

All Personnel

BP 4144(a)

4244

COMPLAINTS

4344

The Governing Board recognizes the need for providing employees with a complaint process. The Superintendent or designee shall establish complaint procedures which allow employees to appeal to the Board.

The Board expects that employees and supervisors will make every effort to resolve employee complaints and disagreements informally before resorting to formal complaint procedures.

Subject to the terms of this policy, employee complaints will be processed as set forth in AR 4144. The following matters are not within the purview of this policy and shall be referred to other procedures or agencies as follows:

1. Complaints concerning discrimination in employment shall be addressed in accordance with applicable district policy and regulations. (See: Board Policy 4030.)
2. Complaints concerning allegations of sexual harassment shall be addressed in accordance with applicable district policy and regulations. (See: Board Policy 4119.11.)
3. Allegations of child abuse shall be referred to the County Department of Social Services and/or law enforcement.
4. Health and safety complaints regarding a Child Development program shall be referred to the licensing agency and/or the Department of Social Services.
5. Discrimination in Child Nutrition programs or Title IX shall be referred to the U.S. Office for Civil Rights (“OCR”) for investigation. Title IX complaints will be referred only if there is no state discrimination law or regulation at issue. OCR shall conduct investigations of these matters unless otherwise agreed in writing. The complainant shall be notified in writing if his/her complaint is transferred to OCR.
6. Allegations of fraud shall be referred to the State Department of Education, Legal Division.
7. Complaints concerning instructional or literature materials used in the school shall be directed to the school principal for processing through that procedure. (See: Administrative Regulation 1312.2.)
8. Complaints concerning student discipline shall be processed according to Education Code section 48900 et seq. with appeal to the County Board of Education.
9. Any complaint alleging a district violation of state or federal laws or regulations, or discrimination, in any program shall be addressed in accordance with the Uniform Complaint Procedure. (See: Board Policy 1312.3.)

COMPLAINTS (continued)

(cf. 4031 - Complaints Concerning Discrimination in Employment)

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

(cf. 4141/4241 - Collective Bargaining Agreement)

Legal Reference:

GOVERNMENT CODE

3543 *Public school employees' rights*

3543.1 *Rights of employee organizations*

53296 *Definitions*

53297 *Filing complaint*

53298 *Reprisals*

53298.5 *Violations; punishment*

COMPLAINTS

The procedure specified in this administrative regulation shall be used to investigate and resolve any complaint by an employee alleging misapplication of the district's policies, regulations, rules, or procedures or for "whistleblower" complaints by an employee or job applicant regarding an improper district activity including, but not limited to, an allegation of gross mismanagement, a significant waste of funds, an abuse of authority, or a specific danger to public health or safety.

(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)

Any of the time limits specified in the following procedure may be extended by written agreement between the district and complainant.

Step 1: Informal Complaint Process

Prior to instituting a formal, written complaint, the employee shall first discuss the issue with his/her supervisor or the principal of the school where the alleged act took place. Formal complaint procedures shall not be initiated until the employee has first attempted to resolve the complaint informally.

Step 2: Site Level Formal Complaint Process

If a complaint has not been satisfactorily resolved through the informal process in Step 1, the complainant may file a written complaint with his/her immediate supervisor or principal within 60 days of the act or event which is the subject of the complaint. If an employee fails to file a written complaint within 60 days, the complaint shall be considered resolved on the basis of the preceding step.

In the written complaint, the employee shall specify the nature of the problem, including names, dates, locations, witnesses, the remedy sought by the employee, and a description of informal efforts to resolve the issue.

Within 10 working days of receiving the complaint, the immediate supervisor or principal shall conduct any necessary investigation and meet with the complainant in an effort to resolve the complaint. Within five working days after the meeting, he/she shall prepare and send a written response to the complainant.

Step 3: District Level Appeal

If a complaint has not been satisfactorily resolved at Step 2, the complainant may file the written complaint with the Superintendent or designee within five working days of receiving the written response from the immediate supervisor or the principal. The complainant shall include all information presented to the immediate supervisor or principal at Step 2.

Within 10 working days of receiving the complaint, the Superintendent or designee shall conduct any necessary investigation, including reviewing the investigation and written response by the immediate supervisor or principal at Step 2, and shall meet with the complainant in an effort to resolve the complaint. Within five working days after the meeting, he/she shall prepare and send a written response to the complainant.

COMPLAINTS (continued)

Step 4: Appeal to the Governing Board

If a complaint has not been satisfactorily resolved at Step 3, the complainant may file a written appeal to the Board within five working days of receiving the Superintendent or designee's response. All information presented at Steps 1, 2, and 3 shall be included with the appeal, and the Superintendent or designee shall submit to the Board a written report describing attempts to resolve the complaint and the district's response.

The Board may uphold the findings by the Superintendent or designee without hearing the complaint or the Board may hear the complaint at a regular or special Board meeting. The hearing shall be held in closed session if the complaint relates to matters that may be addressed in closed session in accordance with law.

(cf. 9321 - Closed Session Purposes and Agendas)

The Board shall make its decision within 30 days of the hearing and shall send its decision to all concerned parties. The Board's decision shall be final.

Alternate Procedures

Complaints alleging unlawful discrimination on any basis specified in the district's nondiscrimination policies, including complaints of sexual harassment, shall be resolved in accordance with the district's procedure in BP/AR 4030 - Nondiscrimination in Employment.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

Complaints regarding unlawful discrimination in district programs or the district's failure to comply with state or federal laws regarding educational programs shall be resolved in accordance with BP/AR 1312.3 - Uniform Complaint Procedures. Complaints regarding sufficiency of textbook materials, teacher vacancy or misassignment, or an urgent or emergency facility condition shall be resolved in accordance with AR 1312.4 - Williams Uniform Complaint Procedures. (Education Code 35186; 5 CCR 4621)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 1312.4 - Williams Uniform Complaint Procedures)

For complaints regarding working conditions or other subjects of negotiation, the employee shall use the grievance procedure specified in the applicable collective bargaining agreement.

Regulation
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VISALIA UNIFIED SCHOOL DISTRICT
Visalia, California