

Rec. 5/9/2023  
AReed

**Arlington Independent School District**  
**Public Complaint Form**  
**Level Two**

Complete this form in accordance with District policy GF (LOCAL). Your complaint will be dismissed if it is submitted with incomplete information. Submit your Level Two complaint via email to HREmployeeRelations@aisd.net

1. Name DAVID L. JARVIS
2. Address & Telephone Number 500 Dorcas Lane, Arlington, TX 76013 (817) 991-7153
3. Identify the date you received the Level One decision 5-3-23
4. Attach a copy of the Level One decision and specifically identify the part(s) of the Level One decision that you factually or legally disagree with and want the superintendent's designee to review.

Hearing officer Perales did not adequately address the issue - the improper banning of observers from grievance hearings. Instead, Mr. Perales falsely characterized grievance observers as "representatives" of the grievant. This grievance has nothing to do with the presence of representatives at my grievance hearings. It is very puzzling why Mr. Perales even discussed the issue of representatives - since he knows that I have never designated anyone to ever act as my representative at any grievance hearing.

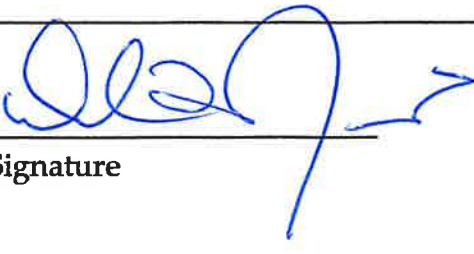
5. Specifically state why you disagree with the part(s) of the Level One decision that you identified in response to number 4 above.

I disagree with Mr. Perales's denial of my grievance because he uncritically accepted the position of AISD that Dr. Cavazos has the authority to ban observers from attending grievance hearings. Mr. Perales knows that AISD grievance policy does not expressly reference the issue of attendance of observers at grievance hearings - so there is no express authority within the present grievance policy that authorizes the Dr. Cavazos to unilaterally ban observers. Mr. Perales knows this - yet he denied my grievance without addressing the specific objections detailed in my Level One affidavit.

6. Attach the documents you relied upon at Level One (if any) and explain how they support your position at response 4 and 5 above. Only those documents identified will be considered at Level Two.

Attached - Level Two Affidavit with Exhibit One

---



---

Signature

5-9-23

---

Date Submitted

Name, address, and telephone and fax number of representative, if any, if not previously provided.

---

[email -- djarvis1776@icloud.com](mailto:djarvis1776@icloud.com)

---

---

---



May 2, 2023

David Jarvis  
500 Dorcas Lane  
Arlington, TX 76013

Re: Level I Grievance Decision

Dear Mr. Jarvis:

This is the response to your Level I Grievance, submitted on April 3, 2023. The Level I Grievance hearing was held on April 19, 2023. Present at the hearing were David Jarvis (“Grievant”), and Aaron Perales (Hearing Officer).

**BACKGROUND:**

Per Grievant’s affidavit signed on April 3, 2023:

*On both 03-08-2023 and 03-29-2023, AISD Superintendent Marcelo Cavazos unilaterally prohibited citizen observers from attending Level Three public complaint/grievance hearings. AISD attorney Dennis Eichelbaum was also present at these two hearings and clearly supported Dr. Cavazos’ wrongful decision to prohibit citizen observers from attendance at both of these Level Three AISD public complaint hearings.*

The Grievant shared that at previous Level One and Level Two Grievance Hearings, hearing officers allowed citizen observers to be present. The Grievant is asking why public observers were allowed to attend Level I and Level Two Grievance Hearings and not the Grievant’s Level Three Hearings. The Grievant is asking Arlington ISD to stay within the boundaries of AISD Board Policy: Public Complaints GF (LOCAL).

Additionally, the Grievant is asking for AISD to address the comments stated by attorney Dennis Eichelbaum within the Level Three held Grievance Hearing on March 29, 2023. The Grievant is reporting that attorney Dennis Eichelbaum referred to citizen observers as “minions” during the proceeding.

**RELIEF SOUGHT:**

Grievant seeks the following as stated in his grievance on the AISD Public Complaint Form, Level One dated April 3, 2023 and received by AISD on April 3, 2023:

*I want Dr. Cavazos to stop prohibiting citizen observers from attending Level Three grievance hearings. The expressed wording of AISD Public Complaint policy does not address the attendance of observers at Level Three hearings – so Dr. Cavazos has no authority under the policy to bar observers from these hearings.*

Per the Level One Grievance Hearing held on April 19, 2023, Grievant requested the following:

*“I want the Superintendent to back off and stop this unwarranted.... overreach by banning observers.”* The Grievant would like the Superintendent to say that observers are allowed at Level One, Level Two, Level Three and to the Board. He does not believe that banning observers is supported by the policy.



Additionally, the Grievant is petitioning that the remarks by Mr. Eichelbaum be addressed and Mr. Eichelbaum held accountable. The Grievant stated that this is a separate issue from “observers” and demeaning comments need to be addressed and held accountable by the Board of Trustees.

**ADMINISTRATION’S POSITION:**

Arlington ISD Board Policy: Public Complaints GF (LOCAL) states the following:

*"Representative" shall mean any person who or organization that is designated by an individual to represent the individual in the complaint process.*

*The individual may designate a representative through written notice to the District at any level of this process. If the individual designates a representative with fewer than three days' notice to the District before a scheduled conference or hearing, the District may reschedule the conference or hearing to a later date, if desired, in order to include the District's counsel. The District may be represented by counsel at any level of the process.<sup>1</sup>*

The attorney for the school district was not present during the Grievant’s previous Level One and Level Two Grievance Hearings. As provided in the above cited policy, the attorney for the school district attends Level One and Level Two Grievance Hearings if the Grievant has legal representation in attendance. Since the Grievant did not communicate that a “representative” would be present during previous Level One and Level Two Grievance Hearings, the hearing officers did not request that the Arlington ISD legal counsel attend the hearing.

On April 20, 2023, Mr. Jarvis addressed the Arlington ISD Board of Trustees during the Open Forum of Non-Agenda Items portion of the school board meeting. The Grievant asked the school board to intervene immediately and address the banning of observers in the grievance hearings.

**DECISION:**

The attendance of public observers was not addressed until the Level Three Grievance Hearings because the school district’s attorney was not present to provide clarifying guidance and counsel regarding the policy and practice of a representative during the Grievant’s previous Level One and Level Two Grievance Hearings. Superintendent Marcelo Cavazos was within his authority under the guidance of legal counsel to follow Arlington ISD Board Policy: Public Complaints GF (LOCAL) and excuse individuals who were identified as “observers” and not as a “representative.”

To address Grievant’s concerns regarding the effect of not allowing observers, there are available mechanisms provided by law and AISD Board Policy, including the Texas Open Meetings Act and the Texas Public Information Act, which allow for citizen participation and observation.

Regarding Attorney Eichelbaum’s comment, not only did Grievant identify it as a separate issue, but during the Level I Grievance Hearing the Grievant shared that he would be bringing his concerns to the AISD Board of



Trustees at the board meeting the following day. At this time, there is no relief to grant by this hearing officer as the grievant elected to present his concern to the school board during the school meeting on Thursday, April 20, 2023, and not through this grievance process.

<sup>1</sup><https://pol.tasb.org/PolicyOnline/PolicyDetails?key=1098&code=GF#localTabContent>

Respectfully submitted,

A handwritten signature in black ink that reads 'A Perales'.

Aaron Perales

Level I Hearing Officer

Arlington ISD

## Sworn Affidavit (Level Two)

The State of Texas

County of Tarrant

David L. Jarvis, of Arlington, Texas, personally came and appeared before me, the undersigned Notary Public, and makes this his statement, testimony and General Affidavit under oath or affirmation, in good faith, and under penalty of perjury, of sincere belief and personal knowledge that the following matters, facts, and things set forth are true and correct, to the best of his knowledge:

1. On 5-3-23, I received a Level One Grievance Decision Letter signed by hearing officer Mr. Aaron Perales and dated 5-2-23. At the beginning of this affidavit, I will present a short summary of AISD's inconsistent positions relating to observers at grievance hearings. During the period from November 2022 through January 2023 – AISD consistently allowed observers to attend at least six of my Level One grievance hearings.
2. On both 3-8-23 and again on 3-29-23, AISD Superintendent Marcelo Cavazos unilaterally prohibited citizen observers from attending these two Level Three public complaint/grievance hearings. AISD attorney Dennis Eichelbaum was also present at these Level Three hearings and clearly supported Dr. Cavazos's decision to prohibit citizen observers from attendance at both my Level Three AISD public complaint hearings.
3. At the beginning of the 3-8-23 Level Three grievance hearing, Dr. Cavazos asked me to identify the adult female present at the hearing. When Dr. Cavazos asked me if the

woman observer was my “representative”, I informed Dr. Cavazos that she was not my representative but was merely attending the hearing as a citizen observer. When I told Dr. Cavazos that she was not attending the March 8 hearing as my representative, Dr. Cavazos instructed this citizen observer to leave the hearing room before the hearing started.

4. Prior to these Level Three hearings in March 2023, hearing officer Aaron Perales (without objection or comment) allowed observers to be present when he presided over three different Level One grievance hearings on 11-29-22, 12-8-22, and 1-18-23. However, at my Level One grievance hearing on 4-19-23, for the first-time hearing officer Perales (without notice or explanation), for the first time refused to allow observers to attend the 4-19-23 Level One grievance hearing. At this hearing, I did not designate anyone as my representative. Mr. Perales also did not ask me if my observer was also my representative - he simply informed me that he would not allow any observers to attend the Level One grievance hearing on 4-19-23.
5. In the ADMINISTRATION’S POSITION section of his response letter, Mr. Perales noted the role of a “Representative” as described in the AISD Public Complaints policy GF(LOCAL)-X. As both AISD and Mr. Perales know – I have never designated any person or organization to act as my representative in any of the five (5) grievances I have filed from November 2022 through April 2023. Therefore, any references by either AISD or Mr. Perales to the role of a “Representative” at any of my six grievance hearings are simply not relevant and make no sense in light of my practice of never having a representative at any of my prior grievances.

6. In the DECISION section of his response letter, Mr. Perales denied my grievance. To support his decision, he falsely labeled my citizen observers as “representatives”. Mr. Perales and AISD are both well aware that I have never referred to citizen observers as representatives – nor have I ever designated any person or organization as my representative at any AISD grievance hearing. Given the history of my five grievances, any reference by either AISD or Mr. Perales to “representatives” playing any kind of role in any of my ten prior grievance hearings lacks any factual basis and is therefore completely irrelevant Mr. Perales’s decision in this grievance.
7. Mr. Perales’s rationale for banning observers makes no sense. Mr. Perales stated that the practice of having a representative attend Level One and Level Two grievance hearings was not addressed in prior Level One and Level Two hearings – because Mr. Perales did not have access to the school district’s attorney to provide “clarifying guidance and counsel” regarding the presence of a representative at these hearings. However, the rationale for Mr. Perales’s decision is clearly **not** based on facts applicable to any of my grievances. As I have repeatedly stated, I have never designated any person or organization to be my “representative” at any of my grievance hearings. Therefore, Mr. Perales’s decision is based on a false premise: that I appeared at any of my grievance hearings without giving notice of the attendance of my representative. This statement is not true. Mr. Perales knows that I have never appeared at any of my four Level One grievance hearings with Mr. Perales accompanied by any person I identified as my “representative”. Mr. Perales also



knows that for the past several months I have always identified anyone attending my Level One grievance hearings as “observers”, and never as “representatives”.

8. Mr. Perales also fails to provide any factual basis to support his unsupported assertion that Superintendent Marcelo Cavazos was within his authority under guidance of legal counsel (to follow AISD complaint policy) ... and excuse individuals who were identified as “observers” and not as a “representative”. Mr. Perales’s statement is vague and therefore very confusing. Does Mr. Perales mean that observers would not be banned if at least one observer was labeled as a “representative”? Mr. Perales does not explain his position with clarity – so as the grievant, I am left to speculate.
9. Per AISD Public Complaint policy, GF(LOCAL)-X, Mr. Perales is required as the hearing officer to “investigate as necessary”. Mr. Perales has not investigated the facts of my grievance as necessary to determine if my grievance has merit and should be granted. Rather than properly investigate this grievance, Mr. Perales has simply accepted without question the AISD position that Dr. Cavazos has the authority to ban observers from AISD grievance hearings.
10. As Mr. Perales well knows, the present AISD Public Complaint policy (policy) does not give any AISD official or attorney the express authority to prohibit the attendance of citizen observers at AISD public complaint hearings. The current policy was approved and issued by the AISD Board of Trustees (Board) on 7-6-2020. There is no reference in this policy to the attendance (or non-attendance) of observers at public complaint hearings. The present policy is silent on this issue and neither requires nor prohibits the attendance of citizen observers during any public complaint/grievance

hearings. Since the issue of hearing observers is not specifically addressed in the AISD Public Complaint policy, the present policy cannot fairly to interpreted to authorize or support Dr. Cavazos' unilateral decision to prohibit citizen observers from attending any AISD grievance hearings. Any changes to the current grievance complaint policy must be approved by the Board. Dr. Cavazos and attorney Eichelbaum have no authority to unilaterally amend and expand the current policy to justify their clear preference that the attendance of citizen observers at grievance hearings should be prohibited. Rather than properly seeking Board approval to amend the policy to expressly authorize AISD to prohibit observers at Level Three hearings – Dr. Cavazos instead simply ignored the constraints in the present policy and unilaterally issued an edict which prohibits citizen observers. The AISD Public Complaint policy is attached as Exhibit One to this affidavit.

11. Mr. Perales made no effort to seriously address the substance of my grievance.

Instead, Mr. Perales simply made a simple assertion (unsupported by any relevant factual or legal arguments) that Dr. Cavazos was within his authority to excuse observers. Per the AISD grievance policy, hearing officer Perales had a clear duty to investigate this grievance. However, Mr. Perales made no effort to answer any of the questions I raised in my affidavit dated 4-3-23, including:

- (a) Since the attendance of observers is not even mentioned in the present AISD grievance policy, what is the specific factual and/or legal basis of Dr. Cavazos's alleged authority to ban observers?

- (b) Since observers are not included or addressed in the present AISD grievance policy, how can observers be banned at AISD grievance hearings without the Board of Trustees first amending the present AISD grievance policy?
- (c) If Dr. Cavazos can unilaterally amend the AISD grievance power without the Board of Trustees first amending the AISD grievance policy – are there any limits to the AISD Superintendent’s discretion to expand his/her powers at grievance hearings or expand any other AISD policy?
- (d) Banning observers without clear authority to do so and without explanation undermines the integrity and transparency of the entire AISD grievance process. What is AISD hiding? What good reason exists for banning observers from AISD grievance hearings?

Under the clear wording of the AISD grievance policy, Mr. Perales has the clear duty as the assigned hearing officer to fully investigate this grievance and specifically answer any specific questions raised in my grievance. Mr. Perales did not properly perform his duty as a hearing officer and properly address the questions raised in my Level One affidavit. Instead, Mr. Perales chose to uncritically accept and adopt the extreme and unsupported position of the AISD Superintendent and his attorney.

12. Dr. Cavazos’ decision to ban citizen observers is a clear abuse of authority – as this lawless act is not clearly and expressly authorized by the wording of the AISD Public Complaint Policy. To survive as a free republic and to avoid abuses of power, those in authority must be constrained by the “rule of law”. In this case, the “law” is represented

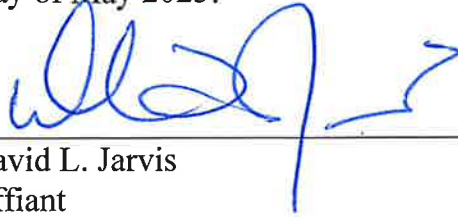
by the limits imposed on AISD officials by the express wording of the AISD Public Complaint policy.

13. The purpose of this grievance is to force AISD to stay within the boundaries established in the attached Board approved Public Complaint policy. If the power and authority of Dr. Cavazos is not limited by the express wording of the AISD Public Complaint policy – then why even have a Board approved policy if the limits imposed by that policy are simply ignored by Dr. Cavazos (or any future AISD Superintendent)? If Dr. Cavazos has the discretion and power to ban citizen observers from attendance at Level Three hearings – are there any real limits to the exercise of his discretion in the AISD grievance process?
14. Another reason to grant this grievance is to consider the troubling message AISD sends to parents and taxpayers when AISD without clear authority bans citizen observers from attending Level Three public complaint hearings. On the AISD website, the Board proclaims that they “see themselves as guardians of the public trust.” However, banning observers from Level Three hearings undermines public trust in AISD and shows a clear lack of respect for the rights of taxpayers and parents to truly know what is going on during AISD grievance hearings. Banning observers also triggers questions about the integrity and transparency of the entire AISD grievance process. Questions such as - Why does AISD ban observers at Level Three hearings? What are they hiding? Does AISD not have a clear obligation to be transparent with the public in the conduct of grievance hearings? If not, why not?

15. If the AISD Board of Trustees, the Superintendent or any Hearing Officer believes any statements in this affidavit are not accurate or incomplete, please inform me and I will take appropriate action as needed to revise this affidavit.

All statements made are of my own knowledge and are true and correct.

Dated and executed this 9<sup>th</sup> day of May 2023.



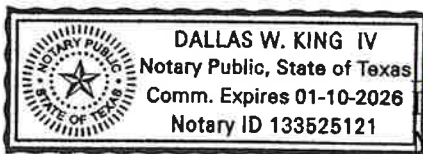
David L. Jarvis  
Affiant

The State of Texas

County of Tarrant

Before me, Dallas W. King IV, Notary Public, on this day personally appeared David L. Jarvis, known to me to be the person whose name is subscribed to the foregoing sworn affidavit under penalty of perjury, and acknowledged to me that they voluntarily executed this affidavit.

Given under my hand and official seal this day, May 9, 2023.



Dallas W. King IV, Notary Public, State of Texas  
My commission expires: 01-10-2026

<b>Complaints</b>	In this policy, the terms “complaint” and “grievance” shall have the same meaning.
Other Complaint Processes	<p>Complaints by members of the public shall be filed in accordance with this policy, except that complaints concerning instructional resources shall first be filed in accordance with EF, with appeals submitted in accordance with GF after the relevant complaint process.</p> <p>Complaints regarding refusal of entry to or ejection from District property based on Education Code 37.105 shall be filed in accordance with this policy. However, the timelines shall be adjusted as necessary to permit the complainant to address the Board in person within 90 calendar days of filing the initial complaint, unless the complaint is resolved before the Board considers it. [See GKA(LEGAL)]</p>
<b>Guiding Principles</b>	
Informal Process	<p>The Board encourages the public to discuss concerns with an appropriate administrator who has the authority to address the concerns. Concerns should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.</p> <p>Informal resolution shall be encouraged but shall not extend any deadlines in this policy, except by mutual written consent.</p>
Formal Process	<p>An individual may initiate the formal process described below by timely filing a written complaint form.</p> <p>Even after initiating the formal complaint process, individuals are encouraged to seek informal resolution of their concerns. An individual whose concerns are resolved may withdraw a formal complaint at any time.</p> <p>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.</p>
<b>Freedom from Retaliation</b>	Neither the Board nor any District employee shall unlawfully retaliate against any individual for bringing a concern or complaint.
<b>General Provisions</b>	
Filing	Complaint forms and appeal notices may be filed by hand-delivery, by electronic communication, including email and fax, or by U.S. Mail. Hand-delivered filings 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 filings shall be timely filed if they are post-marked 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

The District shall make reasonable attempts to accommodate scheduling conflicts for hearings. If the individual fails to appear at a scheduled conference, the District may hold the conference and issue a decision in the individual's absence.

Response

At Levels One, Two, and Three, "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.

Days

"Days" shall mean District business days, unless otherwise noted. In calculating timelines under this policy, the day a document is filed is "day zero." The following business day is "day one."

Representative

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

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

Untimely Filings

All time limits 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, 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.

PUBLIC COMPLAINTS

GF  
(LOCAL)

**Costs Incurred** Each party shall pay its own costs incurred in the course of the complaint, including copies.

**Complaint and Appeal Forms** Complaints and appeals under this policy shall be submitted in writing on a form provided by the District.

Copies of any 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 the required information if the refile is within the designated time for filing.

**Level One**

Complaint forms must be filed:

1. Within 15 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 or grievance; and
2. With the lowest level administrator who has the authority to remedy the alleged problem.

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

If the complaint is not filed with the appropriate administrator, the receiving administrator must note the date and time the complaint form was received and immediately forward the complaint form to the appropriate administrator.

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

Absent extenuating circumstances, the administrator shall provide the individual a written response within ten days following the conference. The written response shall set forth the basis of the decision. 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.

**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 the Level Two administrator to appeal the Level One decision.

The appeal notice must be filed in writing, on a form provided by the District, within ten days of the date 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 administrator shall prepare and forward a record of the Level One complaint to the Level Two administrator. The individual may request a copy of the Level One record.

The Level One 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 Level Two administrator shall 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. At the conference, the individual may provide information concerning any documents or information relied upon by the administration for the Level One decision. The Level Two administrator may set reasonable time limits for the conference.

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

### **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 request a conference with the Superintendent or designee to appeal the Level Two decision.

The appeal notice must be filed in writing, on a form provided by the District, 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.

After receiving notice of the appeal, the Level Two administrator shall prepare and forward a record of the Level Two appeal to the Level Three administrator. The individual may request a copy of the Level Two record.

The Level Two record 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 Level Two administrator in reaching the Level Two decision.

The Level Three conference shall be an informal conference. The conference may be recorded. The purpose of the Level Three conference is to determine if any administrative resolution is available that the complainant and the administration can agree upon absent further appeal. If a resolution is agreed upon, then the appeal is concluded.

Absent extenuating circumstances, the Level Three administrator shall provide the individual a written response within ten days following the conference.

Recordings of the Level One, Level Two, and Level Three conferences, if any, shall be maintained with the Level One, Level Two, and Level Three records.

#### **Level Four**

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

The appeal notice must be filed in writing, on a form provided by the District, within ten days of the date 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 individual of the date, time, and place of the Board meeting at which the complaint will be on the agenda for presentation to the Board.

The Superintendent or designee shall provide the Board the record of the lower level appeals. The individual may request a copy of the Level Three record.

The Level Three record shall include:

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

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

The District 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. [See BE]

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.

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 individual or his or her 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. 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 at Level Three.