

## **Texas Administrative Code**

<b><u>TITLE 19</u></b>	EDUCATION
<b><u>PART 1</u></b>	TEXAS HIGHER EDUCATION COORDINATING BOARD
<b><u>CHAPTER 1</u></b>	AGENCY ADMINISTRATION
<b><u>SUBCHAPTER E</u></b>	STUDENT COMPLAINT PROCEDURE
<b>RULE §1.110</b>	<b>Definitions</b>

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The following words and terms, when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

- (1) Agency--Texas Higher Education Coordinating Board.
- (2) Commissioner--The Commissioner of Higher Education.
- (3) Complainant or student--A current, former, or prospective student of an institution who submits a complaint to the Agency regarding that institution.
- (4) Educational association--Independent Colleges and Universities of Texas, Inc. (ICUT).
- (5) Institution--A public or private (non-profit, not-for-profit, or for-profit) institution of higher education that the legislature or the Agency has authorized to operate in Texas.
- (6) Student complaint form--A standard form, available in downloadable format on the Agency's website or in hard copy form from the Agency, which is required to be used in filing any student complaint with the Agency.

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**Source Note:** The provisions of this §1.110 adopted to be effective November 28, 2012, 37 TexReg 9353

# **Texas Administrative Code**

**TITLE 19**      EDUCATION

**PART 1**        TEXAS HIGHER EDUCATION COORDINATING  
BOARD

**CHAPTER 1**     AGENCY ADMINISTRATION

**SUBCHAPTER E**   STUDENT COMPLAINT PROCEDURE

**RULE §1.111**     **Scope and Purpose**

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(a) This subchapter shall govern all instances in which complainants file written complaints with the Agency regarding institutions.

(b) This subchapter implements Texas Education Code, §61.031, concerning Public Interest Information and Complaints, and 34 C.F.R. §600.9(a)(1) of the United States Department of Education's Program Integrity regulations, which requires each state to establish "a process to review and appropriately act on complaints concerning an institution of higher education including enforcing applicable State laws."

(c) The purpose of this subchapter is:

(1) to encourage the early resolution of student complaints through use of the institutions' grievance procedures or informal processes in appropriate cases; and

(2) to establish procedures for the administration of all student complaints filed with the Agency.

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**Source Note:** The provisions of this §1.111 adopted to be effective November 28, 2012, 37 TexReg 9353

# **Texas Administrative Code**

**TITLE 19**      EDUCATION

**PART 1**        TEXAS HIGHER EDUCATION COORDINATING  
BOARD

**CHAPTER 1**     AGENCY ADMINISTRATION

**SUBCHAPTER E**   STUDENT COMPLAINT PROCEDURE

**RULE §1.113**     **Complaints Not Reviewed by the Agency**

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The following is a non-exhaustive list of student complaints that are not reviewed by the Agency:

- (1) The Agency does not handle, investigate, or attempt to resolve anonymous complaints.
  - (2) The Agency does not intervene in matters solely concerning an individual's grades or examination results, as these are within the sole purview of the institution and its faculty.
  - (3) The Agency does not intervene in matters solely related to student life such as student housing, dining facilities, food service, violations of the student code of conduct, or student activities and organizations, as these issues are within the sole purview of the institution.
  - (4) The Agency does not handle, investigate, or attempt to resolve complaints in matters that are or have been in litigation.
  - (5) The Agency does not handle, investigate, or attempt to resolve complaints about religious institutions relating solely to their religious (as opposed to secular) standards and religious programs of study.
  - (6) The Agency does not handle, investigate, or attempt to resolve student complaints against institutions not authorized by the Agency to operate in Texas. Institutions authorized by the Agency to operate in Texas are listed on the following websites: <http://www.txhighereddata.org> and <http://www.thecb.state.tx.us>.
  - (7) The Agency does not handle, investigate, or attempt to resolve complaints regarding tribal institutions.
  - (8) The Agency does not handle, investigate, or attempt to resolve complaints about criminal matters, and instead encourages students to contact local law enforcement authorities regarding these complaints.
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**Source Note:** The provisions of this §1.113 adopted to be effective November 28, 2012, 37 TexReg 9353

# **Texas Administrative Code**

**TITLE 19**      EDUCATION

**PART 1**        TEXAS HIGHER EDUCATION COORDINATING  
BOARD

**CHAPTER 1**     AGENCY ADMINISTRATION

**SUBCHAPTER E**   STUDENT COMPLAINT PROCEDURE

**RULE §1.114**     **Filing a Complaint**

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(a) The student complaint form is available on the Agency's website. All complaints must be submitted to the Agency on the student complaint form.

(b) Complainants shall send student complaint forms by electronic mail to StudentComplaints@theceb.state.tx.us or by mail to the Texas Higher Education Coordinating Board, Office of the General Counsel, P.O. Box 12788, Austin, Texas 78711-2788. Facsimile transmissions of the student complaint form are not accepted.

(c) All submitted complaints must include a student complaint form and a signed Family Educational Rights and Privacy Act (FERPA) Consent and Release form, which is at the bottom of the student complaint form. Submitted complaints regarding students with disabilities shall also include a signed Authorization to Disclose Medical Record Information form, which is at the bottom of the student complaint form.

(d) The Agency does not handle, investigate, or attempt to resolve complaints concerning actions that occurred more than two years prior to filing a student complaint form with the Agency, unless the cause of the delay in filing the student complaint form with the Agency was the complainant's exhaustion of the institution's grievance procedures.

(e) Former students shall file a student complaint form with the Agency no later than one year after the student's last date of attendance at the institution, or within 6 months of discovering the grounds for complaint, unless the cause of the delay in filing the student complaint form with the Agency was the complainant's exhaustion of the institution's grievance procedures.

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# **Texas Administrative Code**

**TITLE 19**      EDUCATION

**PART 1**        TEXAS HIGHER EDUCATION COORDINATING  
BOARD

**CHAPTER 1**     AGENCY ADMINISTRATION

**SUBCHAPTER E**   STUDENT COMPLAINT PROCEDURE

**RULE §1.115**     **Referral of Certain Complaints to Other Agencies or  
Entities**

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Once the Agency receives a student complaint form, the Agency may refer the complaint to another agency or entity as follows:

(1) Complaints alleging that an institution has violated state consumer protection laws, e.g., laws related to fraud or false advertising, shall be referred to the Consumer Protection Division of the Office of the Attorney General of Texas for investigation and resolution.

(2) Complaints pertaining to an institution in the University of Texas System, Texas A&M University System, University of Houston System, University of North Texas System, Texas Tech University System, or Texas State University System shall be referred to the appropriate university system for investigation and resolution.

(3) If the Agency determines that the complaint is appropriate for investigation and resolution by the institution's recognized accrediting agency, the Agency may refer the complaint to the accrediting agency. If the Agency refers the complaint to such accrediting agency, the Agency may request the accrediting agency to send quarterly updates in writing to the Agency regarding the status of the investigation of the complaint and shall notify the Agency in writing of the outcome of the investigation/resolution process for the complaint. The Agency shall have the right to adopt any decision proposed or made or any course of action proposed or taken by the accrediting agency as the final resolution of the matter before the Agency. In the alternative, the Agency shall have the right to enter its own decision based on the investigative findings of the accrediting agency to the extent they are able to be provided. The Agency shall have the right to terminate the referral of the complaint to the accrediting agency at any time and may proceed to investigate and adjudicate the complaint.

(4) If the Agency determines that the complaint is appropriate for investigation and resolution by an educational association to which the institution belongs, the Agency may refer the complaint to the educational association. If the Agency refers the complaint to such an educational association, the educational association shall send monthly updates in writing to the Agency regarding the status of the investigation of the complaint and shall notify the Agency in writing of the outcome of the investigation/resolution process for the complaint. The Agency shall have the right to accept, modify, or reject any decision proposed or made or any course of action proposed or taken by the educational association. The Agency shall have the right to terminate the referral of the complaint to the educational association if the Agency determines that the educational association is not appropriately addressing the complaint.

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**Source Note:** The provisions of this §1.115 adopted to be effective November 28, 2012, 37 TexReg 9353

# **Texas Administrative Code**

**TITLE 19**      EDUCATION

**PART 1**        TEXAS HIGHER EDUCATION COORDINATING  
BOARD

**CHAPTER 1**     AGENCY ADMINISTRATION

**SUBCHAPTER E**   STUDENT COMPLAINT PROCEDURE

**RULE §1.116**     **Agency Investigation of Student Complaint**

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- (a) If a student complaint form concerns compliance with the statutes and regulations that the Agency administers and the Agency has not referred the complaint to another entity, the Agency will initiate an investigation, as described in subsections (b) - (h) of this section.
- (b) Prior to initiating an investigation, the Agency shall require the complainant to exhaust all grievance and appeal procedures that the institution has established to address student complaints. Complainants will be encouraged to consult the institution's website and student handbook, or to contact the institution's student ombudsman, Office of Student Affairs, Office of the General Counsel, or other appropriate administrative official, for information regarding the institution's processes for resolving complaints. Upon exhaustion of the institution's procedures, the complainant shall inform the Agency of the outcome of the grievance and appeal procedures and provide all documentation concerning same.
- (c) As part of the Agency's investigation of the complaint, Agency staff may contact the complainant to obtain additional information regarding the complaint.
- (d) Agency staff, as appropriate, will request a written response to the complaint from the institution. Along with a request for response, the Agency will transmit to the institution a copy of the student complaint form and any attachments thereto. The institution has thirty days from receiving the request for response to provide a written response to the complaint. Agency staff, in its discretion, may contact the institution to obtain additional information upon the Agency's receipt of the institution's response or at any time during the investigation of the complaint.
- (e) As part of its investigation, the Agency may also contact other persons or entities named in the student's complaint.
- (f) The Agency shall provide the complainant, the institution, and each person who is a subject of the complaint a copy of the Agency's policies and procedures relating to complaint investigation and resolution.
- (g) The Agency, at least quarterly until final disposition of the complaint, shall notify the complainant, the institution, and each person who is a subject of the complaint of the status of the investigation, unless the notice would jeopardize an undercover investigation.
- (h) The Agency shall maintain a file on each student complaint form filed with the Agency. The file shall include:
- (1) the name of the complainant;
  - (2) the date the complaint is received by the Agency;
  - (3) the subject matter of the complaint;
  - (4) the name of each person contacted in relation to the complaint;
  - (5) a summary of the results of the review or investigation of the complaint; and
  - (6) an explanation of the reason the file was closed, if the Agency closed the file without taking action other than to investigate the complaint.
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**Source Note:** The provisions of this §1.116 adopted to be effective November 28, 2012, 37 TexReg 9353

# **Texas Administrative Code**

**TITLE 19**      EDUCATION

**PART 1**        TEXAS HIGHER EDUCATION COORDINATING  
BOARD

**CHAPTER 1**     AGENCY ADMINISTRATION

**SUBCHAPTER E**   STUDENT COMPLAINT PROCEDURE

**RULE §1.117**    **Attempt to Facilitate an Informal Resolution to the  
Complaint**

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During the investigation of a student complaint, Agency staff shall, in appropriate cases, attempt to facilitate an informal resolution to the complaint that is mutually satisfactory to the complainant and institution.

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**Source Note:** The provisions of this §1.117 adopted to be effective November 28, 2012, 37 TexReg 9353

# Texas Administrative Code

## TITLE 19

EDUCATION

### PART 1

TEXAS HIGHER EDUCATION COORDINATING BOARD

### CHAPTER 1

AGENCY ADMINISTRATION

### SUBCHAPTER E

STUDENT COMPLAINT PROCEDURE

#### **RULE §1.118**

**Recommendation for Resolution Made to the Commissioner**

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In cases in which an informal resolution between the complainant and institution is not feasible, Agency staff shall evaluate the results of the investigation of the student complaint and recommend a course of action to the Commissioner. If Agency staff finds the complaint to be without merit following the investigation, Agency staff shall recommend that the complaint be dismissed. If Agency staff finds the complaint has merit following the investigation, Agency staff may recommend that the Commissioner require the institution to take specific action(s) to remedy the complaint.

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**Source Note:** The provisions of this §1.118 adopted to be effective November 28, 2012, 37 TexReg 9353

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**TITLE 19**      EDUCATION

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BOARD

**CHAPTER 1**     AGENCY ADMINISTRATION

**SUBCHAPTER E**   STUDENT COMPLAINT PROCEDURE

**RULE §1.119**     **Written Determination of the Commissioner**

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After receiving the Agency staff's recommendation, the Commissioner shall consider the recommendation regarding the complaint and render a written determination thereon. If the Commissioner finds the complaint is without merit, the Commissioner shall dismiss the complaint. If the Commissioner finds the complaint has merit, the Commissioner may require the institution to take specific action(s) to remedy the complaint. In the Commissioner's sole discretion, complaints regarding institutional integrity may be forwarded to the Board for its consideration and determination. The Agency shall send a copy of the Commissioner's or the Board's, as appropriate, written determination to the complainant and the institution. As necessary, the Agency may take all appropriate actions to enforce its determination.

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**Source Note:** The provisions of this §1.119 adopted to be effective November 28, 2012, 37  
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# Texas Administrative Code

TITLE 19 EDUCATION

PART 1 TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 1 AGENCY ADMINISTRATION

SUBCHAPTER E STUDENT COMPLAINT PROCEDURE

**RULE §1.120 Authority of the Commissioner to Issue Written Determinations Regarding Student Complaints**

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With regard to student complaints to the Board about a public or private (non-profit, not-for-profit, or for-profit) institution of higher education that the legislature or the Agency has authorized to operate in Texas, the Board authorizes the Commissioner to issue written determinations dismissing complaints or requiring institutions to take specific action(s) to remedy complaints. In the Commissioner's sole discretion, complaints regarding institutional integrity may be forwarded to the Board for its consideration and determination. The student complaint procedure is set out in this subchapter.

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**Source Note:** The provisions of this §1.120 adopted to be effective November 28, 2012, 37 TexReg 9353