

[NOTE: **Please note that the Policy Subcommittee will be proposing major revisions to the complaint processes, including to this AR. The clarification proposed here is an interim step that will not preclude more significant changes that are currently being considered.** While we continue to work on a major overhaul of our complaint procedures, in the meantime, our District Compliance Officer and Title IX Coordinator has requested an immediate clarification to AR 1312.1 that governs complaints concerning District Employees, Policies, Procedures, and Practices, and the associated 10.2 complaint form. Specifically, the proposed clarification is to include a definition that “days” refers to days that school is in session, and we have eliminated the ambiguous term “working days.” Clarifying that “days” means “school days” will also help ensure that the District has sufficient time to respond to complaints in a comprehensive and satisfactory manner.

Also: The language on the current Form 10.2 is inconsistent with the AR regarding the timing of the Step Four response. We are also taking this opportunity to ensure consistency between the language of the form and the AR regarding Step Four of the process, by incorporating the AR language on Step Four timing into the form.

We propose that the Committee recommend this revised AR go to the Board for information at the May 31 meeting, and that it be implemented by the Superintendent immediately following that meeting.]

**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. 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.

“Days” means days upon which the schools of the district are in session.

A. Complaints Against District Employees

FOR MAY 19, 2017 POLICY COMMITTEE MEETING

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

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

- 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.

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) days of receipt of the written complaint, the immediate supervisor or principal shall confer with the parties involved.

Deleted: working

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

Deleted: working

Both the complainant and the employee against whom the complaint was made may appeal the response issued by the principal or immediate

FOR MAY 19, 2017 POLICY COMMITTEE MEETING

supervisor by filing the Complaint Form with the District Compliance Officer (DCO), Director of Student Services or his/her designee. Step 4

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) days of receiving the appeal. All complaints made by an employee will be referred and responded to by Human Resources administration.

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.

Step 5: Superintendent Hearing

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

If the Superintendent does not resolve the complaint, any party may appeal the Superintendent's decision to the Board of Directors. The request must be made in writing and submitted to both the Board of Directors and Superintendent by filing within twenty (20) days of the Superintendent's response.

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;
- 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;

Deleted: working

Deleted: working

Deleted: working

FOR MAY 19, 2017 POLICY COMMITTEE MEETING

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.

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

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.

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. 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:

FOR MAY 19, 2017 POLICY COMMITTEE MEETING

- 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.

Regulation BERKELEY UNIFIED SCHOOL DISTRICT
approved: October 4, 2011 Berkeley, California