

# OAKLAND UNIFIED SCHOOL DISTRICT

Office of the Ombudsperson  
 1000 Broadway, 1<sup>st</sup> Floor, Suite 150, Oakland, CA 94607  
 (510) 879-4281; FAX (510) 879-3678

## COMPLAINT (LEVEL I)

### FOR OFFICE USE ONLY

Date Received: \_\_\_\_\_  
 Received by: \_\_\_\_\_  
 Log No.: \_\_\_\_\_  
 Mailed to: \_\_\_\_\_  
 Date Mailed: \_\_\_\_\_  
 Copy filed by: \_\_\_\_\_  
 Response Due: \_\_\_\_\_

With the exception of Pupil Fee complaints which may be filed within one (1) year of the alleged violation; all other complaints must be filed within six (6) months of the alleged occurrence. Pupil Fees and LCAP complaints may be filed anonymously. Please submit this complaint form to the District Ombudsperson. Please expect a response within **forty-five (45)** calendar days.

### 1. Person filing the complaint:

Please check one:	<input type="checkbox"/> Parent/Guardian	<input type="checkbox"/> Student	<input type="checkbox"/> Employee/Staff Job site: _____	<input type="checkbox"/> Other
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### 2. Complainant

Name			
Name of Child (grade and school)			
Address, City, Zip			
Telephone(s)		Email:	

### 3. Respondent

Filing a Complaint against - Name(s)	
Job Title(s)	
School/Department	

### 4. Nature of Concerns (Please check the box(es) that apply and please explain why you checked the box(es):

Program Requirements for:		Program Requirements for:		Unlawful discrimination on the basis of actual or perceived characteristics of:
Adult Education	<input type="checkbox"/>	Student Suspension	<input type="checkbox"/>	Age (age 40+ in employment)
Bilingual Education / Education of English Learners	<input type="checkbox"/>	Student Expulsion	<input type="checkbox"/>	Ancestry / Nationality / National Origin
Career Technical Education	<input type="checkbox"/>	Student Bullying	<input type="checkbox"/>	Color
Child Care and Development / State Preschool	<input type="checkbox"/>	Pupil Fees/Deposits/Charges**	<input type="checkbox"/>	Ethnicity / Ethnicity Group Identification
Child Nutrition	<input type="checkbox"/>	Reasonable Accommodation to a Lactating Pupil	<input type="checkbox"/>	Gender / Gender Identity / Gender Expression
Consolidated Categorical Aid	<input type="checkbox"/>	Course Periods without Educational Content for Pupils	<input type="checkbox"/>	Marital, Pregnancy or Parental Status
Local Control Accountability Plan (LCAP)*	<input type="checkbox"/>	Education of Pupils in Foster Care and Pupils who are Homeless	<input type="checkbox"/>	Physical/Mental Disability
Compensatory Education	<input type="checkbox"/>	Physical Education (PE) Minutes	<input type="checkbox"/>	Race
Economic Impact Aid	<input type="checkbox"/>	After School Education & Safety	<input type="checkbox"/>	Religion
Migrant Education	<input type="checkbox"/>	American Indian Education Centers	<input type="checkbox"/>	Sex
Special Education	<input type="checkbox"/>	California Peer Assistance Review Program for Teachers (PARS)	<input type="checkbox"/>	Sexual Harassment
Title I ESSA / NCLB	<input type="checkbox"/>		<input type="checkbox"/>	Sexual Orientation
School Safety Plans	<input type="checkbox"/>		<input type="checkbox"/>	
Tobacco Use Prevention Education (TUPE)	<input type="checkbox"/>	OTHER:	<input type="checkbox"/>	Note: Copies of discrimination complaints will not be shared with the accused party.

\*A Pupil Fee or LCAP complaint may be filed anonymously. \*\*A pupil fee complaint shall be filed no later than one year from the date of the alleged violation and should be first filed with the school principal.

**5. Date(s) and location of event(s)**

Date(s)		Location(s): (classroom, hallway, playground, gym, after school, etc.)	
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**6. Nature of Concerns: (Please describe what happened. Please attach additional pages, if necessary).**


**7. Were there any witnesses? (Someone who saw what happened)**

Name of Witness 1	
Name of Witness 2	

**8. Did you discuss your concerns with the Principal or Supervisor?      Yes;      No**

To whom have you spoken?		Date(s)	
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**9. What was the result of the discussion? (what did they say)**


**10. Requested Remedy – If you desire a remedy or wish the District to take a particular course of action, please specify:**


Note: A copy the written complaint filed against an employee will be provided to the employee except for discrimination and sexual harassment complaints.

*I understand that the District will maintain this information confidential, to the extent provided by law or collective bargaining agreement; that I will be protected from retaliation for filing this complaint; that the District may request further information about this matter; and if such information is available, I agree to present it upon request. I understand that with the exception of Pupil Fee complaints which may be filed within one (1) year of the alleged violation; all other complaints must be filed within six (6) months of the alleged occurrence. Pupil Fees and LCAP complaints may be filed anonymously. I believe that the foregoing is true and correct.*

Note: I understand that if I file a complaint right before Thanksgiving Recess (November), Winter Recess (December), Spring Recess (April) or Summer Recess (June) that school staff will be on vacation and it will take longer to investigate; and I agree to extend the timeline for responding to my complaint by the number of days schools are closed. Initials \_\_\_\_\_

Signature	Today's Date

[illegible]

# **OAKLAND UNIFIED SCHOOL DISTRICT**

## **Board Policy**

BP 1312.3  
Uniform Complaint Procedures

### **Community Relations**

The Governing Board recognizes that the district has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs. The Board encourages the early resolution of complaints whenever possible. To resolve complaints which may require a more formal process, the Board adopts the uniform system of complaint process specified in 5 CCR 4600-4670 and the accompanying administrative regulation.

The district's uniform complaint procedures (UCP) shall be used to investigate and resolve the following complaints:

1. Any complaint alleging district violation of applicable state or federal law or regulation governing adult education programs, agricultural vocational education, after school education and safety programs, migrant education, career technical and technical education and training programs, child care and development programs, state preschool, child nutrition programs, special education programs, consolidated categorical aid programs, bilingual education, programs for English learners, American Indian Education Centers, California Peer Assistance Review Program for Teachers, economic impact aid, Every Student Succeeds Acts (ESSA) – No Child Left Behind (NCLB), regional occupational centers and programs, compensatory education, school safety plans, tobacco- use prevention education (TUPE) and any other district-implemented program which is listed in Education Code 64000(a). (5 CCR 4610).

*(cf. 3553 – Free and Reduced Price Meals)*  
*(cf. 3555 – Nutrition Program Compliance)*  
*(cf. 5141.4 – Child Abuse Prevention and Reporting)*  
*(cf. 5148 – Child Care and Development)*  
*(cf. 5148.2 – Before/After School Programs)*  
*(cf. 6159 – Individualized Education Program)*  
*(cf. 6171 - Title I Programs)*  
*(cf. 6174 - Education for English Language Learners)*  
*(cf. 6175 - Migrant Education Program)*  
*(cf. 6178 – Career Technical Education)*  
*(cf. 6178.1 - Work-Based Learning)*  
*(cf. 6178.2 – Regional Occupational Center/ Program)*  
*(cf. 6200- Adult Education)*

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2. Any complaint alleging the occurrence of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) against any student, employee or other person participating in district programs and activities, including, but not limited to, those programs and activities funded directly by or that receive or benefit from any state financial assistance, based on the person's actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, ethnic group identification, age, religion, marital, or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code 200 or 220, Government Code 11135, or Penal Code 422.5, or based upon his/her association with a person or group with one or more of these actual or perceived characteristics (5 CCR 4610).

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*

*(cf. 5145.3 - Nondiscrimination/Harassment)*

*(cf. 5145.7 - Sexual Harassment)*

3. Any complaint alleging district noncompliance with the requirement to provide reasonable accommodation to a lactating student on school campus to express breast milk, breastfeed an infant child, or address other breastfeeding-related needs of the student (Education Code 222)

*(cf. 5146 - Married/Pregnant/Parenting Students)*

4. Any complaint alleging district noncompliance with the prohibition against requiring students to pay fees, deposits, or other charges for participation in educational activities (5 CCR 4610).

*(cf. 3260 - Fees and Charges)*

*(cf. 3320 - Claims and Actions Against the District)*

5. Any complaint alleging district noncompliance with legal requirements related to the implementation of the Local Control and Accountability Plan (LCAP) (Education Code 52075)

*(cf. 0460 - Local Control and Accountability Plan)*

6. Any complaint, by or on behalf of any student who is a foster youth, alleging district noncompliance with any legal requirement applicable to the student regarding placement decisions, the responsibilities of the district's educational liaison to the student, the award of credit for coursework satisfactorily completed in another school or district, school transfer, or the grant of an exemption from Board-imposed graduation requirements (Education Code 48853, 48853.5, 49069.5, 51225.1, 51225.2)

*(cf. 6173.1 - Education for Foster Youth)*

7. Any complaint, by or on behalf of a homeless student as defined in 42 USC 11434a, alleging district noncompliance with any requirement applicable to the student regarding the award of

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credit for coursework satisfactorily completed in another school or district or the grant of an exemption from Board-imposed graduation requirements (Education Code 51225.1, 51225.2)

*(cf. 6173 - Education for Homeless Children)*

8. Any complaint alleging district noncompliance with the requirements of Education Code sections 51228.1 and 51228.2 that prohibit the assignment of a student to a course without educational content for more than one week in any semester or to a course the student has previously satisfactorily completed, without meeting specified conditions (Education Code 51228.3)

*(cf. 6152 - Class Assignment)*

9. Any complaint alleging district noncompliance with the physical education instructional minutes requirement for students in elementary school (Education Code 51210, 51223)

*(cf. 6142.7 - Physical Education and Activity)*

10. Any complaints alleging retaliation against a complainant or other participant in the complaint process or anyone who has acted to uncover or report a violation subject to this policy. The Board prohibits any form of retaliation against any complainant in the complaint process. Participation in the complaint process shall not in any way affect the status, grades, or work assignments of the complainant.
11. Any other complaint as specified in a district policy.

The Board recognizes that alternative dispute resolution (ADR) can, depending on the nature of the allegations, offer a process to reach a resolution to the complainant that is agreeable to all parties. One type of ADR is mediation, which 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 sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. The Superintendent or designee shall ensure that the use of ADR is consistent with state and federal laws and regulations.

In filing and investigating complaints, the confidentiality of the parties involved shall be protected as required by law. As appropriate for any complaint alleging retaliation, unlawful discrimination, or bullying, the Superintendent or designee shall keep confidential the identity of the complainant and/or the subject of the complaint, if he/she is different from the complainant, as long as the integrity of the complaint process is maintained.

*(cf. 4119.23/4219.23/4319.23 – Unauthorized Release of Confidential/Privileged Information)*  
*(cf. 5125 – Student Records)*  
*(cf. 9011 – Disclosure of Confidential/Privileged Information)*

When an allegation that is not the subject to the UCP is included in a UCP complaint, the district shall refer the non-UCP allegation to the appropriate staff or agency and shall investigate and if

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appropriate, resolve the UCP- related allegations(s) through the district's UCP.

The Superintendent or designee shall provide training to district staff to ensure awareness and knowledge of current law and related requirements, including steps and timelines specified in this policy and the accompanying administrative regulation.

*(cf. 4131 – Staff Development)*

*(cf. 4231 – Staff Development)*

*(cf. 4331 – Staff Development)*

The Superintendent or designee shall maintain records of all UCP complaints and the investigation of those complaints in accordance with applicable law and district policy.

*(cf. 3580 – District Records)*

### **Non-UCP Complaints**

The following complaints shall not be subject to the district's UCP but shall be referred to the specified agency: (5 CCR 4611)

1. Any complaint alleging child abuse or neglect shall be referred to the County Department of Social Services, the County Protective Services Division, and the appropriate law enforcement agency.
2. Any complaint alleging health and safety violations by a child development program shall, for licensed facilities, be referred to Department of Social Services and shall, for licensing-exempt facilities, be referred to the appropriate Child Development regional administrator.
3. Any complaint alleging fraud shall be referred to the California Department of Education.
4. As per Board Policy 5144.1 – Suspension and Expulsion / Due Process,: As of July 1, 2016, the Superintendent shall develop a complaint form to allow members of the school community and public to raise concerns if restorative justice or another restorative approach is not available at a school site as an alternative to suspension. The complaint form will be available on the District's website, the District Discipline Office and the District Ombudsperson's Office. The Ombudsperson shall investigate such complaints and within 90 days of complaint submission develop a plan with the school site for addressing the complaint and provide a written response to the complaining party.

The Board encourages the early, informal resolution of complaints at the site level whenever possible.

In addition, the district's Williams Uniform Complaint Procedures, AR 1312.4, shall be used to investigate and resolve any complaint related to the sufficiency of textbooks or instructional  
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materials, emergency or urgent facilities conditions that pose a threat to the health and safety of students or staff; or teacher vacancies and misassignments. (Education Code 35186)

(cf. 1312.4 - Williams Uniform Complaint Procedures)

With the exception of pupil fee complaints, which may be filed within one (1) year of the alleged violation; all other uniform complaints must be filed no later than six (6) months after the alleged occurrence.

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination  
222 Reasonable accommodations; lactating students  
8200-8498 Child care and development programs  
8500-8538 Adult basic education  
18100-18203 School libraries  
32289 School safety plan, uniform complaint procedures  
35186 Williams uniform complaint procedures  
48853-48853.5 Foster youth  
48985 Notices in language other than English  
49010-49013 Student fees  
49060-49079 Student records  
49069.5 Rights of parents  
49490-49590 Child nutrition programs  
51210 Courses of study grades 1-6  
51223 Physical education, elementary schools  
51225,1-51225,2 Foster youth and homeless education; course credits; graduation requirements  
51228.1-51228.3 Course periods without educational content  
52060-52077 Local control accountability plan, especially  
52075 Complaint for lack of compliance with local control and accountability plan requirements  
52160-52178 Bilingual education programs  
52300-52490 Career technical education  
52500-52616.24 Adult schools  
52800-52870 School-based program coordination  
54400-54425 Compensatory education programs  
54440-54445 Migrant education  
54460-54529 Compensatory education programs  
56000-56867 Special education programs  
59000-59300 Special schools and centers  
64000-64001 Consolidated application process

GOVERNMENT CODE

11135 Nondiscrimination in programs or activities funded by state  
12900-12996 Fair Employment and Housing Act

PENAL CODE

422.55 Hate crime; definition  
422.6 Interference with constitutional right or privilege

CODE OF REGULATIONS, TITLE 5

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3080 Application of section  
4600-4687 Uniform complaint procedures  
4900-4965 Nondiscrimination in elementary and secondary education programs

UNITED STATES CODE, TITLE 20

1221 Application of laws  
1232g Family Educational Rights and Privacy Act  
1681-1688 Title IX of the Education Amendments of 1972  
6301-6577 Title I basic programs  
6801-6871 Title III language instruction for limited English proficient and immigrant students  
7101-7184 Safe and Drug-Free Schools and Communities Act  
7201-7283g Title V promoting informed parental choice and innovative programs  
7301-7372 Title V rural and low-income school programs  
12101-12213 Title II equal opportunity for individuals with disabilities

UNITED STATES CODE, TITLE 29

794 Section 504 of Rehabilitation Act of 1973

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.67 Family Educational Rights and Privacy Act  
100.3 Prohibition of discrimination on basis of race, color or national origin  
104.7 Designation of responsible employee for Section 504  
106.8 Designation of responsible employee for Title IX  
106.9 Notification of nondiscrimination on basis of sex  
110.25 Notification of nondiscrimination on the basis of age

*Management Resources:*

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Dear Colleague Letter: Title IX Coordinators, April 2015

Questions and Answers on Title IX and Sexual Violence, April 2014

Dear Colleague Letter: Bullying of Students with Disabilities, August 2013

Dear Colleague Letter: Sexual Violence, April 2011

Dear Colleague Letter: Harassment and Bullying, October 2010

Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001

*Management Resources continues: (see next page)*

*Management Resources: (continued)*

U.S. DEPARTMENT OF JUSTICE PUBLICATIONS

Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 2002

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

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Family Policy Compliance Office: <http://familypolicy.ed.gov>  
U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/ocr>  
U.S. Department of Justice: <http://www.justice.gov>

11/17/04, 11/18/09A; 10/26/11A; 05/22/13A, 1/27/16A,

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**OAKLAND UNIFIED SCHOOL DISTRICT**  
**Administrative Regulation**

AR 1312.3  
Uniform Complaint Procedures

**Community Relations**

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

*(cf. 1312.1 - Complaints Concerning District Employees)*  
*(cf. 1312.2 - Complaints Concerning Instructional Materials)*  
*(cf. 1312.4 - Williams Uniform Complaint Procedures)*  
*(cf. 4030 - Discrimination in Employment)*

**I. Compliance Officers**

The district designates the individual(s) identified below as the employee(s) responsible for coordinating the district'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 the AR 5145.3 – Nondiscrimination/Harassment as the responsible employee to handle complaints alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying). The individual(s) shall receive and coordinate the investigation of complaints and shall ensure compliance with the law.

*(cf. 5145.3 – Nondiscrimination/ Harassment)*  
*(cf. 5145.7 – Sexual Harassment)*

Gabriel Valenzuela  
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FAX (510) 879-3678  
Email: [Gabriel.Valenzuela@ousd.org](mailto:Gabriel.Valenzuela@ousd.org)

The Ombudsperson is responsible for the intake and monitoring of all Uniform Complaints. The Ombudsperson is also responsible for investigating complaints regarding discrimination (filed by a parent or students) as well as Uniform Complaints concerning the program for English Language Learners (ELL) and retaliation for, or interference with, ELL Program advocacy.

As per Board Policy 5144.1 – Suspension and Expulsion / Due Process: As of July 1, 2016, the Superintendent shall develop a complaint form to allow members of the school community and public to  
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raise concerns, if restorative justice or another restorative approach is not available at a school site as an alternative to suspension. The complaint form will be available on the District's website, the District Discipline Office and the District Ombudsperson's Office. The Ombudsperson shall investigate such complaints and within 90 days of complaint submission develop a plan with the school site for addressing the complaint and provide a written response to the complaining party.

Tara Gard, Deputy Chief  
Talent Management Division  
1000 Broadway, 2<sup>nd</sup> Floor, Suite 295  
Oakland, CA 94608  
(510) 879-8852  
FAX (510) 879-0228  
Email: [Tara.Gard@ousd.org](mailto:Tara.Gard@ousd.org)

The Deputy Chief of Talent Management or his/her designee, is responsible for investigating complaints alleging discrimination in employment in accordance with BP/AR 4030 – Nondiscrimination in Employment and AR 4031- Complaints Concerning Discrimination in Employment School personnel shall take immediate steps to intervene, when it is safe to do so, and when he or she witnesses an act of discrimination, harassment, intimidation or bullying.

Barbara Parker  
Health Services/Section 504 Coordinator  
Community Schools & Student Services  
1000 Broadway, 1<sup>st</sup> Floor, Suite 150  
Oakland, CA 94607  
(510) 879-2365  
FAX (510) 879-4605  
Email: [504@ousd.k12.ca.us](mailto:504@ousd.k12.ca.us)

The Section 504 Coordinator is responsible for coordinating program modifications for students with disabilities covered under Section 504 of the Rehabilitation Act of 1973 and also investigates complaints concerning Section 504.

The compliance officer who received 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 designated to investigate a complaint in which he/she a subject in the complaint or has a conflict of interest that would prohibit him/her from fairly investigating or resolving the complaint. Any complaint that raises a concern about the compliance officer's ability to investigate the complaint fairly shall be filed with the Superintendent or designee who shall determine how the complaint will be investigated.

Other complaints will be routed to the appropriate school site administrator, department director or to the Superintendent's designee for investigation.

The Superintendent or designee shall ensure that employees designated 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 designated employees shall include 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. Designated employees may have access to legal counsel as determined by the Superintendent or designee.

*(cf. 4331 – Staff Development)*

*(cf. 9124 - Attorney)*

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 district issues its final written decision, whichever occurs first.

## **II. Notifications**

The district's UCP policy and administrative regulation shall be posted in all district schools and offices, including staff lounges and student government meeting rooms. (Education Code section 234.1)

The Superintendent or designee shall annually provide written notification of the district's uniform complaint procedures (UCP), including information regarding unlawful student fees, local control and accountability plan (LCAP) requirements, and requirements related to the educational rights of foster youth and homeless students, to students, employees, parents/guardians, the district advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties. (Education Code sections 262.3, 48853. 48853.5, 49013, 49069.5, 51225.1, 51225.2, 52075; 5 CCR 4622)

*(cf. 0420 - School Plans/Site Councils)*

*(cf. 0460 - Local Control and Accountability Plan)*

*(cf. 1220 - Citizen Advisory Committees)*

*(cf. 3260 - Fees and Charges)*

*(cf. 4112.9/4212.9/4312.9 - Employee Notifications)*

*(cf. 5145.6 - Parental Notifications)*

*(cf. 6173 - Education for Homeless Children)*

*(cf. 6173.1 - Education for Foster Youth)*

The annual notification and complete contact information of the compliance officer(s) may be posted on the district web site and, if available, provided through district-supported social media.

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*(cf. 1113 - District and School Web Sites)*  
*(cf. 1114 - District-Sponsored Social Media)*

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

If 15 percent or more of students enrolled in a particular district school speak a single primary language other than English, the district's policy, regulation, forms, and notices concerning the UCP shall be translated into that language, in accordance with Education Code sections 234.1 and 438985. In all other instances, the district shall ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

The notice shall:

1. Identify the person(s), position(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 or federal nondiscrimination laws, if applicable.
3. Advise the complainant of the appeal process, including, if applicable, 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, such as the U.S. Department of Education's Office for Civil Rights (OCR) in cases involving unlawful discrimination (such as discriminatory harassment, intimidation or bullying).
4. Include statements that:
  - a. The district has the primary responsibility to ensure compliance with applicable 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. A complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) must be filed not later than six (6) months from the date it occurred, or six months from the date 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 Superintendent or designee for good cause upon written request by the complainant setting forth the reason for the extension.
  - d. Complaints should be filed in writing and signed by the complainant. If a complainant is unable to put his/her complaint in writing, for example, due to conditions such as a disability or illiteracy, district staff shall assist him/her in the filing of the complaint.

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- e. If a complaint is not filed in writing but the district receives notice of any allegation that is subject to the UCP, the district shall take affirmative steps to investigate and address the allegations, in a manner appropriate to the particular circumstances.

If the allegation involves retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) and the investigation reveals that discrimination has occurred, the district will take steps to prevent recurrence of discrimination and correct its discriminatory effects on the complainant, and on others, if appropriate.

- f. 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 district's education program, including curricular and extracurricular activities.
- g. The Board is required to adopt and annually update the 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.
- h. 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.
- i. A foster youth or homeless student who transfers into a district high school or between district high schools 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 section 51225.1

- j. The complainant has a right to appeal the district's decision to the CDE by filing a written appeal within 15 calendar days of receiving the district's decision.
- k. The appeal to the CDE must include a copy of the complaint filed with the district and a copy of the district's decision.
- l. Copies of the district's UCP are available free of charge.

### **III. District Responsibilities**

All UCP-related complaints shall be investigated and resolved within 60 calendar days of the district's receipt of the complaint unless the complainant agrees in writing to an extension of the timeline. (5 CCR 4631)

The compliance officer shall maintain a record of each complaint and subsequent related actions, including steps taken during the investigation and all information required for compliance with 5 CCR 4631 and 4633.

All parties involved in the allegations shall be notified when a complaint is filed and when a decision or ruling is made. However, the compliance officer shall keep all complaints or allegations of retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) confidential except when disclosure is necessary to carry out the investigation, take subsequent corrective action, conduct ongoing monitoring, or maintain the integrity of the process. (5 CCR 4630, 4964)

### **IV. 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, district staff shall assist him/her in the filing of the complaint. (5 CCR 4600)

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

- 1. A complaint alleging district violation of applicable state or federal law or regulations governing adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and training programs, child care and development programs, child nutrition programs, and special education programs may be filed by any individual, public agency, or organization. (5 CCR 4630)



2. Any complaint alleging noncompliance with 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. 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 Superintendent or designee. However, any such complaint shall be filed no later than one (1) year from the date the alleged violation occurred. (Education Code sections 49013, 52075; 5 CCR 4630)
3. A complaint alleging unlawful discrimination (discriminatory harassment, intimidation, or bullying) may be filed only 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 it. The complaint 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. The time for filing may be extended for up to 90 days by the 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 or alleged victim of unlawful discrimination (such as discriminatory harassment, intimidation or bullying) or the alleged victim, when he/she is not the complainant, requests confidentiality, the compliance officer shall inform him/her that the request may limit the district's ability to investigate the conduct or take other necessary action. When honoring a request for confidentiality, the district will nevertheless take all reasonable steps to investigate and respond to the complaint consistent with the request.
6. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, district staff shall assist him/her in the filing of the complaint. (5 CCR 4600)

## **V. Mediation**

Within ten (10) business days after the compliance officer receives the complaint, he/she 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 asexual 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,

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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 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. If mediation is successful and the complaint is withdrawn, then the district shall take only the actions agreed to through the mediation. If mediation is unsuccessful, the district shall then continue with subsequent steps specified in this administrative regulation.

## **VI. 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 five business days of initiating the investigation, the compliance officer shall provide the complainant and/or his/her representative with the opportunity to present the information contained in complaint to the compliance officer and shall notify the complainant and/or his/her 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. He/she 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 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 district'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 district'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. (5 CCR 4631)

In accordance with law, the district 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 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. (5 CCR 4631)

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.

## **VII. Report of Findings**

### **Response**

Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant, and respondent if there is one, - a written report -, as described in the section "Final Written Decision" below, within 45 calendar days of the district's receipt of the complaint. (5 CCR 4631)

### **Level II Appeal**

A complaint not satisfactorily resolved at Level I may be appealed to the Superintendent or designee in writing by the complainant within five (5) calendar days of receipt of the Level I response. The appeal form shall be filed with the Office of the Ombudsperson. The appeal can only include the allegations outlined in the Level I Complaint. New allegations cannot be included in the Level II Appeal.

Upon receiving the appropriately completed appeal form from the complainant, the Superintendent or designee shall:

1. Notify the employee(s) to whom the complaint was directed.
2. Investigate the appeal. This may include the following steps:
  - a. Review the appeal filed by the complainant
  - b. Review documents from the Level I investigation
  - c. Conduct additional interviews as necessary

- d. Allow both parties to discuss complaint, Level I decision, or question each other, except for discrimination or sexual harassment complaints.
3. Respond in writing to the complainant within ten (10) calendar days after receipt of appeal, including a resolution.
4. Notify the employee(s) of the resolution.

Except for the Uniform Complaint Procedures categories listed on pages 1-2 (#1, #2) which may be appealed to the CDE, the District's appeal decision shall be final.

In resolving any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying), the respondent also shall be sent the district's decision.

### **VIII. Final Written Decision**

The district's decision on how it will resolve the complaint shall be in writing and shall be sent to the complainant and respondent. (5 CCR 4631)

In consultation with district 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 that may be involved in implementing the decision or affected by the complaint, as long as the privacy of the parties is protected.

If the complaint involves a limited-English-proficient student or parent/guardian and the student involved attends 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. In other all other instances, the district shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

For all complaints, the decision shall include: (5 CCR 4631)

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

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- 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. How 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), to the extent permitted by law, 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, to the extent permitted by law, as required by law, include:

- a. The corrective actions imposed on the individual found to have engaged in the conduct that related directly to the subject of the complaint.

Individual remedies offered or provided to the subject of the complaint.c.Systemic measures the school has taken to eliminate a hostile environment and prevent recurrence.

6.Notice of the complainant's right to appeal the district's decision within 15 calendar days to the CDE 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.

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

1. He/she may pursue available civil law remedies outside of the district'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 section 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 section 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](http://www.ed.gov/ocr) within 180 days of the alleged discrimination.

## **IX. 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 district environment may include, but are not limited to, actions to reinforce district 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

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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 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 district shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

The district 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 (discriminatory harassment, intimidation, or bullying), that the district does not tolerate it, and how to report and respond to it.

If a public school or District finds merit in a pupil fees, LCAP and/or Course Period without Educational Content complaint, the public school or District shall provide a remedy. Specifically, in Course Period without Educational Content complaints, the remedy shall go to the affected pupil. In LCAP and pupil fee complaints, the remedy shall go to all affected pupils, parents and guardians, which in the case of pupil fees, also includes reasonable efforts by the public school or District to ensure full reimbursement to all affected pupils, parents and guardians subject to procedures established through regulations adopted by the State Board of Education. (Education Code sections 49013, 51228.3(c), 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 sections 49013; 5 CCR 4600)

#### **X. Appeals to the California Department of Education**

Any complainant who is dissatisfied with the district's final written decision may file an appeal in writing with the CDE within 15 calendar days of receiving the district's decision. (Education Code sections 222, 48853, 48853.5, 49013, 49069.5, 51223, 51225.1, 51225.2, 51228.3, 52075; 5 CCR 4632)

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 district's decision. (5 CCR 4632)

Upon notification by 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 uniform complaint procedures
7. Other relevant information requested by the CDE

The CDE may directly intervene in a 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. Administrative Regulation 1312.3: Uniform Complaint Procedures [1/27/16A, 5/24/17]



calendar days of the date the complaint was filed with the district. (5 CCR 4650)

## **XI. 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 imposed by a court include, but are not limited to, injunctions and restraining orders.

For complaints alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying) based on state law, a complainant shall wait until 60 calendar days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies, provided 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. The moratorium does not apply to injunctive relief and to discrimination complaints based on federal law. (Education Code 262.3)

11/17/04A; 11/18/09A; 10/26/11A; 05/22/13A, 01/27/16A, DRAFT 12/13/16A

# OAKLAND UNIFIED SCHOOL DISTRICT

Office of the Ombudsperson  
 1000 Broadway, 1<sup>st</sup> Floor, Suite 150, Oakland, CA 94607  
 (510) 879-4281; FAX (510) 879-3678

## LEVEL II APPEAL FORM

### FOR OFFICE USE ONLY

Date Received: \_\_\_\_\_  
 Received by: \_\_\_\_\_  
 Log No.: \_\_\_\_\_  
 Mailed to: \_\_\_\_\_  
 Date Mailed: \_\_\_\_\_  
 Copy filed by: \_\_\_\_\_  
 Response Due: \_\_\_\_\_

With the exception of Pupil Fee complaints which may be filed within one (1) year of the alleged violation; all other complaints must be filed within six (6) months of the alleged occurrence. Pupil Fees and LCAP complaints may be filed anonymously. Please submit this complaint form to the District Ombudsperson within five (5) calendar days of receiving the Level I Complaint response. You should expect to receive a response within ten (10) calendar days.

### 1. Person filing the complaint:

Please check one:	<input type="checkbox"/>	Parent/Guardian	<input type="checkbox"/>	Student	<input type="checkbox"/>	Employee/Staff	<input type="checkbox"/>	Other
						Job site: _____		

### 2. Complainant

Name			
Name of Child (grade and school)			
Address, City, Zip			
Telephone(s)		Email:	

### 3. Respondent

Filing a Complaint against - Name(s)	
Job Title(s)	
School/Department	

### 4. Nature of Concerns (Please check the box(es) that apply and please explain why you checked the box(es):

Program Requirements for:		Program Requirements for:		Unlawful discrimination on the basis of actual or perceived characteristics of:
Adult Education	<input type="checkbox"/>	Student Suspension	<input type="checkbox"/>	Age (age 40+ in employment)
Bilingual Education / Education of English Learners	<input type="checkbox"/>	Student Expulsion	<input type="checkbox"/>	Ancestry / Nationality / National Origin
Career Technical Education	<input type="checkbox"/>	Student Bullying	<input type="checkbox"/>	Color
Child Care and Development / State Preschool	<input type="checkbox"/>	Pupil Fees/Deposits/Charges**	<input type="checkbox"/>	Ethnicity / Ethnicity Group Identification
Child Nutrition	<input type="checkbox"/>	Reasonable Accommodation to a Lactating Pupil	<input type="checkbox"/>	Gender / Gender Identity / Gender Expression
Consolidated Categorical Aid	<input type="checkbox"/>	Course Periods without Educational Content for Pupils	<input type="checkbox"/>	Marital, Pregnancy or Parental Status
Local Control Accountability Plan (LCAP)*	<input type="checkbox"/>	Education of Pupils in Foster Care and Pupils who are Homeless	<input type="checkbox"/>	Physical/Mental Disability
Compensatory Education	<input type="checkbox"/>	Physical Education (PE) Minutes	<input type="checkbox"/>	Race
Economic Impact Aid	<input type="checkbox"/>	After School Education & Safety	<input type="checkbox"/>	Religion
Migrant Education	<input type="checkbox"/>	American Indian Education Centers	<input type="checkbox"/>	Sex
Special Education	<input type="checkbox"/>	California Peer Assistance Review Program for Teachers (PARS)	<input type="checkbox"/>	Sexual Harassment
Title I ESSA / NCLB	<input type="checkbox"/>		<input type="checkbox"/>	Sexual Orientation
School Safety Plans	<input type="checkbox"/>		<input type="checkbox"/>	
Tobacco Use Prevention Education (TUPE)	<input type="checkbox"/>	OTHER:	<input type="checkbox"/>	<i>Note: Copies of discrimination complaints will not be shared with the accused party.</i>

**5. Questions regarding Level I Decision (Please describe)**


**9. Disagreement with Level I Decision (Please describe)**


**10. Requested Remedy – If you desire a remedy or wish the District to take a particular course of action, please specify:**


Note: A copy the written complaint filed against an employee will be provided to the employee except for discrimination and sexual harassment complaints.

*I understand that the District will maintain this information confidential, to the extent provided by law or collective bargaining agreement; that I will be protected from retaliation for filing this complaint; that the District may request further information about this matter; and if such information is available, I agree to present it upon request. I understand that with the exception of Pupil Fee complaints which may be filed within one (1) year of the alleged violation; all other complaints must be filed within six (6) months of the alleged occurrence. Pupil Fees and LCAP complaints may be filed anonymously. I believe that the forgoing is true and correct. I understand that new allegations may not be added to the appeal that were not contained in the original Level I Complaint.*

Signature	Today's Date

[illegible]