

WOODLAND JOINT UNIFIED SCHOOL DISTRICT

COMMUNITY RELATIONS

Policy No.: 1318

Complaints Concerning District Employees – Page 1

(NOTE: This policy replaces former BP 4168/4268 under Personnel) Board Adopted: 3-10-05

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

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 required by law.

Note: Education Code 44811 makes it a misdemeanor for a parent/guardian or other person to materially disrupt classwork or extracurricular activities or cause substantial disorder in a place where a school employee is required to be in the course of his/her duties. This misdemeanor is punishable by a fine, imprisonment or both.

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)*
- 48987 Child abuse guidelines*

GOVERNMENT CODE

- 54957 Closed session; complaints re employees*
- 54957.6 Closed session; salaries or fringe benefits*

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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
Management Resources:*

CDE LEGAL ADVISORIES

*910.93 Guidelines for parents to report suspected child abuse by school district employees
or other persons against a pupil at school site (LO:4-93)*

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Board Reviewed (New): **3-24-05**

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 both. Every effort should be made to resolve a complaint at the earliest possible stage.

The following procedures are designed to insure the avenues remain open for the channeling of concerns and complaints as directly as possible to the source and that responses can be made in objective and open manner. The administration encourages a climate in which trust and goodwill leads to a resolution of problems and concerns via informal communication at parent/teacher conferences, telephone contact, and other appropriate communications. The nature of a concern or complaint may call, however, for the review and resolution by appropriate supervisors at successive levels. Such complaints concerning school personnel must be made in the following succession:

1. Informal

Directly by the parent or guardian to the staff members against whom the complaint is lodged; or

By communicating the concern to the site principal or supervisor who may arrange a meeting with the parent or guardian and with the staff members against whom the complaint is lodged.

2. Formal

- a. If the complaint is not resolved at the informal level, the complainant is requested to put the complaint in writing using the district Complaint Form Concerning School Employees and direct it to the employee's administrative supervisor or principal.

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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.

- b. When a written complaint is received, the employee shall be notified in accordance with collective bargaining agreements.
- c. The person responsible for investigating complaints will attempt to resolve the complaint to the satisfaction of the person(s) involved within 45 days.
- d. If the complaint, after review by the supervisor, remains unresolved, the supervisor shall refer the written complaint, together with the supervisor's report and analysis of the situation, to the Superintendent or his /her designee.
- e. 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.

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- f. 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:
 - 1. The name of each employee involved
 - 2. 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
 - 3. A copy of the signed original complaint
 - 4. 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
- g. The Board may uphold the Superintendent's decision without hearing the complaint.
- h. 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.
- i. 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.

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Closed Sessions or 48918 Rules governing expulsion procedures; hearings; notice; decision in absence of request for postponement or Government Code 54957 Closed sessions; exclusion of witnesses or 54957.6 Closed sessions; legislative body of local agencies; salaries, salary schedules or fringe benefits; mandatory subjects.

- j. Any decision of the Board shall be final.

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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. (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. 5141.4 - Child Abuse Reporting Procedures)

***Note: Penal Code 11165.14 requires local child protective agencies to investigate child abuse complaints filed by parents/guardians and to transmit a substantiated report of the investigation to the appropriate school Board. The Board is then required to follow the procedures of Education Code 44031 related to placing this information in the employee's personnel file. Upon filing formal charges or upon conviction, the district may take disciplinary action in accordance with law, district policies, regulations and/or collective bargaining agreements.

(cf. 4112.6/4212.6/4312.6 - Personnel Files)

(cf. 4144 - Employee Complaints)

Note: 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. 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.

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EXHIBIT 'A' for Admin. Regs.: 1318

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Board Reviewed (New): 3-24-05

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 affair or fight between minors.

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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)

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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)

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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))

See Complaint Form Concerning School Employees on next page.

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Board Reviewed on: 3-24-05

COMPLAINT FORM CONCERNING DISTRICT EMPLOYEES

Complaint Submission Date _____ Time _____

Complainant's Name _____ Work Phone _____

Address _____ Home Phone _____
(Street) (City) (Zip)

Name of Employee reported by Complainant _____ Site _____

1. HAVE YOU COMPLETED STEPS FOR INFORMAL COMPLAINT?

a.) I have directly contacted the staff member(s) against whom the complaint is lodged.

YES NO

If NO, please explain _____

b.) I have communicated my concern to the site principal or supervisor who may arrange a meeting with the staff member(s) against whom the complaint is lodged. YES NO

If NO, please explain _____

2. STATEMENT OF COMPLAINT – Please be specific, giving dates and times when pertinent:

3. SPECIFIC RELIEF REQUESTED – What outcome do you seek from this complaint?

Complainant's Signature

Recipient's Signature

Referred to _____