

COMPLAINTS CONCERNING DISTRICT EMPLOYEES

Documentation

All charges shall be in writing and shall bear the signature and address of complainant; and shall include a specific description of the act(s), names and addresses of witnesses and other proof in support of the allegation(s).

Statement of Damage and Relief

The complainant shall state the probable extent of the harm or damage from the act(s) and the nature of the relief desired or suggested solution to the complaint.

Investigation of the Charges/Complaint

Upon receipt of the documentation of charges or complaints as provided above, the Superintendent shall provide copies of the charges to the Board and the employee(s) named in the charge, with accompanying notification of the investigation to be conducted.

Conduct of the Investigation

The Superintendent shall order an immediate investigation by appropriate personnel who shall make such independent studies as may be necessary for a full disclosure of the facts, and provide all parties an opportunity to be heard. Every effort shall be made to keep the proceedings confidential and the results of the investigation shall be reported to the Superintendent.

Report of Findings

The Superintendent shall provide a copy of his/her findings to the parties in the action and his/her intended recommendation to the Board for the resolution of the charge(s). The parties shall be given a reasonable opportunity to "show cause," in objection to the intended recommendation, after which the Superintendent shall present his/her recommendation to the Board in Executive Session.

Appeal of Recommendation

Prior to taking or affirming any action against an employee, the Board shall provide reasonable opportunity for the employee to be heard in appealing the Superintendent's recommendation, including but not limited to:

1. Allegations that the investigation was inadequate, biased or in error.
2. Allegations that the recommendation is not supported by the evidence.
3. Additional or new testimony that materially affects the decision of the Board.

COMPLAINTS CONCERNING DISTRICT EMPLOYEES (continued)

Conclusion of the Findings

After reviewing the findings and the recommendations by the Superintendent, and any additional information received from the parties to the action, the Board shall take action in a public meeting to accept, amend or deny the recommendation.

(cf. 5141.4 - Child Abuse and Neglect (Reporting Procedures))

Annual Review

The Board shall annually review policies and regulations regarding complaints against school personnel.

Legal Reference:

EDUCATION CODE

33308.1 Guidelines on procedure for filing child abuse complaints

35146 Closed sessions

44031 Personnel file contents and inspection

44811 Disruption of public school activities

44932-44949 Resignation, dismissal and leaves of absence (rights of employee; procedures to follow)

48987 Child abuse guidelines

GOVERNMENT CODE

54957 Closed session; complaints re employees

54957.6 Closed session; salaries or fringe benefits

PENAL CODE

273 Cruelty or unjustifiable punishment of child

11164-11174.3 Child Abuse and Neglect Reporting Act

WELFARE AND INSTITUTIONS CODE

300 Minors subject to jurisdiction of juvenile court

Management Resources:

CDE LEGAL ADVISORIES

0910.93 Guidelines for parents to report suspected child abuse by school district employees or other persons against a pupil at school site (LO:4-93)

COMPLAINTS CONCERNING DISTRICT EMPLOYEES

Individuals and/or groups wishing to present complaints against the staff shall use the following procedure.

All complaints/problems that concern district employees shall first be brought to the attention of the appropriate administrator of the school for consideration and resolution. If the complaint/problem cannot be resolved at the school level, it shall be referred in writing by the complainant to the Superintendent in accordance with Board policies. The Superintendent shall provide the employee(s) concerned with a copy of the complaint within one working day.

1. No charges against a district employee and/or the elected officials of the district shall be made in a public meeting or the Governing Board or any district-sanctioned meeting.
2. All charges shall be written and should include:
 - a. Specific description of the acts which give rise to the complaint.
 - b. The harm or damage resulting from such acts.
 - c. Documentation, names of witnesses or other proof in support of the allegations set forth pursuant to 2(a) and 2(b).
 - d. Nature of the relief desired or suggested solution of the problem.
 - e. The signature(s) of the party or parties initiating the complaint.
3. The complaint and other documents provided for in #2 shall be submitted to the Superintendent who will:
 - a. Provide copies as privileged and confidential communications to members of the Board.
 - b. Order an immediate investigation to be conducted by appropriate personnel.
 - c. Inform the employee of the nature of the charge and that an investigation of such complaint is being conducted.
4. In the investigation of the complaint:
 - a. Every effort will be made to keep the proceedings as confidential as possible.

COMPLAINTS CONCERNING DISTRICT EMPLOYEES (continued)

- b. All parties will be given an opportunity to be heard.
 - c. Those conducting the investigation will make such independent studies as may be necessary for a full disclosure of the facts.
 - d. Reasonable effort will be made to explore all avenues leading to a fair and equitable solution of the problem.
5. The results of the investigation shall be reported to the Superintendent who will:
- a. Prepare, or cause to be prepared, a memorandum setting forth his/her intended recommendation to the Board regarding the complaint.
 - b. Provide copies of such memorandum of intended recommendation to the parties.
 - c. Provide reasonable opportunity for the parties to show cause why this should not be the recommendation to the Board.
6. After considering the testimony, if any, submitted pursuant to the "show cause" (4c), the Superintendent shall present his/her recommendations to the Board in Executive Session.
- a. Prior to taking or affirming any action against an employee, the Board shall provide reasonable opportunity for such employee to be heard in appealing the Superintendent's recommendation, including, but not limited to:
 - (1) Allegations that the investigation was inadequate, biased or in error.
 - (2) Allegations that the recommendation is not supported by the evidence.
 - (3) Additional or new testimony that materially affects the decision.
 - b. Any action of the Board will be taken in public meeting.