

SERVICE:	Certificated Management And Other Non-Bargaining Unit Employees	DUE PROCESS/CERTIFICATED ADJUSTMENT PROCEDURE
ISSUED BY:	Pers. Research (7-27-04)	
REPLACES:	New	
REFERENCE:	Administrative Regulation (AR) 4100	

This guide applies to physicians, dentists, and certificated management or confidential employees not represented by AALA.

1. Complaint. A complaint is defined as a statement by an employee that there has been a violation or misapplication of the Administrative Regulations and that by reason of such violation or misapplication, the employee's rights have been adversely affected. The District shall be the respondent in all complaints under this Procedure.
2. Items Included. The following items are subject to the Certificated Adjustment Procedure: Notices of Unsatisfactory Service or Act, evaluation reports which indicate a rating of below standard performance, and material placed in the employee's personnel file pursuant to Education Code Section 44031, which is critical of the employee's performance of duties or character.
3. Filing of Joint Complaints. If the same complaint or substantially the same complaint is made by more than one employee, only one employee, on behalf of himself/herself and the other complainants, may process the complaint through the Adjustment Procedure. The final decision shall apply to all complainants and the respondent.
4. Concurrent Actions. The filing of a complaint under the provisions of these Regulations shall not delay or interfere with the District's implementation of the action relative to the complaint during processing of the complaint under the Adjustment Procedure.
5. Right to be Represented. The complainant may elect to represent himself or herself at any step in the Adjustment Procedure, or to be accompanied by a representative of the employee's own choosing.
 - a. An employee may serve as a representative without loss of salary during regularly assigned hours. Prior approval for absence from regular duties shall be granted by appropriate administrators to the complainant and his or her representative, when such regularly assigned duties conflict with required attendance at conference or hearing in the Adjustment Procedure.
 - b. The party calling any witness who is not an employee of the District shall pay the expenses of that witness.
6. Confidentiality. After a complaint is filed, no disclosure of the complaint or evidence in connection with the complaint shall be made public without the concurrence of the parties to the complaint. This prohibition shall be in effect from the initiation of Step 1 until the last action upon the complaint.

When imposing discipline or when giving reprimands, warnings or criticism, confidentiality and privacy appropriate to the professional relationship shall be maintained.

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7. Documents and District Records. The complainant and respondent shall have equal access to any documents and District records, relevant to the complaint.

All District records, including documents and communications related to the processing of a complaint, shall be filed in the Office of Staff Relations and shall be kept separate from the personnel files of the parties to the complaint.

8. Effect of Time Limit. If a complaint is not processed by the complainant in accordance with the time limits of this Regulation, it shall be deemed withdrawn. If a complaint is not processed by the District in accordance with the time limits of this Regulation, the complainant may proceed to the next step. The parties may mutually agree to waive any time requirement or Step set forth in this procedure.

A "day" for purpose of the Regulation is defined as any day of the calendar year except Saturdays, Sundays, and legal or school holidays.

9. Steps in Adjustment Procedure.

- a. Step 1- Informal Conference: Within fifteen (15) working days after the event giving rise to the complaint, the complainant shall discuss the complaint orally with the appropriate superintendent or division head. Attendance at this informal conference shall be limited to the complainant and the immediate administrator, except by mutual consent of both parties.
- b. Step 2: If the complaint is not settled at the informal Step 1, it shall be submitted in writing to the appropriate superintendent or division head using a form provided by the District, fully stating the facts surrounding the complaint and detailing the specific complaint. The form shall be signed and dated by the employee and presented to the appropriate superintendent within five (5) working days after the Step 1 informal conference. A meeting with the complainant and appropriate superintendent or division head may be arranged to review and discuss the complaint. Such meeting, if conducted, shall take place within five (5) working days from the date the written complaint was received by the appropriate superintendent or division head. The superintendent or division head shall submit a written statement of position and decision of the meeting within five (5) working days following the written complaint if no meeting is held. The decision will terminate Step 2.
- c. Step 3: If a complaint is not settled at Step 2, the complainant may present the written complaint to the Superintendent of Schools, or designee, within (5) working days after the termination of Step 2. A meeting may be arranged to review and discuss the complaint. Such meeting, if conducted, shall take place within five (5) working days from the date of the complaint received by the Superintendent of Schools. The complainant may bring a representative to this meeting. A written decision shall be rendered by the Superintendent within five (5) working days of the conclusion of such meeting. Such written decision will terminate Step 3 and shall be final and binding.

10. No Discriminatory Action. No discriminatory action may be taken against an employee for filing a complaint against the District as defined in this Certificated Adjustment Procedure.

