

**Berkeley USD
Administrative Regulation
Complaints Concerning District Employees, Policies, Procedures
And Practices**

AR 1312.1

Community Relations

Complaints

The Governing Board believes that all complaints, to the extent possible, should be resolved informally and at the ~~lowest level possible~~earliest possible stage. However, for those situations requiring invocation of the formal process, we are committed to adherence to this process that values the concerns of our staff, parents, students, and the public.

These regulations contain deadlines for District administrators to respond to complaints at various levels. In extraordinary circumstances, it may take longer to respond to complaints than the deadlines provided for herein. In the rare event that an administrator responsible for responding to a complaint will not be able to respond to the complaint within the proscribed timeline, the administrator shall communicate to the complainant, prior to the deadline, that the deadline will not be met. The communication shall include a new deadline by which the administrator guarantees a response to the complaint.

A. Complaints Against District Employees

To promote prompt and fair resolution of the complaint, the following procedure shall govern the resolution of complaints against district employees:

Step 1: Informal Resolution

Every effort should be made to resolve a complaint at the earliest possible stage. Whenever possible, the complainant should communicate directly with the employee involved in order to resolve concerns.

If the complainant is unable or unwilling to resolve the complaint directly with the employee, he/she may file a written complaint directly with the principal or the employee's immediate supervisor. (Step 2)

Step 2: Filing a Written Formal Complaint

REVISED FOR DISCUSSION ON JANUARY 30, 2017

Written complaints shall be made using the district's Complaint Form (Exhibit A). All complaints must include:

Comment [A1]: Form 10.2 currently does not track this exactly.

- a. The full name of each employee involved;
- b. A brief but specific summary of the complaint and the facts surrounding it, and;
- c. A specific description of any prior attempt to discuss the complaint with the employee and the failure to resolve the matter.

If the complainant is unable to prepare the complaint in writing, administrative staff shall help him/her to do so.

Comment [A2]: Form should include this offer of assistance.

When a written complaint is received, the complaint will be processed in accordance with applicable collective bargaining agreements.

Step 3: Site or Department Hearing

Within five (5) working days of receipt of the written complaint, the immediate supervisor or principal shall confer with the parties involved.

Comment [A3]: This deadline is not realistic and we struggle to meet it. Also, even though it says 5 working days, if the complaint comes in over break when an administrator might be working but the employees who need to be interviewed are not, it makes the deadline almost impossible to meet. We should set realistic deadlines and then meet them.

The immediate supervisor or principal shall provide a written response to all parties within five (5) working days from the date of the conference with the parties.

Both the complainant and the employee against whom the complaint was made may appeal the response issued by the principal or immediate supervisor by filing the Complaint Form with the District Compliance Officer (DCO) or designee, Director of Student Services or his/her designee. The appeal must be filed within XX days from the date the Step 3 decision has been communicated to the parties. The filing of an appeal moves the complaint to Step 4. (Step 4)

Comment [A4]: Discuss what needs to be filed to appeal. The same form? Just a request in writing to appeal?

Comment [A5]: Do we want to say an out-of-time appeal can be considered in the DCO's discretion?

Step 4: District Hearing

The DCO or his/her designee shall attempt to resolve the complaint to the satisfaction of the person involved within fifteen (15) working days of receiving the appeal. All complaints made by an employee will be referred and responded to by Human Resources administration.

Comment [A6]: The way this is worded does not put a deadline on resolution. Maybe a firm deadline that can be extended under rare circumstances and so long as DCO communicates the new deadline to complainant? Possible language added to this effect.

Comment [A7]: This needs to be revised. It is incorrect that all complaints made by an employee will be referred to HR.

The DCO or his/her designee will communicate their findings and resolution to all parties in writing. Both the complainant and the employee against whom the complaint was made may appeal the decision from the DCO to the Superintendent or designee by filing a signed copy of the Complaint Form in the Superintendent's office.

Comment [A8]: Same questions - is there a deadline for appealing (and if so it should be included in the written decision) and which form is the Complaint Form? How can we make the appeal process simple?

Step 5: Superintendent Hearing

The Superintendent or designee shall then confer with the complainant and other involved parties within five (5) working days of receiving the Complaint Form. The Superintendent or designee will communicate in writing their findings and resolution to all parties within ten (10) working days from the date of the conference.

Comment [A9]: It may not be necessary for the Superintendent to confer with both parties in all cases.

Comment [A10]: Just want to confirm these are realistic deadlines.

~~If the Superintendent does not resolve the complaint, any party may~~
The complainant may appeal the Superintendent's decision to the Board of Directors. The request must be made in writing and submitted to the Superintendent's Executive Assistant both the Board of Directors and Superintendent by filing within twenty (20) working days of the Superintendent's response. Upon receipt of an appeal, the Superintendent's Executive Assistant shall immediately forward notice of the appeal to the Board President.

Comment [A11]: Clarify/simplify this process and have only one person (Superintendent secretary?) that the person has to file it with.

Comment [A12]: This seems perhaps too long.

Step 6: Board Hearing for any Complaint Regarding a District Policy, Site Practice or Policy and Complaint about an Employee

1. Before any Board consideration of a complaint, the Superintendent or designee shall submit to the Board a written report concerning the complaint, including but not limited to:

- a. The full name of each employee involved (if any);
- b. A brief but specific summary of the complaint and the facts surrounding it, sufficient to inform the Board and the parties as to the precise nature of the complaint and to allow the parties to prepare a response;
- c. A copy of the signed original complaint;
- d. A summary of the action taken by the Superintendent or designee, together with his/her specific finding that the problem has not been resolved and the reasons.

The Board may uphold the Superintendent's decision without hearing the complaint. If the Board decides not to hold a hearing, the Superintendent will notify the complainant of the Board's decision to uphold the Superintendent's decision.

Comment [A13]: Would like to discuss how this happens

2. All parties to a complaint may be asked to attend a Board meeting in order to clarify the issue and present available evidence.

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3. A closed session may be held to hear the complaint in accordance with law.

4. The decision of the Board shall be final.

B. Complaints Regarding District Policies or Practices and Site Procedures or Practices

1. If the complaint regards district policy, or practice or site procedures or practices, the complaint process shall begin with the DCO (Step 4).

2. When examining complaints regarding policy, procedures and practices, the DCO may act to interpret the rules of such documents.

Comment [A14]: This is unclear

3. If the DCO finds that a site or district procedure or practice violates district policy, Education Code, or is deemed to violate other state or federal law, the finding will be forwarded in writing to the complainant and to the Superintendent for resolution;

4. The DCO may also recommend to the Superintendent and Governing Board changes to district policy and administrative regulations in order to rectify a complaint if it is found to be in the best interests of all students.

5. The complainant has the right to appeal all decisions made by the DCO with the Superintendent and the Board of Directors pursuant to the procedures described in Steps 5 and 6. ~~Steps 5 and 6.~~

C. Reporting

The Superintendent or designee shall report to the Board of Directors annually regarding all complaints filed reaching Steps 4, 5 or 6 of this policy. The annual report shall at a minimum include:

Comment [A15]: Maybe once we have a DCO on board, we should do this semi-annually.

- i. The number of complaints filed at each Step for the reporting period;
- ii. An issue summary of the complaints for the reporting period; and
- iii. An analysis of complaints by school site or department.

Comment [A16]: I would expand this to all complaints that are formally filed.