course of the complaint.

Complaints arising out of an event or a series of related events shall be addressed in one complaint. An individual shall not bring separate or serial complaints arising from any event or series of events that have been or could have been addressed in a previous complaint.

Complaints under this policy shall be submitted in writing on a form provided by the College 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 form that is incomplete in any material aspect 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.

## **PROCESS**

### **LEVEL I**

Complaint forms must be filed:

1. Within 14 calendar 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 College President or designee, the complaint may begin at Level Two following the procedure, including deadlines, for filing the complaint form at Level One.

The appropriate administrator shall investigate as necessary and may hold a conference with the individual within 14 calendar days after receipt of the written complaint. The administrator may set reasonable time limits for the conference.

The administrator shall provide the individual a written response within 14 calendar 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 relevant documents or information.

## **LEVEL II**

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 College President or designee to appeal the Level One decision. The appeal notice must be filed in writing, on a form provided by the College, within 14 calendar 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 Level Two administrator shall hold a conference within 14 calendar days after the appeal notice is filed. The conference shall be limited to the issues presented by the individual at Level One and identified in the Level Two appeal notice. At the conference, the individual may provide information concerning any documents or information relied upon by the administration for the Level One decision. The Level Two administrator may set reasonable time limits for the conference.

The Level Two administrator shall provide the individual a written response within 14 calendar days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the Level Two administrator may consider the Level One record, information provided at the Level Two conference, and any other relevant documents or information the Level Two administrator 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 III**

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 College District, within 14 calendar 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 College President 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 College President or designee shall provide the Board with the record of the Level Two complaint. The individual may request a copy of the Level Two record.

The Level Two record shall include:

1. The Level One record.
2. The written response issued at Level Two and any attachments.
3. All other documents relied upon by the administration in reaching the Level Two decision.

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 business days before the hearing.

The College 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.

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.