

KETCHIKAN GATEWAY BOROUGH SCHOOL DISTRICT BOARD OF EDUCATION
AGENDA STATEMENT

No. 7 d

MEETING OF August 14, 2019

REVIEWED BY:

ITEM TITLE:

PUBLIC HEARING - POLICY

Approval of revised Board Policy 1312.3 - Public Complaints
Concerning Discrimination in second reading

Superintendent
 Personnel
 Finance
 Policy Committee

SUBMITTED BY: Beth Lougee, Superintendent

CONTACT PERSON/TELEPHONE:

APPROVED FOR SUBMITTAL:

Superintendent Lougee 247-2109
Phone

Superintendent

SUMMARY STATEMENT:

The Board is being asked to approve revisions to Board Policy 1312.3 - Public Complaints
Concerning Discrimination.

ISSUE:

This Board policy is part of a series of policies that need updating.

Board Policy 9310 dictates that "the district shall develop or revise policies and regulations in order to reflect new legislation and changing community views." Additionally, BP 9311 calls for the Superintendent or the Superintendent's designee to "maintain procedures for the continuous orderly review of existing policies at a time allocated for this purpose on the agenda of regular Board meetings... in addition to presenting drafts or suggestions for new policy and policy revisions when changes in law occur or when a specific need arises".

BACKGROUND:

These revisions are being recommended by the Policy Committee.

The School Board held a policy hearing and first reading of the proposed revisions at its July meeting.

RECOMMENDATION:

Approval of the policy revisions as presented.

ATTACHMENTS:

- Proposed revisions to BP 1312.3 and associated administrative regulations.
- Forms - Citizen Complaint form
- Student Grievance form

RECOMMENDED ACTION:

"I move that the Board of Education approve the proposed revisions to Board Policy 1312.3 - Public Complaints Concerning Discrimination in second reading."

BP 1312.3 PUBLIC COMPLAINTS CONCERNING DISCRIMINATION

Note: [4 AAC 06.560](#) mandates that the district adopt and make available to the public written grievance procedures for violations of [A.S. 14.18](#) or [4 AAC 06.500 - 4 AAC 06.600](#), governing sex and race discrimination. The following sample policy and regulations should be revised as deemed appropriate within the parameters of law.

The School Board recognizes that the district has primary responsibility for ensuring that it complies with state and federal laws and regulations governing educational programs. The Superintendent or designee shall establish procedures to investigate and seek to resolve complaints alleging unlawful discrimination related to educational programs and activities.

The School Board acknowledges and respects student and employee rights to privacy. Complaints shall be investigated in a manner that protects these rights.

(cf. [1340](#) - Access to District Records)

(cf. [4112.6](#) - Personnel Records)

(cf. [5125](#) - Student Records)

The School Board prohibits retaliation in any form for the filing of a complaint, the reporting of instances of discrimination, or for participation in complaint procedures.

(cf. [0410](#) - Nondiscrimination in District Programs and Activities)

(cf. [1312.1](#) - Complaints Concerning School Personnel)

(cf. [1312.2](#) - Complaints Concerning Instructional Materials)

(cf. [5141.4](#) - Child Abuse and Neglect (Reporting Procedures))

Legal Reference:

ALASKA STATUTES

[14.18.010](#) Discrimination based on sex and race prohibited

[14.18.020](#) Discrimination in employment prohibited

[14.18.090](#) Enforcement by State Board of Education

[14.18.100](#) Remedies (Sex or Race Discrimination)

ALASKA ADMINISTRATIVE CODE

[4 AAC 06.510](#) *Discrimination in hiring practices.*

[4 AAC 06.560 - 06.580](#) *Violations; Prohibition Against Sex Discrimination*

[4 AAC 52.500 - 52.629](#) *Procedural Safeguards; Education for Exceptional Children*

TITLE VI, CIVIL RIGHTS ACT OF 1964

TITLE VII, CIVIL RIGHTS ACT OF 1964

TITLE IX, EDUCATION AMENDMENTS OF 1972

SECTION 504, REHABILITATION ACT OF 1973

34 CODE OF FEDERAL REGULATIONS

[200.74](#) and [Part 300](#)

GENERAL EDUCATION PROVISIONS ACT, [20 U.S.C. 1221](#) et seq., especially:

FAMILY EDUCATIONAL RIGHTS AND PRIVACY RIGHTS ACT, [20 U.S.C. 1232g](#)

CIVIL RIGHTS RESTORATION ACT

[20 U.S.C. 1683](#) et seq.

VOCATIONAL REHABILITATION ACT OF 1973, SECTIONS 503 AND 504

[29 U.S.C. 791](#) et seq.

AGE DISCRIMINATION IN EMPLOYMENT ACT

[29 U.S.C. 621](#) et seq.

VIETNAM ERA VETERANS ACT

[38 U.S.C. 2011](#) et seq.

AMERICANS WITH DISABILITIES ACT

[42 U.S.C. 12101](#) et seq.

AR 1312.3 PUBLIC COMPLAINTS CONCERNING DISCRIMINATION

4 AAC 06.560 requires that discrimination grievance procedures provide for a hearing before the School Board on the record and a final decision within 60 days.

Compliance Responsibility

Federal law requires the district to designate the person responsible for the overall implementation of the requirements of Title IX and Section 504, which prohibit discrimination on the basis of sex and handicap.

The School Board designates the following individual as the district's compliance officer responsible for receiving and investigating complaints concerning unlawful discrimination in district programs and activities:

Alonso Escalante, Compliance Officer
333 Schoenbar Rd.
Ketchikan, AK 99901
(907) 247-2137

The compliance officer shall notify all parties involved when a complaint is filed, when a complaint meeting or hearing is scheduled, and when a decision or ruling is made. The compliance officer shall maintain a record of each complaint and when it was received, attempts to resolve the complaint, including a record of any hearings, and the district's written decision regarding the complaint. The compliance officer shall ensure that a final decision regarding any complaint of unlawful sex or race discrimination is reached within 60 days of receipt of the complaint.

Filing of Complaint

Any district resident may file a written complaint of alleged noncompliance with the district compliance officer. If a complainant is unable to put a complaint in writing due to conditions such as illiteracy or other handicaps, district staff shall assist him/her to file the complaint.

Investigation of Complaint

The compliance officer shall hold an investigative meeting within five days of receiving the complaint or attempting to mediate the complaint. This meeting shall provide an opportunity for the complainant and/or his/her representative and the district's representatives to present information relevant to the complaint. Parties to the dispute may discuss the complaint and question each other or each other's witnesses.

To ensure that all pertinent facts are made available, the compliance officer and the complainant may ask other individuals to attend this meeting and provide additional information.

Written Decision

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, including:

1. The findings and disposition of the complaint, including corrective actions, if any.
2. The rationale for the above disposition.
3. Notice of the complainant's right to appeal the decision and procedures to be followed for initiating such an appeal.

Appeal to the School Board

Within five days of receiving the district's written decision, the complainant may appeal the compliance officer's decision to the School Board. The School Board shall consider the matter at its next regular School Board meeting or at a special School Board meeting convened in order to provide a School Board hearing and written district decision within 60 days of the district's initial receipt of the complaint or within an extended time period that has been specified in a written agreement with the complainant.

State or Federal Appeal

If dissatisfied with the resolution of a complaint alleging unlawful sex or race discrimination, the complainant may file an appeal with the Commissioner of Education within 180 days of the alleged violation. ([4 AAC 06.560](#))

If dissatisfied with the resolution of a complaint regarding a Title I program, the complainant may request its review by the U.S. Secretary of Education. ([34 Code of Federal Regulations, 200.74](#))



KETCHIKAN GATEWAY BOROUGH SCHOOL DISTRICT

COMPLAINT FORM

(Note: You may use this citizen's complaint process to address complaints against any KGBSD employee, policy, practice or procedure, including rights protected under Title VII of the Civil Rights Act of 1964, as amended, and Title IX of the Education Amendment Act of 1972.)

Please complete this form, print it and mail it to the Superintendent's Office, 333 Schoenbar Road, Ketchikan, Alaska 99901, according to the instructions found below.

Name: _____

Address: _____

Telephone: _____

1. Who or what is your complaint against? _____

School/Department: _____

Position: _____

2. Has this been discussed with him/her: Yes No

Dates: _____

3. Has the complaint been discussed with the principal or supervisor? Yes No

Dates: _____

DESCRIPTION OF COMPLAINT: Please include all important information such as location, names, dates, who was present, and to whom it was reported. Please use additional paper if more space is needed.

What remedy or action do you suggest?

Signature: _____ Date: _____

Date Received by the District: _____

This form is not intended for emailing. After filling it out, please print it and mail to the Superintendent's Office according to the instructions below.

CITIZEN COMPLAINT FORM PROCEDURES

It is a fundamental constitutional right to have freedom of expression, including criticism of public agencies and their employees. Public employees are also entitled to various rights including the right to the protection of due process of law. In order to satisfy any conflicting rights, the following procedures are established by the Ketchikan Gateway Borough School District for processing complaints against employees or employee practices of the school district.

Most complaints can be resolved by informal discussions between the complainant and the employee or the employee's principal/supervisor. This formal complaint process is reserved for complaints which are not resolved after the informal process has been attempted and must be filed no later than 30 days of the incident. If the incident occurs at the end of the school year, the formal complaint must be filed by June 30 of the current school year. For extenuating circumstances, the deadline may be extended. Even when this formal complaint procedure is initiated, efforts may occur at any point to accomplish satisfactory informal resolution. In no case, is there to be retaliation from either party.

**Directions for processing complaints against employees, policies, practices, and procedures
of the Ketchikan Gateway Borough School District:**

1. A person lodging a complaint against a district employee or employee practices should meet with the principal or supervisor of the employee to discuss the problem in an attempt to reach a solution.
2. Any person who is dissatisfied with the result of such a meeting may wish to complete a Citizen Complaint Form.
3. Send the form to the Superintendent's office, 333 Schoenbar Road, Ketchikan, Alaska 99901 (telephone - 907-247-2109). A letter of receipt stating who will be working with you to resolve this complaint and their contact numbers will be sent to you.
4. A copy of the complaint form will be provided to the employee against whom the charge is made with a request that the employee respond in writing to the appropriate administrator within 10 working days of receipt of complaint. The employee shall cooperate in resolving the complaint.
5. If the complaint is not resolved at the building or department level, the appropriate central office administrator will review the complaint and related material, interview parties, and submit findings and recommendations to the superintendent.
6. The superintendent or designee will notify the person filing the complaint and employee in writing of the final determination. A final decision will be issued in a timely manner, not to exceed 45 working days, after the filing of the formal complaint.
7. Employees impacted by use of the Citizen Complaint Form may choose to exercise rights given them by law or by employment agreement. Both the employees and the complaining party may have representation of their choice throughout the process.
8. If the concern is one of equity, the district recognizes the right of the complainant to file a complaint with the Commissioner of Education or other appropriate agencies.
9. At any point after the complaint process has been initiated, if the person filing the complaint indicates a desire to pursue formal litigation, or does in fact file suit, the district's citizen's complaint process will be terminated. The district will then turn the matter over to district counsel.

The following information is listed neither to encourage nor discourage the filing of a complaint. Rather, it is intended to inform you of the possible outcomes of a formal complaint proceeding:

- I understand that the school district may request additional information from me regarding this matter, and I agree that I will provide such information as is available to me.
- I understand that while my requested resolution of this matter will be carefully considered, the responsibility for selecting action taken may ultimately be more or less severe than the remedy I have proposed. In serious situations, the information contained in this complaint may be used among other things as a basis for termination of an employee.
- If the complaint is directed toward actions of an employee, I understand that the school district will give a copy of this complaint to the individual(s) about whom I have complained. The person will be given the opportunity to respond to this complaint. I will be provided with a copy of any written response.
- I understand that I may request to withdraw this complaint at any time. However, in the event that the school district views the matters raised in this complaint as being sufficiently serious, the school district may pursue this matter despite my desire not to proceed. I also understand that if any judicial proceeding arises from the matters which I have raised in this complaint, both the person I have complained about and I would be entitled to all the rights and protections available in such judicial proceedings.



KETCHIKAN GATEWAY BOROUGH SCHOOL DISTRICT

Student Grievance Form

1. Name of student: _____

2. Email address: _____

3. Phone: _____

4. Name of person(s) the complaint is about: _____

5. Date of incident(s): _____

6. Nature of incident(s):

- Bullying Teasing Verbal Argument Fight Cyber-bullying
 Verbal Harassment Physical Harassment Sexual Harassment Other

7. Have you shared your concern with any school teacher or adult? Yes No
Teacher _____ Other Adult: _____

8. Have you shared your concern with any school principal? Yes No
School _____ Principal: _____

9. Please describe your concern(s) in the space provided. You may provide additional information or attachments, as necessary.

10. What remedy or action do you suggest? _____

11. Has a parent been notified about this report? Yes No