

Billings School District 2

THE BOARD OF TRUSTEES

Uniform Complaint Procedure

The Board establishes this Uniform Complaint Procedure as a means to address certain complaints that arise within the Billings Public Schools. The Uniform Complaint Procedure is an avenue for complaints concerning violations of Board policy or District procedures. The District will endeavor to respond to and resolve all complaints without resorting to a formal complaint procedure and, when any complaint is filed, to address the complaint promptly and equitably. The right of a person to prompt and equitable resolution of a complaint will not be impaired by a person's pursuit of other remedies. Use of a District complaint procedure is not a prerequisite to the pursuit of other remedies and does not extend any filing deadline related to the pursuit of other remedies.

A. Addressing Complaints within the District

1. Building Level Resolution of Complaints The Board expects that most school-related issues will be addressed routinely at the school building level within the typical school chain-of-command. A person with a school-related complaint is encouraged first to discuss the issue with the appropriate teacher, counselor, dean, or principal, with the objective of resolving the matter promptly and informally. An important exception is that complaints of sexual harassment should be discussed directly with an administrator who is not involved in the alleged harassment and who will initiate District anti-harassment procedures. The Uniform Complaint Procedure is not an appropriate venue for making complaints concerning the job performance of any District employee. If a complaint concerns an employee's job performance and cannot be resolved informally at the administrative level, the complainant may have further review through the Complaint Procedure set forth in Policy 4311.

2. Areas of Concern. This Uniform Complaint Procedure may be used to address concerns (except job performance issues) in those rare circumstances when an issue is not resolved at the building level or the particular concern does not fit within the areas listed below. The Board enacted the following policies to address the following concerns, and persons with concerns or complaints in these areas are directed to follow the following policies and related procedures. If a person has a question about which District policy applies to a particular issue, the person is encouraged to contact the Superintendent's office or the Clerk's office. Information about contacting either office can be found in the District's website at <http://www.billings.k12.mt.us>.

Area of Concern	Governing Policy
Special Education	Policy 2161
Section 504 of the Rehabilitation Act	Policy 2162
Challenges to Educational Materials (including library materials)	Policy 2311
Student Rights and Responsibilities	Policy 3200
Student Sexual Harassment	Policy 3225
Student Discipline	Policy 3250
Student Suspension and Expulsion	Policy 3300
Student Records	Policy 3600
District Employment Matters	Policy Series 5000

3. Board's Authority Limited. Parents, students and patrons should be aware that the Board's authority and role in the District's complaint procedures are limited in certain circumstances and not all issues arising within a school can or should be directly addressed by the Board. For example, the Board will not consider employee or student discipline issues unless and until the Superintendent brings the issue before the Board pursuant to Montana law.

Also, employment issues arising under a collective bargaining agreement are addressed, when necessary, through the grievance procedure set forth in the collective bargaining agreement and not through Board action.

B. Written Complaint Procedure for Violation of District Policy

1. Standing. If a person with standing believes that a District policy has been violated and the particular policies listed in paragraph A.2 do not address the specific area of concern, then that person may use this Uniform Complaint Procedure to address the concern. A person has standing to bring a complaint under this Uniform Complaint Procedure if the person is (a) (1) a current District student, (2) a parent or guardian of a current District student or (3) a resident of the District and (b) directly affected by and has personal and direct knowledge of the matters asserted.

2. Written Complaint. When a complaint has not been resolved informally, a person with standing may file a written complaint under this policy with the District Clerk. The Clerk will generate and post a complaint form for this purpose. The written complaint must be signed and dated, stating (a) the nature of the complaint, (b) a description of the event or incident giving rise to the complaint, including the date of the event or incident and any school personnel involved, (c) the remedy or resolution requested, and (d) a description of

complainant's effort, if any, to resolve the issue informally, including whom within the District the complainant informally addressed the issue. Individuals filing written complaints must indicate which policies or procedures they think have been violated and must provide evidence of the nature of the violations and when they occurred.

The written complaint must be filed within thirty (30) calendar days from (a) the event or incident or (b) the date the complainant became aware of or could reasonably become aware of the event or incident. If the complainant attempted to resolve the issue informally (see paragraph A.1 above), the informal resolution process will operate to extend the filing deadline, but the written complaint must nevertheless be filed within sixty (60) calendar days from (a) the event or incident or (b) the date the complainant became aware of or could reasonably become aware of the event or incident.

3. Clerk's Review. The Board authorizes and directs the Clerk to evaluate and determine within twenty (20) business days of receipt of a written complaint the following issues: (a) the complainant's standing to bring the complaint, (b) the timeliness of the complaint, and (c) the governing policy implicated in the complaint. The Clerk may consult with District legal counsel on these issues. Upon completion of this review, the Clerk will (a) direct the complaint to the appropriate administrator pursuant to applicable policy or (b) dismiss the complaint.

4. Clerk's Authority to Dismiss a Complaint. The Clerk may dismiss any complaint if (a) the complainant lacks standing, (b) the complaint is time-barred, or (c) no District policy is implicated. The Clerk will notify the complainant in writing of the Clerk's decision to dismiss the complaint and the specific reason for the dismissal. The complainant may request in writing that the Board's Policy Review Committee consider an appeal of the Clerk's decision to dismiss the complaint. This request must be submitted in writing to the Clerk within five (5) business days of the Clerk's written notice of dismissal. If timely requested, the Policy Review Committee will consider the complainant's appeal of the Clerk's decision to dismiss the complaint. The Policy Review Committee will either affirm the Clerk's decision to dismiss or reverse the Clerk's decision to dismiss and remand the complaint for further action by the Clerk. The Policy Review Committee's decision concerning the Clerk's dismissal of the complaint is final and may not be appealed to the Superintendent, the Board, or the County Superintendent of Schools.

5. Typical Route of Complaint. A complaint under this policy will typically be addressed, in turn, by: (a) the building principal, (b) the education executive director, and (c) the Superintendent. The Clerk may direct complaints to other appropriate administrators, in which cases the chain-of-command route may be different.

6. Administrator Review and Response. Upon receipt of a written complaint from the Clerk, the administrator will investigate and attempt to resolve the complaint. In responding to the complaint, the administrator may, but is not required to, take any or all of the following steps: (a) meet with the parties involved with the complaint, (b) conduct a separate or supplementary investigation, (c) engage an outside investigator or other District employees to assist with the complaint, or (d) take other steps appropriate or helpful in addressing the complaint.

The administrator will respond in writing to the complainant within thirty (30) calendar days of the administrator's receipt of the complaint. The Clerk may grant the administrator additional time for review and response. If the Clerk grants the administrator additional time for review and response, the Clerk will notify the complainant of the grant of additional time and the reason for the grant of additional time. The administrator will provide a copy of the response to the Clerk.

If the complainant believes the administrator's decision was in error, the complainant may request in writing that the appropriate next-level administrator review the decision. This request must specify the reasons for dissatisfaction and must be submitted to the Clerk within fifteen (15) calendar days of the administrator's decision. The Clerk may dismiss the request if the request is not submitted within fifteen (15) calendar days of the administrator's decision. If the request is timely, the Clerk will forward the request within ten (10) calendar days to the appropriate next-level administrator. The timelines for each level of review are the same as outlined in this section. If the complaint next goes to the Superintendent, see item 7 below.

7. Superintendent Response. Upon receipt of a written request for review from the Clerk, the Superintendent will review the complaint, the administrators' responses, and the process used to address the complaint. In responding to the appeal, the Superintendent may, but is not required to, take any or all of the following steps: (a) meet with the parties involved with the complaint, (b) conduct a separate or supplementary investigation, (c) engage an outside investigator or other District employees to assist with the complaint, or (d) take other steps appropriate or helpful in addressing the complaint. The Superintendent will respond in writing to the appeal within thirty (30) calendar days of the Superintendent's receipt of the written appeal from the Clerk. The Clerk may grant the Superintendent additional time for review and response. If the Clerk grants the administrator additional time for review and response, the Clerk will notify the complainant of the grant of additional time and the reason for the grant of additional time. The Superintendent will provide a copy of the response to the Clerk.

The Superintendent's response to the complaint is final, unless (a) Montana law gives the Board jurisdiction over the substance of the original complaint and (b) the decision is appealed to the Board.

If the Board has jurisdiction over the substance of the original complaint and the complainant believes the Superintendent's decision was in error, the complainant may request in writing that the Board consider an appeal of the Superintendent's decision. This request must specify the reasons for dissatisfaction and must be submitted to the Clerk within fifteen (15) calendar days of the Superintendent's decision. The Clerk may dismiss the request if (a) the request is not submitted within fifteen (15) calendar days of the Superintendent's decision or (b) the Board lacks jurisdiction over the substance of the original complaint. The Clerk will notify the complainant in writing of the Clerk's decision to dismiss the appeal and the specific reason for the dismissal.

The complainant may request in writing that the Board's Policy Review Committee consider an appeal of the Clerk's decision to dismiss the appeal. This request must be submitted in writing to the Clerk within five (5) business days of the Clerk's written notice of dismissal. If timely requested, the Policy Review Committee will consider the complainant's appeal of the Clerk's decision to dismiss the appeal. The Policy Review Committee will either affirm the Clerk's decision to dismiss or reverse the Clerk's decision to dismiss and direct that the appeal be granted. The Policy Review Committee's decision concerning the Clerk's dismissal of the appeal is final and may not be appealed to the Superintendent, the Board, or the County Superintendent of Schools.

8. Board Review

a. Board Jurisdiction. The Board's powers and duties are outlined in Montana law. If the substance of the original complaint falls within the Board's powers or duties, the Board has jurisdiction to consider an appeal of the Superintendent's decision. For example: (1) If the complainant seeks a change in District policy, the Board holds jurisdiction over the substance of the complaint pursuant to MCA § 20-3-323; (2) if the complainant seeks to enroll a nonresident student without payment of tuition, the Board holds jurisdiction pursuant to MCA §§ 20-3-324(3) and 20-5-320; and (3) if the complainant seeks to change the school calendar, the Board holds jurisdiction pursuant to MCA §§ 20-3-324(16) and 20-1-301. Conversely, for example: (1) If the complainant seeks to impose discipline on or dismiss a teacher, the Board lacks jurisdiction to do either absent the recommendation of the Superintendent pursuant to MCA §§ 20-3-324(1) and 20-4-207; and (2) if the complainant seeks to impose tort liability, the Board lacks jurisdiction over tort claims.

- b. Board Review. If the Board holds jurisdiction over the substance of the original complaint, the Board will consider upon written appeal the Superintendent's decision. Upon receipt of a written request for appeal, the Chair will either (1) place the appeal on the agenda of a regular or special Board meeting or (2) appoint an appeals panel of not less than three Trustees to hear the appeal and make a recommendation to the Board. If the chair appoints a panel to consider the appeal, the panel shall meet to consider the appeal and then make a written recommendation to the full Board. The Board will report its decision on the appeal in writing to all parties within thirty (30) calendar days of the Board meeting at which the Board considered the appeal or the recommendation of the panel. A decision of the Board is final, unless Montana law specifically provides for an appeal and such an appeal is taken within the period provided by law.
- c. Complaints Against Superintendent or Clerk. If a complaint is submitted alleging a violation of District policy by the Superintendent or the Clerk, the Board holds jurisdiction over the complaint as the supervisor of the Superintendent and the Clerk. The Board will respond to the complaint. In doing so, the Board may refer the matter to a panel of not less than three Trustees to hear the complaint and make a recommendation to the Board. The Board or its panel may (a) meet with the parties involved with the complaint, (b) conduct a separate or supplementary investigation, (c) engage an outside investigator or other District employees to assist with the complaint, or (d) take other steps appropriate or helpful in addressing the complaint. The Board will respond in writing to the complainant within sixty (60) calendar days of the Superintendent's receipt of the complaint. The Board may extend its response deadline if conditions warrant additional time to respond. The Board's response to a complaint against the Superintendent or the Clerk is final, unless Montana law specifically provides for an appeal and such an appeal is taken within the period provided by law.
9. County Superintendent Appeal. When a matter falls within the jurisdiction of a county superintendent of schools, a decision of the Board may be appealed to the county superintendent pursuant to Montana law. District policy does not create or grant authority to the County Superintendent to hear issues raised by this complaint procedure that does not otherwise exist in Montana law.

Cross References: 4311 Complaints Against District Employees

Legal References:

Title IX of the Education
Amendments of 1972

Section 504 of the
Rehabilitation Act of 1973

Americans with Disability
Act

History

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