

SAN LUIS OBISPO COUNTY OFFICE OF EDUCATION
3350 Education Drive, San Luis Obispo, California 93405

(AR) #1312.3 Uniform Complaint Procedures

Compliance Officers

The following compliance officer(s) shall receive and investigate complaints and shall ensure County Office of Education (COE) compliance with law:

Chief Human Resources Officer
San Luis Obispo County Office of Education
3350 Education Drive
San Luis Obispo, California 93405
(805) 782-7233

The Chief Human Resources Officer shall train Site Administrators in providing guidance to complainants in this process. Site Administrators will receive annual notice of their responsibilities and training.

The County Superintendent or designee shall ensure that employees designated to investigate complaints are knowledgeable about the laws and programs for which they are responsible. Designated employees may have access to legal counsel as determined by the County Superintendent or designee.

Notifications

The County Superintendent or designee shall annually provide written notification of the COE's uniform complaint procedures to students, employees, parents/guardians, school advisory committees, appropriate school officials or representatives, and other interested parties.

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 discrimination, harassment, intimidation and bullying laws, if applicable.
3. Advise the complainant of the appeal process pursuant to Education Code 262.3, to pursue remedies before civil courts or other public agencies.
4. Include statements that:
 - a. The COE is primarily responsible for compliance with state and federal laws and regulations.
 - b. The complaint review shall be completed within 60 calendar days from the date of receipt of the complaint unless the complainant agrees in writing to an extension of the timeline.
 - c. An unlawful discrimination, harassment, intimidation and bullying complaint must be filed not later than six months from the date the alleged discrimination,

harassment, intimidation and bullying occurs, or six months from the date the complainant first obtains knowledge of the facts of the alleged discrimination, harassment, intimidation and bullying .

- d. The complainant has a right to appeal the COE's decision to the CDE by filing a written appeal within 15 days of receiving the COE's decision.
- e. The appeal to the CDE must include a copy of the complaint filed with the COE and a copy of the COE's decision.
- f. Copies of the COE's uniform complaint procedures are available free of charge.

Procedures

The following procedures shall be used to address all complaints which allege that the COE has violated federal or state laws or regulations governing educational programs or has committed unlawful discrimination, harassment, intimidation and bullying.

All complaints shall be investigated and resolved within 60 days of the receipt of the complaint. Compliance officers shall maintain a record of each complaint and subsequent related actions, including all information required for compliance with 5 CCR 4631 and 4633.

All parties involved in allegations shall be notified when a complaint is filed, when a complaint meeting or hearing is scheduled, and when a decision or ruling is made.

Step 1: Filing of Complaint

Any individual, public agency, or organization may file a written complaint of the COE's alleged noncompliance with federal or state laws or regulations governing educational programs.

A complaint concerning unlawful discrimination, harassment, intimidation and bullying may be filed only by a person who alleges that he/she personally suffered unlawful discrimination, harassment, intimidation and bullying or by a person who believes that an individual or any specific class of individuals has been subjected to unlawful discrimination, harassment, intimidation, and bullying. The complaint shall be initiated no later than six months from the date when the alleged discrimination, harassment, intimidation and bullying occurred, or six months from the date when the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation and bullying. However, upon written request by the complainant, the Superintendent or designee may extend the filing period for up to 90 days.

The complaint shall be presented to the compliance officer, the Chief Human Resources Officer for the COE, who shall maintain a log of complaints received, providing each with a code number and a date stamp.

A complaint alleging noncompliance with the law regarding the prohibition against requiring students to pay student fees, deposits, and charges may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance [Education Code 49013].

A complaint alleging non-compliance with legal requirements pertaining to the Local Control Accountability Plan (LCAP) may be filed [Education Code 52075].

If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, Human Resources staff shall assist him/her in the filing of the complaint.

Step 2: Mediation

Within three days of receiving the complaint, the compliance officer may informally discuss with all the parties the possibility of using mediation. If the parties agree to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a discrimination, harassment, intimidation and bullying complaint, the compliance officer shall ensure that all parties agree to make the mediator a party to related confidential information.

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 COE's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time.

Step 3: Investigation of Complaint

Within 10 days of receiving the complaint, the compliance officer shall provide the complainant and/or his/her representative an opportunity to present the complaint and any evidence, or information leading to evidence, to support the allegations in the complaint. The compliance officer also shall collect all documents and interview all witnesses with information pertinent to the complaint.

A complainant's refusal to provide the COE'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.

In accordance with law, the COE shall provide the investigator with access to records and/or other information related to the allegation in the complaint [5 CCR 4631]. 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 [5 CCR 4631].

Step 4: Response

Within 30 days of receiving the complaint, the compliance officer shall prepare and send to the complainant a written report of the COE's investigation and decision, as described in Step #5

below. If the complainant is dissatisfied with the compliance officer's decision, he/she may, within five days, file his/her complaint in writing with the County Board of Education.

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. 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 Board's decision to the complainant within 60 days of the COE's initial receipt of the complaint or within the time period that has been specified in a written agreement with the complainant.

Step 5: Final Written Decision

The COE's decision shall be in writing and sent to the complainant. The decision shall be written in English and, when required by Education Code 48985, in the complainant's primary language.

For all complaints, the decision shall include:

1. The findings of fact based on the evidence gathered
2. The conclusion(s) of law
3. Disposition of the complaint
4. Rationale for such disposition
5. Corrective actions, if any are warranted
6. Notice of the complainant's right to appeal the COE's decision within 15 days to the CDE and procedures to be followed for initiating such an appeal

In addition, any decision concerning discrimination, harassment, intimidation and bullying complaint based on state law shall include a notice that the complainant must wait until 60 days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies [Education Code 262.3].

If investigation of a complaint results in discipline to a student or an employee, the decision shall simply state that effective action was taken and that the student or employee was informed of COE's expectations. The report shall not give any further information as to the nature of the disciplinary action.

Appeals to the California Department of Education

If dissatisfied with the COE's decision, the complainant may appeal in writing to the CDE within 15 days of receiving the decision. When appealing to the CDE, 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 COE's decision.

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

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 County Office of Education, 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 COE'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 COE when one of the conditions listed in 5 CCR 4650 exists, including cases in which the COE has not taken action within 60 days of the date the complaint was filed with the COE.

Civil Law Remedies

A complainant may pursue available civil law remedies under state or federal discrimination, harassment, intimidation or bullying laws outside of the COE'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 discrimination, harassment, intimidation and bullying complaints based on state law, a complainant shall wait until 60 days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies, provided the COE 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, harassment, intimidation and bullying complaints based on federal law.

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