

**Policy 1312.1: Complaints Concerning District Employees**

**Status: ADOPTED**

**Original Adopted Date:** 06/01/1993 | **Last Revised Date:** 05/01/2019 | **Last Reviewed Date:** 05/01/2019

The Governing Board 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. 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.

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 Assistant Superintendent of Compliance 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, retaliation, or bullying) in district programs and activities shall be filed in accordance with BP/AR 1312.3 - Uniform Complaint Procedures. . Any complaint alleging that an employee engaged in sex discrimination, including sex-based harassment and sexual harassment, shall be filed in accordance with the District's Title IX Procedures contained in AR 4119.12 and AR 5145.71, except as otherwise required by law. Any complaint by a non-student employee, job applicant, volunteer, intern, or independent contractor alleging unlawful discrimination or harassment, including sex based discrimination or harassment not meeting the Title IX definitions contained in AR 4119.12 , by an employee shall be filed in accordance with AR 4030 - Nondiscrimination in Employment

Any complaint subject to Board Policy 1312.1 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.

Notwithstanding the above, neither this board policy nor its accompanying administrative regulation shall, under any circumstances, be used to resolve complaints brought by, on behalf of, or against students.

All complaints brought by, on behalf of, or against students that allege “sexual harassment” as that term is defined in the federal regulations implementing Title IX of the Education Amendments of 1972 (see 34 C.F.R. § 106, et seq.) shall be investigated and resolved under BP/AR 5145.71.

All complaints brought by, on behalf of, or against students alleging unlawful discrimination that does not constitute “sexual harassment” as that term is defined in the Title IX implementing regulations shall be investigated and resolved under BP/AR 1312.3.

The Board prohibits retaliation against complainants and all such complaints of retaliation shall be investigated and resolved under the appropriate Board Policy and Administrative Regulation.

#### **Appeals – Board Policy 1312.1**

If either the complainant or the employee submits an appeal of the Superintendent's decision under Board Policy 1312.1 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.

The Board's decision shall be final.