

MISCELLANEOUS COMPLAINTS

The district and Governing Board desire to provide appropriate opportunities for parents, guardians, students, community members, and employees to complain about or suggest improvements in district activities and operations. To this end, the Board and district administration have adopted numerous policies and administrative regulations providing effective procedures for receiving, investigating, and resolving complaints.

The Board also recognizes that the wide variety of interactions that the district has with parents, guardians, community, employees and students may result in complaints concerning policies, operations, programs and/or district employees that cannot be addressed through other district complaint processes. The Board directs the Superintendent to establish a miscellaneous complaint procedure to respond to these complaints.

The Board encourages complainants to resolve problems early and informally whenever possible. If a problem remains unresolved, the individual should submit a formal written complaint as early as possible in accordance with appropriate district procedures. District procedures shall be readily accessible to the public. Persons wishing to make a complaint must complete a "Complaint Form" available in the office of the Superintendent, who will review and consider all submitted complaints and will direct the complaint to the appropriate Compliance Officer. Whenever a complaint is against the Superintendent or a Board member, the Board may designate a third party to investigate the complaint.

As a legislative body, the Board welcomes public comment on every aspect of district operations. Acting in its legislative capacity, the Board considers community criticisms and suggestions in shaping district policy, designing programs, and establishing district goals. The Board protects employee privacy during open Board meetings by refusing to listen to name-calling, ridicule, or comments regarding employees' private lives.

As an employer, the Board follows due process and statutory and negotiated procedures when evaluating staff performance, investigating allegations of staff misconduct, imposing appropriate discipline, and recognizing achievement. The Board protects employee privacy by confining Board criticism of employee conduct and attitude to the evaluation and disciplinary process.

Although individual Board members and district personnel who are approached with complaints about the district may listen to those complaints, they should advise the complainant that they as individuals cannot resolve complaints. Board and staff members should invite complainants to submit a Complaint Form to the Superintendent.

(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)

MISCELLANEOUS COMPLAINTS

1. Covered Complaints

a. This Miscellaneous Complaint Regulation covers the following complaints:

- (1) Complaints not covered by other district complaint procedures.
- (2) Complaints against district employees, unless such a complaint is covered by another district complaint procedure.

2. The Complaint

a. Any individual may file a written complaint under this procedure. If the complaint concerns a district employee, whenever possible, the complainant should try to resolve the complaint personally with the employee before filing a complaint under this procedure.

b. Each complaint must be submitted in writing on a district Miscellaneous Complaint Form signed by the complainant. District Miscellaneous Complaint Forms are available from school principals, from the district office and on the district's web site.

c. The complainant shall submit a completed Miscellaneous Complaint Form to the Superintendent's office.

d. The Superintendent will first verify that this Miscellaneous Complaints Regulation covers the complaint. If the complaint involves a matter for which district policies provide another complaint process, the district will process the complaint under the appropriate procedure. If this Miscellaneous Complaints Regulation covers the complaint, the Superintendent normally will refer the complaint as follows:

- (1) If the complaint concerns a district employee, to the employee's supervisor.
- (2) If the complaint concerns non-personnel matters, to the district official responsible for the complaint's subject matter.
- (3) If the complaint is against the Superintendent, or a Governing Board member, the Superintendent shall notify the Board. The Board may choose to designate an independent third party to conduct the investigation.

e. If the complaint is against a district employee, the employee shall be informed, in writing, of the complaint and its content in accordance with any applicable collective bargaining agreement.

f. The "Compliance Officer" referred to in this procedure is the district employee designated by the Superintendent to investigate and propose a resolution for the complaint.

3. Investigation And Resolution

- a. The compliance officer will investigate the complaint and may meet with the complainant, witnesses, any involved employees including the employee(s) who may be the subject of a complaint, and other district personnel as necessary in an attempt to ascertain the facts and to resolve the complaint. If the complaint concerns district employees, the district will also follow any relevant collective bargaining agreements in investigating and resolving the complaint.
- b. The compliance officer will attempt to complete the investigation and offer a proposed resolution as expeditiously as possible and usually within 30 days.
- c. The district will implement the proposed resolution unless the complainant appeals in accordance with Section 4.

4. Appeal

- a. If the complaint concerns a district employee and no other established procedure provides an appeal, the complainant may appeal the compliance officer's decision by filing a written statement of unresolved issues with the Superintendent within two calendar weeks after receiving the compliance officer's proposed resolution. The appeal shall include a copy of the complaint, a copy of the compliance officer's proposed resolution, and a written statement of the remedy the complainant seeks. The Superintendent shall consider the written appeal and may conduct further investigation. The Superintendent will issue a proposed resolution usually within 30 days after completing the review and any further investigation and will mail the proposed resolution to the complainant. A complainant who is not satisfied with the proposed resolution may appeal under Section 4.02.
- b. If the complainant does not accept the Superintendent's proposed resolution, the complainant may ask the Board to consider the complaint by submitting a written request to the Superintendent to place the matter on the Board agenda. The request shall include a copy of the complaint, a copy of the Superintendent's and compliance officer's proposed resolutions, a written statement of unresolved issues, and the remedy the complainant seeks. The complainant shall submit the request within two calendar weeks after receiving the Superintendent's proposed resolution.
- c. In appropriate circumstances, the Superintendent may ask the complainant and appropriate district staff to continue their efforts to resolve the complaint. If the complainant declines or if continued efforts do not resolve the matter, the Superintendent will schedule the appeal.

5. Board Action

- a. The Superintendent will schedule the appeal for a regularly scheduled Board meeting and will provide the Board with copies of the complainant's appeal request and with any additional materials required to explain the compliance officer's proposed resolution or rejection of the complainant's proposed remedy. The Superintendent shall provide the complainant with copies of these additional materials.

b. Considering the written materials and any additional information it requests at the meeting or deems relevant, the Board shall decide what action, if any, the district will take to resolve the complaint. Concerning complaints against employees, the Board shall not discipline employees but may direct the Superintendent to initiate appropriate procedures if the Board believes that disciplinary action against an employee may be warranted.

c. The Board will consider all complaints against district employees in closed session. The Board will consider all other matters in open session unless state law allows or requires the matter to be considered in closed session.

d. The Board's decision shall be final.

6. General Provisions

a. Confidentiality. To the extent possible, the district shall conduct complaint investigations in a manner that protects the privacy of the parties and witnesses and the confidentiality of complaints, allegations, and facts.

b. Retaliation. The district will take necessary steps to protect complainants from retaliation. If the complainant is a student's parent or guardian, the district will take necessary steps to protect the student from retaliation.

c. Access To Legal Counsel. The Superintendent may authorize the compliance officer or other district investigator to consult with district counsel to ensure that the investigation follows correct procedures and meets legal standards.

d. Outside Investigator. The Superintendent may designate an outside third party to conduct any complaint investigation.

7. Child Abuse Or Neglect

Any complaint of child abuse or neglect against a district employee shall be reported to appropriate local agencies in accordance with law, Board policy, and administrative regulations.

(cf. 1312.2 - Complaints Concerning Instructional Materials)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 1312.4 - Williams Uniform Complaint Procedures)

Legal Reference:

EDUCATION CODE

33308.1 Guidelines on procedure for filing child abuse complaints

35146 Closed sessions

44031 Personnel file contents and inspection

44811 Disruption of public school activities

44932-44949 Resignation, dismissal and leaves of absence (rights of employee; procedures to follow)

48987 Child abuse guidelines

GOVERNMENT CODE

54957 Closed session; complaints re employees

54957.6 Closed session; salaries or fringe benefits

PENAL CODE

273 Cruelty or unjustifiable punishment of child

11164-11174.3 Child Abuse and Neglect Reporting Act

WELFARE AND INSTITUTIONS CODE

300 Minors subject to jurisdiction of juvenile court

Management Resources:

CDE LEGAL ADVISORIES

0910.93 Guidelines for parents to report suspected child abuse by school district employees or other persons against a pupil at school site (LO:4-93)