

Berkeley Unified School District  
**Board of Education: Policy Sub-Committee Meeting**  
**AGENDA**

May 6, 2015

**12:30 – 2:00 p.m.**

**Superintendent's Conference Room**

2020 Bonar Street

Berkeley, CA 94702

(510) 644-8764

***The Berkeley Unified School District intends to provide reasonable accommodations in accordance with the Americans with Disabilities Act of 1990. If a special accommodation is desired, please call the Superintendent's Office 48 hours prior to the meeting at [510-644-6206](tel:510-644-6206)***

El Distrito Escolar Unificado de Berkeley tiene la intención de proporcionar adaptaciones especiales en conformidad con el *Americans with Disabilities Act of 1990* (Ley de Americanos con Discapacidades de 1990). Si usted desea una adaptación especial, por favor comuníquese con el personal de la Oficina del Superintendente 48 horas antes de la reunión al [510-644-6206](tel:510-644-6206).

1. Call to Order/Approve Agenda
2. Public Comment – 3 minutes per speaker (limited to 15 minutes)

**AGENDA ITEMS**

1. Uniform Complaint Procedure (UCP) – Board Policy (action)
2. Board Bylaws: 0100, 9000, 9005 and 9010 (action)
3. Minutes of April 8, 2015 (action)
4. Minutes of April 22, 2015 (action)
5. Enrollment Policy – Board Policy (action)
6. Calendar (discussion)

Adjournment

## **Berkeley Unified School District**

### **BP 1312.3 Uniform Complaint Procedures**

The Governing Board recognizes that the district has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs. The Board encourages the early, informal resolution of complaints whenever possible and appropriate. To resolve complaints which cannot be resolved through such informal process, the Board shall adopt a uniform system of complaint processes specified in 5 CCR 4600-4670, this policy, and the accompanying administrative regulation. This process that be prompt, impartial, and equitable and shall comply with all applicable federal and state laws and regulations.

For purposes of this policy and the accompanying regulation, "Complaint" means a written and signed statement alleging one or more violations of paragraphs #1-6 below. If the complainant is unable to put the complaint in writing, due to conditions such as a disability or illiteracy, the district shall assist the complainant in filing the complaint. (5 CCR 4600)

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

1. 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 special education programs (5 CCR 4610)

(cf. 3553 - Free and Reduced Price Meals)

(cf. 3555 - Nutrition Program Compliance)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

(cf. 5148 - Child Care and Development)

(cf. 6159 - Individualized Education Program)

(cf. 6171 - Title I Programs)

(cf. 6174 - Education for English Language Learners)

(cf. 6175 - Migrant Education Program)

(cf. 6178 - Career Technical Education)

(cf. 6178.1 - Work-Based Learning)

(cf. 6178.2 - Regional Occupational Center/Program)

(cf. 6200 - Adult Education)

2. Any complaint alleging unlawful discrimination (~~including discriminatory harassment, intimidation, or bullying~~) 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)

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 4030 - Nondiscrimination in Employment)

~~(cf. 4031 - Complaints Concerning Discrimination in Employment)~~

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

3. 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)

(cf. 3260 - Fees and Charges)

(cf. 3320 - Claims and Actions against the District)

4. Any complaint alleging that the district has not complied with legal requirements related to the implementation of the local control and accountability plan (Education Code 52075)

(cf. 0460 - Local Control and Accountability Plan)

5. 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

6. Any other complaint as specified in a district policy

Complaints alleging non-discriminatory bullying shall follow the procedures outlined in XXX. Complaints alleging a violation of district or site policy, practice, or procedure shall follow the procedures outlined in XXX. Complaints against a district employee shall follow the procedures outlined in XXX.

Anyone who files, verbally or in writing, a report that is the proper subject of a UCP complaint shall be notified of his or her right to file a complaint pursuant to this policy and accompanying regulation.

The Board recognizes that alternative dispute resolution (ADR) can, depending on the nature of the allegations, offer a process to reach a resolution to the

complaint that is agreeable to all parties. Mediation and restorative conferencing, two ~~One~~ types of ADR, ~~is mediation, which shall~~ may be offered to resolve complaints that involve more than one student and no adult.

~~Mediation is a way to resolve disagreements with the help of an impartial mediator. Another type of ADR is Restorative Conferencing which primarily addresses the harm done and does not take place until and unless the person who engaged in the misconduct has freely admitted to his/her actions and is willing to take responsibility for them. Additionally, Restorative Conferencing shall always be voluntary. Mediation and restorative conferencing~~ ADR shall not be offered or used to resolve any complaint involving sexual assault or sexual battery, even on a voluntary basis, or where there is a **reasonable** risk that a party to the ~~mediation~~ ADR would feel compelled to participate. Additionally, the use of ADR to resolve any complaint of sexual harassment requires the approval of the Title IX Coordinator. The Superintendent or designee shall ensure that the use of ADR is consistent with state and federal laws and regulations.

In filing and investigating complaints, the confidentiality of the parties involved shall be protected as required by law. As appropriate for any complaint alleging retaliation, unlawful discrimination, or bullying, the Superintendent or designee shall keep confidential the identity of the complainant and/or the subject of the complaint, if he/she is different from the complainant, as long as the integrity of the complaint process is maintained.

(cf. 5125 - Student Records)

When an allegation that is not subject to the UCP is included in a UCP complaint, the district shall refer the non-UCP allegation to the appropriate staff or agency and shall resolve the UCP-related allegation(s) through the district's UCP.

The Superintendent or designee shall provide training to district staff to ensure awareness and knowledge of current law and related requirements, including the steps and timelines specified in this policy and the accompanying administrative regulation.

The Superintendent or designee shall maintain records of all UCP complaints and the investigations of those complaints. All such records shall be destroyed in accordance with applicable state law and district policy.

(cf. 3580 - District Records)

The following complaints shall not be subject to the district's UCP but shall be referred to the specified agency: (5 CCR 4611)

1. Any complaint alleging child abuse or neglect shall be referred to the County Department of Social Services, the County Protective Services Division, and the appropriate law enforcement agency.
2. Any complaint alleging health and safety violations by a child development program shall, for licensed facilities, be referred to Department of Social Services and shall, for licensing-exempt facilities, be referred to the appropriate Child Development regional administrator.
3. Any complaint alleging employment discrimination shall be sent to the California Department of Fair Employment and Housing and the compliance officer shall notify the complainant by first class mail of the transfer.
4. Any complaint alleging fraud shall be referred to the California Department of Education.

In addition, the district's Williams Uniform Complaint Procedures, AR 1312.4, shall be used to investigate and resolve any complaint related to sufficiency of textbooks or instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff, or teacher vacancies and misassignments. (Education Code 35186)

(cf. 1312.4 - Williams Uniform Complaint Procedures)

#### Legal Reference:

##### EDUCATION CODE

200-262.4 Prohibition of discrimination

8200-8498 Child care and development programs

8500-8538 Adult basic education

18100-18203 School libraries

32289 School safety plan, uniform complaint procedures

35186 Williams uniform complaint procedures

48985 Notices in language other than English

49010-49013 Student fees

49060-49079 Student records

49490-49590 Child nutrition programs

52060-52077 Local control and accountability plan, especially

52075 Complaint for lack of compliance with local control and accountability plan requirements

52160-52178 Bilingual education programs

52300-52490 Career technical education

52500-52616.24 Adult schools

52800-52870 School-based program coordination  
54400-54425 Compensatory education programs  
54440-54445 Migrant education  
54460-54529 Compensatory education programs  
56000-56867 Special education programs  
59000-59300 Special schools and centers  
64000-64001 Consolidated application process

#### GOVERNMENT CODE

11135 Nondiscrimination in programs or activities funded by state  
12900-12996 Fair Employment and Housing Act

#### PENAL CODE

422.55 Hate crime; definition  
422.6 Interference with constitutional right or privilege

#### CODE OF REGULATIONS, TITLE 5

3080 Application of section  
4600-4687 Uniform complaint procedures  
4900-4965 Nondiscrimination in elementary and secondary education programs

#### UNITED STATES CODE, TITLE 20

1221 Application of laws  
1232g Family Educational Rights and Privacy Act  
1681-1688 Title IX of the Education Amendments of 1972  
6301-6577 Title I basic programs  
6801-6871 Title III language instruction for limited English proficient and immigrant students  
7101-7184 Safe and Drug-Free Schools and Communities Act  
7201-7283g Title V promoting informed parental choice and innovative programs  
7301-7372 Title V rural and low-income school programs  
12101-12213 Title II equal opportunity for individuals with disabilities

#### UNITED STATES CODE, TITLE 29

794 Section 504 of Rehabilitation Act of 1973

#### UNITED STATES CODE, TITLE 42

2000d-2000e-17 Title VI and Title VII Civil Rights Act of 1964, as amended  
2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964  
6101-6107 Age Discrimination Act of 1975

#### CODE OF FEDERAL REGULATIONS, TITLE 28

35.107 Nondiscrimination on basis of disability; complaints

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.67 Family Educational Rights and Privacy

100.3 Prohibition of discrimination on basis of race, color or national origin

104.7 Designation of responsible employee for Section 504

106.8 Designation of responsible employee for Title IX

106.9 Notification of nondiscrimination on basis of sex

110.25 Notification of nondiscrimination on the basis of age

Management Resources:

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS

PUBLICATIONS

Questions and Answers on Title IX and Sexual Violence, April 2014

Dear Colleague Letter: Bullying of Students with Disabilities, August 2013

Dear Colleague Letter: Sexual Violence, April 2011

Dear Colleague Letter: Harassment and Bullying, October 2010

Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office for Civil Rights:

<http://www.ed.gov/about/offices/list/ocr>

Adopted: May 21, 2003

Revised: February 1, 2006

Revised: TBD

## **Berkeley Unified School District**

### AR 1312.3 Uniform Complaint Procedures

Except as the Governing Board may otherwise specifically provide in other district policies, these general uniform complaint procedures (UCP) shall be used to investigate and resolve only the complaints specified in BP 1312.3.

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 1312.2 - Complaints Concerning Instructional Materials)

(cf. 1312.4 - Williams Uniform Complaint Procedures)

~~(cf. 4031 - Complaints Concerning Discrimination in Employment)~~

### **Compliance Officers**

The district designates the individual(s) identified below as the employee(s) responsible for coordinating the district's response to complaints and for complying with state and federal civil rights laws. The individual(s) also serve as the compliance officer(s) specified in AR 5145.3 -

Nondiscrimination/Harassment as the responsible employee to handle complaints regarding sex discrimination. The individual(s) shall receive and coordinate the investigation of complaints and shall ensure district compliance with law.

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

Dr. Susan Craig, Director, Student Services  
2020 Bonar Street, Room 112, Berkeley, CA 94702  
510-883-5224  
susancraig@berkeley.net

The compliance officer who receives a complaint may assign another compliance officer to investigate the complaint. The compliance officer shall promptly notify the complainant if another compliance officer is designated to investigate the complaint.

In no instance shall a compliance officer be designated to investigate a complaint if he/she is mentioned in the complaint or has a conflict of interest that would prohibit him/her from fairly investigating or resolving the complaint. Any complaint filed against or implicating a compliance officer may be filed with the Superintendent or designee.

The Superintendent or designee shall ensure that employees assigned to complaints receive training and are knowledgeable about the laws and programs at issue in the complaints to which they are assigned. ~~Training provided to s~~Such designated employees shall include receive training in the



following areas: applicable current state and federal laws and regulations governing the program; applicable processes for investigating and resolving complaints, including those involving alleged discrimination; applicable standards for reaching decisions on complaints; trauma-informed intake skills; support for complainant during investigation; confidentiality; and appropriate corrective measures. Designated employees may have access to legal counsel as determined by the Superintendent or designee.

### **Interim Measures**

The compliance officer or, if necessary, any appropriate administrator shall determine whether interim measures are necessary during and pending the results of an investigation. If interim measures are determined to be necessary, the compliance officer or the administrator shall consult with the Superintendent, the Superintendent's designee, or, if appropriate, the site principal to implement, if possible, one or more of the interim measures. The interim measures may remain in place until the compliance officer determines that they are no longer necessary or until the district issues its final written decision, whichever occurs first.

### **Notifications**

The district's UCP policy and administrative regulation shall be posted in all district schools and offices, including staff lounges and student government meeting rooms. (Education Code 234.1)

The Superintendent or designee shall annually provide written notification of the district's UCP to students, employees, parents/guardians, the district advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties. (Education Code 262.3, 49013, 52075; 5 CCR 4622)

(cf. 0420 - School Plans/Site Councils)  
(cf. 1220 - Citizen Advisory Committees)  
(cf. 5145.6 - Parental Notifications)

The Superintendent or designee shall ensure that all students and parents/guardians, including students and parents/guardians with limited English proficiency, have access to the relevant information provided in the district's policy, regulation, forms, and notices concerning the UCP.

If 15 percent or more of students enrolled in a particular district school speak a single primary language other than English, the district's policy, regulation, forms, and notices concerning the UCP shall be translated into that language, in accordance with Education Code 234.1 and 48985. In all other instances, the district shall ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

The notice shall:

1. Identify the person(s), position(s), or unit(s) responsible for receiving complaints
2. Advise the complainant of any civil law remedies that may be available to him/her under state or federal discrimination laws, if applicable
3. Advise the complainant of the appeal process, including, if applicable, the complainant's right to take a complaint directly to the California Department of Education (CDE) or to pursue remedies before civil courts or other public agencies, such as the U.S. Department of Education's Office for Civil Rights (OCR) in cases involving unlawful discrimination.
4. Include statements that:
  - a. The district has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs.
  - b. Federal and state laws and regulations prohibit the following:
    - i. 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 special education programs
    - ii. 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
    - iii. violation of the prohibition against requiring students to pay fees, deposits, or other charges for participation in educational activities

- iv. violation of legal requirements related to the implementation of the local control and accountability plan
  - v. 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. The complaint review shall be completed within 60 calendar days from the date of receipt of the complaint unless the complainant agrees in writing to an extension of the timeline.
- d. A complaint alleging retaliation, ~~or unlawful discrimination,~~ **or bullying** must be filed not later than six months from the date it occurred, or six months from the date the complainant first obtained knowledge of the facts of the alleged retaliation or unlawful discrimination. The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension.
- ~~e. A student enrolled in a public school shall not be required to pay a fee for his/her participation in an educational activity that constitutes an integral fundamental part of the district's educational program, including curricular and extracurricular activities.~~
- ~~f. The Board is required to adopt and annually update a local control and accountability plan (LCAP), in a manner that includes meaningful engagement of parents/guardians, students, and other stakeholders in the development and/or review of the LCAP.~~

(cf. 0460 - Local Control and Accountability Plan)

- ~~g~~e. The complainant has a right to appeal the district's decision to the CDE by filing a written appeal within 15 calendar days of receiving the district's decision.
- ~~h~~f. The appeal to the CDE must include a copy of the complaint filed with the district and a copy of the district's decision.
- ~~i~~g. Copies of the district's UCP are available free of charge.

### **District Responsibilities**

All UCP-related complaints shall be investigated and resolved within ~~60~~-30 calendar days of the district's receipt of the complaint, although this deadline

may be extended an additional 30 days unless written approval of the Superintendent. This deadline may be extended beyond a total of 60 days if ~~unless~~ the complainant agrees in writing to an extension ~~of the timeline~~. (5 CCR 4631)

The compliance officer shall maintain a record of each complaint and subsequent related actions, including steps taken during the investigation and all information required for compliance with 5 CCR 4631 and 4633.

All parties involved in the allegations shall be notified when a complaint is filed and when a decision or ruling is made. However, the compliance officer shall keep all complaints or allegations of retaliation, ~~or unlawful discrimination, or~~ ~~bullying~~ confidential except when disclosure is necessary to carry out the investigation, take subsequent corrective action, conduct ongoing monitoring, or maintain the integrity of the process. (5 CCR 4630, 4964)

### **Filing of Complaint**

The complaint shall be presented to the compliance officer who shall maintain a log of complaints received, providing each with a code number and a date stamp.

All complaints shall be filed in accordance with the following:

1. A ~~written~~ 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 special education programs may be filed by any individual, public agency, or organization. (5 CCR 4630)
2. Any complaint alleging noncompliance with law regarding the prohibition against requiring students to pay student fees, deposits, and charges or any requirement related to the LCAP may be filed anonymously if the complaint provides evidence, or information leading to evidence, to support an allegation of noncompliance. (Education Code 49013, 52075)
3. A complaint alleging unlawful discrimination, ~~including discriminatory harassment, intimidation, or bullying~~, may be filed only by a person who alleges that he/she personally suffered retaliation or unlawful discrimination or by a person who believes that an individual or any specific class of individuals has been subjected to it. The complaint shall be initiated no later than six months from the date when the alleged retaliation or unlawful discrimination occurred, or six months from the date when the complainant first obtained

- knowledge of the facts of the alleged retaliation or unlawful discrimination. The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension. (5 CCR 4630)
4. When a complaint alleging unlawful discrimination ~~or bullying~~ is filed anonymously, the compliance officer shall pursue an investigation, resolution, or other response as appropriate, depending on the specificity and reliability of the information provided and the seriousness of the allegation.
  5. When the complainant or alleged victim of unlawful discrimination ~~or bullying~~ requests confidentiality, the compliance officer shall inform him/her that the request may limit the district's ability to investigate the conduct or take other necessary action. When honoring a request for confidentiality, the district will nevertheless take all reasonable steps to investigate, respond to, and resolve the complaint consistent with the request.
  6. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, district staff shall assist him/her in the filing of the complaint. If a complainant requires translation, district staff shall assist him/her in the filing of the complaint. Notwithstanding any timeline in this policy, a complaint shall not be deemed to be filed late because of the need for such accommodations. (5 CCR 4600)

### **Mediation and Restorative Conferencing**

Within three business days after the compliance officer receives the complaint, he/she may informally discuss with all the parties the possibility of using mediation or restorative conferencing, which shall be conducted by an appropriately trained facilitator. ~~Mediation is a way to resolve disagreements with the help of an impartial mediator.~~

~~Restorative conferencing primarily addresses the harm done and does not take place until and unless the person who engaged in the misconduct has freely admitted to his/her actions and is willing to take responsibility for them. Additionally, participation in restorative conferencing shall always be voluntary.~~ Either Mediation or restorative conferencing may be offered to resolve complaints that involve more than one student and no adult. However, neither mediation nor restorative conferencing shall not be offered or used to resolve any complaint involving an allegation of a sexual assault or a sexual battery, or where there is a reasonable risk that a party to the mediation or restorative conferencing would feel compelled to participate. Additionally, the use of mediation or restorative conferencing to resolve any complaint of sexual

harassment requires the approval of the Title IX Coordinator. If the parties agree to mediation or a restorative conference, the compliance officer shall make all arrangements for this process.

Before initiating the mediation or restorative conference of a complaint alleging retaliation, or unlawful discrimination, or bullying, the compliance officer shall ensure that all parties agree to make the facilitator a party to relevant confidential information. The compliance officer shall also notify all parties of the right to end the informal process at any time and that, if any party refuses mediation or restorative conference, such refusal will not affect the conduct or outcome of the investigation or the steps the district may take to offer appropriate protections to the complainant before or after the investigation is completed.

If the mediation or restorative conference process does not resolve the problem within the parameters of law, the compliance officer shall proceed with his/her investigation of the complaint.

The use of mediation or restorative conferencing shall not extend the district's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time. If mediation or restorative conference is successful and the complaint is withdrawn, then the district shall take only the actions agreed to through the mediation. If mediation or restorative conferencing is unsuccessful, the district shall then continue with subsequent steps specified in this administrative regulation.

### **Investigation of Complaint**

Within 5 business days after the compliance officer receives the complaint, the compliance officer shall assign an investigator to investigate the complaint and shall notify the complainant that the complaint has been received. When feasible, the investigator shall begin an investigation into the complaint within 5 business days after the compliance officer receives the complaint, but in all instances ~~Within 10 business days after the compliance officer receives the complaint, the compliance officer~~ shall begin an investigation into the complaint within 10 business days after the compliance officer receives the complaint.

Upon initiating the investigation, the ~~compliance officer~~ investigator shall provide the complainant and/or his/her representative with the opportunity to present the information contained in complaint to the ~~compliance officer~~ investigator and shall notify the complainant and/or his/her representative of the opportunity to present the ~~compliance officer~~ investigator with any evidence, or information leading to evidence, to support the allegations in the complaint. Such evidence or information may be presented at any time during the investigation.

In conducting the investigation, the ~~compliance officer~~ investigator shall collect all available documents and review all available records, notes, or statements related to the complaint, including any additional evidence or information received from the parties during the course of the investigation, shall individually interview all available witnesses with information pertinent to the complaint, and may visit any reasonably accessible location where the relevant actions are alleged to have taken place. To investigate a complaint alleging retaliation, ~~or unlawful discrimination, or bullying,~~ the ~~compliance officer~~ investigator shall interview the alleged victim(s), any alleged offenders, and other relevant witnesses privately, separately, and in a confidential manner. As necessary, additional staff or legal counsel may conduct or support the investigation.

The investigator may interview a student without the presence of a parent, guardian, or representative as part of an investigation. If this occurs, the compliance office shall notify the parent or guardian within 24 hours of the interview by phone and email that the interview occurred.

A complainant's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or engagement in any other obstruction of the investigation may result in the dismissal of the complaint because of a lack of evidence to support the allegation. (5 CCR 4631)

In accordance with law, the district shall provide the investigator with access to records and other information related to the allegation in the complaint and shall not in any way obstruct the investigation. Failure or refusal of the district to cooperate in the investigation may result in a finding based on evidence collected that a violation has occurred and in the imposition of a remedy in favor of the complainant. (5 CCR 4631)

The ~~compliance officer~~ investigator shall apply a "preponderance of the evidence" standard in determining the veracity of the factual allegations in a complaint. This standard is met if the allegation is more likely to be true than not.

### **Report of Findings**

Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant a written report of the district's investigation and decision, as described in the section "Final Written Decision" below, within 60 calendar days of the district's receipt of the complaint. (5 CCR 4631)

### **Final Written Decision**

The district's decision on how it will resolve the complaint shall be in writing and shall be sent to the complainant, and ~~in cases involving sexual~~

~~harassment~~, the accused. The decision shall be sent via email or, if no email address is available, via US Mail next day delivery. (5 CCR 4631)

In consultation with district legal counsel, information about the relevant part of a decision may be communicated to a victim who is not the complainant and to other parties that may be involved in implementing the decision or affected by the complaint, as long as the privacy of the parties is protected.

If the complaint involves a limited-English-proficient student or parent/guardian and the student involved attends a school at which 15 percent or more of the students speak a single primary language other than English, then the decision shall also be translated into that language. In other all other instances, the district shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

For all complaints, the decision shall include: (5 CCR 4631)

1. The findings of fact based on the evidence gathered. In reaching a factual determination, the following factors may be taken into account:
  - a. Statements made by any witnesses
  - b. The relative credibility of the individuals involved
  - c. How the complaining individual reacted to the incident
  - d. Any documentary or other evidence relating to the alleged conduct
  - e. Past instances of similar conduct by any alleged offenders
  - f. Past false allegations made by the complainant
2. The conclusion(s) of law
3. Disposition of the complaint
4. Rationale for such disposition

For complaints of retaliation or unlawful discrimination (~~including discriminatory harassment, intimidation, or bullying~~) the disposition of the complaint shall include a determination for each allegation as to whether retaliation or unlawful discrimination has occurred.

The determination of whether a hostile environment exists may involve consideration of the following:



- a. How the misconduct affected one or more students' education
  - b. The type, frequency, and duration of the misconduct
  - c. The relationship between the alleged victim(s) and offender(s)
  - d. The number of persons engaged in the conduct and at whom the conduct was directed
  - e. The size of the school, location of the incidents, and context in which they occurred
  - f. Other incidents at the school involving different individuals
5. Corrective action(s), including any actions that have been taken or will be taken to address the allegations in the complaint and including, with respect to a student fees complaint, a remedy that comports with Education Code 49013 and 5 CCR 4600

For complaints of unlawful discrimination, ~~including discriminatory harassment, intimidation, or bullying~~, the notice may, as required by law, include:

- a. The corrective actions imposed on the individual found to have engaged in the conduct that relate directly to the subject of the complaint
  - b. Individual remedies offered or provided to the subject of the complaint
  - c. Systemic measures the school has taken to eliminate a hostile environment and prevent recurrence
6. Notice of the complainant's right to appeal the district's decision within 15 calendar days to the CDE and procedures to be followed for initiating such an appeal
7. A means to contact the compliance officer with questions regarding the implementation of the decision, with concerns that the corrective action(s) are not being following, or with information regarding any recurrence or retaliation

~~The decision may also include follow up procedures to prevent recurrence or retaliation and for reporting any subsequent problems.~~

For complaints alleging unlawful discrimination ~~(including discriminatory harassment, intimidation, and bullying)~~ based on state law, the decision shall also include a notice to the complainant that:

1. He/she may pursue available civil law remedies outside of the district's complaint procedures, including seeking assistance from mediation centers or public/private interest attorneys, 60 calendar days after the filing of an appeal with the CDE. (Education Code 262.3)
2. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law. (Education Code 262.3)
3. Complaints alleging unlawful discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the U.S. Department of Education, Office for Civil Rights at [www.ed.gov/ocr](http://www.ed.gov/ocr) within 180 days of the alleged unlawful discrimination.

### **Corrective Actions**

When a complaint is found to have merit, the compliance officer shall adopt any appropriate corrective action permitted by law. Appropriate corrective actions that focus on the larger school or district environment may include, but are not limited to, actions to reinforce district policies, training for faculty, staff, and students, updates to school policies, or school climate surveys.

For complaints involving retaliation, ~~or unlawful discrimination, or bullying,~~ appropriate corrective actions that focus on the victim may include, but are not limited to, the following:

1. Counseling
2. Academic support
3. Health services
4. Assignment of an escort to allow the victim to move safely about campus
5. Information regarding available resources and how to report similar incidents or retaliation
6. Separation of the victim from any other individuals involved, provided the separation does not penalize the victim

7. Restorative justice
8. Follow-up inquiries to ensure that the conduct has stopped and there has been no retaliation
9. Determination of whether any past actions of the victim that resulted in discipline were related to the treatment the victim received and described in the complaint

| For complaints involving retaliation, or unlawful discrimination, ~~or bullying~~, appropriate corrective actions that focus on a student offender may include, but are not limited to, the following:

1. Transfer from a class or school as permitted by law
2. Parent/guardian conference
3. Education regarding the impact of the conduct on others
4. Positive behavior support
5. Referral to a student success team
6. Denial of participation in extracurricular or co-curricular activities or other privileges as permitted by law
7. Disciplinary action, such as suspension or expulsion, as permitted by law

| The district may also consider training and other interventions ~~for the larger school community~~ to ensure that students, staff, and parents/guardians understand the types of behavior that constitute retaliation or unlawful discrimination, ~~including discriminatory harassment, intimidation, or bullying~~, that the district does not tolerate it, and how to recognize, report, and respond to it.

If a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges or any requirement related to the LCAP is found to have merit, the district shall provide a remedy to all affected students and parents/guardians. (Education Code 49013, 52075)

For complaints alleging noncompliance with the laws regarding student fees, such remedies, where applicable, shall include reasonable efforts to ensure full reimbursement to affected students and parents/guardians. (Education Code 49013; 5 CCR 4600)

### **Appeals to the California Department of Education**

Upon notification by the CDE that the complainant has appealed the district's decision, the Superintendent or designee shall forward the following documents to the CDE: (5 CCR 4633)

1. A copy of the original complaint
2. A copy of the written decision
3. A summary of the nature and extent of the investigation conducted by the district, if not covered by the decision
4. A copy of the investigation file including, but not limited to, all notes, interviews, and documents submitted by the parties and gathered by the investigator
5. A report of any action taken to resolve the complaint
6. A copy of the district's uniform complaint procedures
7. Other relevant information requested by the CDE

Adopted: January 11, 2011

Revised: September 14, 2011

Revised: TBD

## BB 0100 Philosophy, Goals, Objectives and Comprehensive Plans

As part of its responsibility to establish a guiding vision for the district, the Governing Board shall develop and regularly review a set of fundamental principles which describes the district's beliefs, values or tenets. The Board and district staff shall incorporate this philosophy in all district programs and activities.

(cf. 9000 - Role of the Board)

It is the philosophy of the district that:

1. All students can learn and succeed, and that race, ethnicity or socio-economic background shall not be a predictor of educational achievement.
2. Every student in the district, regardless of gender, race, special needs, disability, or social, ethnic, language, economic background, sexual orientation or gender identity has a right to a high-quality education that challenges the student to achieve to his/her fullest potential.
3. The success of our students and our community depends on students possessing the skills to be lifelong learners and effective, contributing members of society.
4. A safe, nurturing environment is necessary for learning.
5. Parents/guardians have a right and an obligation to participate in their child's education.
6. Families are welcomed and invited to be a part of a child's school.
7. Student' learning is affected by social, health and economic conditions and other factors outside the classroom.
8. Students and staff respond positively to high expectations and recognition for their accomplishments.
9. Continuous school improvement is necessary to meet the needs of students in a changing economy and society.
10. The diversity of the student population and staff enriches the learning experience for all students.

11. A highly skilled and dedicated staff has a direct and powerful influence on students' lives and learning.
12. A high level of communication, trust, respect and teamwork among Board members and the Superintendent contributes to effective decision making.
13. The community provides an essential resource to the educational program and student success.
14. Effective communication with all stakeholders helps build support for the schools.
14. ADD SOMETHING ABOUT COMMUNITY COLLABORATION [KH]
15. Accountability for the district's programs and operations is shared by the entire educational community, with the ultimate accountability resting with the Board as the basic embodiment of representative government.

Legal Reference:

EDUCATION CODE

51002 Local development of programs based on stated philosophy and goals

51019 Definition of philosophy

Updated: TBD

BB 9000 Role of the

Board ~~Legal Status and~~

~~Responsibilities~~

1. ~~School District Legal Status. Under the Constitution of the United States, responsibility for public education is delegated to the states (Tenth Amendment).~~

~~The Constitution of the State of California makes the state legislature responsible for providing for a system of free public schools (IX-5) and gives it power to provide for the organization, incorporation, and classification of school districts (IX-14).~~

~~The district has been established and classified as a unified city school district because it maintains grades kindergarten through 12 (Education Code [83](#)) and because the district lies wholly within the City of Berkeley (Education Code [84](#)).~~

2. ~~School Board Legal Status. The district is governed by a Governing Board through authority derived from the California Constitution (Article XI), the State of California Education Code [5200](#) et seq., the California State Board of Education Rules and Regulations, and the Charter of the City of Berkeley (Sec. 96, Art. XV).~~

3. ~~Board Authority. The Board shall have entire control and management of the public schools in the city in accordance with the Constitution and general laws of the state, and is vested with all the powers and charged with all the duties provided by the Berkeley City Charter and the general laws of the state for City Boards of Education.~~

~~The Board has the power and responsibility to discharge any duty imposed by law upon it or upon the district of which it is the Board.~~

~~The Board may initiate, finance and carry on any program, activity, or may otherwise act in any manner which is not in conflict with or inconsistent with, or prohibited by law. (Education code [35160](#)).~~

4. ~~Board Members Governance Standards. The Board believes that its primary responsibility is to act in the best interests of every district student. The Board also has commitments to parents /guardians, all members of the community, employees, the state of California, laws pertaining to public education, and established policies of the district. To maximize Board effectiveness and maintain public confidence in district governance, Board members are expected to govern responsibly, within the laws and hold themselves to the highest standards of ethical conduct.~~

(cf. [9005](#)—Governance Standards)

(cf. [9200](#)—Limits of Board Member Authority)

### Board Responsibilities and Duties

~~While the Board may delegate any of its duties to the Superintendent or designee, it shall be ultimately responsible for the performance of any duties it delegates. (Education Code [35161](#)).~~

~~The Board is elected by the community to provide stewardship, leadership and citizen oversight of the district's schools. The Board takes a broad view of its functions which include the following:~~

~~1. Educational Leadership. The Board is responsible for advocating for the educational needs of children and youth and providing community leadership on behalf of the district and public education.~~

(cf. [0510](#)—School Accountability Report Card)

(cf. [1020](#)—Youth Services)

(cf. [1100](#)—Communication with the Public)

(cf. [1112](#)—Media Relations)

(cf. [1160](#)—Political Processes)

(cf. 1400—Relations between Other Governmental Agencies and the Schools)

(cf. 1700—Relations between Private Industry and the Schools)

(cf. [9010](#)—Public Statements) This is CSBA recommended.

~~2. Setting Direction for the District. The Board shall insure the involvement of the community, parents/guardians, students and staff in developing and maintaining a common vision for the district focused on learning and achievement and responsive to the needs of all students.~~

(cf. [0000](#)—Vision)

(cf. [0200](#)—Goals for the School District)

~~3. Policymaking and Legislative. The Board shall be responsible for and govern the schools by adopting, evaluating and updating policies consistent with the law and the district's vision and goals.~~



4. ~~Hiring and Supervision of Superintendent~~ The Board is responsible for the employment, guidance and support of a superintendent who shall carry out its policy through the development and implementation of administrative regulations. The Board shall conduct regular and timely evaluations of the Superintendent based on the vision, goals and performance of the district and ensure that the Superintendents hold district personnel accountable.

5. ~~Hiring and Supervision of Attorney and Auditor.~~ The Board is responsible for the selection and hiring of the districts chief legal counsel and independent auditor, both of whom work directly for the Board. It is important for the Board to feel that the attorney providing counsel to the board and the Auditor reviewing the districts financial statements understand and value the board's unique fiduciary duties and governance role. They should be interviewed and selected by the Board and report directly to the Board.

(cf. [3410](#) Audit Committee)

#### 6. ~~Curriculum Adoption and Graduation Requirements.~~

The Board is responsible for adopting district curriculum and monitoring student progress.

(cf. [6011](#) Academic Standards)

(cf. [6141](#) Curriculum Development and Evaluation)

(cf. [6146.1](#) High School Graduation Requirements)

(cf. [6162.5](#) Student Assessment)

(cf. [6162.52](#) High School Exit Examination)

7. ~~Fiscal Responsibility.~~ The Board is responsible for conserving, enhancing and protecting the resources of the district. As part of its fiduciary duties, the Board shall adopt a fiscally responsible budget based on the district's vision and goals, and regularly monitor the fiscal health of the district

(cf. [3410](#) Audit Committee)

8. ~~Safe Educational Environment.~~ The Board is responsible for ensuring that a safe and appropriate educational environment is provided to all students

(cf. 0450 Comprehensive Safety Plan)

(cf. [3516](#) Emergencies and Disaster Preparedness Plan)

~~(cf. 7110—Facilities Master Plan)~~

~~(cf. [7150](#)—Site Selection and Development)~~

~~(cf. 7210—Facilities Financing)~~

9. ~~Collective Bargaining. The Board is the legal representative of the district in negotiations with employee representatives. In carrying out the collective bargaining process, the Board shall establish a framework and philosophy for the district's collective bargaining process and adopt responsible agreements~~

~~(cf. 4141/4241—Collective Bargaining Agreement)~~

~~(cf. 4143/4243—Negotiations/Consultation)~~

10 Judicial, Appeals and Subpoenas and Oaths.

~~The Board is responsible for establishing complaint procedures that provide for due process and facilitate the satisfactory resolution of issues. The Board shall convene to serve as a judicial and appeals body and serve as the final decision maker in accordance with law, Board policies and negotiated agreements.~~

~~Any member of the board, when authorized by the Board shall have the power to administer oaths or affirmations or issue subpoenas to compel, by subpoena, the production of books, papers, and documents, and to take and hear testimony concerning any matter or thing pending before the Board. (City of Berkeley Charter Section 20—Administering oaths, subpoenas.)~~

~~(cf. [1312](#)—Complaints Concerning the Schools)~~

~~(cf. [1312.1](#)—Complaints Concerning District Employees)~~

~~(cf. [1312.3](#)—Uniform Complaint Procedures)~~

~~(cf. 4031—Complaints Concerning Discrimination in Employment) (cf. 4117.3—Personnel Reduction)~~

~~(cf. 4117.4—Dismissal)~~

~~(cf. 4144/4244/4344—Complaints)~~

~~(cf. 4218—Dismissal/Suspension/Disciplinary Action)~~

~~(cf. [5116.1](#)—Intradistrict Open Enrollment)~~

~~(cf. [5117](#) - Interdistrict Attendance)~~

~~(cf. [5119](#) - Students Expelled from Other Districts)~~

~~(cf. [5125.3](#) - Challenging Student Records)~~

~~(cf. [5144.1](#) - Suspension and Expulsion/Due Process)~~

~~(cf. [6159.1](#) - Procedural Safeguards and Complaints for Special Education)~~

~~(cf. [6164.6](#) - Identification and Education Under Section 504)~~

The Governing Board has been elected by the community to provide leadership and citizen oversight of the district. The Board shall ensure that the district is responsive to the values, beliefs, and priorities of the community.

The Board shall work with the Superintendent to fulfill its major responsibilities, which include:

1. Setting the direction for the district through a process that involves the community, parents/guardians, students, and staff and is focused on student learning and achievement

(cf. [0100](#) - Philosophy)

2. Establishing an effective and efficient organizational structure for the district by:

a. Employing the Superintendent and setting policy for hiring of other personnel

(cf. [2110](#) - Superintendent Responsibilities and Duties)

(cf. [2120](#) - Superintendent Recruitment and Selection)

(cf. [2121](#) - Superintendent's Contract)

(cf. [4000](#) - Concepts and Roles)

(cf. [4111](#) - Recruitment and Selection)

(cf. [4211](#) - Recruitment and Selection)

(cf. [4311](#) - Recruitment and Selection)

b. Overseeing the development and adoption of policies

(cf. [9310](#) - Board Policies)

c. Establishing academic expectations and adopting the curriculum and instructional materials

(cf. [6011](#) - Academic Standards)

(cf. [6141](#) - Curriculum Development and Evaluation)

(cf. [6146.1](#) - High School Graduation Requirements)

(cf. [6146.5](#) - Elementary/Middle School Graduation Requirements)

(cf. [6161.1](#) - Selection and Evaluation of Instructional Materials)

d. Establishing budget priorities and adopting the budget

(cf. [3000](#) - Concepts and Roles)

(cf. [3100](#) - Budget)

(cf. [3312](#) - Contracts)

e. Providing safe, adequate facilities that support the district's instructional program

(cf. [3517](#) - Facilities Inspection)

(cf. [7110](#) - Facilities Master Plan)

(cf. [7150](#) - Site Selection and Development)

(cf. [7210](#) - Facilities Financing)

f. Setting parameters for negotiations with employee organizations and ratifying collective bargaining agreements

[4141/4241](#) - Collective Bargaining Agreement)

(cf. [4143/4243](#) - Negotiations/Consultation)

3. Providing support to the Superintendent and staff as they carry out the Board's direction by:

- a. Establishing and adhering to standards of responsible governance
  - (cf. [9005](#) - Governance Standards)
  - (cf. [9011](#) - Disclosure of Confidential/Privileged Information)
  - (cf. [9200](#) - Limits of Board Member Authority)
  - (cf. [9270](#) - Conflict of Interest)
- b. Making decisions and providing resources that support district priorities and goals
- c. Upholding Board policies
- d. Being knowledgeable about district programs and efforts in order to serve as effective spokespersons
  - (cf. [9240](#) - Board Development)
  - (cf. [9400](#) - Board Self-Evaluation)
- 4. Ensuring accountability to the public for the performance of the district's schools by:
  - a. Evaluating the Superintendent and setting policy for the evaluation of other personnel
    - (cf. [2140](#)- Evaluation of the Superintendent)
    - (cf. [4115](#) - Evaluation/Supervision)
    - (cf. [4215](#) - Evaluation/Supervision)
    - (cf. [4315](#) - Evaluation/Supervision)
  - b. Monitoring and evaluating the effectiveness of policies
  - c. Serving as a judicial (hearing) and appeals body in accordance with law, Board policies, and negotiated agreements
    - (cf. [1312.1](#) - Complaints Concerning District Employees)
    - (cf. [1312.2](#)- Complaints Concerning Instructional Materials)
    - (cf. [1312.3](#) - Uniform Complaint Procedures)

- (cf. [1312.4](#) - Williams Uniform Complaint Procedures)
  - (cf. [4031](#) - Complaints Concerning Discrimination in Employment)
  - (cf. [4117.3](#) - Personnel Reduction)
  - (cf. [4117.4](#) - Dismissal)
  - (cf. [4144/4244/4344](#) - Complaints)
  - (cf. [4218](#) - Dismissal/Suspension/Disciplinary Action)
  - (cf. [5116.1](#) - Intradistrict Open Enrollment)
  - (cf. [5117](#) - Interdistrict Attendance)
  - (cf. [5119](#) - Students Expelled from Other Districts)
  - (cf. [5125.3](#) - Challenging Student Records)
  - (cf. [5144.1](#) - Suspension and Expulsion/Due Process)
  - (cf. [6159.1](#) - Procedural Safeguards and Complaints for Special Education)
  - (cf. [6164.6](#) - Identification and Education Under Section 504)
  - d. Monitoring student achievement and program effectiveness and requiring program changes as necessary
    - (cf. [6162.5](#) - Student Assessment)
    - (cf. [6162.51](#) - State Academic Achievement Tests)
    - (cf. [6162.52](#) - High School Exit Examination)
    - (cf. [6190](#) - Evaluation of the Instructional Program)
  - e. Monitoring and adjusting district finances
    - (cf. [3460](#) - Financial Reports and Accountability)
  - f. Monitoring the collective bargaining process
5. Providing community leadership and advocacy on behalf of students, the district's educational program, and public education in order to build support within the local community and at the state and national levels

(cf. [1020](#) - Youth Services)

(cf. [1100](#) - Communication with the Public)

(cf. [1112](#) - Media Relations)

(cf. [1160](#) - Political Processes)

(cf. [1400](#) - Relations between Other Governmental Agencies and the Schools)

(cf. [1700](#) - Relations between Private Industry and the Schools)

(cf. [9010](#) - Public Statements)

The Board is authorized to establish and finance any program or activity that is not in conflict with, inconsistent with, or preempted by law. (Education Code [35160](#))

Legal Reference:

EDUCATION CODE

[5304](#) Duties of Board (re school district elections)

[12400-12405](#) Authority to participate in federal programs

[17565-17592](#) Board duties re property maintenance and control

[33319.5](#) Implementation of authority of local agencies

[35000](#) District name

[35010](#) Control of district; prescription and enforcement of rules

[35020-35046](#) Officers and agents

[35100-35351](#) Governing boards, especially:

[35160-35185](#) Powers and duties

[35291](#) Rules

Management Resources:

CSBA PUBLICATIONS

Maximizing School Board Governance

Professional Governance Standards, November 2000

~~Maximizing School Board Leadership: The Role and Function of California's School Boards, 1996~~

#### NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS

The Key Work of School Boards, 2000

#### WEB SITES

CSBA: <http://www.csba.org>

CBSA Governance Institute:

<http://www.csba.org/gi>><http://www.csba.org>><http://www.csba.org/gi>

National School Boards Association: <http://www.nsba.org>

(2/97 3/01) 7/06

~~Bylaw BERKELEY UNIFIED SCHOOL DISTRICT~~

~~Adopted: April 20, 2005 Berkeley, California~~

Updated: TBD



Berkeley Unified School District  
Governance Standards

BB 9005 Governance Standards

The Governing Board believes that its primary responsibility is to act in the best interests of every student in the district. The Board also has major commitments to parents/guardians, all members of the community, employees, the state of California, laws pertaining to public education, and established policies of the district. To maximize Board effectiveness and public confidence in district governance, Board members are expected to govern responsibly and hold themselves to the highest standards of ethical conduct.

(cf. [9000](#) - Role of the Board)

(cf. [9270](#) - Conflict of Interest)

The Board expects its members to work with each other, the Superintendent and district staff to ensure that a high-quality education is provided to each student. Each individual Board member shall uphold the following governing principles:

1. Keep learning and achievement for all students as the primary focus
2. Value, support and advocate for public education

(cf. [9010](#) - Public Statements)

3. Recognize and respect differences of perspective and style on the Board and among staff, students, parents and the community
4. Keep confidential matters confidential
5. Commit the time and energy necessary to be an informed and effective leader and participate in professional development
6. Understand the distinctions between Board and staff roles, and refrain from performing management functions that are the responsibility of the Superintendent and staff
7. Understand that authority rests with the Board as a whole and not with individuals and that an individual Board member has no legal authority to direct the Superintendent on an individual basis. Refrain from making statements of personal opinion that would be interpreted as having Board approval, either during Board meetings or out of meetings
8. Periodically evaluate its own effectiveness

(cf. [9200](#) - Limits of Board Member Authority)

Board members shall assume collective responsibility for building unity and creating a positive organizational culture. To operate effectively, the Board shall have a unity of purpose and: 1. Keep the district focused on learning and achievement for all students 2. Communicate a common vision

(cf. [0000](#) - Vision)

(cf. [0200](#) - Goals for the School District)

3. Operate openly, with trust and integrity

4. Govern in a dignified and professional manner, treating everyone with civility and respect

5. Govern within Board-adopted policies and procedures and abide by and uphold the adopted policies of the Board regardless of whether the individual Board member voted for the adoption

6. Take collective responsibility for the Board's performance

8. Ensure opportunities for the diverse range of views in the community to inform Board deliberations

(cf. [1220](#) - Citizen Advisory Committees)

(cf. [9323](#) - Meeting Conduct)

Legal Reference:

EDUCATION CODE

[35010](#) Power of governing board to adopt rules for its own

governance [35160](#) Board authority to act in any manner not conflicting

with law [35164](#) Actions by majority vote

GOVERNMENT CODE

[1090](#) Financial interest in contract

[1098](#) Disclosure of confidential information

[1125-1129](#) Incompatible activities

[54950-54963](#) The Ralph M. Brown Act

[87300-87313](#) Conflict of interest code

Management Resources:

CSBA PUBLICATIONS

CSBA Professional Governance Standards, 2000

Maximizing School Board Leadership: Boardsmanship, 1996

WEB SITES

CSBA: [www.csba.org](http://www.csba.org)

Bylaw BERKELEY UNIFIED SCHOOL DISTRICT

Adopted: April 20, 2005

Updated: TBD

Berkeley Unified School District

BB 9010 Public Statements

The Governing Board recognizes the ~~rights~~ the responsibility of Board members in their role as community leaders to participate in public discourse on matters of civic or community interest, including those involving the district, and their right to freely express their views and encourages open discussion of issues during the Board meeting. ~~The Board believes that effective Board members have a responsibility to express themselves, whether in agreement or disagreement with the Board majority, in ways that promote the Board's ability to govern the district.~~ However, to ensure communication of a consistent, unified message regarding district issues, Board members are expected to respect the authority of the Board to choose its representatives to communicate its positions and to abide by established protocols.

~~When speaking to community groups, the media, or other members of the public, and during Board meetings, individual Board members should recognize that their statements may be perceived as reflecting the views and positions of the Board. Board members have a responsibility to identify personal viewpoints as such and not as the viewpoint of the Board.~~

All official public statements authorized to be made on behalf of the Board shall be made by the Board president or, if appropriate, by the Superintendent or other designated representative.

(cf. [2110](#) - Superintendent Responsibilities and Duties)

(cf. [9121](#) - President)

(cf. [9200](#) - Limits of Board Member Authority)

When speaking for the district, the Board encourages its spokespersons to exercise restraint and tact and to communicate the message in a manner that promotes public confidence in the Board's leadership.

Board spokespersons shall not disclose confidential information or information received in closed session except when authorized by a majority of the Board. (Government Code [54963](#))

(cf. [9005](#) - Governance Standards)

(cf. [9011](#) - Disclosure of Confidential/Privileged Information)

When speaking to community groups, members of the public, or the media, individual Board members should recognize that their statements may be perceived as reflecting the views and positions of the Board. Board members have a responsibility to identify personal viewpoints as such and not as the viewpoint of the Board.

(cf. [1100](#) - Communication with the Public)

(cf. [1112](#) - Media Relations)

In addition, the Board encourages members who participate on social networking sites, blogs, or other discussion or informational sites to conduct themselves in a respectful, courteous, and professional manner and to model good behavior for district students and the community. Such electronic communications are subject to the same standards and protocols established for other forms of communication, and the disclosure requirements of the California Public Records Act may likewise apply to them.

(cf. [1113](#) - District and School Web Sites)

(cf. [1114](#) - District-Sponsored Social Media)

(cf. [1340](#) - Access to District Records)

(cf. [9012](#) - Board Member Electronic Communications)

Legal Reference:

EDUCATION

CODE

[35010](#) Control of district; prescription and enforcement of rules

GOVERNMENT CODE

[6250-6270](#) California Public Records Act

[54960](#) Actions to stop or prevent violation of meeting provisions [54963](#) Confidential information in closed

session Management Resources:

WEB SITES

CSBA: <http://www.csba.org>

(9/90 6/94) 8/13

~~Bylaw BERKELEY UNIFIED SCHOOL DISTRICT~~

~~Adopted: April 20, 2005 Berkeley, California~~

Updated: TBD

Berkeley Unified School District  
**Board of Education: Special Policy Sub-Committee Meeting Minutes**  
**April 8, 2015**  
**12:30 - 1:30**

Superintendent's Conference Room  
2020 Bonar Street, Suite 322  
Berkeley, CA 94702  
(510) 644-8764

*In Attendance:*

President Appel  
Director Daniels  
Superintendent Evans  
Susan Craig, Director, Student Services

*1. Call to Order/ Approve Agenda*

Meeting called to order at 12:32 pm  
Agenda approve 2-0 (Daniels/Appel)  
Appel: Yes Daniels: Yes

*2. Public Comment (limited to 15 minutes)* .Two people spoke to the subcommittee regarding the District's Uniform Complaint Policy.

Discussion on Board Bylaws and whether Advisory Committees fall under the provision of the Brown Act. Director Daniels indicated that normally they would be subject to the Act. Also suggested that members serve only one term.

*3. Approve Minutes 2-0 (Daniels/Appel)*

Appel: Yes Daniels: Yes

Regarding Uniform Complaint Policy, Director Daniels indicated this version is a CSBA template with input from OCR and CDE. The OCR felt strongly that it was wrong to use mediation in certain situations, including those involving sexual violence.

Dr. Craig will revise language in UCP regarding mediation. President Appel suggested adding restorative practices. Director Daniels felt that the power imbalance in these types of situations might not lend itself to the use of this practice.-

*Special Board Policy Committee meeting called to Order at 1:00 p.m.*

Jay Nitschke, Director of Technology, walked through the Records Retention Policy and Administrative Regulation. A system is needed to retain emails within the district for a specific time period.

Anything over a year becomes a burden. In the Administrative Regulation, he suggests adding language that the District cannot archive phone records. Dr. Craig suggests moving BHS student records to an electronic format.

Director Daniels noted that on the last page of the AR, employees are required to purge emails. Jay proposed adding one year to the AR. He also noted there is no system for archiving voice mail.

President Appel would like Jay to present the Policy and AR to the unions and to Deputy Superintendent Cleveland. It can be brought back at the April 22 meeting if ready.

*The Special Board Policy meeting adjourned at 1:20 p.m.*

*Reconvene to Regular Board Policy meeting at 1:20 p.m.*

President Appel discussed drafting the confidentiality policy for the UCP Policy. Dr. Craig thinks confidentiality should be addressed in each policy.

President Appel recapped by saying the Record Retention Policy and AR should be on the April 22 agenda if they are ready, and the subcommittee will review a section of the Board Bylaws at a time. The Committee will also tackle enrollment at its next meeting.

The Regular Board Policy meeting adjourned at 1:35 p.m.

## Board Policy Subcommittee meeting minutes

Wednesday, April 22, 2015

### **Approve minutes from 4-8**

Call to order: 9:40 a.m.

### **Discussion on Enrollment Policy and AR**

Francisco Martinez presented a new Board Policy and a revised Administrative Regulation for discussion.

President Appel suggested adding language to the policy about the verification process and other values that support language in the Administrative Regulation.

Director Daniels added that there should be no room for interpretation in the Regulation; it should be clear and specific. He also suggests that the specific groups in the AR – (A-D) be outlined in the Policy. He discussed having exemption language for those who are unable to produce documents from A-D.

Paragraph about caregiver adult should be moved to “Proof of Residency” section.

Under “Failure to Verify Residence”, considering adding “no appeal” language. It should be indicated that Superintendent has final say.

President Appel recapped

### **Policy**

Asks Francisco to review points of transition and add to Policy

Language that shows support for all students who live in Berkeley

### **Administrative Regulation**

More clarification about not meeting standards for documentation – what can be done (include in BP)

Failure to verify residence, how long to exit District, final decision is Superintendent’s.

Present revisions at May 6 meeting

Francisco asked to bring language/policy from Albany and Piedmont USD



## **Uniform Complaint Policy and Administrative Regulation**

Public Comments from two speakers

Public comment ended at 10:50 a.m.

Dr. Craig outlined her comments in response to edits from community members:

The UCP does not require all bullying incidents be incorporated. The Board can determine if it wants to include in the UCP.

There is a separate form for employee complaints that has a stricter timeline than the UCP.

Paragraph beginning with “The Board recognizes that . . .

**delete** this portion: *but this should be the exception and not the rule.*

**Delete paragraph: Investigations must be prompt, thorough and impartial**

**Paragraph: Grievance procedures and investigations shall be prompt and equitable (move to beginning of document)**

Director Daniels asked if our current Bullying policy is sufficient on its own. Dr. Craig and President Appel do not recommend adding bullying to the UCP. Appel’s belief is that teaching moments for bullying behavior can be missed.

Josh will work on the UCP Policy language with Dr. Craig.

The Policy will be reviewed at the May 6 meeting.

Next meeting will be from May 6 from 12:30 to 2:00

Meeting adjourned at 11:10 .m.

Policy Topic	Notes	Number(s)	Point Staff	Point Board	(Anticipated) Date for 1st Policy Subcomm	(Anticipate d) Date for Policy Subcomm Approval	(Anticipate d) Date for First to Board	(Anticipate d) Date for Board Approval	Priority
LCAP	Outreach process; purpose and composition of PAC/ELPAC/EAC; monitoring of LCAP implementation	0460	Pat	Josh	Feb 25	Mar 11	Mar 25		High
Board bylaws (9310-9323)	Need to update board bylaws based on 2014 retreat	9310-9323	Donald	Josh	Apr 8 and 22				High
Sexual Harrassment	Respond to OCR complaint; update to reflect current law and best practices	5145.7	Susan	Judy	Mar 11				High
Board bylaws (9000-9270)	Need to update board bylaws based on 2014 retreat	9000-9270	Donald	Judy	Apr 8 and 22 & May 6				High
Document retention	Digital record retention		Jay		April 8				
Enrollment	Inter-district transfer; when to enrollment; documents required; penalties for being caught	0420, 5111.13,5116.1, 5117, 5119	Francisco	Josh	4/22/2015 and May 6				High
Discipline	Bases for discipline; restorative justice; expulsion process; types of discipline	5144.1	Susan	Judy					High
Bullying	Update to reflect current law and best practices	5131.2	Susan	Josh					Medium
Discrimination	Update to reflect current law and best practices	5145.3	Susan	Judy					Medium
Policy approval process	What is the process to approve BPs/ARs	9310	Donald	Josh					Medium
SSC/SGC	Need to update the SSC/SGC bylaws	0420	Pat	Judy					Medium
Community process for facilities	Put current community process when planning/buidling facility into policy	N/A	Tim	Josh					Low
Return to same school after unenrolled	When a student is unenrolled and then reenrolled, can they go back to their school/SLC if there is space	N/A	Francisco	Josh					Low
Student initiated policy	How can students suggest policies	N/A	Donald	Josh					Low
Ed Specs	Need to wait until we actually have ed specs and then turn them into policies	N/A	Tim	Josh					Not ready