Effectively Handling Grievances

Presented by: Karla Schultz
Why we do it...

• “The Citizens shall have the right, in a peaceable manner, to assemble together for their common good; and apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address or remonstrance.” – Texas Constitution

• Education Code § 11.1513 requires school employment policies to provide school employees the chance to present grievances to the school board
Anticipate What’s Coming
• Be proactive, anticipate a brewing or predictable complaint.

• Can it be resolved early, without becoming a formal grievance?

• Look for solutions, and don’t avoid the issues raised.
Know Your Policy
The Life Cycle of a Common Grievance

LEVEL 1:
- Receive complaint
- Conduct Level 1 conference
- Investigate
- Issue Level 1 response

LEVEL 2:
- Receive complaint
- Conduct Level 2 conference
- Investigate
- Issue Level 2 response

LEVEL 3:
- Receive appeal
- Provide notice of board meeting
- Presentation before the board
- Board acts on grievance

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Know when a different procedure may be required

- E.g., FFH, FFI, DIA

Understand and comply with the various District policies

- Failure to follow policy may result in a “do over” or a later claim of inaction
Use Grievance Forms to Guide Your Actions and Decisions
Grievance Forms:

- Provide more control over the scope of the complaint
- Require the grievant to identify all issues and requested remedies at the outset
- Help limit the growing grievance or changing remedies
Beware the Growing Grievance
Follow the Policy Timelines

don’t get behind the 8 ball
Know Your Deadlines

- When did the underlying event occur?
- How soon after an event must the complaint be filed?
- How soon after the complaint is filed must a complaint conference be held?
- How soon after the complaint conference must a response be issued?
- Does your District go by calendar days or school days?
- What is the deadline to appeal to the next level?
- When did the complainant receive the response?

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Counting and Meeting Timelines

• Determine how “days” is defined in policy

• The first business day a grievance is filed is “day zero,” following business day is “day one”

• Emails and faxes must be filed on or before deadline

• Mail filings must be postmarked on or before the deadline and received no more than 3 days after deadline

• Same timelines apply during the summer and other breaks
BE CONSISTENT

in enforcing timelines

DISMISS THE UNTIMELY GRIEVANCE

unless you believe there is a good, defensible reason to hear an untimely complaint

REMEMBER: some complaints – including harassment, discrimination, bullying, or unpaid salary – do not have the same timelines.
Memorialize any time extensions in writing

Both the complainant and the administrator should agree in writing to any extension of a timeline.
Prepare for the Grievance Conference in Advance
Preliminary Steps Before Grievance Conference

- Review the complaint and supporting documentation
- Determine if the complaint is timely
- Refer for informal resolution if appropriate
- Consider involving legal counsel
- Determine who will hear the grievance
- Prepare for your role as the presiding officer or decision-maker
- Have a reliable recording device
Remember!

Grievance policies allow an employee to file a complaint with a different supervisor if the employee claims his or her own supervisor unlawfully harassed the employee or violated the law.
Listen & Clarify During the Grievance Conference
Be a Good Listener

• Focus on developing a good understanding of the facts
• Be objective
• Ignore distracting tactics by the complainant
• Consider using a conference script
• Ask clarifying questions to improve your understanding
• Identify possible witnesses
• Seek supporting evidence
• Confirm the relief being sought

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Make a recording

• Be sure to record at least the Level 2 conference so that there is a record for the Board to review at Level 3.

• Consider making an audio recording of the Level 1 conference, especially if the issue is contentious.

• If you suspect the grievant is recording, ask, then state that you will record the conference and provide the grievant with a copy.
Starting the grievance conference

- Make sure the audio recorder works
- Note the date, time, location of the grievance
- State your name and the reason for the meeting
- Ask everyone to identify themselves
- Refer to the appropriate policy
- Review the prior procedural history of the grievance, if any

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Establish the Ground Rules

- No witnesses will be called & there will be no cross-examination
- This is the grievant’s opportunity to fully describe the complaint
- You may ask clarifying questions
- Indicate the time allotted for the presentation
- Ask the grievant if he/she has any questions
As the Conference Progresses

- Set tone of civility and professionalism
- Limit the conference to the issues stated in the complaint
- Accept supporting documentation, unless untimely
- Identify when the presentation is concluded
- Outline the process for reaching a decision
- Indicate when you will provide a response
Right to Representation

• Grievants are entitled to have a representative present during a conference or hearing that is part of the grievance process – one representative, not an army!

• Employees do not have the right to have a representative during routine personnel meetings between supervisors and employees; the same for principals and students regarding routine school matters.

• An employee’s representative must be allowed to participate in the grievance by conference call if the district has the necessary equipment.
Diffusing a grievant’s anger

- Consider using a hearing officer with rapport
- Remain calm and respectful
- Speak slowly and avoid interrupting
- Don’t be defensive or angry
- Focus on listening
- Don’t argue or try to rebut every false or outlandish statement

- Paraphrase, clarify, and gather information.
- Show empathy
- Acknowledge the complainant’s emotions or concerns
- Choose your words carefully
- Paraphrase the concerns
- Don’t suggest that you’ve reached a decision
Know Where to Draw the Line...

When?

- After one or more unsuccessful attempts at diffusing the grievant.
- If the grievant is yelling and/or cursing or otherwise causing a scene or disruption, especially in the presence of students.
- If the grievant is acting in a verbally or physically abusive manner.

How?

- Inform the grievant that his/her behavior is not acceptable.
- Tell grievant that the communication is no longer productive.
- Tell the grievant that s/he needs an opportunity to calm down & you need a chance to investigate their concerns, if applicable.
Investigate as Needed
Act Promptly

- Investigate as quickly as possible, within 1 or 2 days.
- Information will be more accurate if gathered quickly.
- Still, there should be no “rush to judgment.”
Identify the Scope of Your Investigation

• Think about the logistics of conducting the investigation – have a plan.
• Determine what documents need to be reviewed and what witnesses need to be interviewed.
• Consider what records are available and what will be needed.
• Be flexible and adjust the scope based on issues that arise during the investigation.
• Keep good notes.
When Investigating: Think Outside the Box

- Drawings
- Tests
- Photographs
- Internet history
- Grade books
- Social Media
- Lesson plans
- Hallway Footage
- Emails or Texts
- Statements
Questioning Witnesses

• Ask questions in a non-judgmental and open-ended manner to determine what the witness heard, observed, and experienced.

• Begin with general questions and move on to more specific questions.

• Follow up with additional questions, when appropriate, or clarify new issues raised by a witness.

• Develop questions to corroborate or refute information provided by other witnesses or evidence.

• Keep detailed notes of the interview, using the witness’ own words when possible.

• Keep records of who was interviewed, when, any witnesses present, and the length of the interview.

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Keep In Mind

- Your documentation could become part of a court case, board hearing, or agency complaint.

- You may be cross-examined over your documentation.

- The notes you write to yourself about an employee, parent, or student may end up in their hands, or someone else’s.
Reach a conclusion

• Avoid tossing up your hands, make a determination

• Be clear about what could or could not be substantiated

• Ask yourself: What does the weight of the evidence indicate, and why?

• Some federal laws, including Title IX, require a conclusion, and action
Issue a Clear, Legally Defensible, and Sufficiently Explanatory Response
Responding to the Complaint

- Be timely
- Limit the response to the matters raised in the written complaint and during the conference
- Use unemotional language
- Be sure your facts are accurate
- State the conclusion reached and the reasons
- Advise of appeal procedures
- Provide some record that the grievant received the response

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Know Your Audience

Prepare documentation with two types of readers in mind:

• **The intended recipient**
  - Will the document be clear to the recipient?
  - Are the complaint and remedy sought described?
  - Is your decision, and basis for it, explained?

• **Persons not directly involved in the underlying issues**
  - Can the reader understand what the complaint is?
  - Does the document clearly relay the facts in a way that an outsider would understand what occurred?
  - Can the reader determine the order that events occurred?
  - Are the facts, policies, or information that underlie your response included?
  - Is your decision understandable, and defensible?
Remember:

• What the grievance is about, and what the complaint is really seeking

• Is there something the district can, should, or will do

• Don’t rubber stamp any decision made by others

• Be creative about solutions

• It’s not a failure to provide the grievant’s remedy
Questions?

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