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The Petition For Redress: Local Employee Grievances

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Every Texas public school district has a policy that provides employees the right to grieve. The policy is used so regularly in some districts that everyone knows where it is and what it says. In other districts, a principal may, since she's never heard of such a thing, wrongly but honestly explain to a teacher that their district does not have a grievance policy. The purpose of this paper is to review where the employee grievance comes from and answer some common questions regarding the process.

THE LEGAL FOUNDATION FOR THE EMPLOYEE GRIEVANCE

There are two separate legal foundations for the employee grievance: the Texas Constitution and the Texas Government Code.

The Constitutional Basis

Article I, Section 27 of the Texas Constitution states:

Employees shall have the right, in a peaceable manner, to assemble together for their common good and to apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address, or remonstrance.

Even though this Constitutional provision has existed since the Texas Constitution was adopted in 1876, the first case to address what this right meant in a practical way was not decided until 1984. In *Professional Association of College Educators v. El Paso County Community District*, 678 S.W.2d 94 (Tex. App.-El Paso 1984), the Texas Court of Appeals addressed a claim based on Article I, Section 27. In the case, a group of professors submitted a "written remonstrance" signed by a majority of the College's faculty to the College's Board of Trustees complaining of proposed changes in the College's tenure policy. The professors argued that the College violated their Constitutional rights because "the college made no response to the Plaintiff's Remonstrance; did not consider it; did not address the issues raised by it; made no effort to negotiate those issues; and thus violated the rights of the Plaintiffs." *Id.* at 96. The College acknowledged that the board had not considered the remonstrance.

After reviewing the centuries-old play between the governors and the governed and quoting from such diverse sources as Patrick Henry and Black's Law Dictionary, the Court of Appeals found that "If the right is to have any meaning whatsoever, the remonstrance must at least be considered. Even in 1641 the king in his response said he had taken the time to consider the petition setting forth the grievances of the people of that day. He even made a written response." *Id.* at 96.

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