

UNIFORM COMPLAINT PROCEDURES

Except as the Board of Trustees may otherwise specifically provide in other District policies, these uniform complaint procedures (UCP) shall be used to investigate and resolve only the complaints specified in BP 1312.3.

Compliance Officer

The Board designates the Executive Director, Human Resource Services/Compliance, 33122 Valle Road, San Juan Capistrano, California 92675, (949) 234-9200, as the District's compliance officer to receive and direct investigation of complaints, maintain records of complaints and subsequent related actions.

The Superintendent or designee shall ensure that employees designated to investigate or direct investigation of 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.

Notifications

The District shall annually notify, in writing, its students, employees, parents/guardians of its students, district advisory committees, school advisory committees, appropriate private school officials or representatives, and other interested parties of these procedures.

The annual notification, complete contact information of the compliance officer, and information related to Title IX as required pursuant to Education Code 221.16 shall be posted on the district web site and may be provided through district-sponsored social media, if available.

The notice shall:

1. Identify the person(s), position(s), or unit(s) responsible for receiving complaints.
2. Advise the complainant that civil law remedies may be available to him/her under state or 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 California Department of Education (CDE) or to pursue remedies before civil courts or other public agencies.
4. Include statements that:
 - a. The District is primarily responsible for compliance with state and federal laws and regulations.

- 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. A complaint alleging unlawful discrimination, harassment, intimidation, or bullying, or retaliation for making or participating in a complaint under this policy, must be filed not later than six months from the date of the alleged unlawful act(s), or six months from the date the complainant first obtains knowledge of the facts of the alleged unlawful act(s). The filing time may be extended for up to 90 days by the Superintendent or designee for good cause on written request by the complainant setting forth the reasons for the extension.
- d. A student enrolled in public school shall not be required to pay a fee for his or her participation in an educational activity that constitutes an integral fundamental part of the District's educational program, including curricular and extracurricular activities.
- e. A foster youth shall receive information about educational rights related to his/her educational placement, enrollment in and checkout from school, as well as the responsibilities of the district liaison for foster youth to ensure and facilitate these requirements and to assist the student in ensuring proper transfer of his/her credits, records, and grades when he/she transfers between schools or between the district and another district.
- f. A foster youth, homeless student, former juvenile court school student, or a child of a military family who transfers into a district high school or between district high schools as applicable shall be notified of the district's responsibility to:
 - (1) Accept any coursework or part of the coursework that the student has satisfactorily completed in another public school, juvenile court school, or a nonpublic, nonsectarian school or agency, and to issue full or partial credit for the coursework completed
 - (2) Not require the student to retake any course or a portion of a course which he/she has satisfactorily completed in another public school, juvenile court school, or a nonpublic, nonsectarian school or agency
 - (3) If the student has completed his/her second year of high school before the transfer, provide the student information about district-adopted coursework and Board-imposed graduation requirements from which he/she may be exempted pursuant to Education Code 51225.1
- g. 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 or guardians, students, and other stakeholders in the development and review of LCAP.

- h. 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 determination.
- i. The appeal to the CDE must include a copy of the original complaint filed with the District and a copy of the District's decision.
- j. Copies of the District's uniform complaint procedures are available free of charge.

In addition, the District's uniform complaint procedures shall be posted in all District schools and the administrative office, including staff lounges and student government meeting rooms. If 15 percent or more of students enrolled in a particular District school speak a single primary language other than English, the policy, forms, and notices concerning uniform complaint procedures shall be translated into that language. (Education Code 234.1, 48985)

Complainants may have alternative civil law remedies via governmental agencies such as OCR, DFEH, EEOC, local bar associations, law schools, the State Superintendent of Public Instruction, or mediation services.

Filing of Complaint

A written complaint of alleged non-compliance with a federal or state law or regulation governing education programs listed above must be filed with the compliance officer. When the subject matter of a complaint is not covered by this policy, the complainant shall be so advised.

Complaints alleging unlawful discrimination, harassment, intimidation, or bullying, or retaliation for making or participating in a complaint under this policy, 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 such unlawful conduct.

The complaint must be filed no later than six months from the date of the alleged discrimination, harassment, intimidation, or bullying or six months from the date the complainant first obtained knowledge of the facts of the alleged conduct.

A complaint alleging noncompliance with the law regarding the prohibition against requiring students to pay 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. Such a complaint may be filed with the principal of the school, or with the Superintendent or designee. However, any such complaint shall be filed no later than one year from the date the alleged violation occurred. (Education Code 49013, 52075; 5 CCR 4630)

The complaint shall be presented to the 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, District staff shall assist in filing the complaint.

Investigation of Complaint

The compliance officer may designate an outside investigator, as appropriate, to investigate a complaint. The investigator shall be knowledgeable about the laws and programs he or she is assigned to investigate.

In the discretion of the compliance officer/designee, and with the consent of the parties, the compliance officer/designee may undertake a resolution of the dispute via mediation. This step is optional.

The compliance officer/designee shall hold investigative meetings promptly upon receipt of the complaint. Complainant and/or complainant's representatives and the District representatives shall have the opportunity to present any evidence or relevant information.

To ensure that all pertinent facts are discovered, the compliance officer/designee may conduct interviews with other individuals or request others to provide additional information and evidence.

Complainants are advised that while the District will make an effort to protect their privacy and confidentiality, investigation of their complaints may require disclosure of certain information to others. By filing a complaint, a complainant authorizes the District to investigate and make disclosures as may be reasonably necessary to the investigation and resolution of the complaint.

As appropriate for any complaint alleging discrimination, harassment, intimidation, or bullying, the Superintendent or designee may keep the identity of a complainant confidential to the extent doing so does not obstruct the investigation of the complaint.

Complainants, witnesses, and all other participants are protected by law from retaliation for their participation in the complaint investigation process.

A complainant's refusal to provide the compliance officer with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or engagement in any other obstruction of the investigation may result in the dismissal of the complaint based on a lack of evidence to support the allegation(s).

In accordance with law, the District shall provide the investigator with access to records and other information related to the allegation(s) in the complaint and shall not obstruct the investigation. Failure or refusal of the District to cooperate in the investigation may result in a finding based on evidence collected that a violation has occurred and in the imposition of a remedy in favor of the complainant.

Written Decision

Within 60 days of receiving the complaint, the compliance officer/designee shall prepare and send to the complainant a decision based on the District's investigation. The decision shall be in writing and include:

1. Findings of fact based on the evidence gathered;
2. Conclusion(s) of law, as applicable;
3. The disposition of the complaint;
4. The rationale for such disposition;
5. Corrective actions, if any are warranted;
6. Notice of the complainant's right to appeal the decision to the California Department of Education (CDE); and
7. Procedures to be followed for initiating an appeal to the CDE.

When a complaint is found to have merit, the compliance officer shall adopt any appropriate corrective action permitted by law. If an investigation of a complaint results in discipline to a student or an employee, the decision shall state only that corrective action was taken and the student or employee was informed of District expectations. The decision shall not give any further information as to the nature of disciplinary action.

If a complaint regarding Pupil Fees, Local Control and Accountability Plans (LCAP), Education of Pupils in Foster Care, Pupils who are Homeless, and former Juvenile Court Pupils currently enrolled in the District, Reasonable Accommodations to a Lactating Pupil, Course Periods without Educational Content (grades nine through twelve), and Physical Education Instructional Minutes (grades one through eight) are found to have merit, the District shall provide a remedy. In the case of complaints regarding Course Periods without Educational Content, Reasonable Accommodations to a Lactating Pupil, and Education of Pupils in Foster Care, Pupils who are Homeless, and former Juvenile Court Pupils currently enrolled in the District, the remedy shall go to the affected pupil.

If a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges, physical education instructional minutes for students in elementary schools, or any requirement related to the LCAP is found to have merit, the District shall provide a remedy to all affected students and parents/guardians subject to procedures established by regulation of the State Board of Education. (Education Code 49013, 51223, 52075.)

For complaints alleging noncompliance with the laws regarding student fees, the District shall attempt in good faith, by engaging in reasonable efforts, to identify and fully reimburse all affected students and parents/guardians who paid the unlawful student fees within one year prior to the filing of the complaint. (Education Code 49013; 5 CCR 4600.)

Completion of the complaint and investigation process will be concluded within 60 days unless the complainant agrees in writing to an extension of time.

The report of the District's decision shall be written in English and in the language of the complainant whenever feasible or required by law.

Appeals to the California Department of Education

If a complainant is dissatisfied with the decision, he/she may appeal in writing to the CDE within 15 days of receiving the District's decision.

When appealing, the complainant must specify all the reason(s) for the appeal and must include copies of the original complaint and the District's decision.

Upon notification by the Superintendent of Public Instruction that the District's decision has been appealed, the compliance officer/designee shall forward the following to the Superintendent of Public Instruction:

1. A copy of the original complaint;
2. A copy of the District's decision;
3. A summary of the nature and extent of the investigation conducted by the District, if not covered in the decision;
4. A copy of the investigation file;
5. A report of any action taken to resolve the complaint;
6. A copy of the District's uniform complaint procedure; and
7. Such other relevant information as the Superintendent of Public Instruction may require.

The CDE may directly intervene in a complaint without waiting for action by the District when one of the conditions listed in 5 C.C.R. 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.

Other Available Remedies

Depending on the nature of the complaint, the complainant may also have available civil law remedies, and may consult his/her attorney.

UNIFORM COMPLAINT PROCEDURES (continued)

AR 1312.3(g)

Civil law remedies include, but are not limited to, injunctions, restraining orders, or other remedies or orders. Notwithstanding any other provision of law, a person who alleges, based on state law, that he or she is a victim of discrimination, harassment, intimidation, or bullying may not seek civil remedies, other than injunctive relief or complaints based on federal law, until at least 60 days have elapsed from the filing of an appeal to the CDE. (Education Code section 262.3)