

CHAPTER 17

COMPLAINT PROCEDURE

17.1 PROCEDURE FOR THE ADJUSTMENT OF COMPLAINTS

17.1.A. PURPOSE OF COMPLAINT PROCEDURE: The purpose of this chapter is to establish an orderly process through which employees may receive timely consideration of their complaints. It is also the intent of this chapter to emphasize the need for employee complaints to be submitted through established channels and for resolution of complaints at the lowest possible level. Employees may utilize this chapter to seek adjustment of complaints arising in the following areas:

1. Established Commission Rules and Regulations.
2. Established Board Policies.
3. Established provisions of the Education Code.
4. Complaints against other employees of the District.

REFERENCE: Education Code Sections 88080 and 88081

17.1.B. CERTAIN MATTERS EXCLUDED FROM PROCEDURE: There are certain subjects and matters that are not covered by this complaint procedure:

1. An alleged violation of any provision of a collective bargaining agreement. Such allegations shall be adjudicated through the provisions contained in the collective bargaining agreement.
2. An alleged disciplinary action. If formal disciplinary action has been initiated, it shall be adjudicated through the disciplinary action appeal process contained in Chapter 12.
3. Complaints about the subject contained in a rule, regulation, policy, law, or administrative procedures. Any employee with such a complaint should direct his/her concerns and suggestions for change through the administrative channels to the responsible authority.
4. Areas for which a specific method or review is provided by law, by the rules and regulations of the District, or administrative procedures, commission, or board which established it.

REFERENCE: 1. Education Code Sections 88080 and 88081
2. Government Code Section 3540 et seq.

17.1.C ADJUDICATING BODY DETERMINED BY SUBJECT MATTER: The subject matter of a particular complaint will determine whether it will be directed for consideration to the Board of Trustees or the Personnel Commission for final determination or decision. Generally, complaints dealing with established Board Policies or Administrative Rules will be adjudicated by the Board of Trustees and those dealing with established Commission Rules and Regulations, and the Education Code will be handled by the Personnel Commission. Complaints regarding medical examinations, x-rays, and criminal records shall first go through District administrative channels.

REFERENCE: 1. Education Code Sections 88080 and 88081
2. Government Code Section 3540 et seq.

17.1.D. COMMISSION STAFF WILL LEND ASSISTANCE: At any stage in the procedure, the services of the Personnel Commission's staff will be available to all parties to provide requested information and to assist in the settlement of the problems.

REFERENCE: Education Code Sections 88080 and 88081

17.1.E. APPROVAL BY DIRECTOR OF HUMAN RESOURCES: If any settlement at levels 1, 2, or 3 of any complaint covered by these procedures is reached without the involvement of the Commission or Director of Human Resources, the Director of Human Resources shall be informed of all proceedings, receive copies of all communications submitted in the case, and be notified of the proposed settlement and have an opportunity to comment on it prior to finalization:

1. When the complaint involves any Personnel Commission Rule or Regulation.
2. When the complaint involves any Personnel Commission administrative procedure.
3. When the complaint involves any Personnel Commission employee.
4. When the complaint involves any alleged violation of the Education Code.
5. Any area touching upon the authority or responsibilities of the Personnel Commission or, the application of Merit System laws and procedures.

REFERENCE: Education Code Sections 88080 and 88081

17.1.F COMPLAINT TIME LIMITS SHALL BE CONSIDERED MAXIMUMS: It is important that complaints be resolved as quickly as possible, therefore the

times indicated at each level shall be considered as maximums. Time limits may be extended by mutual agreement.

REFERENCE: Education Code Sections 88080 and 88081

17.1.G COMPLAINT MUST BE FILED WITHIN 15 WORKING DAYS: A complaint must be filed at level 1 of this procedure within fifteen (15) working days of the occurrence of the violation or infraction, or within fifteen (15) working days of when the complaining party could reasonably have known of the occurrence of the act or omission giving rise to the complaint.

REFERENCE: Education Code Sections 88080 and 88081

17.1.H DEFINITION OF COMPLAINANT: A complainant is defined as an employee, employees, applicant, or any recognized classified employee organization filing a complaint involving one of the subjects covered by Rule 17.1.A.

REFERENCE: 1. Education Code Sections 88080 and 88081
2. Government Code Section 3540 et seq.

17.1.I EMPLOYEE REPRESENTATION: Any employee may have an employee organization represent his/her interests at any level of this complaint procedure.

REFERENCE: 1. Education Code Sections 88080 and 88081
2. Government Code Section 3540 et seq.

17.1.J NO REPRISALS FOR FILING OF COMPLAINT: No reprisals of any kind shall be taken by the District against the complainant or any representative of the complainant by reason of his/her bringing a complaint or participating in a complaint.

REFERENCE: 1. Education Code Sections 88080 and 88081
2. Government Code Section 3540 et. seq.

17.1.K REASONABLE RELEASE TIME: The complainant and/or his/her representative shall be provided reasonable release time, without loss of compensation, to attend conferences or hearings described in this Chapter.

REFERENCE: 1. Education Code Sections 88080 and 88081
2. Government Code Section 3540 et seq.

17.1.L MAINTENANCE OF COMPLAINT FILES: Records pertaining to complaints filed under this Chapter shall be maintained in the Personnel Commission office. All complaint records shall be maintained separately from the complainant and/or his/her representative's personnel files.

REFERENCE: Education Code Sections 88080 and 88081

- 17.1.M LEVEL ONE - FORMAL WRITTEN COMPLAINT: If successful resolution was not reached at the discussion level and the employee chooses to pursue a complaint, he/she must submit the complaint in writing to the immediate supervisor. The written complaint shall be a clear, concise statement of the complaint, including the Rule, Regulation, Policy or Procedure allegedly violated, attachment of all relevant evidence and documentation including previous level complaint correspondence, and a statement of the specific remedy sought. The immediate supervisor shall hold a conference with all interested parties on the complaint within five (5) working days of receipt. The supervisor shall submit a written response to the complainant within ten (10) working days after the conference.
- 17.1.N LEVEL TWO - DEPARTMENT/SITE ADMINISTRATOR: If the complaint is not satisfactorily adjusted by the immediate supervisor, the complaint may be submitted in writing to the appropriate highest level administrator in the department/site chain of authority within ten (10) working days of receipt of the Level 1 decision, or if the immediate supervisor has failed to respond, within ten (10) working days after the Level 1 response deadline. The written complaint shall be a clear, concise statement of the complaint, including the Rule, Regulation, Policy, or Procedure allegedly violated, attachment of all relevant evidence and documentation including previous level complaint correspondence, the reasons why the response from the Level 1 supervisor was unsatisfactory, and a statement of the specific remedy sought. The administrator shall hold a conference with all interested parties regarding the complaint within five (5) working days of receipt of the complaint. The administrator shall submit a written response to the complainant within ten (10) working days following the conference.
- 17.1.O LEVEL THREE - SUPERINTENDENT/DIRECTOR OF HUMAN RESOURCES: In the event that a Board Policy or Administrative Rule is the issue of the complaint, the Superintendent-President or designee shall be the Level 3 administrator. All other complaints shall be submitted to the Secretary to the Personnel Commission. If successful resolution was not reached at Level 2, the complaint may be submitted in writing to the Superintendent or the Secretary to the Personnel Commission as dictated by this Chapter, within ten (10) working days of receipt of the Level 2 decision, or if the department/site administrator has failed to respond, within ten (10) working days after the Level 2 response deadline. The written complaint shall be a clear, concise statement of the complaint, including the Rule, Regulation, Policy, or Procedure allegedly violated, attachment of all relevant evidence and documentation including previous level complaint correspondence, the reasons why the response from the Level 2 department/site administrator was unsatisfactory, and a statement of the specific remedy sought. The appropriate administrator shall hold a conference with all interested parties regarding the complaint within ten

(10) working days of receipt of the complaint. The appropriate administrator shall submit a written response to the complainant within ten (10) working days following the conference.

17.1.P. LEVEL FOUR - BOARD/PERSONNEL COMMISSION: In the event that a Board Policy or Administrative Regulation is the issue of the complaint, the Board shall be the Level 4 hearing body. All other complaints shall be submitted to the Personnel Commission. If successful resolution was not reached at Level 3, the complaint may be submitted in writing to the Board of Trustees or the Personnel Commission as dictated by this Chapter, within ten (10) working days of receipt of the Level 3 decision, or if the appropriate Level 3 administrator has failed to respond, within ten (10) working days after the Level 3 response deadline. The written complaint shall be a clear, concise statement of the complaint, including the Rule, Regulation, Policy, or Procedure allegedly violated, attachment of all relevant evidence and documentation including previous level complaint correspondence, the reasons why the response from the Level 3 administrator was unsatisfactory, and a statement of the specific remedy sought. If timely complaint appeal is filed, the appropriate official body shall hold a complaint hearing to hear witnesses, take evidence, and permit the submission of oral and written arguments in the case. (When the complaint goes to the Personnel Commission for hearing, the involved parties shall follow the Personnel Commission Rule 12.5). This hearing shall be held in open session unless provisions of the Brown Act permit and/or require a closed session of either the Board of Trustees or the Personnel Commission. The deliberations of the Board or Commission that are necessary to make the final decision and ruling shall be held in closed session. Within a reasonable time after receiving the record, the official body hearing the case shall render a decision on the matter. Either party may request an extension of thirty (30) working days for good cause. The decision of the official body shall be final and binding on all parties.

REFERENCE: Education Code Sections 88080 and 88081