

COMPLAINTS CONCERNING THE SCHOOLS

The Governing Board welcomes constructive criticism of school policies, programs or personnel when it is motivated by a sincere desire to improve the quality of the educational process and to assist the schools in performing their tasks more effectively.

The Board encourages the resolutions of complaints as early as effectively possible. All complaints submitted in accordance with the procedures adopted by the Board shall be assured of receiving appropriate review and consideration. If the problem is not resolved at a lower level, it shall be dealt with by the Board.

When individual Board members are approached with complaints about the schools, they shall be expected to listen to the complaint and demonstrate their concern by clearly identifying established procedures and channels through which the complaint may receive attention.

(cf. 1312.1 - Complaints Concerning School Personnel)

(cf. 1312.2 - Complaints Concerning Instructional Materials)

(cf. 1312.3 - Uniform Complaint Procedures)

Legal Reference:

EDUCATION CODE

35146 *Closed sessions*

COMPLAINTS CONCERNING SCHOOL PERSONNEL

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 Superintendent or designee shall develop regulations which permit the public to submit complaints against district employees in an appropriate way. These regulations shall protect the rights of involved parties. The Board may serve as an appeals body if the complaint is not resolved.

- (cf. 1312.2 - Complaints Concerning Instructional Material)*
- (cf. 1312.3 - Uniform Complaint Procedures)*
- (cf. 3515.2 - Disruptions)*

The Board prohibits retaliation against complainants. The Superintendent or designee at his/her discretion may keep a complainant's identity confidential, except to the extent necessary to investigate the complaint. The district will not investigate anonymous complaints unless it so desires.

The Governing Board shall annually review district policies and regulations related to complaints against school personnel. (Education Code 35160.5)

Legal Reference:

EDUCATION CODE

- 33308.1 *Guidelines on procedure for filing child abuse complaints*
- 35146 *Closed sessions*
- 35160.5 *Requirement for school district policies: parental complaints re employees*
- 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)*

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*

STATUTES OTHER THAN CODE

- Chapter 1102, Statutes of 1991, Section 6 - Child Abuse Complaints*

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)*

Policy

adopted: September 28, 1995

Revised: December 16, 2002

FAIRFIELD-SUISUN UNIFIED SCHOOL DISTRICT

Fairfield, California

COMPLAINTS CONCERNING SCHOOL EMPLOYEES

Complaint Procedures

The Superintendent or designee shall determine whether a complaint should be considered a complaint against the district and/or the individual, and whether it should be resolved by the district's process for complaints concerning personnel, other district procedures, or proceed via multiple processes.

(cf. 1312.2 - Complaints Concerning Instructional Material)
(cf. 1312.3 - Uniform Complaint Procedures)

In order to promote fair and constructive communication, the following procedures shall govern the resolution of complaints against district employees:

1. Every effort should be made to resolve a complaint at the earliest possible stage. Whenever possible, complaints concerning school personnel should be made directly by the complainant to the person against whom the complaint is made. Parents/guardians are encouraged to attempt to orally resolve concerns with the staff member personally.
2. If a complainant is unable or unwilling to resolve the complaint directly with the person involved, he/she may submit an oral or written complaint to the employee's immediate supervisor or the principal.
3. All complaints related to district personnel other than administrators shall be submitted in writing to the principal or immediate supervisor. If the complainant is unable to prepare the complaint in writing, administrative staff shall help him/her to do so. Complaints related to a principal or central office administrator shall be initially filed in writing with the Superintendent or designee. Complaints related to a Board member or to the Superintendent shall be initially filed in writing with the Board.
4. A written complaint must include:
 - a. The 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.

COMPLAINTS CONCERNING SCHOOL EMPLOYEES (continued)

5. The person responsible for investigating complaints will attempt to resolve the complaint to the satisfaction of the person(s) involved within 30 days.
6. The complainant may appeal a decision by the principal or immediate supervisor to the Superintendent or designee, who will attempt to resolve the complaint to the satisfaction of the person(s) involved within 30 days. Complainants should consider and accept the Superintendent or designee's decision as final. However, the complainant, the employee, or the Superintendent or designee may ask to address the Board regarding the complaint.
7. 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 be limited to:
 - a. The 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 employee(s) as to the precise nature of the complaint and to allow the employee(s) to prepare a defense.
 - c. A copy of the signed original complaint.
 - 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.
8. The Board may uphold the Superintendent's decision without hearing the complaint.
9. All parties to a complaint may be asked to attend a Board meeting in order to present all available evidence and allow every opportunity for explaining and clarifying the issue.
10. 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. Complaints concerning Board members shall be addressed in open session unless a closed session is warranted pursuant to Education Code 35146 or 48918 or Government Code 54957 or 54957.6. (Government Code 54957)

(cf. 9321 - Closed Session Purposes and Agendas)

(cf. 9323 - Meeting Conduct)

11. Any decision of the Board shall be final.

COMPLAINTS CONCERNING SCHOOL EMPLOYEES (continued)

Complaints Regarding Child Abuse

When a complaint of child abuse is alleged, the district shall provide parents/guardians procedures for filing a child abuse complaint with the appropriate child protective agencies. Upon request, such procedures shall be written in the primary language of the parent/guardian, and the Superintendent or designee shall provide an interpreter if needed. (Statutes Other than Code, Ch. 1102, Statutes of 1991)

Providing the above procedures to parents/guardians does not relieve mandated reporters from their duty to report suspected child abuse in accordance with law.

(cf. 4112.6 - Personnel Records)

(cf. 4144 - Employee Complaints)

(cf. 5141.4 - Child Abuse Reporting Procedures)

Regulation
approved: September 28, 1995
Revised: December 16, 2002

FAIRFIELD-SUISUN UNIFIED SCHOOL DISTRICT
Fairfield, California

CDE Legal Advisory LO:4-93 PROCEDURES FOR PARENTS OR GUARDIANS OF STUDENTS TO IDENTIFY AND REPORT CHILD ABUSE COMMITTED AT A SCHOOL SITE BY A SCHOOL DISTRICT EMPLOYEE OR OTHER PERSON

The following information, taken from Penal Code Sections 273a, 273d, and 11165.6, will assist parents/guardians in deciding whether to file a complaint of child abuse.

What is Child Abuse and What is Not Child Abuse

Child abuse is a physical injury which is inflicted by other than accidental means on a child by another person.

It also means the sexual abuse of a child.

It also means willful cruelty or unjustifiable punishment of a child, or willfully inflicting unjustifiable physical pain or mental suffering, or failure to safeguard a child from these injuries when the child is under a person's care or custody.

It also means unlawful corporal punishment or injury resulting in a traumatic condition.

Child abuse also means neglect of a child or abuse in out-of-home care. (Out-of-home care is defined in Penal Code Section 11165.5 as a situation where the person responsible for the child's welfare is a licensee, administrator, or employee of any facility licensed to care for children, or an administrator or employee of a public or private school or other institution or agency.)

Child abuse does not mean a mutual affray or fight between minors.

It also does not include an injury caused by the actions of a peace officer using reasonable and necessary force:

1. To quell a disturbance threatening physical injury to person or damage to property;
2. To prevent physical injury to person or damage to property;
3. For purposes of self-defense;
4. To obtain possession of weapons or other dangerous objects within the control of a child; or
5. To apprehend an escapee.

In addition, child abuse does not include injury caused by any force that is reasonable and necessary for a person employed by or engaged in a public school:

1. To stop a disturbance threatening physical injury to people or damage to property;
2. For purposes of self-defense; or
3. To obtain possession of weapons or other dangerous objects within control of a student. (Education Code 44807, 49001)

How to File a Complaint of Child Abuse Against School District Employees or Others at School Sites

Parents/guardians of students have the right to file a complaint against a school district employee or other person that they suspect has engaged in abuse of a child at a school site.

To file a complaint, the parent/guardian must file a formal report with the local child protective agency. This may be done by telephone, in person, or in writing. A complaint may also be filed with the appropriate local school district or county office of education; however, school districts and county offices of education do not investigate child abuse complaints.

In addition, if the child is disabled and enrolled in special education, a separate complaint may be filed with the California Department of Education (CDE) under the California Code of Regulations, Title 5, Section 4650(a)(viii)(c). The CDE does not investigate allegations of child abuse. The CDE investigates conditions that may involve immediate physical danger or threaten the health, safety or welfare of the child and which may result in denial of free appropriate public education.

As defined in the Child Abuse and Neglect Reporting Act of 1987, a child protective agency is:

1. A police or sheriff's department;
2. A county probation department; or
3. A county welfare department/child protective services.

These agencies are listed in local telephone directories under government listings. Police will be found under city government listings; sheriffs, probation, welfare departments and child protective services will be found under county government listings.

The local child protective agency shall investigate the complaint. (Penal Code 11165.14)

If the complaint is substantiated, the local child protective agency is required to forward a copy of the investigation report to the governing board of the local school district or county office of education. (Penal Code 11165.14)

E(1) 1312.1(c)

Child protective agencies are also required to cross-report every known or suspected instance of child abuse to the other child protective agencies having jurisdiction over the case (for example, county welfare to law enforcement, and vice versa), to the agency responsible for conducting investigations for dependency determinations pursuant to Welfare and Institutions Code 300, and to the district attorney. (Penal Code 11166(g))

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Fairfield, California
E(2) 1312.1

CHAPTER 1102, STATUTES OF 1991
SECTION 6

The Governing Board of a school district or county office of education shall upon request disseminate the guidelines adopted by the State Department of Education pursuant to Section 33308.1 of the Education Code to parents or guardians in the primary language of the parent or guardian. The governing board of a school district or county office of education is encouraged to inform a parent or guardian that desires to file a complaint against a school employee or other person that commits an act of child abuse as defined in Section 11165.6 of the Penal Code against a student at a schoolsite of the procedures for filing that complaint with the local child protective agencies pursuant to the Child Abuse and Neglect Reporting Act, established pursuant to Chapter 1444 of the Statutes of 1987. In the case of oral communications with the parent or guardian whose primary language is other than English, concerning that guideline or the procedures for filing child abuse complaints, the governing board shall provide an interpreter for that parent or guardian.

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