



Date: September 28, 2009
To: Board of Education
From: Dr. J. Brian Sarvis, Superintendent
Subject: Complaint Procedures

Board Brief

Background

Attached is a copy of each of the district complaint policies:

- Complaints concerning district employees or policies (BP 1312.1)
- Complaints concerning Instructional Materials (BP 1312.2)
- Uniform Complaint Procedures (BP 1312.3)
- Williams Uniform Complaint Procedures (AR 1312.4)

Additional complaints may be directed to the Superintendent or the Board of Education.

Santa Barbara School Districts

Board Policy

BP 1312.1

Community Relations

COMPLAINTS CONCERNING DISTRICT EMPLOYEES OR POLICIES

The Governing Board desires to provide 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 or district policies in an appropriate way. These regulations shall protect the rights of involved parties.

(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 the Superintendent or designee so desires.

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*

Policy: SANTA BARBARA SCHOOL DISTRICTS
Adopted: September 9, 2008 Santa Barbara, California

Santa Barbara School Districts

Administrative Regulation

AR 1312.1

Community Relations

COMPLAINTS CONCERNING DISTRICT EMPLOYEES OR POLICIES

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)

To promote prompt and fair resolution of the complaint, 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, the complainant should communicate directly to the employee in order to resolve concerns.
2. If a complainant is unable or unwilling to resolve the complaint directly with the employee, he/she may submit a 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 the Superintendent shall be initially filed in writing with the Board, and the Board's decision will be final.
4. When a written complaint is received, the employee shall be notified within five days or in accordance with collective bargaining agreements.
5. A written complaint shall include:
 - a. The full name of each employee involved
 - b. The full name of the complainant
 - c. A brief but specific summary of the complaint and the facts surrounding it
 - d. A specific description of any prior attempt to discuss the complaint with the employee and the failure to resolve the matter

6. Staff responsible for investigating complaints shall attempt to resolve the complaint to the satisfaction of the parties involved within 30 days.
7. Both the complainant and the employee against whom the complaint was made may appeal a decision by the principal or immediate supervisor to the Superintendent or designee, who shall attempt to resolve the complaint to the satisfaction of the person involved within 30 days. Parties should consider and accept the Superintendent or designee's decision as final.

Any complaint of child abuse or neglect alleged against a district employee shall be reported to the appropriate local agencies in accordance with law, Board policy and administrative regulation.

(cf. 5141.4 - Child Abuse Prevention and Reporting)

Regulation: SANTA BARBARA SCHOOL DISTRICTS
Adopted: September 9, 2008 Santa Barbara, California

Santa Barbara School Districts

Board Policy

BP 1312.2

Community Relations

COMPLAINTS CONCERNING INSTRUCTIONAL MATERIALS

The Board of Education uses a comprehensive process to adopt district instructional materials that is based on selection criteria established by law and Board policy and includes opportunities for the involvement of parents/guardians and community members. Complaints concerning the content or use of instructional materials, including textbooks, supplementary instructional materials, library materials, or other instructional materials and equipment, shall be properly and fairly considered using established complaint procedures.

(cf. 6161.1 - Selection and Evaluation of Instructional Materials)

(cf. 6161.11 - Supplementary Instructional Materials)

(cf. 6163.1 - Library Media Centers)

Parents/guardians are encouraged to discuss any concerns regarding instructional materials with their child's teacher and/or the school principal. If the situation remains unresolved, a complaint may be filed using the process specified in the administrative regulation.

The district shall accept complaints concerning instructional materials only from staff, district residents, or the parents/guardians of children enrolled in a district school.

When deliberating upon challenged materials, the Superintendent and/or review committee shall consider the educational philosophy of the district, the professional opinions of teachers of the subject and of other competent authorities, reviews of the materials by reputable bodies, the teacher's stated objectives in using the materials, community standards, and the objections of the complainant.

Complainants are encouraged to accept the Superintendent's or review committee's decision. However, if the complainant finds that decision unsatisfactory, he/she may appeal the decision to the Board.

(cf. 9322 - Agenda/Meeting Materials)

The district's decision shall be based on educational suitability of the materials and the criteria established in Board policy and administrative regulation.

(cf. 6144 - Controversial Issues)

(cf. 9000 - Role of the Board)

(cf. 9005 - Governance Standards)

When any challenged instructional material is reviewed by the district, it shall not be subject to further reconsideration for 12 months, unless the Superintendent determines that reconsideration is warranted.

Complaints related to sufficiency of textbooks or instructional materials shall be resolved pursuant to the district's Williams uniform complaint procedure at Administrative Regulation 1312.4.

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 1312.3 - Uniform Complaint Procedures)

Santa Barbara School Districts

Administrative Regulation

AR 1312.2

Community Relations

COMPLAINTS CONCERNING INSTRUCTIONAL MATERIALS

Step 1: Informal Complaint

If a staff member, district resident, or parent/guardian of a student enrolled in a district school has a complaint regarding the content or use of any specific instructional material, he/she shall informally discuss the material in question with the principal.

Step 2: Formal Complaint

If the complainant is not satisfied with the principal's initial response, he/she shall present a written complaint to the principal. Complaints regarding printed material shall name the author, title, and publisher and shall identify the objection by page and item numbers. In the case of nonprinted material, written information specifying the precise nature of the objection shall be given. Complainants shall sign all complaints and provide identifying information so that the district is able to make a proper reply. Anonymous complaints will not be accepted.

Upon receiving a complaint, the principal shall acknowledge its receipt and answer any questions regarding procedure. The principal then shall notify the Superintendent or designee and the teacher(s) involved of the complaint.

During the investigation of the complaint, the challenged material may remain in use until a final decision has been reached. However, upon request of the parent/guardian who has filed the complaint, his/her child may be excused from using challenged materials until a resolution has been reached. The teacher shall assign the student an alternate material of equal merit.

Step 3: Superintendent Determination

The Superintendent or designee shall determine whether a review committee should be convened to review the complaint.

In general, a committee will only be convened to review challenged materials that are non-state board approved or materials that are not on one of the following lists:

- California Department of Education's (CDE) Recommended Literature lists
- CDE California Reading List, or
- English Learner Supplemental Materials-Curriculum Frameworks and Instructional Materials lists (in accordance with Assembly Bill 1802).

If the Superintendent or designee determines that a review committee is not necessary, he/she shall issue a decision regarding the complaint.

Step 4: Review Committee

If the Superintendent or designee determines that a review committee is necessary, he/she shall appoint a committee composed of administrators and staff members selected from relevant instructional and administrative areas. The Superintendent or designee may also appoint community members, scholars, and/or experts to serve on the committee.



REQUEST FOR RECONSIDERATION OF INSTRUCTIONAL MATERIALS

This form is for use only by district employees, district residents, or parents/guardians of children enrolled in a district school to challenge the content or use of an instructional material. For complaints regarding sufficiency of instructional materials, please use the Williams Uniform Complaint Procedure complaint form.

Date: _____

Name of person filing complaint: _____
Anonymous complaints will not be accepted.

Group represented (if any): _____

Phone: _____ E-mail address (if any): _____

Address: _____

Material being challenged: _____

Title: _____

Author: _____

Publisher: _____ Date of edition: _____

Name of school/classroom in which material was used: _____

1. Please specifically state the nature of your concern or objection and identify your objection by page, tape sequence, video frame, or words, as appropriate. (Use additional pages if necessary.)
2. Did you read/view the entire selection?
3. If not, what percentage did you read/view, or what parts?
4. For what age group would you recommend this material?
5. What do you feel might be the result if a student reads/views this material?
6. What would you like the school to do about this material?
 - Do not assign it to my child
 - Withdraw it from all students
 - Reconsider it

Signature of complainant _____

FOR DISTRICT USE

Request received by: _____ Date: _____

Title: _____

Action taken: _____ Date: _____

Santa Barbara School Districts

Board Policy

BP 1312.3

Community Relations

UNIFORM COMPLAINT PROCEDURES

The Governing Board recognizes that the districts are primarily responsible for complying with applicable state and federal laws and regulations governing educational programs. The district shall investigate complaints alleging failure to comply with such laws and/or alleging discrimination and shall seek to resolve those complaints in accordance with the procedures set out in Sections 4600-4687 of the Title 5 regulations and in accordance with the district's uniform complaint policies and procedures. (T5 CCR 4620)

The district shall follow uniform complaint procedures when addressing complaints alleging unlawful discrimination against any protected group as identified under Education Code 200 and 220 and Government Code 11135, including actual or perceived sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability, or age, on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics in any district program or activity that receives or benefits from state financial assistance. (T5 CCR 4610)

Uniform complaint procedures shall also be used when addressing complaints alleging failure to comply with state and/or federal laws in adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and career technical and technical training programs, child care and development programs, child nutrition programs, and special education programs. (T5 CCR 4610)

Complaints related to sufficiency of textbooks or instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff, and teacher vacancies and misassignments shall be investigated pursuant to the district's Williams uniform complaint procedure (AR 1312.4).

The Board encourages the early, informal resolution of complaints at the site level whenever possible.

The Board acknowledges and respects every individual's right to privacy. Discrimination complaints shall be investigated in a manner that protects the confidentiality of the parties and the integrity of the process. This may include keeping the identity of the complainant confidential, as appropriate and except to the extent necessary to carry out the investigation or proceedings, as determined by the Superintendent or designee, on a case-by-case basis.

The Board prohibits any form of retaliation against any complainant in the complaint process, including but not limited to a complainant's filing of a complaint or the reporting of instances of discrimination. Such participation shall not in any way affect the status, grades, or work assignments of the complainant.

Santa Barbara School Districts

Administrative Regulation

AR 1312.3

Community Relations

UNIFORM COMPLAINT PROCEDURES

Compliance Officers

The Governing Board designates the following compliance officer(s) to receive and investigate complaints and to ensure district compliance with law:

Director of Compliance and Categoricals *or*
Assistant Superintendent, Elementary *or*
Assistant Superintendent, Secondary
Santa Barbara School Districts
720 Santa Barbara Street
Santa Barbara, CA 93101
(805) 963-4331

The Superintendent or designee shall ensure that employees designated to investigate complaints are knowledgeable about the laws and programs for which they are responsible. Designated employees may have access to legal counsel as determined by the Superintendent or designee.
(cf. 9124 - Attorney)

Notifications

The Superintendent or designee shall annually provide written notification of the district's uniform complaint procedures to students, employees, parents/guardians, district advisory committees, school advisory committees, appropriate private school officials or representatives, and other interested parties. (T5 CCR 4622)

The Superintendent or designee shall make available copies of the district's uniform complaint procedures free of charge. (T5 CCR 4622)

The notice shall:

1. Identify the person(s), position(s), or unit(s) responsible for receiving complaints
2. Advise the complainant of any civil law remedies that may be available to him/her under state or federal discrimination laws, if applicable
3. Advise the complainant of the appeal process pursuant to Education Code 262.3, including the complainant's right to take a complaint directly to the California Department of Education (CDE) or to pursue remedies before civil courts or other public agencies
4. Include statements that:
 - a. The district is primarily responsible for compliance with state and federal laws and regulations

The use of mediation shall not extend the district's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time. (T5 CCR 4631)

Step 3: Investigation of Complaint

The compliance officer is encouraged to hold an investigative meeting within five days of receiving the complaint or an unsuccessful attempt to mediate the complaint. This meeting shall provide an opportunity for the complainant and/or his/her representative to repeat the complaint orally.

The complainant and/or his/her representative shall have an opportunity to present the complaint and evidence or information leading to evidence to support the allegations in the complaint. (T5 CCR 4631)

A complainant's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, or his/her failure or refusal to cooperate in the investigation or his/her engagement in any other obstruction of the investigation, may result in the dismissal of the complaint because of a lack of evidence to support the allegation. (T5 CCR 4631)

The district's refusal to provide the investigator with access to records and/or other information related to the allegation in the complaint, or its failure or refusal to cooperate in the investigation or its engagement in any other obstruction of the investigation, may result in a finding, based on evidence collected, that a violation has occurred and may result in the imposition of a remedy in favor of the complainant. (T5 CCR 4631)

Step 4: Response

Within 30 days of receiving the complaint, the compliance officer shall prepare and send to the complainant a written report of the district's investigation and decision, as described in Step #5 (below). If the complainant is dissatisfied with the compliance officer's decision, he/she may, within five days, file his/her complaint in writing with the Board.

The Board may consider the matter at its next regular Board meeting or at a special Board meeting convened in order to meet the 60-day time limit within which the complaint must be answered. The Board may decide not to hear the complaint, in which case the compliance officer's decision shall be final.

If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 60 days of the district's initial receipt of the complaint or within the time period that has been specified in a written agreement with the complainant. (T5 CCR 4631)

Step 5: Final Written Decision

The district's decision shall be in writing and sent to the complainant. (T5 CCR 4631)

The district's decision shall be written in English and in the language of the complainant whenever feasible or as required by law. If it is not feasible to write this report in the complainant's primary language, the District shall arrange a meeting at which a community member will interpret for the complainant.

The decision shall include:

and in a timely manner, apprised the complainant of his/her right to file a complaint in accordance with T5 CCR 4622.

Regulation: SANTA BARBARA SCHOOL DISTRICTS
Adopted: August 26, 1992 Santa Barbara, California
Revised: December 12, 2001; May 22, 2002; May 9, 2006

Santa Barbara School Districts

Administrative Regulation

AR 1312.4

Community Relations

WILLIAMS UNIFORM COMPLAINT PROCEDURES

Types of Complaints

The district shall use the following procedures to investigate and resolve complaints when the complainant alleges that any of the following has occurred: (Education Code 35186; 5 CCR 4681, 4682, 4683)

1. Textbooks and instructional materials
 - a. A student, including an English learner, does not have standards-aligned textbooks or instructional materials or state- or district-adopted textbooks or other required instructional materials to use in class.
 - b. A student does not have access to textbooks or instructional materials to use at home or after school.
 - c. Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.

(cf. 6161.1 - Selection and Evaluation of Instructional Materials)

2. Teacher vacancy or misassignment
 - a. A semester begins and a teacher vacancy exists.
 - b. A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20 percent English learner students in the class.

(cf. 4112.22 - Staff Teaching Students of Limited English Proficiency)

- c. A teacher is assigned to teach a class for which the teacher lacks subject matter competency.

Teacher vacancy means a position to which a single designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of the semester for an entire semester.

(Education Code 35186; 5 CCR 4600)

(cf. 6162.52 - High School Exit Examination)
(cf. 6179 - Supplemental Instruction)

Filing of Complaint

A complaint alleging any condition(s) specified in items #1-3 above shall be filed with the principal or designee at the school in which the complaint arises. The principal or designee shall forward a complaint about problems beyond his/her authority to the Superintendent or designee in a timely manner, but not to exceed 10 working days. (Education Code 35186; 5 CCR 4680)

A complaint alleging any deficiency specified in item #4 above shall be filed with a district official designated by the Superintendent. Such complaints may be filed at the district office or at a school site and shall be immediately forwarded to the Superintendent or designee. (Education Code 35186)

Investigation and Response

The principal or designee shall make all reasonable efforts to investigate any problem within his/her authority. He/she shall remedy a valid complaint within a reasonable time period not to exceed 30 working days from the date the complaint was received. (Education Code 35186; 5 CCR 4685)

Complaints may be filed anonymously. If the complainant has indicated on the complaint form that he/she would like a response to the complaint, the principal or designee shall report the resolution of the complaint to him/her within 45 working days of the initial filing of the complaint. If a response is requested, the response shall be made to the mailing address of the complainant as indicated on the complaint form. At the same time, the principal or designee shall report the same information to the Superintendent or designee. (Education Code 35186; 5 CCR 4680, 4685)

When Education Code 48985 is applicable and the complainant has requested a response, the response shall be written in English and in the primary language in which the complaint was filed. (Education Code 35186)

If a complainant is not satisfied with the resolution of a complaint, he/she has the right to describe the complaint to the Governing Board at a regularly scheduled meeting. (Education Code 35186; 5 CCR 4686)

For any complaint concerning a facility condition that poses an emergency or urgent threat to the health or safety of students or staff as described in item #3 above, a complainant who is not satisfied with the resolution proffered by the principal or Superintendent or designee may file an appeal to the Superintendent of Public Instruction within 15 days of receiving the district's response. The complainant shall comply with the appeal requirements specified in 5 CCR 4632. (Education Code 35186; 5 CCR 4687)

All complaints and written responses shall be public records. (Education Code 35186; 5 CCR 4686)

(cf. 1340 - Access to District Records)

Santa Barbara School Districts

Exhibit

E (1, 2) 1312.4

Community Relations

WILLIAMS UNIFORM COMPLAINT PROCEDURES

Exhibit 1

Notice to Parents/Guardians, Students, and Teachers: Complaint Rights

Parents/Guardians, Students, and Teachers:

Education Code 35186 requires that the following notice be posted in each classroom:

1. There should be sufficient textbooks and instructional materials. For there to be sufficient textbooks and instructional materials, each student, including English learners, must have a textbook or instructional material, or both, to use in class and to take home.
2. School facilities must be clean, safe, and maintained in good repair. Restrooms must be cleaned, maintained regularly, and fully operational which means restrooms are stocked at all times with toilet paper, soap, and paper towels or functional hand dryers. Good repair means that the facility is maintained in a manner that assures that it is clean, safe and functional as determined by the Office of Public School Construction.
3. There should be no teacher vacancies or misassignments. There should be a teacher assigned to each class and not a series of substitutes or other temporary teachers. The teacher should have the proper credential to teach the class, including the certification required to teach English learners, if present.

Teacher vacancy means a position to which a single designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.

Misassignment means the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold.

4. Pupils, including English learners, who have not passed one or both parts of the high school exit examination by the end of grade 12 are to be provided the opportunity to receive intensive instruction and services for up to two consecutive academic years after the completion of grade 12.

Santa Barbara School Districts

Exhibit

E (1, 2) 1312.4

Community Relations

WILLIAMS UNIFORM COMPLAINT PROCEDURES

Exhibit 2

Complaint Form: Williams Uniform Complaint Procedures

Complaints may be filed anonymously. However, if you wish to receive a response to your complaint, you must provide the contact information below.

Response requested? Yes No

Contact Information:

Name: _____ Address: _____

Phone Number: Day: _____ Evening: _____

E-mail address, if any: _____

Location of the problem that is the subject of this complaint:

School: _____ Course title/grade level and teacher name: _____

Room number/name of room/location of facility: _____

Date problem was observed: _____

Only the following issues may be the subject of this complaint process. If you wish to complain about an issue not specified below, please use the appropriate district complaint procedure.

Specific issue(s) of the complaint: (Please check all that apply: A complaint may contain more than one allegation.)

1. Textbooks and instructional materials: (Education Code 35186; T5 CCR 4681)

A student, including an English learner, does not have standards-aligned textbooks or instructional materials or state- or district-adopted textbooks or other required instructional materials to use in class.

A student does not have access to instructional materials to use at home or after school. This does not require two sets of textbooks or instructional materials for each student.

Please describe the issue of your complaint in detail. You may attach additional pages and include as much text as necessary to fully describe the situation. For complaints regarding facilities conditions, please describe the emergency or urgent facilities condition and how that condition poses a threat to the health or safety of students or staff.

Please file this complaint with the person specified below at the following location:

(Principal or title of designee)

(Address)

Please provide a signature below. If you wish to remain anonymous, a signature is not required. However, all complaints, even anonymous ones, should be dated.

(signature) (date)

Exhibit: Santa Barbara Elementary/High School Districts
Version: January 22, 2008 Santa Barbara, California