

[Note: The purpose of this revision to our complaint structure is to simplify the process for complainants, impose realistic timelines on staff to respond to complaints, and improve the outcomes of the process for everyone involved.

We have done fairly extensive review of other districts in CA and have not found another district with as complicated a complaint process as we have. We are not aware of any other district with a “Step 6”/Board level review process, and our research indicates that the Board has only granted one Step 6 hearing in the past seven years. Moreover, the vast majority of districts, large and small, have a “Uniform Complaint” process and a “Williams complaint” process. Many districts have no additional formal complaint processes, and a handful have specific processes for specific kinds of complaints. We have found virtually no other districts with a formal complaint process like the one we have for complaints against policies, practices, procedures, and employees.

We need to continue to research, and consult with counsel, but our preliminary understanding of the law is that the law does not preclude us from including “non-Uniform complaints” in our “Uniform complaint” process. And we also believe that we can include a Superintendent/designee-level review even for complaints that fall within “Uniform complaints.” (LAUSD has a version of this process.) We therefore are proposing a collapsing of our four different and overlapping and confusing complaint processes into two primary processes – Uniform complaints, and Williams complaints. Within those processes, we are also proposing streamlining the level of steps, so that the process is more efficient for both complainants and staff.

Before proceeding to the revision of the ARs for the complaint processes, we are presenting the proposed Board policy for the committee to review.]

BP XXX
Complaints

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

The Board encourages complainants to resolve problems early and informally whenever possible.

If a problem remains unresolved, the individual should submit a formal complaint as early as possible in accordance with district complaint procedures. The Superintendent shall ensure that administrators are trained in the intake and processing of complaints. When complainants file a formal complaint, they shall receive an explanation of the complaint process, a complaint number, and the contact information for the District Compliance Officer. All formal complaints shall be logged in a complaint case management system.

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

Uniform Complaints

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

- a. Any complaint alleging unlawful discrimination in district programs and activities against any person based on his/her actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code 200 or 220, Government Code 11135, or Penal Code 422.55, or based on his/her association with a person or group with one or more of these actual or perceived characteristics. Unlawful discrimination includes, but is not limited to, discriminatory bullying, discriminatory intimidation, and sexual harassment. (5 CCR 4610)
- b. Any complaint alleging retaliation against a complainant or other participant in the complaint process or anyone who has acted to uncover or report a violation subject to this policy
- c. Any complaint alleging district violation of applicable state or federal law or regulations governing adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and training programs, child care and development programs, child nutrition programs, and special education programs (5 CCR 4610)

- d. Any complaint alleging district violation of the prohibition against requiring students to pay fees, deposits, or other charges for participation in educational activities (5 CCR 4610)
- e. Any complaint alleging that the district has not complied with legal requirements related to the implementation of the local control and accountability plan (Education Code 52075)
- f. Any complaint against district policies, practices, procedures or employees, including any complaint alleging non-discriminatory bullying by any student or employee.

The Superintendent shall create regulations for resolving uniform complaints that conforms to applicable law, and provides a simple, accessible, and well-publicized mechanism for complainants to initiate and track the progress of their complaints. (AR 1312.3.) The regulations shall include a four-step process as follows:

- a. **Step One:** File complaint with site administrator, such as principal, and/or with the District Compliance Officer. The site administrator shall schedule a timely conference with the complainants and subsequently issue a written response to the complaint.
- b. **Step Two:** Appeal to the District Compliance Officer (DCO), specifying grounds for appeal of the site decision. The DCO or designee shall provides a written response to within 60 days.
- c. **Step Three:** Within a proscribed timeframe, the complainant may appeal to the Superintendent to challenge the DCO or designee's response to initial complaint. The Superintendent or designee shall confer with appellants and provide a written response.
- d. **Step Four:** For complaints involving a-e above, complainants can file an appeal to the CDE within 15 working days of receiving the district's final determination.

Comment [TA1]: We may want to include specific timelines/deadlines in the BP. For now, we have not included the timelines. They can either go in the BP or the AR.

Comment [TA2]: This is governed by UCP regs.

Comment [TA3]: Again, we may or may not want to specify timelines here. If not here, it will be in AR.

Comment [TI4]: We need to confirm the timing with CDE/statute

Williams Complaints

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

Other Specific Complaints

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

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

Policy BERKELEY UNIFIED SCHOOL DISTRICT
adopted: XXX