

UNIFORM COMPLAINT PROCEDURESCompliance Officers

The Governing Board designates the following compliance officer(s) to receive and investigate complaints and to ensure district compliance with the law:

Assistant Superintendent for Curriculum and Instruction
4400 Alma Avenue, Castro Valley, CA 94546
(510) 537-3000

The Superintendent or designee shall ensure that employees designated to investigate complaints are knowledgeable about the laws and programs for which they are responsible. Designated employees may have access to legal counsel as determined by the Superintendent or designee.

(cf. 9124 – Attorney)

Notifications

The Superintendent or designee shall annually provide written notification of the district's uniform complaint procedures to students, employees, parents/guardians, the district advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties. (5 CCR 4622)

The Superintendent or designee shall make available copies of the district's uniform complaint procedures free of charge. (5 CCR 4622).

The notice shall:

1. Identify the person(s), position(s), or unit(s) responsible for receiving complaints.
2. Advise the complainant, generally, that civil law remedies (relating to discrimination claims) may be available to him/her under state or federal discrimination laws.
3. Advise the complainant of the appeal process pursuant to Education Code 262.3, and that, in certain extraordinary circumstances, a complaint may be lodged directly with the California Department of Education ("CDE") (5 CCR 4640 and 4650).
4. Include statements that:
 - a. The district is primarily responsible for compliance with state and federal laws and regulations.
 - b. The District's complaint investigation 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 complaint must be filed not later than six months from the date the alleged discrimination occurs, or six months from the date the complainant first obtains knowledge of the facts of the alleged discrimination. (5 CCR 4630b)
- d. The complainant has a right to appeal the district's decision to the CDE by filing a written appeal within 15 days of receiving the district's written decision / response.
- e. Any appeal to the CDE must include a copy of the complaint filed with the district and a copy of the district's decision.

(cf. 5145.6 – Parental Notifications)

Procedures

The following procedure shall be used to address all complaints which allege that the District has violated federal or state law or regulations governing educational programs. The assigned District compliance officer shall maintain a record of each complaint and subsequent related response / decision, including all information required for compliance with 5 CCR 4631 and 4633.

Step 1: Informal Complaint – Principal/Site Level

A person wishing to register a complaint (hereafter complainant) should first contact the school site principal (or if not a school, the lead administrator at the facility) to seek resolution of the problem. Every reasonable effort should be made to resolve the complaint in an informal manner.

If such informal local site resolution is not possible, a formal complaint may be initiated following the steps outlined below.

Step 2: Filing of Complaint

Any individual, public agency or organization may file a written complaint with the District superintendent or his or her designee alleging a matter which, if true, would constitute a violation by the District of federal or state law or regulation governing a program listed in 5 CCR 4610(b). (5 CCR 4630)

A complaint alleging unlawful discrimination shall be initiated no later than six months from the date when the alleged discrimination occurred, or six months from the date when the complainant first obtained knowledge of the facts of the alleged discrimination. A complaint may be filed by a person who alleges that he/she personally suffered unlawful discrimination or by a person who believes that an individual or any specific class of individuals has been subjected to unlawful discrimination. (5 CCR 4630).

The 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.

If a complainant is unable to put a complaint in writing due to conditions such as disability or illiteracy, district staff shall assist him/her in the filing of the complaint. (5 CCR 4600).

Step 2(a) Optional Mediation In Lieu of Full Investigation and Written Response

After receiving the complaint, and depending on the allegations made, the District compliance officer may discuss with the complainant the possibility of using mediation. If the complainant and District agree to mediation in writing, the compliance officer shall then make arrangements for a mediation process, including the timeline to be followed.

As a required part of the mediation, the parties must first agree to make the mediator a party to related confidential information. If the mediation process does not result in a full resolution of the complaint(s), the compliance officer shall proceed with his/her investigation of the complaint.

The use of mediation shall not extend the district's timelines for investigating and resolving the complaint, unless the complainant agrees in writing to such an extension of time. (5 CCR 4631). If resolution is reached via mediation, the parties shall reduce their agreement to writing, and the complaint shall be thereby fully concluded.

Step 3: Investigation of Complaint

The District shall provide complainant and/or his/her representative an opportunity to present the complaint and evidence (or information leading to evidence) to support the allegations in the complaint. (5 CCR 4631).

A complainant's refusal to provide the District's investigator with documents or other evidence supporting, or 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 allegations / complaint. (5 CCR 4631).

The District's refusal to provide the District's 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. (5 CCR 4631).

Step 4: District Decision

Unless the time has been extended by written agreement with the complainant, the District's compliance officer shall prepare and send to the complainant a written statement of the District's decision, within 60 days of the district's receipt of the complaint. (5 CCR 4631).

The district's decision shall be in writing and sent to the complainant. (5 CCR 4631).

The district's decision shall be written in English, and, when necessary, in the language of the complainant, when feasible and required by law.

The decision shall include:

1. The findings of fact based on the evidence gathered. (5 CCR 4631)
2. The conclusion(s) of law. (5 CCR 4631)
3. Disposition of the complaint. (5 CCR 4631)
4. Rationale for such disposition. (5 CCR 4631)
5. Corrective actions, if any are warranted. (5 CCR 4631)
6. Notice of the complainant's right to appeal the district's decision within 15 days to the CDE and procedures to be followed for initiating such an appeal. (5 CCR 4631)
7. For discrimination complaints, notice that the complainant must wait until 60 days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies. (Education Code 262.3)

If an employee is disciplined as a result of the complaint, the decision shall simply state that effective action was taken and that he employee was informed of district expectations. The report shall not give any further information as to the nature of the disciplinary action.

Appeal to the California Department of Education

If dissatisfied with the District's decision, the complainant may appeal in writing to the CDE within 15 days of receiving the district's decision. Failure to file a timely appeal may result in dismissal by the CDE, without further review. When appealing to the CDE, the complainant must specify the basis for the appeal of the decision and whether the facts are incorrect and/or the law has been misapplied. The appeal shall be accompanied by a copy of the locally filed complaint and a copy of the District's written decision. (5 CCR 4632).

Upon notification from the CDE that the complainant has appealed the District's decision, the Superintendent or designee shall forward the following documents to the CDE: (5 CCR 4633)

1. A copy of the original complaint
2. A copy of the decision.
3. A summary of the nature and extent of the investigation conducted by the district, if not covered by 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 district's complaint procedures.
7. Other relevant information requested by the CDE.

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

Civil Law Remedies

A complainant may pursue available civil law remedies outside of the District's complaint procedures. Complainants may seek assistance from mediation centers or public/private interest attorneys. Civil law remedies that may be available from a court proceeding could include, but are not necessarily limited to, injunctions and restraining orders. For discrimination complaints 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 is applicable only if the District has appropriately, and in a timely manner, apprised the complainant of his/her right to file a complaint in accordance with 5 CCR 4622.

Revised Regulation Approved by Superintendent: February 28, 2008