

CLASSIFICATION: Community Relations**ADOPTED: 12/13/95****REVISED: 10/12/16****REVIEWED: 9/27/16****SUBJECT: Uniform Complaint Procedures****PAGE: 1 of 15**

The County Superintendent of Schools acknowledges his/her primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs of the San Diego County Office of Education. The County Superintendent of Schools establishes the Uniform Complaint Procedures presented in this administrative regulation for the filing, investigation, and prompt and equitable resolution of complaints regarding an alleged violation of federal or state laws or regulations governing educational programs and activities, including, but not limited to, complaints alleging the following:

1. Failure to comply with applicable state or federal laws and regulations in Adult Education; After School Education and Safety; Agricultural Vocational Education; American Indian Education Centers and Early Childhood Education Program Assessments; Bilingual Education; California Peer Assistance and Review Programs for Teachers; Career Technical and Technical Education and Career Technical and Technical Training; Career Technical Education; Child Care and Development; Child Nutrition; Compensatory Education; Consolidated Categorical Aid; Course Periods Without Educational Content; Economic Impact Aid; Education of Pupils in Foster Care and Pupils who are Homeless; Every Student Succeeds Act/No Child Left Behind; Local Control Accountability Plans (including charter schools as described in Education Code sections 47606.5 and 47607.3); Migrant Education; Physical Education Instructional Minutes; Pupil Fees; Reasonable Accommodations to a Lactating Pupil; Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) Resources; Regional Occupational Centers and Programs; School Safety Plans; Special Education; State Preschool; and Tobacco-Use Prevention Education.
2. Unlawful discrimination, harassment, intimidation, or bullying in programs or activities under the jurisdiction of the County Superintendent of Schools against any person on the basis of actual or perceived sex, sexual orientation, gender, gender identity, gender expression, genetic information, marital or parental status, ethnic group identification, race or ethnicity, ancestry, nationality, national origin, religion, color, mental or physical disability, age, or any other characteristic identified in Education Code sections 200 and 220 and Government Code section 11135,

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including any actual or perceived characteristics as set forth in Penal Code section 422.55, or based on a person's association with a person or group with one or more of these actual or perceived characteristics in any program or activity that is funded directly by or that receives or benefits from any state financial assistance.

3. Imposition of a fee, deposit, or other charge on pupils or their parents/guardians in violation of state laws and constitutional provisions that require educational activities to be provided free of charge to all pupils without regard to their families' ability or willingness to pay fees or request special waivers. Educational activities are activities that constitute an integral fundamental part of the educational program, including, but not limited to, curricular and extracurricular activities. Unlawful pupil fees include, but are not limited to:
 - A. A fee charged to a pupil as a condition for registering for school or classes, or as a condition for participation in a class or extracurricular activity, regardless of whether the class or activity is elective or compulsory, or is for credit.
 - B. A security deposit, or other payment, that a pupil is required to make to obtain a lock, locker, book, class apparatus, musical instrument, uniform, or other materials or equipment.
 - C. A purchase that a pupil is required to make to obtain materials, supplies, equipment, or uniforms associated with an educational activity.
4. Failure to comply with legal requirements related to the local control and accountability plan (LCAP).

Uniform Complaint Procedures established pursuant to Education Code section 35186 are presented in Administrative Regulation 1312.4, Williams Uniform Complaint Procedures.

When an allegation that is not subject to these Uniform Complaint Procedures is included in a complaint concerning one of the issues listed above, that allegation may be referred to the appropriate staff or agency, and the allegation subject to Uniform

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Complaint Procedures shall be resolved in accordance with this administrative regulation. (See also Board Policy 1312, Resolving Complaints Concerning the San Diego County Office of Education.)

COMPLIANCE OFFICERS

The County Superintendent of Schools designates the employee identified below as the lead compliance officer for the San Diego County Office of Education, who shall be responsible for ensuring compliance with applicable state and federal laws and regulations governing educational programs, and for receiving and investigating complaints filed under this administrative regulation and coordinating the response of the County Superintendent of Schools.

Assistant Superintendent, Student Services and Programs
San Diego County Office of Education
6401 Linda Vista Road
San Diego, CA 92111-7399
(858) 292-3637

Email: uniform.complaint.procedure@sdcoe.net

The lead compliance officer may assign senior managers responsible for individual school programs to serve as compliance officers.

Compliance officers shall:

1. Maintain a log of each complaint received, providing each with a code number and a date stamp, and record subsequent related actions, including steps taken during the investigation, corrective actions taken, if any, and all information required for compliance with California Code of Regulations, Title 5, sections 4631 and 4633. All documentation shall be retained in accordance with state law and Administrative Regulation 3560, Records Retention and Disposition.
2. Notify all parties involved in allegations when a complaint is filed, when a complaint meeting or hearing is scheduled, and when a decision or ruling is made. However,

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as appropriate for any complaints alleging unlawful discrimination, harassment, intimidation, or bullying, compliance officers shall keep confidential the identity of the complainant and/or the subject of the complaint, if he/she is different from the complainant, except when disclosure is necessary to carry out the investigation, take subsequent corrective action, conduct ongoing monitoring, or maintain the integrity of the process.

3. Be knowledgeable about relevant laws and programs and participate in the investigation and resolution of complaints in accordance with the procedures established by law and this administrative regulation.
4. Ensure that the investigation of complaints is completed and the written decision of the County Superintendent of Schools is sent to the complainant within 60 calendar days of receipt of the complaint, unless this time period is extended by written agreement of the complainant.

COMPLAINT PROCESS

Prior to initiating these Uniform Complaint Procedures, affected parties are encouraged to resolve the complaint through an informal information exchange process or other alternative method for resolving the complaint, as described in this administrative regulation.

The County Superintendent of Schools shall ensure that a complainant is protected from retaliation in any form.

Filing a Complaint

All complaints shall be filed in accordance with the following:

1. All complaints must be submitted in writing and, unless filed anonymously as authorized below, must be signed. If a complainant is unable to put a complaint in

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writing due to conditions such as a disability or illiteracy, the County Superintendent of Schools shall provide staff to assist him/her to file the complaint.

2. Except for complaints regarding pupil fees, complaints shall be submitted to the lead compliance officer.
3. Complaints alleging the imposition of an unlawful pupil fee, deposit, or other charge for participation in an educational activity may be filed with the principal, who shall resolve the complaint or ensure that it is forwarded in a timely manner to the lead compliance officer, as the designee of the County Superintendent of Schools, or complaints may be filed directly with the County Superintendent of Schools or with the lead compliance officer as his/her designee. The complaint must be filed no later than one year from the date the alleged violation occurred.
4. Any individual, including a person's duly authorized representative or an interested third party, public agency, or organization, may file a written complaint alleging noncompliance with state or federal laws or regulations governing educational programs under the jurisdiction of the County Superintendent of Schools.
5. A complaint alleging noncompliance with law regarding the prohibition against requiring students to pay student fees, deposits, and charges or with the legal requirements related to the local control and accountability plan (LCAP) may be filed anonymously if the complaint provides evidence, or information leading to evidence, to support an allegation of noncompliance.
6. A complaint alleging unlawful discrimination, harassment, intimidation, or bullying may be filed by a person who alleges that he/she personally suffered unlawful discrimination, harassment, intimidation, or bullying, or by a person who believes that an individual or any specific class of individuals has been subjected to unlawful discrimination, harassment, intimidation, or bullying.

When a complaint alleging unlawful discrimination, harassment, intimidation, or bullying is filed anonymously, the compliance officer shall pursue an investigation or

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other response as appropriate, depending on the specificity and reliability of the information provided and the seriousness of the allegation.

The complaint must be initiated no later than six months from the date the alleged discrimination, harassment, intimidation, or bullying occurred or the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation, or bullying. An extension to the filing period for a period not to exceed 90 calendar days may be granted by the County Superintendent of Schools or designee for good cause upon receipt of a written request of the complainant setting forth the reasons for the extension.

Conducting the Investigation

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 appropriate administrator, or, if appropriate, the site principal, shall be notified to implement, if possible, one or more interim measures. The interim measures may remain in place until the compliance officer determines that they are no longer necessary or until the final written decision is issued, whichever occurs first.

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

The compliance officer provides an opportunity for the complainant and/or the complainant's representative to present the complaint(s) and evidence, or information leading to evidence, to support the allegation(s) in the complaint. Evidence or information may be presented at any time during the investigation.

The compliance officer may assign portions of the investigation to staff but shall not delegate primary responsibility for conducting and coordinating the investigation and issuing the investigative report. In no instance shall staff be designated to investigate a

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complaint if he/she is mentioned in the complaint or has a conflict of interest that would prohibit him/her from fairly investigating the complaint.

The lead compliance officer shall ensure that employees designated to investigate complaints receive training and are knowledgeable about the laws and programs they are assigned to investigate and the requirements of this administrative regulation. Training shall include current state and federal laws and regulations governing the program, applicable processes for investigating complaints, applicable standards for reaching decisions on complaints, and appropriate corrective measures.

The investigation of complaints shall be conducted in a manner that protects confidentiality of the parties and maintains the integrity of the process. As appropriate, the identity of a complainant alleging discrimination, harassment, intimidation, or bullying, shall be kept confidential to the extent that the investigation of the complaint is not obstructed.

In conducting the investigation, the compliance officer shall collect and review documents and records, notes, or statements related to the complaint, including additional evidence or information received from the parties during the course of the investigation; shall individually interview relevant witnesses; and may visit any reasonably accessible location where the pertinent actions are alleged to have taken place.

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.

Refusal by the complainant to provide the investigator with documents or other evidence related to the allegations in the complaint, or to otherwise fail or refuse to cooperate in an investigation or engage in any other obstruction of the investigation, may result in the dismissal of the complaint because of a lack of evidence to support the allegations.

Refusal by the County Superintendent of Schools to provide the investigator with

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access to records and/or other information related to the allegation in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation, may result in a finding based on evidence collected that a violation has occurred and may result in the imposition of a remedy in favor of the complainant.

Written Decision of the County Superintendent of Schools

The compliance officer prepares the written decision on behalf of the County Superintendent of Schools and sends the decision to the complainant within 60 calendar days of receipt of the complaint unless the complainant agrees in writing to an extension of time. The decision shall be written in English and in the primary language of the complainant, whenever required by Education Code section 48985. In all other instances, the County Superintendent of Schools shall ensure that meaningful access to all relevant information is provided to parents/guardians with limited English proficiency.

In consultation with 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 who are affected by the complaint, as long as the privacy of the parties is protected.

The written decision shall include:

1. Findings of fact based on the evidence gathered, which may include consideration of:
 - 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

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E. Past instances of similar conduct by any alleged offenders

F. Past false allegations made by the complainant

2. Conclusion(s) of law

3. Disposition of the complaint

4. Rationale for the disposition

For complaints of unlawful discrimination, harassment, intimidation, or bullying, the disposition of the complaint shall include a determination for each allegation. The determination may involve consideration of the following:

A. How the misconduct affected one or more pupils' 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 actions, if any are warranted

With respect to complaints involving unlawful discrimination, harassment, intimidation, or bullying, the decision may, as required by law, include:

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- A. The corrective actions imposed on the individual found to have engaged in the conduct that relate directly to the subject of the complaint
- B. Individual remedies offered or provided to the subject of the complaint
- C. Systemic measures taken to eliminate a hostile environment and prevent recurrence

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

- 6. Notice of the complainant's right to file a written appeal of the decision on a complaint regarding all specified federal and state educational programs subject to Uniform Complaint Procedures within 15 days to the California Department of Education (CDE) and the procedures for filing the appeal, including statements that:
 - A. The appeal must fully explain the basis for the appeal, stating how the facts of the decision are incorrect and/or the law is misapplied.
 - B. The appeal shall be submitted to CDE with a copy of the locally filed complaint and a copy of the decision of the County Superintendent of Schools.
- 7. For complaints of unlawful discrimination, harassment, intimidation, or bullying based on state law, the decision shall also include a notice that:
 - A. The complainant may pursue available civil law remedies outside of the complaint procedures of the County Superintendent of Schools, including seeking assistance from mediation centers or public/private interest attorneys, 60 calendar days after the filing of an appeal with the California Department of Education.
 - B. The 60-day moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law.

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- C. 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 within 180 days of the alleged discrimination.

The compliance officer ensures confidentiality of pupils and employees. If an employee was disciplined as a result of the complaint, the decision shall simply state that effective action was taken.

Corrective Actions

When a complaint is found to have merit, the compliance officer shall adopt any appropriate corrective actions permitted by law.

If a complaint alleging noncompliance with the laws regarding pupil fees, deposits, and other charges; a legal requirement related to the local control and accountability plan (LCAP); and/or a complaint alleging a course period without education content is found to have merit, a remedy shall be provided. If a complaint regarding pupil fees, physical education instructional minutes for students in elementary school, or the LCAP is found to have merit, the remedy shall go to all affected pupils and their parents/guardians which, in the case of pupil fees, includes reasonable efforts, attempted in good faith, to identify and fully reimburse all pupils and parents/guardians who paid a pupil fee within one year prior to the filing of the complaint subject to procedures established through regulations adopted by the State Board of Education. If a complaint alleging a course period without educational content is found to have merit or failure to provide reasonable accommodations to a lactating student, the remedy shall go to the affected pupil.

Alternative Method for Resolving the Complaint

The compliance officer, in consultation with the parties involved in the complaint, decides whether to utilize an alternative method for resolving the allegations in the complaint, including, but not limited to, mediation. The compliance officer shall ensure

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that the use of an alternative dispute resolution method is consistent with state and federal laws and regulations.

If the complainant agrees and an alternative method is used, the compliance officer establishes a timeline that does not exceed the 60 calendar days allowed for investigating the complaint and issuing a decision. The deadline may be extended if an extension is agreed to in writing by the complainant. The compliance officer shall notify all parties of the right to end the informal process at any time.

If mediation is used, the County Superintendent of Schools, or designee, shall make all arrangements. The compliance officer shall provide the mediator with copies of all relevant San Diego County Office of Education policies and administrative regulations and applicable laws and regulations. The compliance officer shall be responsible for designating which County Superintendent of Schools staff shall participate in the mediation on behalf of the County Superintendent of Schools.

If mediation is to be used for a complaint alleging discrimination, harassment, intimidation, or bullying, before initiating the process, the compliance officer shall ensure that all parties agree to make the mediator a party to related confidential information.

If the alternative method for resolving the complaint is successful and the complaint is withdrawn, only the actions agreed to through the alternative method shall be taken. If an alternative method does not resolve the problem within the parameters of law, the compliance officer shall proceed with his/her investigation of all unresolved issues subject to these Uniform Complaint Procedures.

APPEAL PROCESS

Pursuant to the California Code of Regulations, Title 5, section 4632, the complainant may appeal the decision of the County Superintendent of Schools to the California Department of Education within 15 calendar days of the receipt of the decision.

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1. The complainant files a written appeal with the California Department of Education. The appeal must specify the basis for the appeal and whether the facts are incorrect and/or the law is misapplied. The appeal must be accompanied by copies of the original complaint and the decision of the County Superintendent of Schools.
2. Upon notification by the California Department of Education that the decision has been appealed, the compliance officer forwards the following to the California Department of Education:
 - A. A copy of the original complaint
 - B. A copy of the County Superintendent of Schools' decision
 - C. A summary of the nature and extent of the investigation conducted, if not covered in the decision
 - D. 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
 - E. A report of any action taken to resolve the complaint
 - F. A copy of the County Superintendent of Schools' uniform complaint procedures
 - G. Other relevant information that the California Department of Education may request
3. The compliance officer monitors the action of the California Department of Education regarding the appeal, provides the California Department of Education access to records, and provides necessary responses in a timely manner on behalf of the County Superintendent of Schools. If the California Department of Education returns the matter to the County Superintendent of Schools pursuant to California Code of Regulations, Title 5, section 4632 or 4633, the compliance officer ensures that required action is taken within the specified time limits.

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NOTIFICATIONS

In accordance with law, written notification of Uniform Complaint Procedures, including information regarding allegations of discrimination, harassment, intimidation, or bullying, unlawful student fees, local control and accountability plan (LCAP) requirements, and requirements related to educational rights of foster youth and homeless students, shall be provided annually as follows: the assistant superintendent, Student Services and Programs, shall notify pupils enrolled in school programs operated by the County Superintendent of Schools and their parents/guardians, members of school and district advisory committees, appropriate private school officials or representatives, and other interested parties; the assistant superintendent, Human Resources, shall notify employees of the County Superintendent of Schools. The notification shall be posted in all schools and offices, including staff lounges and student government meeting rooms.

The lead compliance officer shall maintain records of annual notifications. Interested parties may request copies of annual notifications from the lead compliance officer.

The County Superintendent of Schools shall ensure that parents/guardians with limited English proficiency are provided meaningful access to information on Uniform Complaint Procedures. When required by Education Code section 48985, the annual notification shall be translated into a language other than English.

The Uniform Complaint Procedure policy, administrative regulation, and annual notification shall be accessible on the San Diego County Office of Education website, and copies shall be available free of charge from the lead compliance officer.

Board Policy: 1312, 5131.1**Administrative Regulation: 1312.4, 3560, 5131.**

SAN DIEGO COUNTY OFFICE OF EDUCATION

**ADMINISTRATIVE
REGULATION NO. 1312.3**

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Derivation: Adopted 12/13/95. Amended 7/23/96, 7/11/03, 12/20/04. Amended and Renamed 4/30/07. Amended 4/20/11, 9/14/11, 5/8/13. Technical Revision 6/24/13, 9/10/13. Amended 9/11/15, 10/12/016. Technical Revision 10/20/16.

Legal Reference: Civil Code

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Education Code

200, 220, 222, 234, 262.3, 32289, 35186, 48853, 48853.5, 48985, 49013, 49069.5, 51210, 51223, 51225.1, 51225.2, 51228.3, 52075

Government Code

11135, 11138

Penal Code

422.55, 422.6

California Code of Regulations, Title 5

3080, 4600 - 4671, 4680 - 4687, 4900 - 4965

United States Code, Title 20

1681 - 1688, 6301 et seq.

United States Code, Title 42

2000d-2 - 2000e-17, 2000h-2 - 2000h-6

Code of Federal Regulations, Title 28

35.107

Code of Federal Regulations, Title 34

99.1 - 99.67, 100.3, 104.7, 106.8, 299.11

Management Resources:

Fiscal Management Advisory 12-02, *Pupil Fees, Deposits, and Other Charges*, California Department of Education, April 24, 2013; Addendum to Fiscal Management Advisory 12-02, *Pupil Fees, Deposits, and Other Charges: Cap and Gown for High School Graduation Ceremony*, California Department of Education, October 4, 2013: www.cde.ca.gov/re/lr/fm
San Diego County Office of Education Web site:
www.sdcoe.net/Board/Pages/policies.aspx
U.S. Department of Education, Office for Civil Rights:
www.ed.gov/about/offices/list/ocr