

COMMUNITY RELATIONS

ADMINISTRATIVE REGULATION — UNIFORM COMPLAINT PROCEDURES

AR 1312.3

Except as the County Board may otherwise specifically provide in other County Education Office policies, these uniform complaint procedures (UCP) shall be used to investigate and resolve only the complaints specified in BP 2006.

Compliance Officers

The County Education Office designates the individual(s) identified below as the employee(s) responsible for coordinating the County Education Office's response to complaints and for complying with state and federal civil rights laws. The individual(s) also serve as the compliance officer(s) specified in AR 5001 - Nondiscrimination/Harassment as the responsible employee(s) to handle complaints regarding unlawful discrimination (such as discriminatory harassment, intimidation, or bullying). The individual(s) shall receive and coordinate the investigation of complaints and shall ensure County Education Office compliance with law.

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Assistant Superintendent, Educational Services
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The compliance officer who receives a complaint may assign another compliance officer to investigate and resolve the complaint. The compliance officer shall promptly notify the complainant and respondent, if applicable, if another compliance officer is assigned to the complaint.

In no instance shall a compliance officer be assigned to a complaint in which the compliance officer has a bias or conflict of interest that would prohibit the fair investigation or resolution of the complaint. Any complaint against a compliance officer or that raises a concern about the compliance officer's ability to investigate the complaint fairly and without bias shall be filed with the County Superintendent or designee who shall determine how the complaint will be investigated.

The County Superintendent or designee shall ensure that employees assigned to investigate and resolve complaints receive training and are knowledgeable about the laws and programs at issue in the complaints to which they are assigned. Training provided to such employees shall cover current state and federal laws and regulations governing the program, applicable processes for investigating and resolving complaints, including those alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), applicable standards for reaching decisions on complaints, and appropriate corrective measures. Assigned employees may have access to legal counsel as determined by the County Superintendent or designee.

The compliance officer or, if necessary, any appropriate administrator shall determine whether interim measures are necessary during and pending the result of an investigation. If interim measures are determined to be necessary, the compliance officer or the administrator shall consult with the County Superintendent, the County Superintendent's designee, or, if appropriate, the site principal to implement one or more interim measures. The interim measures shall remain in place until the compliance officer determines that they are no longer necessary or until the County Education Office issues its final written decision, whichever occurs first.

Notifications

The County Education Office's UCP policy and administrative regulation shall be posted in all County Education Office schools and offices, including staff lounges and student government meeting rooms.

The County Superintendent or designee shall annually provide written notification of the County Education Office's UCP, including information regarding unlawful student fees, local control and accountability plan (LCAP) requirements, and requirements related to the educational rights of foster youth, homeless students, and former juvenile court school students to students, employees, parents/guardians, the County Education Office advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties.

The annual notification, complete contact information of the compliance officer(s), and information related to Title IX as required pursuant to Education Code 221.61 shall be posted on the County Education Office web site and may be provided through County Education Office-supported social media, if available.

The County 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 County Education Office's policy, regulation, forms, and notices concerning the UCP.

If 15 percent or more of students enrolled in a particular County Education Office school speak a single primary language other than English, the County Education Office's 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 County Education Office shall ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

The notice shall include:

1. A statement that the County Education Office is primarily responsible for compliance with federal and state laws and regulations, including those related to prohibition of unlawful discrimination, harassment, intimidation, or bullying against any protected group and all programs and activities that are subject to UCP as identified in the section "Complaints Subject to UCP" in

the accompanying Board policy

2. A statement that a complaint regarding student fees or the local control and accountability plan (LCAP) may be filed anonymously if the complainant provides evidence or information leading to evidence to support the complaint
3. A statement that a student enrolled in a public school shall not be required to pay a fee for participation in an educational activity that constitutes an integral fundamental part of the district's educational program, including curricular and extracurricular activities
4. A statement that a complaint regarding student fees must be filed no later than one year from the date the alleged violation occurred
5. A statement that the County Education Office shall post a standardized notice of the educational rights of foster youth, homeless students, former juvenile court school students now enrolled in the district, children of military families, migrant students, and immigrant students enrolled in a newcomer program, as specified in Education Code 48853, 48853.5, 49069.5, 51225.1, and 51225.2, and the complaint process
6. A statement declaring that in order to identify appropriate subjects of state preschool health and safety issues pursuant to HSC Section 1596.7925, a notice shall be posted in each California state preschool program classroom in each school in the County Education Office. The notice shall state the health and safety requirements under 5 CCR that apply to California state preschool programs pursuant to HSC Section 1596.7923 and state the location at which to obtain a form to file a state preschool health and safety issues complaint pursuant to HSC Section 1596.7925
7. Identification of the responsible staff member(s), position(s), or unit(s) designated to receive complaints
8. A statement that complaints will be investigated in accordance with the County Education Office's UCP and a written decision will be sent to the complainant within 60 days from the receipt of the complaint, unless this time period is extended by written agreement of the complainant
9. A statement that the complainant has a right to appeal the County Education Office's decision to CDE by filing a written appeal, including a copy of the original complaint and the district's decision, within 15 days of receiving the district's decision
10. A statement advising the complainant of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders

that may be available under state or federal discrimination, harassment, intimidation or bullying laws, if applicable

11. A statement that copies of the County Education Office's UCP are available free of charge

Filing of Complaints

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.

All complaints shall be filed in writing and signed by the complainant. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, County Education Office staff shall assist in the filing of the complaint.

Complaints shall also be filed in accordance with the following rules, as applicable:

1. A complaint alleging County Education Office violation of applicable state or federal law or regulations governing the programs specified in the accompanying Board policy (item #1 of the section "Complaints Subject to the UCP") may be filed by any individual, public agency, or organization. (5 CCR 4630)
2. Any complaint alleging noncompliance with law regarding the prohibition against 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. A complaint about a violation of the prohibition against the charging of unlawful student fees may be filed with the principal of the school or with the County 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)
3. A complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) may be filed only by persons who alleges that they have personally suffered unlawful discrimination or who believe that an individual or any specific class of individuals has been subjected to unlawful discrimination. The complaint shall be initiated no later than six months from the date that the alleged unlawful discrimination occurred, or six months from the date that the complainant first obtained knowledge of the facts of the alleged unlawful discrimination. The time for filing may be extended for up to 90 days by the County Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension. (5 CCR 4630)
4. When a complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) is filed 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.

5. When the complainant of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) or the alleged victim, when not the complainant, requests confidentiality, the compliance officer shall inform the complainant or victim that the request may limit the County Education Office's ability to investigate the conduct or take other necessary action. When honoring a request for confidentiality, the County Education Office shall nevertheless take all reasonable steps to investigate and resolve/respond to the complaint consistent with the request.

Mediation

Within three business days after receiving the complaint, the compliance officer may informally discuss with all the parties the possibility of using mediation. Mediation shall be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint involving an allegation of sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. If the parties agree to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the compliance officer shall ensure that all parties agree to make the mediator a party to relevant confidential information. The compliance officer shall also notify all parties of the right to end the informal process at any time.

If the mediation process does not resolve the problem within the parameters of law, the compliance officer shall proceed with an investigation of the complaint.

The use of mediation shall not extend the County Education Office's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time. If mediation is successful and the complaint is withdrawn, then the County Education Office shall take only the actions agreed to through the mediation. If mediation is unsuccessful, the County Education Office shall then continue with subsequent steps specified in this administrative regulation.

Investigation of Complaint

Within 10 business days after the compliance officer receives the complaint, the compliance officer shall begin an investigation into the complaint.

Within one business day of initiating the investigation, the compliance officer shall provide the complainant and/or the complainant's representative with the opportunity to present the information contained in the complaint to the compliance officer and shall notify the

complainant and/or representative of the opportunity to present the compliance officer with any evidence, or information leading to evidence, to support the allegations in the complaint. Such evidence or information may be presented at any time during the investigation.

In conducting the investigation, the compliance officer shall collect all available documents and review all available records, notes, or statements related to the complaint, including any additional evidence or information received from the parties during the course of the investigation. The compliance officer 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. At appropriate intervals, the compliance officer shall inform both parties of the status of the investigation.

To investigate a complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, 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.

A complainant's refusal to provide the County Education Office's investigator 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 because of a lack of evidence to support the allegation. Similarly, a respondent's refusal to provide the County Education Office's investigator 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 a finding, based on evidence collected, that a violation has occurred and in the imposition of a remedy in favor of the complainant.

In accordance with law, the County Education Office shall provide the investigator with access to records and other information related to the allegation in the complaint and shall not in any way obstruct the investigation. Failure or refusal of the County Education Office to cooperate in 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.

Report of Findings

OPTION 1:

Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant, a written report, as described in the section "Final Written Decision" below, within 60 calendar days of the County Education Office's receipt of the complaint.

For any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying), the respondent shall be informed of any extension of the timeline agreed to by the complainant. The respondent also shall be sent the County Education Office's final written decision at the same time it is provided to the complainant.

OPTION 2:

Unless extended by written agreement with the complainant, a final decision shall be sent to the complainant within 60 calendar days of the County Education Office's receipt of the complaint. Within 30 calendar days of receiving the complaint, the compliance officer shall prepare and send to the complainant a written report, as described in the section "Final Written Decision" below. If the complainant is dissatisfied with the compliance officer's decision, the complainant may, within five business days, file the complaint in writing with the County Board.

The County Board may consider the matter at its next regular Board meeting or at a special Board meeting convened in order to meet the 60-day time limit within which the complaint must be answered. When required by law, the matter shall be considered in closed session. The County Board may decide not to hear the complaint, in which case the compliance officer's decision shall be final.

If the County Board hears the complaint, the compliance officer shall send the County Board's decision to the complainant within 60 calendar days of the County Education Office's initial receipt of the complaint or within the time period that has been specified in a written agreement with the complainant.

For any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying), the respondent shall be informed of any extension of the timeline agreed to by the complainant, shall be sent the County Education Office's final written decision and, in the same manner as the complainant, may file a complaint with the County Board if dissatisfied with the decision.

Final Written Decision

For all complaints, the County Education Office's final written decision 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
 - 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 the complainant
2. The conclusion(s) of law

3. Disposition of the complaint
4. Rationale for such disposition

For complaints of retaliation or unlawful discrimination (such as 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:

- a. The manner in which the misconduct affected one or more students' education
 - b. The type, frequency, and duration of the misconduct
 - c. The relationship between the alleged victim(s) and offender(s)
 - d. The number of persons engaged in the conduct and at whom the conduct was directed
 - e. The size of the school, location of the incidents, and context in which they occurred
 - f. Other incidents at the school involving different individuals
5. Corrective action(s), including any actions 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 5 CCR 4600.

For complaints of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the decision may, as required by law, include:

- a. The corrective actions imposed on the respondent.
 - b. Individual remedies offered or provided to the complainant or another person who was the subject of the complaint, but this information should not be shared with the respondent.
 - c. Systemic measures the school has taken to eliminate a hostile environment and prevent recurrence.
6. Notice of the complainant's and respondent's right to appeal the County Education Office's decision to the CDE within 15 calendar days, and procedures to be followed for initiating such an appeal.

The decision may also include follow-up procedures to prevent recurrence or retaliation and for reporting any subsequent problems.

In consultation with County Education Office legal counsel, information about the relevant part of a decision may be communicated to a victim who is not the complainant and to

other parties who may be involved in implementing the decision or are affected by the complaint, as long as the privacy of the parties is protected. In a complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying), notice of the County Education Office's decision to the alleged victim shall include information about any sanction to be imposed upon the respondent that relates directly to the alleged victim.

If the complaint involves a limited-English-proficient student or parent/guardian and the student involved is enrolled in a school at which 15 percent or more of the students speak a single primary language other than English, then the decision shall also be translated into that language pursuant to Education Code 48985. In all other instances, the County Education Office shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

For complaints alleging unlawful discrimination based on state or federal law (such as discriminatory harassment, intimidation, and bullying), the decision shall also include a notice to the complainant that:

1. The complainant may pursue available civil law remedies outside of the County Education Office's 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. (Education Code 262.3)
2. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law. (Education Code 262.3)
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.

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 County Education Office environment may include, but are not limited to, actions to reinforce County Education Office policies; training for faculty, staff, and students; updates to school policies; or school climate surveys.

For complaints involving retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), appropriate remedies that may be offered to the victim but not communicated to the respondent 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

For complaints involving retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, 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

When an employee is found to have committed retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the County Education Office shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

The County Education Office 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 (such as discriminatory harassment, intimidation, or bullying), that the County Education Office does not tolerate it, and how to report and respond to it.

When a complaint is found to have merit, an appropriate remedy shall be provided to the complainant or other affected person.

However, 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 County Education Office shall provide a remedy to all affected students and parents/guardians subject to procedures established by regulation of the State Board of Education.

In the case of complaints regarding Course Periods without Educational Content, Reasonable Accommodations to a Lactating Pupil, or Education of Pupils in Foster Care, Pupils who are Homeless, and former Juvenile Court Pupils now enrolled in our school district and pupils in military families, the County Education Office shall provide a remedy to the affected pupil.

For complaints alleging noncompliance with the laws regarding student fees, the County Education Office 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.

Appeals to the California Department of Education

Any complainant who is dissatisfied with the County Education Office's final written decision on a complaint regarding all specified federal and state educational programs may file an appeal in writing with the CDE within 15 calendar days of receiving the County Education Office's report.

The complainant shall 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 County Education Office's decision.

When a respondent in any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying) is dissatisfied with the County Education Office's final written decision, the respondent, in the same manner as the complainant, may file an appeal with the CDE.

Upon notification by the CDE that the County Education Office's decision has been appealed, the County Superintendent or designee shall forward the following documents to the CDE:

1. A copy of the original complaint
2. A copy of the written decision
3. A summary of the nature and extent of the investigation conducted by the County Education Office, 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 County Education Office's uniform complaint procedures
7. Other relevant information requested by the CDE.

State Preschool Health and Safety Issues UCP Complaints

UCP complaints regarding state preschool health and safety issues pursuant to HSC section 1596.7925 shall include the following statements:

1. File with the preschool program administrator or designee.
2. A state preschool health and safety issues complaint pursuant to *HSC* section 1596.7925 about problems beyond the authority of the preschool program administrator shall be forwarded in a timely manner, but not to exceed 10 working days, to the appropriate local educational agency official for resolution.
3. A state preschool health and safety issues complaint pursuant to *HSC* section 1596.7925 may be filed anonymously. A complainant who identifies themselves is entitled to a response if the complainant indicates that a response is requested. A complaint form shall include a space to mark to indicate whether a response is requested. If Section 48985 of the *Education Code* is otherwise applicable, the response, if requested, and 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 pursuant to *HSC* section 1596.7925 shall specify the location for filing a complaint. A complainant may add as much text to explain the complaint as the complainant wishes.

The preschool program administrator or the designee of the County Superintendent shall (1) make all reasonable efforts to investigate any problem within their authority. Investigations shall begin within 10 days of the receipt of the complaint and (2) remedy a valid complaint within a reasonable time period, but not to exceed 30 working days from the date the complaint was received and report to the complainant the resolution of the complaint within 45 working days of the initial filing. If the preschool program administrator makes this report, they shall also report the same information in the same timeframe to the designee of the County Superintendent.

A complainant not satisfied with the resolution of the preschool program administrator or the designee of the County Superintendent has the right to describe the complaint to the County Board at a regularly scheduled hearing.

Any complainant who is dissatisfied with the County Education Office's final written decision on a complaint regarding any state preschool health and safety issue may file an appeal in writing with the SSPI within 30 calendar days of receiving the County Education Office's decision.

The complaint shall comply with the appeal requirements of 5 CCR Section 4632. This appeal to the CDE must fully explain the basis for the appeal, stating how the facts of the County Education Office's decision are incorrect and/or the law is misapplied.

In addition, the appeal shall be sent to CDE with:

1. A copy of the original locally filed complaint; and
2. A copy of the County Education Office's decision of this original locally filed complaint.

The SSPI or designee shall comply with the requirements of 5 *CCR* section 4633 and shall provide a written decision to the State Board of Education describing the basis for the complaint, the County Education Office's response to the state preschool health and safety issues pursuant to HSC Section 1596.7925 complaint and its remedy or proposed remedy, and as appropriate, a proposed remedy for the issue described in the complaint, if different from the County Education Office's remedy.

The County Education Office shall report summarized data on the nature and resolution of all state preschool health and safety issues complaints pursuant to HSC Section 1596.7925 on a quarterly basis to the County Superintendent of Schools and the County Board. The summaries shall be reported on a quarterly basis at a regularly scheduled County Board meeting. The report shall include the number of complaints by general subject area with the number of resolved and unresolved complaints. All complaints and responses are public records.

APPROVED BY COUNTY SUPERINTENDENT: October 1, 1992

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