

Complaints Concerning District Employees

The Governing Board places trust in its employees and desires to support their actions in such manner that employees are free from unwarranted criticism and complaints.

The Governing Board accepts responsibility for providing a means by which the public can hold employees accountable for their actions. The Board desires that complaints be resolved expeditiously without disrupting the educational process. The Board recognizes the necessity to protect the rights of its employees and to afford employees every opportunity to respond to the complaint.

The Superintendent or designee shall develop regulations, which permit the public to submit complaints against district employees in an appropriate manner. These regulations shall assure a complete and fair hearing of complaints and shall protect the rights of all involved parties. Such regulations shall be readily accessible to the public.

(cf. 1250 - Visitors/Outsiders)

(cf. 6144 - Controversial Issues)

Criticism against an employee initially made to a Board member or at a Board meeting will be referred to the Superintendent who will process the complaint according to the applicable procedure. Individual Board members do not have authority to resolve complaints. If approached directly with a complaint, Board members will refer the complainant to the Superintendent or designee, with appropriate acknowledgement that the complaint will receive proper consideration.

(cf. 9323 - Meeting Conduct)

When a complaint is made, the Superintendent or designee shall determine whether the District's process for complaints concerning personnel, the district's uniform complaint procedures, or sexual harassment procedures, applies.

The District does not accept anonymous complaints except for those circumstances when the law requires investigation of such complaint.

The Board prohibits retaliation against complainants. The Superintendent or designee may keep a complainant's identity confidential, to the extent necessary to investigate the complaint and/or as required by law.

(cf. 1312.3 - Uniform Complaint Procedures)

This Complaint policy and procedure shall not apply when a complaint involves accusations of child abuse. When a District employee is accused of child abuse, it shall be dealt with according to Board Policy and Administrative Regulation 5141.4, "Child Abuse Reporting Procedures." Providing parents/guardians with the procedures for filing a child abuse complaint does not relieve mandated reporters from their duty to report suspected child abuse in accordance with law.

(cf. 5141.4 - Child Abuse Reporting Procedures)

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June 8, 1994

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ACALANES UNION HIGH SCHOOL DISTRICT
Lafayette, California

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(cf. 4112.6 - Personnel Records)

Legal Reference:

EDUCATION CODE

33308.1 Guidelines on procedure for filing child abuse complaints

PENAL CODE

11164-11174.3 Child Abuse and Neglect Reporting Act

CODE OF REGULATIONS, TITLE 5

3080 Application of section 4600-4671

4600-4671 Uniform Complaint Procedures

STATUTES OTHER THAN CODE

Chapter 1102, Statutes of 1991, Section 6

Management Resources:

CDE LEGAL ADVISORIES

0514.93 Guidelines for parents to report suspected child abuse by school district employees or other persons against a pupil at school site

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This regulation provides a procedure for responding to complaints initiated by members of the public against District employees. This procedure is intended to resolve complaints expeditiously without disrupting the educational process. Every effort should be made to resolve a complaint informally between the involved parties. Actions at each step shall be accomplished in a timely manner.

Informal Steps

1. Whenever possible, the complainant should address the complaint directly to the employee against whom the complaint is made. Complainants are encouraged to attempt to resolve concerns with the employee personally.
2. If the complainant cannot resolve the complaint with the employee, the complainant may request an informal conference with the employee and the employee's immediate supervisor or principal. The supervisor, principal or designee should arrange a conference at the earliest mutually convenient time.

Formal Steps – Level I – Investigation and Resolution Attempt

1. If a complainant is unable to resolve the complaint with the employee informally, the complainant may submit a written complaint (Level I Complaint Form) to the Superintendent who will assign the complaint to an appropriate administrator or third party investigator to conduct an investigation. If the complaint is against an employee whom the Superintendent directly supervises, the Superintendent, designee or third party investigator will process the complaint beginning at Level II.
 - a. If the complainant does not submit a written Level I Complaint form the District will consider the complainant to have dropped the complaint.
 - b. The Superintendent shall give a copy of the written complaint to the employee who is the subject of the complaint, within five days after receipt of the written complaint, unless the nature of the complaint involves potential legal or criminal issues that warrant not informing the employee within the specified timeline
 - c. The District does not accept anonymous complaints except for those circumstances when the law requires investigation of such complaint (???)
 - d. If the written complaint concerns the Superintendent, it shall be initially filed with the President of the Governing Board.
2. The complainant shall use the District Level I Complaint Form E 1312.1 for the Level 1 Formal Complaint, and include:
 - a. Name of the person making the complaint, including address and phone number.
 - b. The name of the District employee against whom the complaint is filed.
 - c. Circumstances and facts, which form the basis for the complaint, including a description and the date and location of the employee's act or omission.

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- d. The names of any individuals who have information about the circumstances which form the basis for the complaint, and copies of any relevant documents.
 - e. A summary of prior attempts to resolve the complaint with the employee and the failure to resolve the matter.
 - f. A description of the specific remedy sought to resolve the complaint.
3. The person responsible for investigating the complaint will attempt to complete the investigation and resolve the complaint to the satisfaction of the person(s) involved within 30 calendar days of receipt of the assignment.
- a. The Superintendent may extend the 30-day timeline in the case of complaints filed during school breaks, or if the 30-days include a school break.
4. The investigation process will include the following procedures:
- a. The investigator shall interview the complainant and the employee, and obtain the names of individuals who have information about the circumstances of the complaint, and any documents relevant to the complaint.
 - b. The investigator shall interview individuals who may have relevant information about the circumstances of the complaint, and review all pertinent documents.
 - c. If the investigator believes it would be appropriate and constructive, s/he may schedule a conference with both the complainant and the employee. If the complainant refuses to attend the conference, the complaint shall be dismissed.
 - d. At any complaint investigation meeting scheduled by an administrator with an employee, where the complaint may result in disciplinary action of the employee, the employee may be accompanied by a labor association representative.
 - e. The investigator shall make every effort to complete the investigation and reach a determination as to the disposition of the complaint, including attempting to resolve it to the satisfaction of the complainant, within the 30 calendar day timeline.
 - f. If the complaint is resolved, the investigator shall summarize the resolution and obtain the complainant's signature on the written summary. This will end the complaint procedure.
 - g. If the complaint is not resolved, the investigator shall prepare a report containing a summary of the complaint, the investigation, individuals interviewed, documents reviewed, resolution attempts, findings as to the circumstances and facts of the complaint, and proposed disposition. If the proposed disposition involves any personnel or disciplinary action involving the employee, the investigator will redact this portion of the report from the copy provided to the complainant.

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A copy of the complete written report will be sent to the Superintendent who will keep it in a confidential file separate from the employee's personnel file.

h. If any corrective or disciplinary action is taken involving the employee, the employee retains all his/her rights under the law and the collective bargaining agreement.

Formal Steps – Level II – Appeal to Superintendent/Complaints initiated at Level II

1. The complainant may appeal the Level I disposition to the Superintendent. A Level II appeal must be submitted on the District Level II Complaint Appeal Form. a. within 14 calendar days of the complainant's receipt of the Level I report and disposition.
 - b. If the complainant does not file a Level II appeal within the 14 calendar days, the District will consider the complainant to have accepted the Level I disposition.
 - c. A Level II appeal should clearly state and describe the reasons for the appeal, including errors contained in the findings and/or proposed disposition, or new information which was not known or did not exist at the time of the investigation. Solely disagreeing with the Level I report and disposition is not sufficient rationale for a Level II appeal.
2. The Superintendent or his/her designee will review the written appeal, the reasons stated, and any new evidence. The Superintendent will give a copy of the appeal and any attachments to the employee about whom the complaint has been filed. If warranted, the Superintendent, designee, or third party investigator, will conduct further investigation. If no further investigation is warranted, the Superintendent or designee will attempt to resolve the complaint to the satisfaction of the complainant within 30 calendar days of the receipt of the Level II Complaint Appeal Form.
 - a. Any further investigation shall be conducted according to the procedures contained in Level I, above.
 - b. If there is no further investigation, or if the investigator is unable to resolve the complaint, the Superintendent may meet with the complainant and employee in an effort to resolve the complaint. If the Superintendent is unable to resolve the complaint, s/he may issue a supplemental report summarizing actions taken and the disposition at Level II, or may adopt the Level I report.

Formal Steps – Level III

1. While the Level II disposition should be considered final, the complainant may appeal the Level II disposition to the Governing Board. The appeal should be based on extraordinary circumstances in the complaint or new information that was not known or did not exist at the time of the Level I and/or the Level II investigations.
 - a. If the complainant wishes to appeal the Level II disposition to the Governing Board, the complainant shall submit a written request to the President of the Governing Board within 10 calendar days of receipt of the Level II report. The request shall include the extraordinary

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- circumstances or new information, with an explanation of why the information did not exist or was not known at the time of the prior investigations, and the requested resolution.
- b. If the complainant does not submit a written request to the President of the Governing Board within 10 calendar days of receipt of the Level II report, the District will consider the complainant to have accepted the Level II disposition.
2. Prior to the Governing Board determining whether to accept the Level II appeal, the Superintendent or designee shall provide the Governing Board a report that includes but not limited to:
 - a. A copy of the Level I complaint and the Level II appeal, the Level I and Level II reports, and all documents reviewed during the investigation.
 - b. An executive summary of the complaint, investigation, findings, an explanation why a resolution was not achieved at the Superintendent's level, and proposed disposition.
 - c. A response, if any, to the new information and whether it existed or was known at the time of the Level I and Level II investigations.
 3. After reviewing the complainant's request, and the documents provided by the Superintendent, the Governing Board will decide whether to review the Level II disposition, if so whether to hear the complainant, the employee, and others as appropriate, or whether to uphold the Level II decision without a review.
 - a. The Governing Board shall provide written notification to the complainant and employee as to its decision regarding its response to the appeal request. If the Board decides to hear from the parties, the response will include the date, time, location, and process for the meeting.
 - b. The Governing Board will hear the appeal in closed session, as part of a regularly scheduled meeting or as a special meeting.
 - c. The Board and Superintendent will determine who will be invited to attend the meeting, other than the complainant, the employee, and the Superintendent. The Superintendent will notify those individuals of the meeting and their opportunity to address the Board regarding the complaint, and to respond to Board members' questions.
 - d. Before the Board holds a closed session to hear complaints or charges brought against an employee, the employee shall receive written notice of his/her right to have the complaints or charges heard in open session rather than closed session. This notice shall be delivered personally or by mail at least 24 hours before the time of the session, and the employee may request that the complaints or charges be heard in open session.
 - e. The Board will provide the complainant and employee(s) a written decision within 7 days of the hearing.
 - f. Any decision of the Board shall be final.
 - g. If the written complaint results in disciplinary action against the employee, the Superintendent will determine which documents, if any, will be placed in the employee's personnel file. The Superintendent will notify the employee of the placement of these documents in the file, and the employee will be provided the right to submit a written response to be attached. The employee retains all rights provided under the Education Code and the collective bargaining agreement pertaining to employee discipline.

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Complaints Concerning the Superintendent

1. A complaint concerning the Superintendent shall be filed with the President of the Governing Board using the District Level I Complaint Form.
 - a. The Governing Board will assign one or two Board members to conduct the investigation of the complaint or assign the investigation to a third party investigator. The investigation will be conducted pursuant to procedures described in Levels I above, as appropriate, except that if the investigator(s) are unable to resolve the complaint to the satisfaction of the parties, the Board will meet with the parties.
 - b. The Governing Board will meet with the parties in closed session, pursuant to the procedures described in Level III, paragraph 11, above.
 - c. The Board's decision is final.

Complaints Concerning a Member of the Governing Board

1. A complaint concerning a member of the Governing Board shall be filed with the Secretary of the Governing Board using the District Level I Complaint Form.
 - a. The Governing Board will assign one or two Board members to conduct the investigation of the complaint or assign the investigation to a third party investigator. The investigation will be conducted pursuant to procedures described in Levels I above, as appropriate, except that if the investigator(s) are unable to resolve the complaint to the satisfaction of the parties, the Board will meet with the parties.
 - b. Complaints concerning Board members shall be addressed in open session unless discussion of the complaint in open session would violate legitimate student or employee rights to confidentiality, as provided by law.
 - c. Any decision by the Governing Board is final.

Other

1. If, at any time during the complaint process prior to a final decision, the complainant files an administrative or tort claim or initiates legal action against the District, the complaint may be put in abeyance pending the outcome of the claim or legal action.

Acalanes Union High School District Level I Complaint Form

DIRECTIONS: This form is to be used only after an informal discussion between the complainant and the employee about whom the complaint is being made failed to resolve the issue.

Name: _____

Address: _____

Home Phone: _____

Work Phone: _____

Student name (if applicable) _____

School name (if applicable) _____

Name of employee about whom the
complaint is being made: _____

Date the event/incident occurred: _____

Details of the complaint (attach appropriate supporting documents):

Individuals with information about the circumstances of the complaint:

Details of the attempt to informally resolve the complaint:

Specific remedy sought:

A copy of the Level I Complaint form will be given to the employee, to allow the employee to respond to the complaint.

I declare under penalty of perjury under the laws of the State of California, that I have made true, correct and complete answers and statements on this complaint form and/or any attachment to this complaint.

Signature

Date

Received by

Date

Submit to: All complaints related to district personnel shall be submitted to the Superintendent, 1212 Pleasant Hill Road, Lafayette, CA 94549. Complaints related to a Board member or to the Superintendent shall be submitted to the President of the Governing Board, 1212 Pleasant Hill Road, Lafayette, CA 94549.

Acalanes Union High School District Level II Complaint Appeal Form

DIRECTIONS: This form is to be used to appeal a Level I disposition of a complaint about a District employee. It must be submitted within 14 calendar days after receiving the Level I report. A Level II appeal should clearly state and describe the reasons for the appeal, including errors contained in the findings and/or proposed disposition, or new information which was not known or did not exist at the time of the investigation. Solely disagreeing with the Level I report and disposition is not sufficient rationale for a Level II appeal. Submit the appeal form to the Superintendent, 1212 Pleasant Hill Road, Lafayette, CA 94549

Date you received the Level I report: _____

Name: _____

Address: _____

Home phone: _____ Work Phone: _____ Cell Phone: _____

Student name (if applicable): _____ Grade: _____

School name (if applicable): _____

Name of employee about whom the complaint is being made: _____

Specify sections of the Level I report findings and/or proposed disposition containing errors and/or describe the new information which was not known or did not exist at the time of the investigation:

Provide supporting reasons for your appeal:

Specific remedy sought:

I declare under penalty of perjury under the laws of the State of California, that I have made true, correct and complete answers and statements on this complaint form and/or any attachment to this complaint.

Signature

Date

Received by

Date