B.O.C.C. Policy: Complaints Directed to Charter Council

DRAFT #3 **4/17/14**

COMPLAINT PROCESS AT BLUE OAK SCHOOL: OVERVIEW

The employee handbook contains “Communication Model and Conflict Resolution Guidelines,” which is applicable to “issues among any combination of the following: students, parents, teachers, and administration.” It defines three levels of dispute resolution with the intention that they be followed sequentially. The last level, Level III, is pursued when “resolution with the director is not satisfactory, . . .” In that case, “a formal written complaint is submitted” to BOCC with completed complaint form from Levels I and II.

However, BOCC recognizes that when one administrator has a dispute with another administrator, especially if the complaint is against the person’s supervisor, Levels I and II might have been skipped out of a fear of retaliation and the complaint brought directly to BOCC. Such complaints will be accepted by BOCC and acted upon.

Revised wording for Level III complaints, consistent with this policy, is supplied as Attachment A.

INTENT AND SCOPE OF THIS BOARD GOVERNANCE POLICY

This policy is intended to supersede the current wording and procedures described in Level 3 and provide specific guidance to the Chair of BOCC (or designee) who is vested with complaint investigation by Board Governance Policy #2 and now by this policy as well.

Our intent is to ensure that all complaints brought to the Board are investigated and reported back to the full board in a defined and professional way with the maximum transparency allowed under the Brown Act. Another purpose is to resolve the matter in the most timely manner possible in order to minimize gossip and polarization within the Blue Oak community.

INITIAL INVESTIGATION & RECORD KEEPING

Within five (5) working days of receipt of a complaint, the Chair or designee(s) shall assume responsibility for investigation of the complaint by interviewing all relevant parties and reviewing all relevant documents. Both the person filing the complaint and the person against whom the complaint is made will be interviewed separately.

Depending on the nature of the complaint, the Chair may also interview other school staff in order to determine if a pattern of alleged behavior exists.

At his/her discretion the Chair may subsequently interview both parties together. Should those discussions resolve the dispute by crafting a settlement, that settlement will be reduced to writing and signed by both parties and the Chair.

All notes and documents that are part of the investigation are *Confidential records belonging to Blue Oak School* and shall be retained in a locked file in a section designated for BOCC exclusive use.

ABSENCE OF RESOLUTION BETWEEN THE PARTIES & COUNCIL MEETINGS

Where an interview with both parties has not led to resolution of the complaint, BOCC Chair has the option to call a Special Meeting of Charter Council or to wait until the next scheduled Charter Council meeting, at which time he/she will present investigation findings to full Charter Council.

Safe Harbor: The party against whom the complaint or charge has been brought will be given 24-hour written notice of “his or her right to have the complaints or charges heard in an open session rather than a closed session,” in compliance with Brown Act §54957(b)(2), commonly known as the ‘safe harbor” provision. If this party chooses to proceed with a Closed Session, the discussion will be agendized as “complaints or charges brought against an employee” in compliance with Brown Act §54957(b)(1), except as provided in the following paragraph.

Where Chair’s investigation has led to the conclusion that discipline or dismissal of a party to the complaint is possible, the Closed Session will be agendized as “discipline or dismissal of a public employee” in accordance with Brown Act §54957(b)(1).

Note on Due Process: All employees of Blue Oak School serve “at will,” meaning that they may be dismissed at any time and without stated cause. As such they have no Due Process right to address Charter Council or to know the results of the complaint investigation. However, at his/her discretion the Chair may invite each party to the complaint to address the full Charter Council, ideally without the other party in the room. Chair discretion includes consideration of whether the opportunity to address Charter Council is in the best interest of the overall Blue Oak community of parents, teachers and students.

FINAL COMPLAINT RESOLUTION

 Full Charter Council will vote on any discipline or dismissal of an employee and on any written agreement resolving the complaint. All writings will be filed in a locked cabinet along with complaint investigation notes.

ATTACHMENT A

Blue Oak School’s “Communication Model and Conflict Resolution Guidelines” regarding Level III are revised as follows:

Level 3. Formal resolution. If the concern is with the school administration, and if the resolution with the Superintendent/Director is not satisfactory, a formal written complaint may be submitted directly to Charter Council Chair along with paperwork from Levels I & II. The resolution reached by Blue Oak Charter Council will be the final administrative remedy available to the complaining party.

**ATTACHMENT B: Complaint Processing Form – CONFIDENTIAL**

Complaint filed by: Date Received:

Complaint is against:

Levels I & II of complaint process completed? Yes No

Complaint is in the form of

Does the alleged behavior involve any of the following? (circle those applicable)

retaliation safety discrimination harassment[[1]](#footnote-1)

**Complaint Investigation**

Investigator (s) names:

Individuals to be interviewed:

- Complaining party:

- Person against whom complaint is made:

- Other relevant parties:

**Investigative Findings** (summary only – attach interview notes)

Is there “reasonable” evidence that the alleged behavior took place?

If “no,” the complaint is closed & all notes and records are marked “Confidential” and placed in locked storage at Blue Oak School.

If “yes,” the complaint proceeds to the next step.

ATTACHMENT B (Continued)

Were both parties interviewed together in the same room and if so, was a resolution reached?

If “yes,” attach written resolution.

If “no,” Chair calls a Special BOCC meeting at which each party to the complaint may address council.

Date of Special Meeting:

 Q. 24-hour “safe harbor” notice given? Date: Time:

 Q. Did the party against whom the complaint was made want an Open or Closed session?

 Did the BOCC session change the initial investigative findings? If so, how?

**Complaint Resolution:**

 🗖 the complaint is dismissed

 🗖 BOCC consults with HR consultant and/or attorney for available legal actions.

 🗖 this remedy, reprimand or dismissal was agreed to:

Planned follow-up (if any):

1. See attached EEOC definition of Harassment [↑](#footnote-ref-1)