File ID Number	12-1849
Introduction Date	6/27/12
Enactment Number	12-1636
Enactment Date	6/27/12

Memo

To Board of Education

From James Williams, Police Chief
Jacqueline Minor, General Counsel

Board Meeting Date June 27, 2012

Subject **Oakland Unified School District Police Department Complaints Process and Complaints Reports Policy**

Action Requested Approval of the Oakland Unified School District Police Department Complaints Process and Complaints Reports Policy

Background California law requires that the governing body approve the Police Department's Operations Manual or that exclusive authority be delegated to the Police Chief to establish and modify the Department's policies. The Operations Manual is binding upon all personnel and is revised from time to time as required by changes in the law, new procedures, or exigent circumstances. As changes in the Manual must be approved by the Board. The new Complaints Process and Complaints Reports Policy is the result of a collaborative effort by the Chief of Police, the General Counsel, the Black Organizing Project and Public Counsel. The parties met over a period of months to develop the complaint process that is being presented to the Board for approval.

Discussion The Complaints Process and Complaints Reports Policy, if approved by the Board will become a new Chapter 11 in the Police Policy Manual previously approved by the Board. The purposes of the new Policy are, among other things, to ensure that the public feels welcome to submit comments and complaints related to police services and personnel, and that there will be no retaliation against anyone for filing a complaint. Under the proposed policy, complaints should be filed within 120 days of the alleged misconduct; the complaint may be filed with the District Ombudsperson or the Chief of Police; log of complaints must be maintained and there will be semi-annual report to the Board about the complaints and the resolution thereof; complaints should be resolved in 45 days if feasible and in any case the response shall not exceed 240 days, unless circumstances exist which are beyond the District's control. The process also provides that if the complainant disagrees with the outcome of the investigation, he or she shall have a right to appeal to the Superintendent and ultimately to the Board.

Recommendation Approval of the Complaints Process and Complaints Reports Policy

Fiscal Impact Funding resource: no direct funding implications

Attachments

- Oakland Unified School District Police Department Complaints Process

and Complaints Reports Policy

Oakland School Police Department Public

Complaints Process and Complaints Reports Policy

I. Purpose: This Policy is intended to ensure that:

- All individuals, organizations, and students (hereinafter "the Public") feel welcome to submit comments pertaining to the quality of service and conduct of its personnel;
- The Public knows how and where to submit a complaint and that the complaint process is accessible to all, regardless of race, ethnicity, language spoken, age, gender, sexual orientation or disability status;
- The Public who has submitted a complaint is protected from any type of retaliation;
- The Public understands the procedures used for reporting, investigating and resolving allegations of misconduct, as well as recognizing meritorious acts;
- The Department maintains effective and transparent procedures for reporting, investigating, and resolving allegations of misconduct;
- The Department provides a consistent approach to the investigation and adjudication of complaints against it employees; and
- The Department maintains integrity through a system of internal discipline, where objectivity and fairness are assured by impartial investigations and review.

II. Process for Filing Complaints and Reports

The Complaint and Report Process shall be used by any member of the Public to report an incident that pertains to the conduct of the Oakland School Police Department (hereinafter "Department"). It may be used to document information regarding employee commendatory acts or misconduct. It can also be used to offer criticism and recommendations regarding policies, or to report any activities or conditions requiring an investigation, attention, or reform.

In order for timely review of the facts, including interviewing witnesses, the complaint should be filed within 120 days of the alleged misconduct.

The Public may file a Complaint and Report with the District Ombudsperson or the Chief of Police:

1. Online at **police@ousd.k12.ca.us**, where a Complaint and Report Form can be electronically accessed and sent via the Internet to the Chief's office or at Gabriel.Valenzuela@ousd.k12.ca.us, the Ombudsperson's office

2. By mail or in person at:

Chief of Police	District Ombudsperson
1011 Union Street Oakland, CA 94607	1025 Second Avenue, Room #316 Oakland, CA 94606
Phone: (510) 874-7777 Fax: (510) 874-7787	Phone: (510) 879-8685 Fax: (510) 879-8035

Members of the public who call by phone will receive assistance with filling out the Complaint and Report Form, which will be mailed to them for signature. When the signed Complaint and Report Form is returned by mail, the investigation process will begin upon arrival.

If a Complaint and Report is filed with the Ombudsperson, the Ombudsperson shall provide a copy of the complaint to the Chief of Police within 3 business days of the complaint's filing.

If a Complaint and Report is filed with the Chief of Police, the Chief of Police shall provide a copy of the Complaint and Report to the Superintendent's Designee within 3 business days of the complaint's filing.

III. Anonymous Complaint

Individuals, organizations, and students have a right to make an anonymous Complaint or Report. If an anonymous complainant provides a means of contact, the results of the complaint will be reported to the anonymous complainant. However, if the complainant prefers to remain anonymous and does not provide a means of contact, the results of the complaint will not be directly reported to the complainant. All other procedures shall apply.

IV. Process for Handling, Investigating, Resolving, and Reporting Regarding Complaints and Reports

A. Complainants Appearing in Person

During normal business hours, all individuals appearing in person to make a Complaint and Report shall be referred to the office of the Ombudsperson or the office of the Chief of Police.

All complainants shall be provided with the Complaints and Reports Form. The Ombudsperson, Chief of Police or Chief's designee shall then:

1. Assist the complainant with completing the Form and/or fill in the information requested by the complainant;
2. If the complainant does not want to stay to complete the form,
    a. advise the complainant to read and complete the Form and mail it to the above listed address; and

b. document the appearance of the complainant and any information obtained relevant to the complaint on the log of complaints, even if the Form is not completed. See IV.c.

In all instances, the individual receiving the complaint must obtain as much information as possible to document the complaint during the initial encounter with the complainant.

B. Request by a Person to Make a Complaint or Report

Any officer or employee who receives a request from a person to make a complaint or report shall provide the person with the Complaint and Reports Form, which shall include basic information about the complaint process in an accessible format, or direct them to the website at, **police@ousd.k12.ca.us** where such Form and information can be accessed, if the officer or employee does not have the Form available at the time of the request.

Log of Complaints and Semi-annual Complaint Statistical Summary Report

The Ombudsperson and the Office of the Chief of Police shall keep a log of all complaints received and assign a separate number to each complaint. The Ombudsperson and Chief shall use different but sequential numbering systems to keep track of the Complaints and Reports that their offices have received. Such numbers shall also be provided to the complainant once assigned.

The Chief's designee shall be responsible for the preparation of the semi-annual complaint statistical summary report for distribution to the Chief and the Superintendent of OUSD, and presentation to the Board of OUSD at a regularly scheduled public Board Meeting. The summary shall include the following:

1. Type of complaint, by source and classification
2. Number of complainants and allegations against peace officers
3. Number of complainants and allegations against school security officers
4. Complaints per school site
5. Trends in complaints, if applicable
6. Length of time for investigating and resolving/providing a disposition for each complaint
7. Disposition of the complaint, including action taken to address the complaint
8. Number of appeals by type of complaint, source and classification.
9. Disposition of the appeal, including any responsive action to address a complaint
10. Any steps taken by the OUSD or the OSPD to resolve systemic concerns
11. Number of referrals to the Oakland Police Department

This summary shall also be posted on the Board's Legislative website.

C. Timelines for Handling Complaints and Reports

All Complaints and Reports shall be investigated in accordance with the Peace Officers Bill of Rights. Best efforts shall be used in every case to provide a written response to the complainant within 45 days of the date that the Complaint and Report is made, unless the Complaint or Report involves multiple individuals or incidents which, even in exercising their best efforts, the District cannot complete the investigation within the 45 day timeline. In such instance, the Department shall inform the complaint in writing that additional time is needed, such additional time shall not exceed 240 days in any instance, unless circumstances exist which are beyond the District's control and render completing the investigation impossible.

The time required to complete the investigation and provide a result in writing shall be included in the log that the Chief's Designee prepares as required in IVc.

D. The Investigation Disposition of the Complaint and Report in Writing

In completing its investigation, the Department may contact any individuals that the complainant has listed to interview them with respect to the allegations and shall follow-up by phone or in writing with the complainant to request any additional information or documents that might be helpful to the investigation and to inform the complainant of the assigned Complaint and Report number, if one has not already been provided.

No officer who was involved in the incident that is the subject of the complaint or who otherwise has a conflict of interest shall be allowed to participate in the investigation of that complaint.

Further, OSPD must investigate all conduct described by complainants that, if true, would be a rule violation.

The disposition shall include whether the Complaint was sustained, not sustained, unfounded or exonerated and rationale for the result and conclusion, as well as what actions will be taken by the Department in response to the Complaint.

To the extent the Complaint or Report involves a request to respond regarding certain policies or procedures or practices of the Department or subparts of the Department, the written response shall include information as to what actions the Department will take or will not take to address the concerns raised.

To the extent the Report involves a commendation for an officer or employee, the report shall include what actions the Department has taken to inform the employee or officer of the commendation and support similar positive actions.

E. Appeal of the Complaint and Report

If the complainant disagrees with the outcome of the Complaint and Report, he or she shall have a right to appeal to the Superintendent in writing within 60 days of receiving the decision. The Superintendent shall investigate the appeal and issue a decision in writing within 60 days of receiving the appeal.

If the complainant disagrees with the outcome of the Superintendent's decision, he or she shall have a right to appeal to the Board. Within 60 days, the Board shall either:

1. Uphold the Superintendent's decision; or
2. Reverse the Superintendent's decision and request further investigation

The Board's decision shall be made public.

Nothing in this directive is intended to prevent or preclude a person from filing a Complaint and Report directly to the Superintendent and the Board of OUSD in the first instance. However, if a Complaint and Report is sent to the Superintendent and the Board in lieu of the individuals specified in this Directive, the District and Office of the Chief of Police cannot guarantee that the procedures and timelines for investigating the complaint will be followed.

F. Complaint and Report Against the Chief of Police

Complaints against the Chief of Police shall be filed directly with the Superintendent of Schools, who shall follow the timelines and procedures in sections d and e above for investigating and resolving complaints.

G. Prohibition Against Retaliation, Intimidation, Harassment, or Threats

No officer or employee of the Department shall retaliate against, intimidate, harass, or threaten any person making a complaint against the Department or against any individual. Any officer or employee found to have retaliated against, intimidated, threatened or harassed any person attempting to make or who has made a complaint will be disciplined to the full extent of the law.

H. Complaints Against the Oakland Police Department

Complaints against the Oakland Police Department shall be referred to the City of Oakland.

Availability of Complaints and Information about How to File Complaints

Complaints and a flyer about the complaint process shall be available in the office of every school in the District in a location that is easily accessible to students and the community, such as the front office on the desk. Complaints shall also be available on the OUSD website, at the Central District office, and the OSPD headquarters.

OSPD Complaint and Report

The Public is encouraged and welcome to submit comments, complaints, and information pertaining to the quality of service and conduct of OSPD's personnel and as to its policies, procedures, and practices. Teachers, school staff and school administrators may also make a report or complaint on behalf of a student or based on something that they witnessed.

Pursuant to section 148.6 of the California Penal Code, the Public has a right to make a complaint against a police officer for any improper police conduct, which can include any conduct that the complainant feels was not appropriate (e.g., rough handling, use of offensive, foul, or racist language). California law requires OSPD to have a procedure to investigate complaints. You have a right to a written description of this procedure. The OSPD may find after investigation that there is not enough evidence to warrant action on your complaint; even if that is the case, you have the right to make the complaint and have it investigated if you believe an officer behaved improperly. Complaints and any reports or findings relating to complaints will be retained for at least five years.

Please note: It is against the law to make a complaint that you know to be false. If you make a complaint against an officer, knowing it is false, you can be prosecuted.

Personal Information

Name: _____Ethnicity (optional):_____ Address: _____ Gender (optional):_____

City:_____

Zip Code:_____

Telephone: (home/cell) _____(work)_____ _____

<u>If you would like to file an anonymous complaint</u>, you can but you will not receive a copy of the disposition in writing and we will not be able to follow-up with you for any additional information, if you do not provide a way to contact you.

(if applicable) <u>Employee(s) Involved</u>

<u>Name:</u> _____ <u>Gender:</u> _____

<u>Ethnicity:</u> _____ <u>Badge # (if applicable):</u> _____

<u>Name:</u> _____ <u>Gender:</u> _____

<u>Ethnicity:</u> _____ <u>Badge #(if applicable) :</u> _____

Incident Information

Date: _____ Day of the week: _____ Time: _____

Location/School Site _____

Was anyone else present? Yes No (circle) Provide name of witnesses, addresses and phone numbers on a separate sheet, if it applies.

Please describe the incident or your concern (add additional pages as necessary): _____

_____

_____

_____

_____

_____

Please identify the result you are seeking from filing this complaint: _____

_____

_____

_____

_____

If you would like to comment, critique, or make a recommendation about a policy, practice or procedure of the OSPD's, please do so here: _____

_____

_____

_____

_____

Feel free to attach any additional documents in support of your complaint. Be sure to keep copies of such document for your files as well, as we may not be able to give you your copies back.

We will use best efforts to complete this investigation and provide you with a written decision within 45 days. If the complaint involves multiple individuals or multiple matters, additional time will be required, up to 240 days, unless circumstances beyond the District and Office of the Chief of Police's control prevent the complaint from being investigated to completion during this time period. If you have any questions about the status of your complaint or to obtain the assigned complaint number for tracking purposes, please contact (510) 874-7777.

File ID Number: 12-1849
Introduction Date: 6/27/12
Enactment Number: 12-1636
Enactment Date: 6/27/12
By:

Certified: 6/28/12

Edgar Rakestraw, Jr., Secretary
Board of Education