The purpose of this policy is to set forth complaint procedures and provide for the prompt and equitable resolution of all employee complaints, and student complaints of alleged discrimination and harassment made against a College District employee. [See FLD for all other student complaints]

The Board encourages employees and students to discuss their concerns and complaints, in a professional manner, through informal conferences at the lowest possible administrative level and as soon as possible to allow early resolution. If an employee does not feel comfortable attempting to work out an informal resolution directly with the responding party, the employee shall promptly initiate the formal complaint procedure by timely filing a complaint in the manner described in this policy.

Even after initiating the formal complaint process, individuals are encouraged to seek informal resolution of their concerns. A complainant whose concerns are resolved may withdraw a formal complaint at any time by submitting a written notice to the director associate vice president of human resources and organization development.

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.

Neither the Board nor any College District employee shall unlawfully retaliate against any individual for bringing forward a concern or complaint or for participating/cooperating in an investigation/complaint process in good faith. [See DG]

College District employees and students shall be informed of this policy through a variety of meetings and publications, such as orientations, student handbook, the human resources Web site, and appropriate College District notifications and publications.

A complaint under this policy may include:

1. Complaints concerning an employee’s wages, hours, or conditions of work, including performance evaluations or reviews;
2. Violations of College District policy;
3. Specific allegations of unlawful discrimination or harassment based on the sex, race, color, religion, national origin, age, veteran’s status, disability or any other legally protected classification;
4. Specific allegations of unlawful discrimination or retaliation based on the exercise of legally protected rights;
5. Specific allegations of adverse personnel action based on the employee’s good faith report to an appropriate law enforcement authority of a violation of a law by the College District or a College District employee, i.e., whistleblower complaints [see DG];

6. Complaints arising from the termination of an at-will employee; [See DDC]

7. Complaints arising from the nonrenewal or termination of a contract employee [see DMAA and DMAB]; or

8. Any other complaint brought by an employee against another employee, supervisor, manager, student, vendor or the College District.

For more information on complaints regarding:

1. Alleged discrimination/harassment/retaliation, including violations of Title IX or Section 504, see DAA.

2. Dismissal of term contract employee, see DMAA.

3. Nonrenewal of term contract employee, see DMAB.

4. A commissioned peace officer who is an employee of the College District, see CHA.

5. An employment preference for former foster children, see DC.

6. Alleged harassment, see DHA and DHC.

7. Alleged retaliation (Whistleblower), see DH and DG.

This policy does not limit or prohibit the hearing of complaints by citizens under BDB(LOCAL).

For purposes of this policy, terms are defined as follows.

The terms “complaint” and “grievance” shall have the same meaning and may be used interchangeably.

All complaint forms and appeal notices must be filed with the director associate vice president of human resources and organizational development and may be delivered via hand-delivery, fax, e-mail, or U.S. Mail. Hand-delivered and e-mailed filings shall be timely filed if received by the director associate vice president of human resources and organizational development by the close of business on the deadline. Fax filings shall be timely filed if they are received by the director associate vice president of human resources and organizational development 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 the deadline.
Complaints of alleged unlawful discrimination, harassment, or retaliation shall include a statement describing the alleged violation, the date of the alleged violation; names of persons responsible (when known); names of witnesses, if any; and the requested action/relief. The complaint form shall be accompanied by all evidence of discrimination. [See DGBA(EXHIBIT)]

RESPONSE
At all levels, “response” shall mean a written communication to the employee from the appropriate administrator. Responses may be hand-delivered, e-mailed, or sent by U.S. Mail to the complainant’s mailing address of record. Mailed responses shall be timely if they are postmarked by U.S. Mail on the deadline. E-mailed responses shall be timely if received by the complainant or designated representative by close of business on the day of the deadline.

DAYS
“Days” shall mean College District business 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.”

LEADERSHIP TEAM
The “leadership team”, for the purposes of this policy, shall be comprised of senior-level college administrators. Information about the leadership team may be obtained from the director associate vice president of human resources and organizational development.

ADMINISTRATIVE REVIEW PANEL
The “administrative review panel,” for the purposes of this policy, is comprised of senior-level college administrators. Information about the leadership team administrative review panel may be obtained from the director associate vice president of human resources and organizational development.

REPRESENTATIVE
“Representative” means any person who or an organization that does not claim the right to strike and is designated by the complainant to represent him or her in the complaint process. The complainant may designate a representative through written notice to the College District at any level of this process. In such case, the College District may reschedule conferences or hearings in order to include the College District’s counsel.

In exercising any rights and remedies under these complaint procedures, a complainant may represent himself or herself or may choose to be represented by a fellow employee, attorney, person, or organization that does not claim the right to strike.

A representative shall not serve as an active participant in any College District meetings pursuant to this policy with the exception of a Level Four hearing with the Board.
WHISTLEBLOWER COMPLAINTS

Whistleblower complaints under policies DH and DG shall be filed within the time period specified by law and shall be initiated as a Level Three complaint to the administrative review panel.

Time lines for the complainant and the College District set out in this policy may be shortened, if needed, in order to make a final decision within 60 days of the initiation of the complaint. [See DG]

If the time line is modified, the complainant shall be notified in writing.

GENERAL PROVISIONS

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

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

If a complaint form or appeal notice is not timely filed, the complaint may be dismissed, on written notice to the complainant, at any point, without a hearing, during the complaint process, with or without a meeting with the complainant. The complainant may appeal the dismissal by seeking review in writing within ten days, starting at the level at which the complaint was dismissed. Such appeal shall be limited to the issue of timeliness.

EXTENSION OF TIME

Any time limits set by these procedures, other than the time line applicable to the initial filing of the complaint or otherwise specified herein, may be extended by mutual written consent from the College District and the parties involved or at the discretion of the hearing officer as detailed below. The total number of days from the date that the complaint is filed until the complaint is resolved shall not exceed 180 days.

COSTS INCURRED

Each party shall pay its own costs incurred in the course of the complaint.

FORMAL COMPLAINT PROCESS

Complaints under this policy shall be submitted in writing on a form provided by the College District. A copy of the complaint and supporting documentation as outlined herein shall be submitted to the director, associate vice president of human resources and organizational development.

Copies of any and all documents that support the complaint should be attached to the complaint form. All complaints must identify requested action/relief. If the complainant does not have copies of these documents, they may be presented at the Level One conference, a copy of which must also be presented to the director, associate vice president of human resources and organizational development.
opment. After the Level One conference, no new documents may be submitted unless the complainant 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 refiled with all the requested information if the refiling is within the designated time for filing a complaint.

Complaint forms must be received within 15 days of the date the complainant first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint.

If the complainant is an employee, complaints shall not be included in the employee’s personnel file, but shall be maintained in an employee relations file in the human resources department within the retention period specified by law.

Records of student complaints of harassment or discrimination are maintained in a file in the human resources department within the retention period specified by law.

Complaint records shall remain confidential unless permission is given by the complainant to release such information or unless information is requested pursuant to a valid order from a state or federal agency or court, or in accordance with the Texas Public Information Act. Complaint records shall be maintained on file in accordance with the College District’s records retention schedules.

All meetings held with the complainant in accordance with this policy shall be recorded by the College District and the recordings shall become part of the complaint record. The complainant may request a copy of the recordings by submitting a written request to the director/associate vice president of human resources and organizational development.

The College District shall provide copies of policies and regulations prohibiting discrimination on the basis of race, color, national origin, religion, sex, age, disability, veteran status, or any other legally protected classification upon request.

In order to prevent the filing of a multiplicity of complaints where the complaint covers a question common to a number of complainants, the complaints may be processed as a single complaint commencing at the first common level of supervision.

Complaints shall be investigated as appropriate. At any level, the appropriate hearing officer/administrator may contact the human resources department for assistance throughout the investigation and hearing process. The written findings shall be considered in the evaluation of, and incorporated into the complaint record.
Upon receipt of a Level One complaint, the director/associate vice president of human resources and organizational development shall log the complaint and forward it to the appropriate dean or director who shall be designated as the Level One hearing officer. If the appropriate dean or director is the subject of the complaint, the complaint shall be initiated as a Level Two complaint to the appropriate leadership team member.

The Level One hearing officer shall, within 15 business days from receipt of the complaint, schedule a meeting to discuss the complaint with the complainant. Prior to issuing a decision, the Level One hearing officer shall review the complaint and consult with all supervisors regarding the Level One complaint response. The Level One hearing officer shall reply in writing within 15 business days after the meeting. The 15 business-day reply deadline may be extended if, due to the nature of the allegation or at the Level One hearing officer’s discretion, an investigation is appropriate as outlined herein. In these cases the Level One hearing officer shall respond promptly, generally within 30 business days from the date of filing the complaint. If the reply deadline is extended, the complainant shall be notified in writing.

In the event the decision of the Level One hearing officer is not satisfactory to the complainant or if the time for a response has expired, the complainant may file an appeal to the appropriate leadership team member, as the Level Two hearing officer, for consideration. The appeal notice must be filed within 15 business days after receipt of a response or, if no response was received, within 15 business days of the response deadline at Level One. The complainant shall submit the appeal to the director/associate vice president of human resources and organizational development along with a copy of all documents previously submitted. The appeal shall be written on an appeal form, provided by the College District, stating why the determination made at the prior level was unsatisfactory. The director/associate vice president of human resources and organizational development shall log the appeal and forward the appeal and supporting documents to the Level Two hearing officer.

The Level Two hearing officer shall, within 15 business days from receipt of the complaint, review the complaint, and if appropriate, schedule a meeting with the complainant to discuss the complaint. The Level Two hearing officer shall reply in writing within 15 business days from the date of receipt of the complaint, or if a meeting is held, within 15 business days from the date of the meeting with the complainant. The 15 business-day reply deadline may be extended if, due to the nature of the allegation or at the Level Two hearing officer’s discretion, an investigation is appropriate as out-
lined herein. In these cases, the Level Two hearing officer shall respond promptly, generally within 30 business days from the date of filing the complaint. If the reply deadline is extended, the complainant shall be notified in writing.

As specified in this policy, for certain types of complaints, the decision of a Level Two hearing officer is final and nonappealable.

The following types of complaints may not be appealed beyond Level Two, as outlined above:

1. Complaints concerning an employee’s wages, hours, or conditions of work, including performance evaluations or reviews, unless the Level Two hearing officer conducted the original performance evaluation or review;

2. Complaints arising from the termination of a part-time at-will employee. [See DDC]

2.3 Violations of College District policy, unless specifically identified in this policy (e.g. alleged illegal discrimination, harassment, retaliation, and the like); and

3. Any other complaint brought by an employee against another employee, supervisor, or manager of the College District.

If the decision of the leadership team member, who is serving as the Level Two hearing officer, is not satisfactory to the complainant or the time for a response has expired, the complainant may file a written appeal to the administrative review panel stating the reasons why the determinations by the leadership team member are not satisfactory and providing a copy of all documents previously submitted. The administrative review panel shall not include the leadership team member who served as the Level Two hearing officer. The appeal notice must be filed in writing with the director of human resources and organizational development, on a form provided by the College District, within 15 business days after receipt of a response or, if no response was received, within 15 business days of the response deadline at Level Two. The director of human resources and organizational development shall log the appeal and forward the appeal and all supporting documents to the administrative review panel.

Within 15 business days, the administrative review panel shall review the record of all prior levels and issue the findings of the majority of the panel in writing. If additional investigation or information is required, the administrative review panel may request such information or meet with individuals as necessary to clarify the record. If additional time is required for such investigation/information gathering, the administrative review panel shall
inform the complainant of the modified time line and issue its findings in writing, generally within 30 business days of receipt of the appeal.

As specified in this policy, for certain types of complaints, the decision of an administrative review panel are final and non-appealable.

The following types of complaints may not be appealed beyond Level Three, as outlined above:

1. Specific allegations of unlawful discrimination based on sex, race, color, religion, national origin, age, veteran’s status, disability or other legally protected classification;

2. Specific allegations of unlawful discrimination or retaliation based on the exercise of legally protected rights;

3. Specific allegations of adverse personnel action based on the employee’s good faith report to an appropriate law enforcement authority of a violation of a law by the College District or a College District employee, i.e., “whistleblower complaints” [see DG or DH]; or

4. Complaints arising from the termination of a full-time at-will employee. [See DDC]

The following types of complaints may not be appealed beyond Level Three, as outlined above:

A Level Four appeal applies only to complaints filed by an employee complainant regarding the termination or nonrenewal of the full-time contract with the College District. If the complainant did not receive the relief requested at Level Three or if the time for a response has expired, the complainant may appeal the decision to Level Four.

The Level Four appeal notice must be filed with the director associate vice president of human resources and organizational development, on a form provided by the College District, within 15 business days after receipt of a response or, if no response was received and no notification of extension was received, within 15 business days of the response deadline at Level Three. The director associate vice president of human resources and organizational development shall log the appeal and forward a copy of the appeal and all supporting documents to the College President or designee.

The Level Four appeal is a two-part process that requires review by the College President, and, if applicable, reviews by the Board as follows.

Within 15 business days of receipt of the Level Four appeal, the College President shall review the record of all prior levels. If additional investigation or information is required, the College President
may request such information or meet with individuals as necessary to clarify issues raised in the record. If additional time is required for such in investigation or information gathering, the College President shall inform the complainant in writing of the modified time line. Generally within 30 business days of receipt of the appeal, the College President shall issue findings in writing regarding the appeal.

In instances where the College President reverses the decision of the administrative review panel, the complainant shall be notified in writing of the College President's findings and related actions to be taken regarding the matter. If the findings and/or relief granted by the College President are not satisfactory to the complainant, the complainant may request in writing, within 15 days from the date of the College President's decision, that the matter be placed on the agenda for presentation to the Board.

If the College President affirms the finding of the administrative review panel and the complainant requests a presentation to the Board as specified above, the College President or designee shall inform the complainant of the date, time, and place of the Board meeting at which the complaint shall be on the agenda for presentation to the Board.

The College President or designee shall provide the Board with copies of the complaint form, all written responses, all appeal notices, and all written documentation previously submitted by the complainant or the administration. The Board shall consider only those issues and only those documents presented at the preceding levels and identified in the appeal notice.

The College District shall determine whether the complaint shall 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. The Board shall hear the complaint and may request that the administration provide an explanation for the decisions at the preceding complaint 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 after the Board considers or hears the complaint. If for any reason the Board fails to reach 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.