

KETCHIKAN GATEWAY BOROUGH SCHOOL DISTRICT BOARD OF EDUCATION  
AGENDA STATEMENT

No. 11

MEETING OF June 12, 2019

REVIEWED BY:

ITEM TITLE:

☒ Superintendent

DISCUSSION

*(Attachments noted)*

- a. Board Policy (BP) and Administrative Regulation (AR) for 1312, 1312.1, 1312.2, 1312.3
- b. AR 4119.11; Exhibits for 4119 and 5145.3

## BP 1312 PUBLIC COMPLAINTS CONCERNING THE SCHOOLS

The School Board believes that the quality of the educational program can improve when the district listens to complaints, considers differences of opinion, and resolves disagreements through an established, objective process.

The School Board encourages complainants to resolve problems early ~~and informally~~ **as directly as possible with the person against whom there is a complaint** whenever possible. If a problem remains unresolved, the individual should submit a formal complaint **(exhibit Complaint Form add link)** as early as possible in accordance with appropriate district procedures. District procedures shall be readily accessible to the public.

Individual School Board members do not have authority to resolve complaints. If approached directly with a complaint, however, School Board members should listen to the complaint and show their concern by referring the complainant to the Superintendent or designee so that the problem may receive proper consideration.

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

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

(cf. [1312.3](#) - Public Complaints Concerning Discrimination)

Note: Pursuant to [4 AAC 52.500](#), any person may file a complaint with the Department of Education and Early Development alleging a violation of state regulations governing education for exceptional children.

### *Legal Reference:*

#### ALASKA STATUTES

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

#### ALASKA ADMINISTRATIVE CODE

[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, [42 U.S.C. 2000](#) et. seq. (Ch. 21)

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](#)



**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:** \_\_\_\_\_

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1. Who or what is your complaint against? \_\_\_\_\_

\_\_\_\_\_

School/Department: \_\_\_\_\_

Position: \_\_\_\_\_

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

Dates: \_\_\_\_\_

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

Dates: \_\_\_\_\_

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**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.

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What remedy or action do you suggest?

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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.

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## **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.

## **BP 1312.1 PUBLIC COMPLAINTS CONCERNING SCHOOL PERSONNEL**

The School Board places trust in its employees and desires to support their actions in such manner that employees are free from unwarranted, spiteful or negative criticism and complaints. The Superintendent or designee shall develop procedures which will permit the public to lodge criticism against staff members, assure full consideration, and protect the rights of the staff members and the district. Verbal complaints against an employee initially made to a School Board member or at a School Board meeting will be referred to the Superintendent or designee for appropriate consideration and action.

(cf. [1250](#) - *Visits to the School*)

(cf. [1312](#) - *Public Complaints Concerning the Schools*)

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

(cf. [9323](#) - *Meeting Conduct*)

Note: When public complaints include allegations of child abuse, it is imperative that school officials consult [BP 5141.4 - Child Abuse and Neglect \(Reporting Procedures\)](#). Though a district may implement its complaint procedures in such cases, the duty to report suspected child abuse comes first. We encourage school districts to rely on the child protective agencies for resolving these complaints and determining if the child abuse report is unfounded. The following language is optional.

**OPTION 1:** This policy shall not apply when a public complaint involves accusations of child abuse. When a school employee is accused of child abuse, it shall be investigated by proper authorities in accordance with child abuse laws.

**OPTION 2:** When public complaints involve accusations of child abuse, the provisions of this policy and regulation shall be implemented only after the child abuse reporting requirements specified in law have been fulfilled

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

*Legal Reference:*

### **ALASKA STATUTES**

[44.62.310](#) *Government meetings public*

## **AR 1312.1 PUBLIC COMPLAINTS CONCERNING SCHOOL PERSONNEL**

Note: The following optional regulation may be revised or deleted in light of district needs and collective bargaining obligations.
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In order to promote fair and constructive communication, the following procedures shall govern the resolution of complaints. Every effort should be made to resolve a complaint at the earliest possible stage. Complaints concerning school personnel should be made directly by the complainant to the person against whom the complaint is lodged. Parents/guardians are encouraged to attempt to orally resolve concerns with the staff member personally.

All written complaints regarding district personnel other than administrators shall be initially filed with the principal or immediate supervisor. If the complaint regards a principal or central office administrator, the written complaint shall be initially filed with the Superintendent or designee. If the written complaint concerns the Superintendent or designee, it shall be initially filed with the School Board. If the complaint is also against the district, the principal or designee shall provide a copy of the complaint to the district compliance officer so that appropriate procedures may be followed.

If the complaint cannot be resolved informally by the persons involved, the complainant may submit the complaint in writing to the school principal or immediate supervisor. When necessary, the district shall assist in the preparation of the written complaint so as to meet the requirements of this regulation. The administrative staff shall inform the complainant that such assistance is available if he/she is unable to prepare the written complaint without help. A written complaint must include the name of each employee involved and a brief but specific summary of the complaint and the facts surrounding it. It must also include a specific description of a prior attempt to discuss the complaint with the employee involved and the failure to resolve the matter.

The principal or immediate supervisor shall investigate and attempt to resolve the complaint to the satisfaction of the person(s) involved. If the complaint is resolved, the principal will so advise all concerned parties, including the Superintendent or designee.

If the complaint remains unresolved after review by the principal or the immediate supervisor, the principal shall refer the written complaint, together with a report and analysis of the situation, to the Superintendent or designee. 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 School Board regarding the complaint.



Except when a complaint is directed against the Superintendent or designee, no party to a complaint may address the School Board, either in closed or open session, unless the School Board has received the Superintendent or designee's written report concerning the complaint.

Complaints before the School Board concerning an employee that may tend to be prejudicial to the employee's reputation or character shall be addressed in executive session of the School Board. All parties to a complaint, including the school administration, may be asked to attend a School Board meeting or part of such meeting for the purpose of presenting all available evidence and allowing every opportunity for explaining and clarifying the issue. The decision of the School Board following the hearing shall be final.

(cf. [9321](#) - *Executive Sessions*)

Note: The district should make sure that complaints heard in executive session are indeed complaints against an employee, not against district practice or procedures.
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## **BP 1312.2 PUBLIC COMPLAINTS CONCERNING INSTRUCTIONAL MATERIALS**

The School Board takes great care in the adoption of instructional materials and is aware that all adopted materials may not be acceptable to all students, their parents/guardians, or other district residents.

(cf. [6161.1](#) - *Selection and Evaluation of Instructional Materials*)

(cf. [6161.11](#) - *Supplementary Instructional Materials*)

The Superintendent or designee shall establish procedures which will permit proper consideration of any complaints against the use of any instructional materials, including textbooks, supplementary textbooks, library books, and other instructional materials and equipment.

(cf. [1312.3](#) - *Public Complaint Concerning Discrimination*)

The School Board believes the Superintendent and staff are well qualified to consider complaints concerning instructional materials. Complainants are advised to consider and accept the Superintendent or designee's decision as final. However, if the complainant finds the decision of the Superintendent or designee unsatisfactory, he/she may request that the matter be placed on the agenda of a regular School Board meeting.

The School Board's decision in any such case will be based on educational suitability and will not be influenced by a desire to suppress information or deny students access to ideas with which the School Board disagrees.

(cf. [6144](#) - *Controversial Issues*)

## **AR 1312.2 PUBLIC COMPLAINTS CONCERNING INSTRUCTIONAL MATERIALS**

Note: The following regulation provides procedures for receiving, considering and acting upon complaints regarding instructional materials used by the district. All parts of the regulation, including specified timelines, may be modified as desired to reflect district practice.

Complaints concerning instructional materials will be accepted only from staff, district residents, or the parents/guardians of children enrolled in a district school.

Complaints must be presented in writing to the principal on the appropriate district form. Complaints regarding printed material must specify the precise nature of the objection. The statement must be signed and identified in such a way that a proper reply will be possible.

Individual students may be excused from using challenged materials after the parent/guardian has presented a written complaint. The teacher will then assign the student alternate materials of equal merit. Use of the materials by a class, school or the district, however, shall not be restricted until so directed by the Superintendent or designee.

Upon receiving a complaint, the principal will acknowledge its receipt and answer any questions regarding procedure. The principal will then notify the Superintendent or designee and the teacher(s) involved of the complaint. The Superintendent or designee will determine whether the complaint should be considered on an individual basis or whether a review committee should be convened.

The use of challenged materials by class, school or district shall not be restricted until final disposition has been made by the district.

A review committee may be formed under the direction of the Superintendent or designee. It shall be composed of five or more staff members selected by the Superintendent or designee from relevant administrative and instructional areas.

In deliberating challenged materials, the review committee shall consider the educational philosophy of the district; the professional opinions of other 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; and the objections of the complainant.

The review committee shall determine the extent to which the challenged material supports the curriculum, the educational appropriateness of the material, and its suitability for the age level of the student.

Within 30 days of being convened, the review committee shall summarize its findings in a written report and submit it to the Superintendent or designee for final action. The Superintendent or designee shall notify the complainant of his/her decision no later than 60 days after the complaint was filed.

The report of the review committee together with the Superintendent or designee's recommendation may be brought to the School Board for consideration and final decision.

**Note:** The following optional paragraph limits reconsideration within a specified time period and may be modified or deleted as desired.

When any challenged instructional material is reviewed by the district, it shall not be subject to any additional reconsideration for 12 months.

### **State-Adopted Material**

If the challenged material has been adopted by the State Board of Education, the Superintendent or designee may forward the complaint, without action, to the Department of Education and Early Development for reevaluation and decision.

## 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. [1213.1](#) - Complaints Concerning School Personnel)

(cf. [1213.2](#) - 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

**Note:** [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. The following sample regulations may be modified to reflect district responsibilities and practice within the parameters of the law.

### Compliance Responsibility

**Note:** 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:

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\_(Title or position)

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\_(address)

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\_(telephone number)

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:

The findings and disposition of the complaint, including corrective actions, if any.

The rationale for the above disposition.

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](#))