

### **3.29 General Employee Complaint and Grievance Process**

#### ***Purpose***

The purpose of the employee complaint process is to provide employees an orderly process for the prompt and equitable resolution of grievances. ILTexas intends that, whenever feasible, grievances be resolved at the lowest possible administrative level.

In using and applying the employee complaint process, all participants are expected to remain courteous and to adhere to the Code of Ethics and Standard Practices for Texas Educators.

#### ***Informal Process***

ILTexas encourages employees to discuss their concerns with their supervisor, Principal, or other appropriate administrator who has authority to address the concerns. Concerns should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.

#### ***Formal Process***

An employee may initiate the formal complaint process described below by timely filing a written complaint form. Even after initiating a formal complaint, employees are encouraged to seek informal resolution of concerns. An employee whose complaints are resolved may withdraw a formal complaint at any time.

The grievance process described below 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.

#### ***Freedom from Retaliation***

Neither ILTexas nor any ILTexas employee shall unlawfully retaliate against an employee for bringing a concern or complaint.

#### ***Guidelines for General Employee Complaints***

##### **Definitions**

For purposes of understanding the General Employee Complaint and Grievance Process, terms are defined as follows:

The terms “complaint” and “grievance” shall have the same meaning and may pertain to the following situations:

1. Grievances concerning an employee’s wages, hours, or conditions of work;
2. Specific allegations of unlawful discrimination in employment based on the employee’s sex or gender (including allegations of sexual harassment and/or wage discrimination on the basis of sex), race, religion, national origin, age, veteran status, or disability, following completion of an investigation by the designated Chief Equity Officer or designee set by policy; or
3. Specific allegations of unlawful discrimination or retaliation based on the employee’s exercise of constitutional rights.

The term “day” shall be defined as a school business day, unless stated otherwise in this policy. In calculating timelines under these procedures, the day a document is filed is “day zero,” and all deadlines shall be determined by counting the following school business day as “day one.”

### **Filing**

Complaint forms and appeal notices may be filed by hand-delivery, by electronic communication (including e-mail and fax), or by U.S. Mail. Hand-delivered filing 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 filing 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**

ILTexas will make reasonable attempts to schedule conferences at a mutually agreeable time. If the employee fails to appear at a scheduled conference, ILTexas 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 e-mail 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.

If the administrator addressing the complaint determines that additional time is needed to complete a thorough investigation of the complaint and/or to issue a response, the administrator shall inform the grievant in writing of the necessity to extend the response time and a specific date by when the response will be issued.

A grievance official who fails to meet a time requirement, without providing written notice of an extended deadline, shall be considered to have denied the complaint as of the date of the missed deadline.

### **Representative**

“Representative” means a person designated to represent him or her in the complaint process. An employee may designate a representative through written notice to ILTexas at any level of the grievance process. The representative may participate in person or by telephone / video conference. If the employee designates a representative with fewer than three days’ notice to ILTexas before a scheduled conference or hearing, ILTexas may reschedule the conference or hearing to a later date, if desired, in order to include the school’s counsel. ILTexas 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, ILTexas may consolidate the complaints.

**Untimely Filings**

All time limits for an employee to file a complaint 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, upon written notice to the employee, at any point during the complaint process.

**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 ILTexas.

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 re-filed with all the required information if the re-filing is within the designated time for filing.

***Formal Complaint Process***

The formal complaint process provides all employees with an opportunity to be heard up to the highest level of administrative management. Once all administrative procedures are exhausted, employees can bring concerns or complaints to the Board of Directors as outlined below.

**Level One**

Level One complaints must be filed:

1. Within ten 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
2. With the employee's immediate supervisor and the Executive Director of Human Resources. If the only administrator who has authority to remedy the alleged problem is the Superintendent or designee, ILTexas may accelerate the complaint to Level Two or Level Three as appropriate.

The employee's immediate supervisor or designee shall investigate as necessary and schedule a conference with the employee within ten days of receiving the Level One complaint. The grievance officer may set reasonable time limits for the conference.

Absent extenuating circumstances, or if there is a need to gather additional information, the grievance officer shall provide the employee with a written response within ten days following the conference. The written response will set forth the basis of the decision. In reaching a decision, the grievance officer may consider information provided at the Level One conference and any other relevant documents or

information the grievance officer 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 Level One response has expired, or if the employee is otherwise directed to do so by ILTexas, the employee may request an appeal conference with the Area Superintendent or designee. The appeal notice must be filed in writing to the Executive Director of Human Resources, on a form provided by ILTexas, within ten days 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 grievance officer will prepare and forward a record of the Level One complaint to the Executive Director of Human Resources.

The Area Superintendent or designee will 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 One. The Area Superintendent or designee may set reasonable time limits for the conference.

The Area Superintendent or designee shall provide the employee a written response within ten days following the appeal conference. The written response will set forth the basis of the decision. In reaching a decision, the Area Superintendent or designee may consider the Level One record, information provided at the Level Two conference, and any other relevant documents or information the Area Superintendent or designee believes will help resolve the complaint.

#### Level Three

If the employee did not receive the relief requested at Level Two or if the time for a Level Two response has expired, the employee may request an appeal conference with the Superintendent or Designee. The appeal notice must be filed in writing to the Superintendent or designee, on a form provided by ILTexas, within ten days of the written Level Two response or, if no response was received, within ten days of the Level Two response deadline.

After receiving notice of the appeal, the Level Two grievance officer will prepare and forward a record of the Level Two complaint (including the Level One record) to the Superintendent or designee.

The Superintendent or designee will schedule a conference within ten days after the appeal notice is filed. The Superintendent or designee may set reasonable time limits for the conference.

The Superintendent or designee shall provide the employee a written response within ten days following the appeal conference. The written response will set forth the basis of the decision. In reaching a decision, the Superintendent or designee may consider the Level One and Level Two records, information provided at the Level Three conference, and any other relevant documents or information the Superintendent or designee believes will help resolve the complaint.

#### Level Four

If the employee did not receive the relief requested at Level Three, or if the time for a Level Three response has expired, the employee may appeal to the Board of Directors. The appeal notice must be filed in writing to the Superintendent on a form provided by ILTexas within ten days of the written Level Three response or, if no response was received, within ten days of the Level Three response deadline.

The Superintendent 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 consideration by the Board. The Board of Directors will consider the grievance and may, at its discretion, require the appearance of the employee and administration.

The Board of Directors will determine whether the appeal will be considered in open or closed meeting in accordance with the Texas Open Meetings Act and other applicable law. Generally, complaints involving the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the employee bringing the complaint may be heard by the Board of Directors in a closed meeting. Complaints involving a complaint or grievance against another ILTexas employee, director, or officer shall be heard in a closed meeting unless an open meeting is requested in writing by the employee, director, or officer against whom the complaint or grievance is brought.

After considering the appeal, the Board of Directors may subsequently take action or no action. If the Board of Directors takes action, it may make and communicate 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 from the previous grievance level. The Board's decision, if any, is final and may not be appealed.

### **3.30 Process for Employee Complaints and Grievances Regarding Harassment and Discrimination**

ILTexas takes allegations of harassment and discrimination very seriously and intends to investigate all official complaints. ILTexas will take appropriate actions for all substantiated allegations. Employees who believe they are being harassed or discriminated against are requested to take the following actions:

- In the event you feel you are a victim of discrimination or harassment, you should contact your immediate supervisor and/or the designated Chief Equity Officer or Executive Director of Human Resources immediately. In the event your immediate supervisor is the alleged harasser, you should contact the next level of management immediately. Complaints against the designated Chief Equity Officer may be submitted to the Executive Director of Human Resources.
- Any employees who are uncomfortable with face-to-face interaction may write down their complaints in a memo and submit the memo to their immediate supervisor and/or the designated Chief Equity Officer.
- Any ILTexas employee who receives a report of suspected harassment or discrimination is expected to immediately contact the designated Chief Equity Officer.
- Complaints will be handled in a timely manner.

Reports of prohibited conduct shall be made as soon as possible after the alleged act or knowledge of the alleged act. A failure to promptly report may impair ILTexas' ability to investigate and address the prohibited conduct.

Any supervisor who receives a report of discrimination or harassment shall immediately notify the appropriate Chief Equity Officer, and take any other steps required by ILTexas.

After receiving a report, the Chief Equity Officer shall determine whether the allegations, if proven, would constitute prohibited discrimination or harassment. If so, ILTexas shall immediately authorize or undertake an investigation. If appropriate, ILTexas shall promptly take interim action calculated to prevent prohibited conduct during the course of an investigation.

ILTexas' investigation may be conducted by the Chief Equity Officer or designee, or by a third party designated by ILTexas, such as an attorney. When appropriate, the Principal or supervisor shall be involved in or informed of the investigation.

The investigation may consist of personal interviews with the person making the report, the person against whom the report is filed, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.

After completing an investigation, the investigator shall prepare a written report summarizing the outcome of the investigation.

If the results of an investigation indicate that prohibited conduct occurred, ILTexas shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct. ILTexas may also take action based on the results of an investigation, even if the conduct did not rise to the level of prohibited or unlawful conduct.

To the greatest extent possible, ILTexas shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. The purpose of this provision is to maintain impartiality and confidentiality to the extent possible. Both the reporting individual, victim and the accused have equal privacy rights under the law, and ILTexas must respond accordingly. However, limited disclosures may be necessary in order to conduct a thorough investigation and comply with applicable law.

An employee who is dissatisfied with the outcome of the investigation may appeal through the “General Employee Complaint and Grievance Process” described in Section 3.29 of this handbook.

ILTexas prohibits retaliation against an employee who, in good faith, makes a claim alleging to have experienced discrimination or harassment, or another employee who, in good faith, makes a report, serves as a witness, or otherwise participates in an investigation. Examples of retaliation may include termination, refusal to hire, demotion, and denial of promotion. Retaliation may also include threats, unjustified negative evaluations, or unjustified negative references.

In addition to using ILTexas’ complaint process, an employee may file a formal complaint with the Equal Employment Opportunity Commission (“EEOC”) or Texas Workforce Commission (“TWC”). Additional information may be found by visiting <http://www.eeoc.gov/employees/charge.cfm>.

### **3.31 Whistleblower Complaints**

The Texas Whistleblower Act (“TWA”) protects employees who make good faith reports of violations of law by ILTexas or another employee to an appropriate law enforcement authority. ILTexas is prohibited from suspending, terminating the employment of, or taking other adverse personnel action against an employee who makes a report under the TWA.

An employee who alleges a violation of whistleblower protection must file a written complaint to Human Resources no later than the 90th day after the date on which the alleged suspension, termination, or other adverse employment action occurred or was discovered by the employee through reasonable diligence.

Following receipt of a whistleblower complaint, the Superintendent or designee will conduct an investigation and issue a written response to the complaint. An employee who is dissatisfied with the outcome of the investigation may file an appeal to the Board of Directors through the “General Employee Complaint and Grievance Process” described in section 3.29 of this Handbook, beginning at Level Four.

ILTexas may shorten its general timelines for investigating employee complaints and concerns to allow the Board to make a final decision within 60 calendar days of the initiation of the complaint. If the Board does not render a final decision before the 61st day after a whistleblower complaint is filed, an employee may: