

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

We have reviewed the policies and processes of many 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. Most districts also do not have a Step 5 Superintendent level review of complaints. 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.

The law does not preclude us from including “non-Uniform complaints” in our “Uniform complaint” 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 the Uniform Complaint process, we are also proposing streamlining the level of steps, so that the process is more efficient for both complainants and staff. After speaking with CDE, we have eliminated the “Superintendent level’ appeal for traditionally UCP complaints, because the timelines for appeal to CDE does not work with an internal appeals process. CDE advised that many districts do what we are proposing here –i.e., use the UCP process for all complaints – but that it does not work to have an internal appeals process. We are retaining the Superintendent-level appeal for complaints that are not eligible for CDE appeal.

Before proceeding to the revision of the ARs for the complaint processes, we are presenting the proposed draft Board policy for the Policy subcommittee to review. We would like to present this revised policy to the full Board by the end of the semester, preferably at the June 14 meeting at least for first reading, so that we can get direction from the Board as to whether to continue working on this revision over the summer.]

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.

Complaints should generally be filed only after attempts to resolve problems informally at the school site level have been unsuccessful. For example, whenever possible, a concern about policy, practice, or personnel at a particular school should first be brought to the attention of the school administration (usually the principal or vice-principal). Dissatisfaction with the resolution at the school site level may in turn be grounds for the filing of a complaint at the District level pursuant to one of the processes described in this policy.

The Superintendent shall ensure that administrators and front office personnel are trained in the intake and processing of formal 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.

Definitions

A “complaint” is a written and signed statement submitted on, or attached to, the proper District form, filed with the District pursuant to one of the complaint processes described in this policy. If the complainant is unable to put the complaint in writing due to disability or language barriers, the District shall assist the complainant in filing the complaint. The following are not considered “complaints” within the meaning of this policy: informal or formal requests for information; informal or formal incident reports; informal requests for resolution of a particular concern or problem; concerns expressed orally or in e-mail to a District employee.

“Day” means a calendar day, unless otherwise indicated.

“School day” means a day in which the schools of the District are in session.

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/or 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 (LCAP). (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.

Complaints shall be filed no later than six months from the date the alleged violation occurred, or six months from the date the complainant first obtained knowledge of the alleged violation.

The Superintendent shall create administrative regulations for resolving uniform complaints that provide a simple, accessible, and well-publicized process for complainants to initiate and track the progress of their complaints. (AR 1312.3.) This process shall be prompt, impartial, and equitable, and shall comply with all applicable federal and state laws and regulations. The administrative regulations shall include a three-step complaint process as follows:

- a. Step One: The complainant files a complaint with the District Compliance Officer (DCO). After reviewing the complaint, the DCO or designee shall resolve the complaint and complete a written report as soon as possible, and no later than 60 days from receipt of the complaint unless extended by written agreement of the complainant. The written report shall inform the complainant whether the complaint involves an allegation regarding (a)-(e) above, in which case the complainant has the

right to appeal to the CDE, or whether it involves an allegation regarding (f) above, in which case the complainant has the right to appeal to the Superintendent.

b. Step Two: The appeal process differs depending on the nature of the complaint.

- For complaints involving (a)-(e) above, complainants may file an appeal to the California Department of Education (CDE) within 15 days of receiving the DCO's or designee's written report.
- For complaints involving (f) above, the complainant may file an appeal in writing to the Superintendent, using a form that requires the complainant to state the basis for the appeal, within 15 days of receiving the DCO's or designee's written report. The Superintendent or designee shall provide a written response to the appeal within 15 school days.

In order to comply with state law timelines, this policy does not permit complaints raised under subsections (a)-(g) to be appealed to the Superintendent. The Education Code does not permit complaints raised under subsection "f" to be appealed to the CDE.

Williams Complaints

A *Williams* complaint concerns sufficiency of 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

Allegations by a District employee about or against another District employee shall be referred to the District's Human Resources Department.

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

- 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).

Policy BERKELEY UNIFIED SCHOOL DISTRICT
adopted: XXX