Sec. 1. COMPLAINTS BY MEMBERS OF THE PUBLIC

There is no requirement that the Board negotiate or even respond to complaints. However, the Board must stop, look, and listen and must consider the petition, address, or remonstrance. *Prof'l Ass'n of Coll. Educators v. El Paso Cmty. Coll. Dist., 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ ref'd n.r.e.)*

The complaint 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.

Sec. 2. GENERAL RULES FOR COMPLAINTS

In this policy, the terms "complaint" and "grievance" shall have the same meaning.

Complaints by members of the public must be filed under this policy, unless the terms of another policy apply. In such instance, Midland Academy Charter shall inform the complainant of the complaint policy that will be used in response to a grievance by a member of the public.

Midland Academy Charter encourages the public to discuss concerns and complaints through informal conferences with the appropriate administrator. Concerns should be raised as soon as possible to allow early resolution at the lowest possible administrative level.

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

The complaint 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 "mini-trial" at any level.

Sec. 3. FILING A COMPLAINT

a) *General*

Complaint forms and appeal notices must be filed by hand-delivery, by electronic communication (email or fax), or by U.S. Mail. Hand-delivered filings will 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 designee no more than three days after the deadline.

© 2020 Schulman, Lopez, Hoffer & Adelstein, LLP
All rights reserved.
SLHA Schulman, Lopez, Hoffer & Adelstein, LLP

b) ***Conferences***

Midland Academy Charter shall make reasonable attempts to schedule conferences at a mutually aggregable time. If the individual fails to appear at a scheduled conference, Midland Academy Charter may issue a decision in the individual's absence.

c) ***Response***

At Levels One and Two, "response" shall mean a written communication to the individual from the appropriate administrator. Responses may be hand-delivered, sent by electronic communication to the individual's email address of record, or sent by U.S. Mail to the individual'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 complainant in writing of the necessity to extend the response time and a specific date by which the response will be issued.

d) ***Consolidating Complaints***

Complaints arising out of an event or a series of related events shall be addressed in one complaint. Midland Academy Charter may consolidate separate or serial complaints that have been or could have been addressed in a previous complaint.

e) ***Days***

The term "days" shall mean Midland Academy Charter business days. The day a document is filed is "day zero." The following school business day is considered "day one."

f) ***Representative***

"Representative" means any person or organization that is designated by an individual to represent the individual in the complaint process.

An individual may designate a representative through written notice to Midland Academy Charter at any level of the process. If the individual designates a representative with fewer than three days' notice to Midland Academy Charter before a scheduled conference or hearing, Midland Academy Charter may reschedule the conference or hearing to a later date, if desired, in order to include Midland Academy Charter's counsel. Midland Academy Charter may be represented by counsel at any level of the process.

© 2020 Schulman, Lopez, Hoffer & Adelstein, LLP
All rights reserved.
SLHA Schulman, Lopez, Hoffer & Adelstein, LLP

g) ***Untimely Filings***

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

h) ***Costs Incurred***

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

i) ***Grievance Forms***

Complaints and appeals under this policy shall be filed in writing on a form provided by Midland Academy Charter.

Copies of all documents that support the complaint should be attached to the complaint form. If the individual 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 individual unless the individual 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 required information, if the refiling is within the designated time for filing.

Sec. 4. COMPLAINTS AND APPEALS

a) ***Level One***

Complaints must be filed:

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

If the only administrator who has authority to remedy the complaint is the Superintendent or designee, the complaint may begin at Level Two following the procedure, including deadlines, for filing the complaint form at Level One.

The appropriate administrator shall investigate as necessary and schedule a conference with the complainant within ten days after receipt of the written complaint. The administrator may set reasonable time limits for the conference.

© 2020 Schulman, Lopez, Hoffer & Adelstein, LLP
All rights reserved.

The administrator shall provide the individual with a written response within ten days following the conference. 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.

b) ***Level Two***

If the individual did not receive the relief requested at Level One or if the time for a response has expired, he or she may request a conference with Mr. Coker or designee to appeal the Level One decision.

The appeal notice must be filed, in writing, within ten days of the date of the written Level One decision 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 Mr. Coker or designee. This record shall include:

1. The original complaint form and any attachments.
2. All other documents submitted by the individual at Level One.
3. The written response issued at Level One and any attachments.
4. All other documents relied upon by the Level One administrator in reaching the Level One decision.

The Mr. Coker or designee shall hold a conference within ten days after the appeal notice is filed. The conference shall be limited to the issues presented by the individual at Level One and identified in the Level Two appeal notice. The Mr. Coker or designee may set reasonable time limits for the conference.

The Mr. Coker or designee shall provide the individual a written response within ten days following the conference. In reaching a decision, the Mr. Coker or designee may consider the Level One record, information provided at the Level Two conference, and any other relevant documents or information the Mr. Coker or designee 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.

c) ***Level Three***

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

© 2020 Schulman, Lopez, Hoffer & Adelstein, LLP
All rights reserved.

The appeal notice must be filed, in writing, within ten days of the date of the written Level Two response or, if no response was received, within ten days of the Level Two response deadline.

The Mr. Coker or designee shall inform the individual 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 Mr. Coker or designee shall provide the Board with the record of the Level Two appeal, which shall include:

1. The Level One record.
2. The notice of appeal from Level One to Level Two.
3. The written response issued at Level Two and any attachments.
4. All other documents relied upon by the administration in reaching the Level Two decision.

The appeal shall be limited to the issues and documents considered at Level Two, except that if at Level Three the administration intends to rely on evidence not included in the Level Two record, the administration shall provide the individual notice of the nature of the evidence at least three days before the Board meeting.

Midland Academy Charter 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.

The presiding officer may set reasonable time limits and guidelines for the presentation, including an opportunity for the individual 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. The Board may give notice of its decision orally or in writing at any time up to and including the next regularly scheduled Board meeting.

The Board is Midland Academy Charter's final authority to hear or decide citizen complaints. *19 Tex. Admin. Code § 100.1033(13)(C)(i)*. Failure of the Board to take action on the complaint or schedule a complaint offered at Public Comments on a future agenda indicates the Board's approval of the decision below.

Sec. 5. FREEDOM FROM RETALIATION

Neither the Board nor any Midland Academy Charter employee shall unlawfully retaliate against any individual for bringing a concern or complaint.

© 2020 Schulman, Lopez, Hoffer & Adelstein, LLP
All rights reserved.