

BP 1311

Complaints

The Governing Board believes that the quality of the education program can improve when the district listens to complaints, considers differences of opinion, and resolves disagreements through an established, objective process.

This Policy does not address the process for resolving problems at the site level. This Policy does establish a District-level complaint process to address concerns regarding the resolution (or lack thereof) of problems at the site or District level.

Unless otherwise permitted by law, complaints shall be filed only after attempts to resolve problems informally at the school site level have been unsuccessful. For example, if a complainant has raised a concern about a practice at a particular school site with the site administrator and is dissatisfied with the response (or lack thereof), he or she may file a complaint at the District level pursuant to one of the processes described in this policy. All site level administrators shall inform those whose attempts to resolve problems informally at the school site level have been unsuccessful of their ability to file a complaint at the District level.

The Superintendent or designee shall ensure that administrators and front office personnel are trained in the intake, confidentiality, and processing of formal complaints. When complainants file a formal complaint, they shall receive, in writing, an explanation of the complaint process, a complaint number, and the contact information for the District Compliance Officer. All formal complaints shall be logged in a complaint case management system.

Definitions

A “complaint” is a written and signed statement submitted on, or attached to, the proper District form, filed with the District pursuant to one of the complaint processes described in this policy. If the complainant is unable to put the complaint in writing due to disability or language barriers, the District shall assist the complainant in filing the complaint. If the complaint is submitted at the site level or with any other District employee, it shall be immediately transmitted to the District Compliance Officer (DCO). The following are not considered “complaints” within the meaning of this policy: informal or formal requests for information; informal or formal incident reports; informal requests for resolution of a particular concern or problem; concerns expressed orally or in e-mail to a District employee.

“Day” means a calendar day, unless otherwise indicated.

“School day” means a day in which the schools of the District are in session.

Different kinds of complaints have different processes for resolution, as follows:

Uniform Complaints

The district's uniform complaint procedures (UCP) shall be used to investigate and resolve the following complaints:

- a. Any complaint alleging unlawful discrimination in district programs and activities against any person based on his/her actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code 200 or 220, Government Code 11135, or Penal Code 422.55, or based on his/her association with a person or group with one or more of these actual or perceived characteristics. Unlawful discrimination includes, but is not limited to, discriminatory bullying, discriminatory intimidation, and sexual harassment. (5 CCR 4610)
- b. Any complaint alleging retaliation against a complainant or other participant in the complaint process or anyone who has acted to uncover or report a violation subject to this policy.
- c. Any complaint alleging district violation of applicable state or federal law or regulations governing adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and training programs, child care and development programs, child nutrition programs, and/or special education programs. (5 CCR 4610)
- d. Any complaint alleging district violation of the prohibition against requiring students to pay fees, deposits, or other charges for participation in educational activities. (5 CCR 4610)
- e. Any complaint alleging that the district has not complied with legal requirements related to the implementation of the local control and accountability plan (LCAP). (Education Code 52075)
- f. Any complaint against district policies, practices, procedures or employees, including any complaint alleging non-discriminatory bullying by any student or employee.

Complaints shall be filed no later than six months from the date the alleged violation occurred, or six months from the date the complainant first obtained knowledge of the alleged violation.

The Superintendent shall create administrative regulations for resolving uniform complaints that provide a simple, accessible, and well-publicized process for complainants to initiate and track the progress of their complaints. (AR 1311.) This process shall be prompt, impartial, and equitable, and shall comply with all applicable federal and state laws and regulations. The administrative regulations shall include a two-step complaint process as follows:

- a. Step One: The complainant files a complaint with the District Compliance Officer (DCO). After reviewing the complaint, the DCO or designee shall resolve the complaint and complete a written report as soon as possible, but in any event, no later than 60 days from receipt of the complaint by the DCO unless extended by written agreement of the complainant. The written report shall inform the complainant whether the complaint involves an allegation regarding (a)-(e) above, in which case the complainant has the right to appeal to the California Department of Education (CDE), or whether it involves an allegation regarding (f) above, in which case the complainant has the right to appeal to the Superintendent.
- b. Step Two: The appeal process differs depending on the nature of the complaint.
 - For complaints involving (a)-(e) above, complainants may file an appeal to the (CDE) within 15 days of receiving the DCO's or designee's written report.
 - For complaints involving (f) above, the complainant may file an appeal in writing to the Superintendent, stating the basis for the appeal, within 15 days of receiving the DCO's or designee's written report. The Superintendent or designee shall provide a written response to the appeal within 15 school days.

In order to comply with state law timelines, this policy does not permit complaints raised under subsections (a)-(g) to be appealed to the Superintendent. The Education Code does not permit complaints raised under subsection "f" to be appealed to the CDE.

Williams Complaints

A *Williams* complaint concerns sufficiency of instructional materials; emergency or urgent facilities conditions that pose a threat to the health and safety of pupils; and teacher vacancy or misassignment. The Superintendent shall create regulations for resolving *Williams* complaints that conforms to applicable law, and provides a simple, accessible, and well-publicized mechanism for complainants to initiate and track the progress of their complaints. (See AR 1312.4.)

Other Specific Complaints

Allegations by a District employee about or against another District employee shall be referred to the District's Human Resources Department.

The following complaints are referred to other agencies for resolution and not processed through the District's complaint policies and practices:

- a. Allegations of child abuse are referred to County Departments of Social Services, Protective Services Divisions, or appropriate law enforcement agency.
- b. Health and safety complaints regarding a Child Development Program are referred to the Department of Social Services for licensed facilities, and to the appropriate Child Development regional administrator for licensing-exempt facilities.
- c. Employment complaints are sent to the California Department of Fair Employment and Housing.
- d. Allegations of fraud are referred to the Deputy Superintendent or the responsible Division Director at the California Department of Education (CDE).

Effective Date

This Policy shall take effect on the date upon which the corresponding Administrative Regulation (AR) is approved by the Superintendent. Note: Because the corresponding Administrative Regulation (AR) was approved by the Superintendent on September 21, 2017, the effective date of this Policy is September 21, 2017.

Policy BERKELEY UNIFIED SCHOOL DISTRICT
adopted: June 14, 2017, Berkeley, California