

UNIFORM COMPLAINT PROCEDURES

Except as the Board of Education may otherwise specifically provide in other Board policies, these general uniform complaint procedures (UCP) shall be used to investigate and resolve complaints alleging violations of federal or state laws or regulations governing specific educational programs, the prohibition against requiring students to pay fees, deposits or other charges for participating in educational activities, unlawful discrimination, harassment, intimidation or bullying, and complaints regarding the implementation of the Local Control Accountability Plan (LCAP), as specified in the accompanying Board policy.

The Office of Education's uniform complaint procedures (UPC) policy and administrative regulation shall be posted in all Office of Education schools and offices, including staff lounges. If 15 percent or more of students enrolled in a particular school site speak a single primary language other than English, the Office of Education's policy, regulation, forms and notices concerning uniform complaint procedures shall be translated into that language.

Compliance Officer

The Superintendent designates the following compliance officer to receive and investigate complaints and ensure office compliance with law:

Assistant Superintendent, Educational Services
Humboldt County Office of Education
901 Myrtle Avenue, Eureka, CA 95501
(707) 441-4502

In no instance shall a compliance officer be designated to investigate a complaint if he/she is mentioned in the complaint or has a conflict of interest that would prohibit him/her from fairly investigating the complaint. Any complaint filed against or implicating a compliance officer may be filed with the Superintendent or designee.

The Superintendent or designee shall ensure that employees designated to investigate complaints receive training and are knowledgeable about the laws and programs which they are assigned to investigate. Training shall include current state and federal laws and regulations governing the program, applicable processes for investigating complaints, including those involving alleged discrimination, applicable standards for reaching decisions on complaints and appropriate corrective measures. Designated employees may have access to legal counsel as determined by the Superintendent or designee.

The compliance officer or, if necessary, any appropriate administrator shall determine whether interim measures are necessary during and pending the results of an investigation. If interim measures are determined to be necessary, the compliance

officer or the administrator shall consult with the Superintendent, the Superintendent's designee, or if appropriate, the site principal to implement, if possible, one or more of the interim measures. The interim measures may remain in place until the compliance officer determines that they are no longer necessary or until the Office of Education issues its final written decision, whichever occurs first.

Notifications

The Superintendent or designee shall meet the notification requirements of the Code of Regulations, Title 5, Section 4622, by annually disseminating notice of the complaint procedures and information about available appeals, civil law remedies, and conditions under which a complaint may be taken directly to the California Department of Education (CDE). The notice (Exhibit A) shall be distributed to students, parents or guardians of students, employees, Office of Education advisory committees, and other interested parties.

The Superintendent or designee shall ensure that all students and parents/guardians, including students and parents/guardians with limited English proficiency, have access to the relevant information provided in the policy, regulation, forms, and notices concerning the UCP.

If 15 percent or more of students enrolled in Office of Education programs speak a single primary language other than English, the policy, regulation, forms, and notices concerning the UCP shall be translated into that language, in accordance with Education Code 234.1 and 48985. In all other instances, the Office shall ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

The notice shall:

1. Identify the person(s), positions(s), or unit(s) responsible for receiving complaints.
2. Advise the complainant of any civil law remedies that may be available to him/her under state and federal discrimination laws, if applicable.
3. Advise the complainant of the appeal process pursuant to Education Code 262.3, including the complainant's right to take a complaint directly to the CDE or to pursue remedies before civil courts or other public agencies.
4. Include statements that:
 - a. The Office of Education is primarily responsible for compliance with state and federal laws and regulations governing educational programs.

- b. The complaint review shall be completed within 60 calendar days from the date of receipt of the complaint unless the complainant agrees in writing to an extension of the timeline.
- c. An unlawful discrimination, harassment, intimidation, bullying complaint, or complaint alleging retaliation must be filed not later than six months from the date of the alleged discrimination, or six months from the date the complainant first obtains knowledge of the facts of the alleged discrimination. The time for filing may be extended for up to 90 days by the Superintendent of designee for good cause upon written request by the complainant setting forth the reasons for the extension.
- d. A student enrolled in a public school shall not be required to pay a fee for his/her participation in an educational activity that constitutes an integral fundamental part of the educational program, including curricular and extracurricular activities.
- e. The Board is required to adopt and annually update a local control and accountability plan (LCAP), in a manner that includes meaningful engagement of parents/guardians, students, and other stakeholders in the development and/or review of the LCAP.
- f. The complainant has a right to appeal the Office of Education's decision to the CDE by filing a written appeal within 15 calendar days of receiving the decision.
- g. The appeal to the CDE must include a copy of the complaint filed with the Office of Education and a copy of the Office of Education's decision.
- h. Copies of the Office of Education's uniform complaint procedures are available free of charge.

Procedures

The following procedures shall be used to address all complaints which allege that the Office of Education has violated federal or state laws or regulations governing educational programs, the prohibition against requiring students to pay fees, deposits, or other charges for participating in educational activities, and unlawful discrimination, harassment, intimidation, retaliation, or bullying, as specified in the accompanying Board policy.

The Office of Education's compliance officer shall maintain a record of each complaint and subsequent related actions, including all information required for compliance with the Code of Regulations, Title 5, Section 4632.

The Office of Education will use its uniform complaint procedures when addressing all complaints regarding gender equity.

Investigations of discrimination, harassment, intimidation, retaliation and bullying complaints shall be conducted in a manner that protects confidentiality of the parties and the facts to the extent possible except when disclosure is necessary to carry out the investigation, take subsequent corrective action, conduct ongoing monitoring, or maintain integrity of the process. All parties involved in allegations shall be notified when a complaint is filed, when a complaint meeting or hearing is scheduled, and when a decision or ruling is made.

Step 1: Filing of Complaint

- a) Any individual, public agency or organization may file a written complaint of alleged noncompliance.
- b) The complaint shall be presented to the Superintendent or designee, who will then give it to the appropriate compliance officer, who shall maintain a log of complaints received. If a complainant is unable to put a complaint in writing due to conditions such as illiteracy or other handicaps, Office of Education staff shall help him/her to file the complaint.
- c) Complaints alleging unlawful discrimination, harassment, intimidation, or bullying may be filed by a person who alleges that he/she personally suffered unlawful discrimination, harassment, intimidation, or bullying or by a person who believes that an individual or any specific class of individuals has been subjected to unlawful discrimination, harassment, intimidation or bullying.
- d) The complaint must be initiated no later than six months from the date when the alleged discrimination, harassment, intimidation, or bullying occurred or when the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation or bullying. However, upon written request by the complainant, the Superintendent or designee may extend the filing period for up to 90 calendar days.
- e) When a complaint alleging unlawful discrimination or bullying is file anonymously, the compliance officer shall pursue an investigation or other response as appropriate, depending on the specificity and reliability of the information provided and the seriousness of the allegation.
- f) When the complainant or alleged victim of unlawful discrimination or bullying requests confidentiality, the compliance officer shall inform him/her that the request may limit the Office's ability to investigate the conduct or take the necessary action. When honoring a request for confidentiality, the Office of Education will nevertheless take all reasonable steps to investigate and respond to the complaint consistent the with request.

- g) A complaint alleging noncompliance with the law regarding the prohibition against requiring students to pay student fees, deposits, and charges or any requirement related to the LCAP may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance.
- h) A complaint shall be presented to the compliance officer who shall maintain a log of complaints received, providing each with a code number and a date stamp.

Step 2: Investigation

- a) Within 60 days from receipt of the complaint, the Superintendent/designee shall complete the investigation of the complaint in accordance with the local procedures developed pursuant to Section 4621 and prepare a written Local Education Agency Decision. This time period may be extended by written agreement of the complainant.
- b) The investigation shall provide an opportunity for the complainant or the complainant's representative, or both, and Office of Education representatives to present information relevant to the complaint. At the discretion of the compliance officer, the investigation may include an opportunity for the parties of the dispute to meet to discuss the complaint or to question each other or each other's witnesses.
- c) The Local Education Agency Decision (the Decision) shall be in writing and sent to the complainant within sixty (60) days from receipt of the complaint by the local agency unless a continuance has been agreed to in writing by the complainant.
- d) As part of the investigation process, the compliance officer may decide to refer the matter to mediation. Referral can only be made if all parties agree to mediation. Conducting local mediation shall not extend the local time lines for investigating and resolving complaints at the local level unless the complainant agrees, in writing, to the extension of the time line. In no event shall mediation be mandatory in resolving complaints.
 - 1) If mediation is used and before initiating the mediation process, the compliance officer shall ensure that all parties agree to make the mediator a party to related confidential information.
 - 2) If the mediation process does not resolve the problem within the parameters of law, the compliance officer shall precede with his/her investigation of the complaint of all unresolved issues subject of this complaint process.
- e) In conducting the investigation, the compliance officer shall collect all available documents and review all available records, notes or statements relating to the complaint, including any additional evidence or information received from the parties during the course of the investigation, shall individually interview all

available witnesses with information pertinent to the complaint, and may visit any reasonably accessible location where the relevant actions are alleged to have taken place. To resolve a complaint alleging retaliation, unlawful discrimination, or bullying, the compliance officer shall interview the alleged victim(s), any alleged offenders and other relevant witnesses privately, separately, and in a confidential manner. As necessary, additional staff or legal counsel may conduct or support the investigation.

- f) A complainant's refusal to provide the investigator with documents or other evidence related to the allegations in the complaint, or his/her failure or refusal to cooperate in the investigation or his/her engagement in any other obstruction of the investigation may result in the dismissal of the complaint because of a lack of evidence to support the allegation.
- g) The Office of Education's refusal to provide the investigator with access to records and/or other information related to the allegation in the complaint, or its failure or refusal to cooperate in the investigation or its engagement in any other obstruction of the investigation, may result in a finding, based on evidence collected, that a violation has occurred and may result in the imposition of a remedy in favor of the complainant.
- h) The compliance officer shall apply a "preponderance of the evidence" standard in determining the veracity of the factual allegations in a complaint. This standard is met if the allegation is more likely to be true than not.

Step 3: Final Written Decision

In consultation with legal counsel, information about the relevant part of any decision may be communicated to a victim who is not the complainant and to other parties that may be involved in implementing the decision or affected by the complaint, as long as the privacy of the parties is protected.

- a) A copy of the Office of Education's final written decision will be sent to the complainant. The report shall be written in English and in the language of the complainant whenever feasible or required by law. If it is not feasible to write this report in the complainant's primary language, the office will arrange a meeting at which a community member will interpret it for the complainant.
- b) This report shall include:
 - 1. The findings of fact based on the evidence gathered. In reaching a factual determination, the following factors may be taken into account:
 - a) Statements made by any witnesses
 - b) The relative credibility of the individuals involved

Community Relations

Administrative Regulation 1312.4(g)

- c) How the complaining individual reacted to the incident
 - d) Any documentary or other evidence relating to the alleged conduct
 - e) Past instances of similar conduct by any alleged offenders
 - f) Past false allegations made by complainant
2. The conclusion(s) of law.
 3. Disposition of the complaint.
 4. The rationale for the above disposition.

For complaints of retaliation or unlawful discrimination, including discriminatory harassment, intimidation, or bullying, the disposition of the complaint shall include a determination for each allegation as to whether retaliation or unlawful discrimination has occurred.

The determination of whether a hostile environment exists may involve consideration of the following:

1. How the misconduct affected one or more students' education
 2. The type, frequency and duration of the misconduct
 3. The relationship between the alleged victim(s) and offender(s)
 4. The number of persons engaged in the conduct and at whom the conduct was directed
 5. The size of the school, location of the incidents, and context in which they occurred
 6. Other incidents at the school involving different individuals
- c) Corrective actions, if any are warranted, including any action(s) that have been taken or will be taken to address the allegations in the complaint and including, with respect to a student fees complaint, a remedy that comports with Education Code 49013 and CCR 4600.

For complaints of unlawful discrimination, including discriminatory harassment, intimidation, or bullying, the notice may, as required by law, include:

1. The corrective actions imposed on the individual found to have engaged in the conduct that relate directly to the subject of the complaint
2. Individual remedies offered or provided to the subject of the complaint

3. Systemic measures the school has taken to eliminate a hostile environment and prevent recurrence
- d) Notice of the complainant's right to appeal the decision within 15 days to the California Department of Education, and procedures to be followed for initiating such an appeal.
- e) For discrimination, harassment, intimidation or bullying complaints, based on state law, the decision shall also include a notice to the complainant that:
 1. He/she may pursue available civil law remedies outside of the complaint procedures, including seeking assistance from mediation centers or public/private interest attorneys, 60 calendar days after the filing of an appeal with the CDE.)
 2. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law.
 3. Complaints alleging discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the U.S. Department of Education, Office for Civil Rights at www.ed.gov/ocr within 180 days of the alleged discrimination.
- f) If a student or employee is disciplined as a result of the complaint, this report shall simply state that effective action was taken and that the student or employee was informed of Office of Education's expectations. The report shall not give any further information as to the nature of the disciplinary action, which shall be conducted in accordance with applicable laws, rules, regulations, and collective bargaining agreements.
- g) If a complainant alleging noncompliance with the laws regarding student fees, deposits, and other charges is found to have merit, the Office of Education shall provide a remedy to all affected students and parents/guardians, which, where applicable, shall include reasonable efforts to ensure full reimbursement to them.

Step 4: Corrective Actions

When a complaint is found to have merit, the compliance officer shall adopt any appropriate corrective action permitted by law. Appropriate corrective actions that focus on the larger school or Office of Education environment may include, but are not limited to, actions to reinforce policies, training for faculty, staff, and students, updates to school policies, or school climate surveys.

For complaints involving retaliation, unlawful discrimination, or bullying, appropriate corrective actions that focus on the victim may include, but are not limited to, the

following:

1. Counseling
2. Academic support
3. Health services
4. Assignment of an escort to allow the victim to move safely about campus
5. Information regarding available resources and how to report similar incidents or retaliation
6. Separation of the victim from any other individuals involved, provided the separation does not penalize the victim
7. Restorative justice
8. Follow-up inquiries to ensure that the conduct has stopped and there has been no retaliation
9. Determination of whether any past actions of the victim that resulted in discipline were related to the treatment the victim received and described in the complaint

For complaints involving retaliation, unlawful discrimination, or bullying, appropriate corrective actions that focus on a student offender may include, but are not limited to, the following:

1. Transfer from a class or school as permitted by law
2. Parent/guardian conference
3. Education regarding the impact of the conduct on others
4. Positive behavior support
5. Referral to a student success team
6. Denial of participation in extracurricular or co-curricular activities or other privileges as permitted by law
7. Disciplinary action, such as suspension or expulsion, as permitted by law

The Office of Education may also consider training and other interventions for the larger school community to ensure that students, staff, and parents/guardians understand the types of behavior that constitute unlawful discrimination, including discriminatory harassment, intimidation, or bullying, that the Office does not tolerate it, and how to report and respond to it.

If a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges; education of pupils in foster care, pupils who are homeless, former juvenile court pupils enrolled in Office of Education programs, pupils in

military families, reasonable accommodations for lactating pupil; course periods without educational content (grades 9-12); physical education instructional minutes; or any requirement related to the LCAP is found to have merit, the Office shall provide a remedy.. The remedy shall go to the affected pupil in the case of complaints regarding course periods without educational content; reasonable accommodations to a lactating pupil, and/or education of pupils in foster care, pupils who are homeless, former juvenile court pupils enrolled in Office of Education programs, and pupils in military families.

The remedy shall go to all affected pupils and parents/guardian in the case of complaints regarding pupil fees, physical education instructional minutes and/or LCAP.

Pupil fee complaints may be filed with the principal of the school or the superintendent or his/her designee. Pupil fee complaints shall be filed no later than one year from the date the alleged violation occurred.

Step 5: Appeals to the California Department of Education

If dissatisfied with the Office of Education's decision, the complainant may appeal in writing to the CDE within 15 days of receiving the Office of Education's decision.

When appealing to the CDE, the complainant shall specify the basis for the appeal of the decision and whether the facts are incorrect and/or the law was misapplied. The appeal shall be accompanied by a copy of the locally filed complaint and a copy of the Office of Education's decision.

Upon notification by the State Superintendent of Public Instruction that the decision has been appealed to the state level pursuant to Section 4652, the Office of Education shall forward the following to the California Department of Education:

1. The original complaint;
2. A copy of the decision;
3. A summary of the nature and extent of the investigation conducted by the office if not covered in the decision;
4. A copy of the investigation file, including but not limited to all notes interviews, and documents submitted by the parties and gathered by the investigator.
5. A report of any action taken to resolve the complaint;

6. A copy of the Office of Education's complaint procedures; and
7. Such other relevant information as the California Department of Education may require.

The CDE may directly intervene in a complaint without waiting for action by the Office of Education when one of the conditions listed in 5 CCR 4650 exists, including cases in which the Office has not taken action within 60 days of the date the complaint was filed with the Office of Education.

Civil Law Remedies

A complainant may pursue available civil law remedies outside of the Office of Education's complaint procedures. Complainants may seek assistance from mediation centers or public/private interest attorneys. Civil law remedies that may be imposed by a court include, but are not limited to, injunctions and restraining orders. For complaints alleging discrimination, harassment, intimidation, or bullying, however, a complainant must wait until 60 days have elapsed from the filing of an appeal with the California Department of Education before pursuing civil law remedies. The moratorium does not apply to injunctive relief and to discrimination complaints based on federal law. It is applicable only if the Office of Education has appropriately, and in a timely manner, apprised the complainant of his/her right to file a complaint in accordance with the California Code of Regulations, Title 5, 4622.