

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 Assistant Superintendent, Human Resource Services/Compliance, 33122 Valle Road, San Juan Capistrano, California 92675, (949) 234-9200, as the District's compliance officer and Title IX Coordinator 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 be in English and provided in other languages as required by Education Code section 48985 and shall be provided free of charge. It shall include:

1. The name of the person(s), position(s), or unit(s) responsible for receiving complaints.
2. The filing of complaints alleging unlawful discrimination, harassment, intimidation or bullying based on actual or perceived ancestry, color, disability, gender, gender identify, gender expression, immigration status, nationality, race or ethnicity, religion, sex, sexual orientation or association with a person or group with one or more of these actual or perceived characteristics.
3. Advise the complainant of the right to appeal the District's UCP investigation report to the California Department of Education ("CDE") except when the District used the UCP procedures to resolve a complaint that is not specifically described as "UCP Complaint" by 5 C.C.R. section 4610(b).

4. Advise the complainant of the appeal process pursuant to Education Code 262.3, or to pursue remedies before civil courts or other public agencies.
5. Advise the complainant that civil law remedies may be available to him/her under state or federal discrimination laws, if applicable.
6. Include information required by Education Code section 33315(a)(7), including information about the topics governed by the UCP.
7. Information about pupil fees, as outlined in Education Code section 49010 through 49013.
8. Include statement that if school personnel witnesses an act of discrimination, harassment, intimidation, or bullying they shall take immediate steps to intervene when safe to do so.

Information will be posted in District state preschool classrooms, to identify appropriate subjects of state preschool health and safety issues (per Section 1596.7925 of Health and Safety Code), that includes:

1. Notice that the health and safety requirements of 5 C.C.R. apply to California state preschool programs, per Health and Safety Code section 1596.7925; and
2. The location at which a form can be obtained to file a complaint.

In addition, the District's uniform complaint procedures shall be posted in all District school, including at District preschool programs, 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. The District has a complaint form available for persons wishing to file a complaint using the District form; however, a person is not required to use the form provided by the District to file a UCP.

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 of the LCAP was adopted. (Education Code 49013, 52075; 5 CCR 4630)

All other complaints should be filed within one year from the date the alleged violation occurred. However, complaints regarding the rights of foster youth are not restricted to this one year timeline.

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.

Uniform Complaint Procedure complaints regarding state preschool health and safety issues pursuant to Health and Safety Code Section 1596.7925 shall include the following statements:

1. File with the preschool program administrator or his or her designee.
2. A state preschool health and safety issues complaint about problems beyond the authority of the preschool program administrator shall be forwarded in a timely manner, but not exceed 10 working days to the appropriate local educational agency official for resolution.
3. A state preschool health and safety issues complaint may be filed anonymously. A complainant who identifies himself or herself is entitled to a response if he or she indicates that a response is requested. If Section 48985 of the *EC* is otherwise applicable, the response, if requested, and LEA Investigation Report shall be written in English and the primary language in which the complaint was filed.
4. A complaint form for a state preschool health and safety issue shall specify the location for filing a complaint. A complainant may add as much text to explain the complaint as he or she wishes.

Investigation of Complaint

Upon receipt of a complaint, the District will ensure investigation of the 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 the investigator is assigned to investigate. Investigations will be completed within 60 days unless circumstances require an extension. In this case, a written confirmation of extension will be provided by Complainant.

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. The District will ensure the investigator has access to any records of information requested or necessary.

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 issue an “Investigation Report” based on the evidence and send to the complainant. The Investigation Report shall be in writing and include:

1. Findings of fact based on the evidence gathered;
2. Conclusion providing a clear determination as to each allegation as to whether the District is in compliance with law and policy;
3. Corrective actions, if any are warranted;
4. Notice of the complainant’s right to appeal the decision to the California Department of Education (CDE); and
5. 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 but 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.)

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 30 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. Reasons for appeal must include at least one of the following:

1. The LEA failed to follow its complaint procedures, and/or
2. Relative to the allegations of the complaint, the LEA Investigation Report lacks material findings of fact necessary to reach a conclusion of law, and/or
3. The material findings of fact in the LEA Investigation Report are not supported by substantial evidence, and/or
4. The legal conclusion in the LEA Investigation Report is inconsistent with the law, and/or
5. In a case in which the LEA found noncompliance, the corrective actions fail to provide a proper remedy.

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.

Appeals o Preschool Health and Safety UCP Complaints

1. When receiving findings, a Complainant shall be informed how to file an appeal regarding State Preschool Health and Safety Issues in District Exempt from Licensing, including: A Statement declaring that a complainant not satisfied with the resolution of the preschool program administrator, or the designee of the Superintendent has the right to describe the complaint to the District Board at a regularly scheduled Board meeting.
2. A statement declaring that a complainant who is not satisfied with the resolution offered by the preschool program administrator or the designee of the Superintendent has the right to file an appeal to the State Superintendent of Public Instruction (SSPI) within 30 days of the date of the District Investigation Report.
3. A statement declaring that a complainant shall comply with the appeal requirements of 5 *CCR* Section 4632.
4. A statement declaring that a District shall report summarized data on the nature and resolution of all state preschool health and safety issues complaints pursuant to Health and Safety Code Section 1596.7925 on a quarterly basis to the County Superintendent of Schools and the Governing Board or body, as applicable, of the District. The summaries shall be publicly reported on a quarterly basis at a regularly scheduled meeting of the District's Board. The report shall include the number of complaints by general subject area with the number of resolved and unresolved complaints.
5. A statement declaring that all complaints and responses are public records.

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.

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)