

### **Guiding Principles**

#### **Informal Process**

Concerns should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.

Informal resolution shall be encouraged but shall not extend any deadlines in this policy, except by mutual written consent.

#### **Formal Process**

An employee may initiate the formal process described below by timely filing a written complaint form.

Even after initiating the formal complaint process, employees are encouraged to seek informal resolution of their concerns. An employee 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.

### **Complaints Against Supervisors**

Complaints alleging a violation of law by a supervisor may be made to the College President or designee. Complaint forms alleging a violation of law by the College President may be submitted directly to the Board or designee.

### **Notice to Employees**

The College District shall inform employees of this policy through appropriate College District publications.

### **Freedom from Retaliation**

Neither the Board nor any College District employee shall unlawfully retaliate against an employee for bringing a concern or complaint.

### **Whistleblower Complaints**

Whistleblower complaints shall be filed within the time specified by law. Such complaints shall first be filed in accordance with Level Three, below. Time lines for the employee and the College District set out in this policy may be shortened to allow the Board to make a final decision within 60 days of the initiation of the complaint.  
[See DG]

## **Complaints**

### **Other Complaint Processes**

Employee 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 DGBA after the relevant complaint process:

1. Complaints alleging discrimination, including violations of Title IX (gender), Title VII (sex, race, color, religion, national origin), ADEA (age), or Section 504 (disability). [See DIAA and DIAB]
2. Complaints alleging certain forms of harassment, including harassment by a supervisor and violations of Title VII. [See DIAA and DIAB]
3. Complaints concerning retaliation relating to discrimination and harassment. [See DIAA and DIAB]
4. Complaints concerning a commissioned peace officer who is an employee of the College District. [See CHA]
5. Complaints concerning an employment preference for former foster children. [See DC]
6. Complaints arising from the dismissal of term contract faculty members. [See DMAA]
7. Complaints concerning the nonrenewal of term contract employees and those arising from the nonrenewal of term contract faculty members. [See DMAB]
8. Complaints concerning the withdrawal of consent to remain on campus. [See GDA]

## **General Provisions**

### **Filing**

Complaint forms and appeal notices may be filed by hand-delivery, by 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 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.

#### Scheduling Conferences

The College District shall make reasonable attempts to schedule conferences at a mutually agreeable time. If the employee fails to appear at a scheduled conference, the College District may hold the conference and issue a decision in the employee's absence.

#### Response

At Levels One, Two, and Three, "response" shall mean a written communication to the employee from the appropriate administrator. Responses may be hand-delivered, sent by electronic communication to the employee's email address of record, or sent by U.S. Mail to the employee'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 College District business days, unless otherwise noted. In calculating time lines under this policy, the day a document is filed is "day zero." The following business day is "day one."

#### Representative

"Representative" means any person who or an organization that does not claim the right to strike and is designated by the employee to represent him or her in the complaint process.

The employee may designate a representative through written notice to the College District at any level of this process. If the employee 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.

#### **Consolidating Complaints**

Complaints arising out of an event or a series of related events shall be addressed in one complaint. Employees 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.

When two or more complaints are sufficiently similar in nature and remedy sought to permit their resolution through one proceeding, the College District may consolidate the complaints.

### **Untimely Filings**

All time limits shall be strictly followed unless modified by mutual written consent.

If a complaint form or appeal notice is not timely filed, the complaint may be dismissed, on written notice to the employee, at any point during the complaint process. The employee 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.

### **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 the College District.

Copies of any documents that support the complaint should be attached to the complaint form. If the employee 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 employee unless the employee 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 refiling is within the designated time for filing.

### **Level One**

Complaint forms must be filed:

9. Within 15 days of the date the employee first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint; and
10. With the lowest level administrator who has the authority to remedy the alleged problem.

In most circumstances, employees shall file Level One complaints with their immediate supervisor. If the only administrator who has authority to remedy the alleged problem is the Level Two or Level Three administrator, the complaint may begin at Level Two or Level Three, respectively, 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 employee 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 employee 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 employee did not receive the relief requested at Level One or if the time for a response has expired, the employee may request a conference with the Next Level Supervisor or designee to appeal the Level One decision.

The appeal notice must be filed in writing, on a form provided by the College 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 employee may request a copy of the Level One record.

The Level One record shall include:

11. The original complaint form and any attachments.
12. All other documents submitted by the employee at Level One.
13. The written response issued at Level One and any attachments.
14. All other documents relied upon by the Level One administrator in reaching the Level One decision.

The Level Two administrator shall schedule a conference within ten days after the appeal notice is filed. The conference shall be limited to the issues and documents presented by the employee at Level One and identified in the Level Two appeal notice. At the conference, the employee 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 employee 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 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 Three**

If the employee did not receive the relief requested at Level Two or if the time for a response has expired, the employee may request a conference with the College President or designee to appeal the Level Two decision.

The appeal notice must be filed in writing, on a form provided by the College District, within ten days after receipt of a response or, if no response was received, within ten days of the response deadline at Level Two.

After receiving notice of the appeal, the Level Two administrator shall prepare and forward a record of the Level Two complaint to the Level Three administrator. The employee may request a copy of the Level Two record.

The Level Two record shall include:

15. The Level One record.
16. The written response issued at Level Two and any attachments.
17. All other documents relied upon by the Level Two administrator in reaching the Level Two decision.

The Level Three administrator 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 Two. At the conference, the employee may provide information concerning any documents or information relied upon by the administration for the Level Two decision. The Level Three administrator or designee may set reasonable time limits for the conference.

The Level Three administrator shall provide the employee 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 Level Three administrator may consider the Level One and Level Two records, information provided at the Level Three conference, and any other relevant documents or information the Level Three administrator believes will help resolve the complaint.

Recordings of the Level One, Level Two, and Level Three conferences, if any, shall be maintained with the Level One, Level Two, and Level Three records.

#### **Level Four**

If the employee did not receive the relief requested at Level Three or if the time for a response has expired, the employee may appeal the decision to the Board.

The appeal notice must be filed in writing, on a form provided by the College District, within ten days after receipt of a response or, if no response was received, within ten days of the Level Three response deadline.

The College President or designee shall inform the employee 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 a record of the Level Three complaint. The employee may request a copy of the Level Three record.

The Level Three record shall include:

18. The Level One record.
19. The Level Two record.
20. The written response issued at Level Three and any attachments.
21. All other documents relied upon by the Level Three administrator in reaching the Level Three decision.

The appeal shall be limited to the issues and documents considered at Level Three, except that if at the Level Four hearing the administration intends to rely on evidence not included in the Level Three record, the administration shall provide the employee notice of the nature of the evidence at least three 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. [See BD]

The presiding officer may set reasonable time limits and guidelines for the presentation including an opportunity for the employee 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 Four presentation. The Level Four presentation, including the presentation by the employee or the employee'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 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 Three.

The Vice President of Business Affairs is responsible for reviewing and updating this policy. Policy reviews are made in accordance with the Office of Institutional Effectiveness Policy Tracking document.