

COMPLAINTS CONCERNING DISTRICT EMPLOYEE

~~The Board of Education 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 of Education recognizes its accountability to the public for the quality of the district's educational program and the performance of district employees. The district shall provide a process by which a complaint submitted by any person regarding an employee can be resolved impartially, expeditiously, and with minimal disruption to district operations and the educational program.

~~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 Materials)~~

~~(cf. 1312.3—Uniform Complaint Procedures)~~

~~(cf. 3515.2—Disruptions)~~

~~(cf. 4119.21/4219.21/4319.21 - Professional Standards)~~

~~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.~~

When a concern regarding an employee is presented during a Board meeting or to an individual Board member or employee outside of a Board meeting, the complainant shall be informed of the appropriate complaint procedure.

(cf. 9323 - Meeting Conduct)

Any complaint regarding the Superintendent shall be initially filed in writing with the Board. The Board shall consult with legal counsel or appoint an appropriate agent to conduct the investigation.

The Superintendent or designee shall determine whether a complaint against any other employee 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. Any complaint of child abuse or neglect alleged against a district employee shall be reported to the appropriate local agencies in accordance with law and BP 5141.4 - Child Abuse Prevention and Reporting. Any complaint alleging that an employee engaged in unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) in district programs and activities shall be filed in accordance with BP/AR 1312.3 - Uniform Complaint Procedures.

COMPLAINTS CONCERNING DISTRICT EMPLOYEE (continued)

Any complaint by an employee, job applicant, volunteer, intern, or independent contractor alleging unlawful discrimination or harassment by an employee shall be filed in accordance with AR 4030 - Nondiscrimination in Employment.

(cf. 1312.2 - Complaints Concerning Instructional Materials)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 3555 - Nutrition Program Compliance)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4144/4244/4344 - Complaints)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

Any complaint subject to this policy and the accompanying administrative regulation shall be investigated by the principal, the employee's immediate supervisor, the Superintendent or designee, legal counsel, agent of the Board, and/or other appropriate person who is not the subject of the complaint or subordinate to the employee charged in the complaint. The complainant and the employee shall have an opportunity to present information relevant to the complaint

A complaint that is filed anonymously may be investigated by the Superintendent or designee depending on the specificity and reliability of the information.

If a complainant requests confidentiality, the Superintendent or designee shall inform the complainant that the request may limit the district's ability to investigate the employee's conduct or take other necessary action. However, the Superintendent or designee shall take all reasonable steps to investigate and resolve the complaint without divulging the complainant's identity.

The Board prohibits retaliation against complainants.

If either the complainant or the employee submits an appeal of the Superintendent's decision to the Board, the Board shall determine whether to uphold the Superintendent's decision without hearing the complaint, appoint an appeals committee to advise the Board, or hear the appeal itself.

If the Board decides to hear the complaint, the matter shall be addressed in closed session in accordance with Government Code 54957 unless the employee requests that it be heard in open session. The Board shall review the original complaint and additional information provided by the Superintendent or designee regarding the steps taken to resolve the issue.

(cf. 9321 - Closed Session Purposes and Agendas)

(cf. 9323 - Meeting Conduct)

COMPLAINTS CONCERNING DISTRICT EMPLOYEE (continued)

The Board's decision shall be final.

(cf. 4118 - Dismissal/Suspension/Disciplinary Action)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

Legal References:

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 employees; 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

COURT DECISIONS

Baca v. Moreno Valley Unified School District, (1996) 936 F. Supp. 719

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 amended: December 17, 2020

Policy adopted: May 3, 2001

COMPLAINTS CONCERNING DISTRICT EMPLOYEE**Complaints Against District Employee**

The following regulations are intended to provide an orderly procedure whereby persons other than faculty, staff or students of the district can resolve complaints against district employees. The Board of Education prohibits retaliation in any form for the filing of a complaint by a citizen.

Definitions**1. Complaint**

A complaint is a written statement, signed and verified under penalty of perjury by a complainant on forms provided by the Superintendent's Office, which charges that the complainant has been injured by, or has a grievance against, an employee of this school district.

2. Complainant

A complainant is a person other than faculty, staff or student of the district who makes a complaint against an employee of the Alvord Unified School District.

3. Response

A response is a written statement signed by the person which answers the complaint in detail. It may also contain counter allegations in response to the initial complaint.

4. Respondent

A respondent is an employee of the Alvord Unified School District against whom a complaint is filed.

5. Day

In this procedure, all days are calendar days unless otherwise specified. The number of days specified for completion of each step of this procedure shall be extended in the event of an employee's legitimate absence.

Formal Complaint Procedure**Level 1**

- Step 1.** Prior to filing a written complaint, the complainant should bring the matter to the attention of the respondent's supervisor. If the complainant first brings the matter directly to the respondent, the respondent may either refer the complainant to the respondent's supervisor or, at the respondent's discretion, may attempt to resolve the matter directly with the complainant. The complainant should commence this step within one week of the complainant's knowledge of the event giving rise to the complaint. If the complaint is satisfactorily resolved at this step, then the complaint procedure shall be over.

COMPLAINTS CONCERNING DISTRICT EMPLOYEE (continued)

2. Step 2. If the complaint is not satisfactorily resolved at Step 1, the complainant may submit a written complaint to the employee's immediate supervisor within 15 days of completion of Step 1. The complaint shall be submitted on the district form obtained from the Superintendent's Office, and when completed be submitted to the same office. The complaint shall, in detail, describe the nature of the complaint.

If for any reason a written complaint is not provided by the complainant, the matter shall not thereafter be considered under this complaint procedure. Nonetheless, should the district determine to do so, the matter may be further investigated by the district. A complaint not put into written form by the complainant shall not be placed in an employee's personnel file unless there is independent verification of the complaint. Nothing in this procedure shall preclude the district from reporting incidents to appropriate authorities, such as law enforcement agencies, where appropriate, regardless of whether the complainant is willing to put the complaint in writing.

If the complaint is submitted in writing, then within 15 days the immediate supervisor of the employee will conduct a meeting to which the complainant and the respondent will both be invited. If either the complainant or the respondent does not attend the meeting, the meeting will nonetheless proceed as scheduled. The respondent may have a representative at any meeting. Thereafter, the immediate supervisor will review the matter and respond in writing to the complainant within 10 days. A copy of this response will be provided to the respondent.

Level 2

3. Step 3. If the complaint is not satisfactorily resolved at Step 2, the complainant may discuss the complaint with the respondent's immediate supervisor, and the Superintendent or designee within 15 days of the immediate supervisor's decision. The district Superintendent or designee will review the matter and respond in writing to the complainant within 10 days. A copy of this response will be provided to the respondent.

Level 3

4. Step 4. If the complaint is not satisfactorily resolved at Step 3, the complainant may request in writing that the Board review the complaint within 15 days of the Superintendent or designee's response. The Board may 1) Conduct a hearing on the complaint. 2) Hear the complaint in closed session 3) Uphold the level 2 response. Deliver the Board's decision within 45 days of receiving the complaint. ~~or may require that the matter be submitted to the Board in writing for their review and consideration.~~ The decision of the Board shall be final.

Complaints concerning Board members shall be addressed in open session unless a closed session is warranted pursuant to Education Code. See CSBA list.

COMPLAINTS CONCERNING DISTRICT EMPLOYEE (continued)

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. (Education Code 48987).

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. 4112.6/4212.6/4312.6 – Personnel Files)

(cf. 4144/4244/4344 – Complaints)

(cf. 5141.4 – Child Abuse Reporting Procedures)

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 mutually 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 persons 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)

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
(continued)

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 5 CCR 4650(a)(iii)(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)

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))

Exhibit version: December 20, 2020

Exhibit version: May 3, 2001

Complaint Concerning District Employees (Form 1)

TO: Board of Education
c/o Assistant Superintendent, ~~Instructional Support Services~~
Human Resources
10365 Keller Avenue
Riverside, CA 92505

FROM: Name: _____

Address: _____

This is to be completed and returned to the Human Resources Department after the results from the Informal Conference has been delivered or after 15 days from the Informal Conference. **An informal conference must take place** prior to the completion of this form.

Phone No.: (Home) _____ (Work) _____

Note: _____

Name of person against whom this complaint is made if applicable: _____

Nature of complaint (describe in your own words the grounds of your complaint, including all names, dates and places necessary for a complete understanding of your complaint):

(If necessary, attach additional pages of your own.)

**Alvord Unified School District
Complaint Concerning District Employees
(continued)**

**Board Policy 1312.1
E(2) 1312.1(b)**

Have you discussed the complaint with the employee named or his/her immediate supervisor or appropriate District official?

☐ Yes ☐ No

Give dates and name(s) of persons to whom you have spoken: _____

State the result of the ~~discussion~~ **Informal Conference**: _____

~~Other comments, if any~~ **Remedy Sought**: _____

I understand that the Assistant Superintendent, Superintendent or Board of Education may request from me further information about the complaint, and if such information is available, I shall present it upon request.

I also understand that, if applicable, a copy of this complaint will be given to the employee against whom this complaint is being made.

I certify under penalty of perjury that the foregoing is true and correct. Executed this _____ day of _____, 20____ at _____, California.

Signed: _____

Witnessed by: _____

Date: _____

Alvord Unified School District
Complaint Concerning District Employees **(Form 2)**
Level 2

Attach Form 1

Reason for submitting a Level 2 complaint and additional or new information:

Informal Conference: _____

Remedy Sought: _____

Reports from Supervisor or Designee: _____

Signature
Supervisor or Designee

Date

Alvord Unified School District
Complaint Concerning District Employees (Form 3)
Level 3

Attach Form 1 and 2

Reason for submitting a Level 3 complaint and additional or new information:

Remedy Sought: _____

Board Decision:

- 1. ☐ Conduct a hearing
- 2. ☐ Hear the Complaint in Closed Session
- 3. ☐ Uphold Level 2 response

Result of Hearing or Board's Decision:

Board President

Date