

Sierra Sands USD

Board Policy

Complaints Concerning School Personnel

BP 1312.1

Community Relations

The Governing Board places trust in its employees and desires to support their actions in such manner that employees are freed from unwarranted, spiteful or negative criticism and complaints.

The Superintendent or designee shall develop regulations which permit the public to lodge complaints against staff members in an appropriate way. These regulations shall assure a complete hearing of complaints and shall protect the rights of the staff members and the district.

(cf. 1250 - Visitors/Outsiders)

(cf. 6144 - Controversial Issues)

Verbal criticism against an employee initially made to a Board member or at a Board meeting will be referred to the Superintendent for appropriate consideration and action according to administrative regulations.

(cf. 9323 - Meeting Conduct)

When a complaint is made, the Superintendent or designee shall determine whether it should be resolved by the district's process for complaints concerning personnel, the district's uniform complaint procedures, or both.

(cf. 1312.3 - Uniform Complaint Procedures)

Upon request, parents/guardians shall receive procedures, written in their primary language, for filing a child abuse complaint with the appropriate child protective agencies. If any parent/guardian complains of child abuse occurring at a school, the Superintendent or designee shall provide him/her with these procedures and shall also provide an interpreter as needed for oral communication. (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. 5141.4 - Child Abuse Reporting Procedures)

(cf. 4112.6 - Personnel Records)

The Board shall annually review district policies and regulations regarding complaints against school personnel. (Education Code 35150.5)

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)

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

Policy

adopted: August 18, 1994

SIERRA SANDS UNIFIED SCHOOL DISTRICT

Ridgecrest, California

Sierra Sands USD

Administrative Regulation

Complaints Concerning School Personnel

AR 1312.1 Community Relations

In order to promote fair and constructive communication, the following procedures shall govern the resolution of complaints. Every effort should be made to resolve a complaint at the earliest possible stage.

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

(cf. 1312.2 - Complaints Concerning Instructional Materials)
(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 4144/4244/4344 - Complaints)

1. Complaints concerning school personnel should be made directly by the complainant to the person against whom the complaint is lodged. Parents/guardians are encouraged to attempt to orally resolve concerns with the staff member personally.
2. If the complaint is not resolved at this level, the complainant may submit the complaint in writing to the school principal or immediate supervisor. When necessary, district administration shall assist in the preparation of the written complaint so as to meet the requirement of this regulation. The administrative staff shall inform the complainant that such assistance is available if he/she is unable to prepare the written complaint without help.
3. A written complaint must include the name of each employee involved and a brief but specific summary of the complaint and the facts surrounding it. It must also include a specific description of a prior attempt to discuss the complaint with the employee involved and the failure to resolve the matter.
4. When a written complaint is received, the employee shall be notified within five days or in accordance with collective bargaining agreements.
5. The principal or immediate supervisor is responsible for investigating complaints and will attempt to resolve the complaint to the satisfaction of the person(s) involved. If the complaint is resolved, the principal will so advise all concerned parties, including the Superintendent or designee.
6. If the complaint remains unresolved after review by the principal or the immediate

supervisor, the principal shall refer the written complaint, together with a report and analysis of the situation, to the Superintendent or designee. 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 Governing Board regarding the complaint.

7. All written complaints regarding district personnel other than administrators shall be initially filed with the principal. If the complaint regards a principal or central office administrator, the written complaint shall be initially filed with the Superintendent or designee. If the written complaint concerns the Superintendent it shall be initially filed with the Board.

8. Staff responsible for investigating complaints shall attempt to resolve the complaint to the satisfaction of the parties involved within 30 days.

9. Except when a complaint is directed against the Superintendent no party to a complaint may address the Board, either in closed or open session, unless the Board has received the Superintendent or designee's written report concerning the complaint. The Superintendent or designee's report shall contain, 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, with his/her specific finding that disposition of the case at the Superintendent or designee's level has not been possible, and the reasons why.

10. All parties to a complaint, including the school administration, may be asked to attend a Board meeting or part of such meeting for the purpose of presenting all available evidence and allowing every opportunity for explaining and clarifying the issue.

11. Complaints concerning an employee shall be addressed in a closed session of the Board unless the employee requests that the issue be addressed in open session.

(cf. 9321 - Closed Sessions)

12. The decision of the Board following the hearing shall be final.

Sierra Sands USD

Exhibit

Complaints Concerning School Personnel

E 1312.1

Community Relations

Information For Parents On Reporting Child Abuse

What is Child Abuse and What is not Child Abuse

The following information, taken from Penal Code Sections 273a, 273d, and 11165.6, will assist parents/guardians in reaching the decision whether to file a complaint of suspected 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 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)

Pursuant to Penal Code 11165.12, child protective agencies may find complaints from parents/guardians or the public to be either false or improbable, or the complained-of actions may be found to be accidental or not within the definition of child abuse.

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

The parent/guardian of a student has 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. In addition, if the child is also disabled and enrolled in special education, a separate complaint may be filed with the California Department of Education (CDE) under Title 5 of the California Code of Regulations, Section 4650(a)(viii)(C). This state regulation requires the CDE to investigate allegations that the child may be in immediate physical danger or that the health, safety, or welfare of the child is threatened.

To ensure that an appropriate investigation takes place, the parent/guardian must file a verbal or written complaint with the local child protective agency, school district, or county office of 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)

Child protective agencies are also required to report every known or suspected instance of child abuse to the law enforcement agency having jurisdiction over the case and to the district attorney. (Penal Code 11166(g))

Pursuant to Penal Code 11172, persons who are not mandated by law to report child abuse are liable for any damages caused when they make a report of child abuse known to be false or with reckless disregard for truth or falsity.

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.

SIERRA SANDS UNIFIED SCHOOL DISTRICT
Ridgecrest, California

