

Community Relations

UNIFORM COMPLAINT PROCEDURES

Except as the Governing Board may otherwise specifically provide in other Board Policies, the Uniform Complaint Procedure shall be used only to investigate and resolve complaints alleging violations of federal or state laws or regulations governing specific educational programs, the prohibition against requiring students to pay fees, deposits, or other charges for participating in educational activities, and unlawful discrimination, harassment, intimidation, or bullying, as specified in accompanying Board Policy.

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 1312.2 - Complaints Concerning Instructional Materials)

(cf. 1312.4 - Williams Uniform Complaint Procedures)

Any school employee who witnesses an incident of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, shall immediately intervene to stop the incident when it is safe to do so. (Education Code 234.1)

The District's Uniform Complaint Procedures Policy and Administrative Regulation shall be posted in all District schools and offices, including staff lounges and student government meeting rooms. If 15 percent or more of students enrolled in a particular District school speak a single primary language other than English, the District's Policy, Regulation, forms, and notices concerning uniform complaint procedures shall be translated into that language. (Education Code 234.1, 48985)

Compliance Officers

The following compliance officer shall receive and investigate complaints and shall ensure District compliance with the law:

Name and Title: Assistant Superintendent of Innovation and Instruction
Services and Support

Chula Vista Elementary School District
84 East "J" Street
Chula Vista, CA 91910
(619) 425-9600

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Notifications

The Superintendent/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 Superintendent/designee.

The Superintendent/designee shall annually provide written notification of the District's Uniform Complaint Procedure to students, employees, parents/guardians, the District Advisory Committee, school advisory committees, appropriate private school officials or representatives, and other interested parties. (Education Code 262.3, 49013; 5 CCR 4622)

(cf. 0420 - School Plans/Site Councils)

(cf. 1220 - Citizen Advisory Committees)

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 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.
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.

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- c. A complaint alleging unlawful discrimination, harassment, intimidation, or bullying must be filed not later than six months from the date it occurred, or six months from the date the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation, or bullying.
- d. 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.
- e. The appeal to the CDE must include a copy of the complaint filed with the District and a copy of the District's decision.
- f. Copies of the District's Uniform Complaint Procedure are available free of charge.

Procedures

All complaints shall be investigated and resolved within 60 calendar days of the District's receipt of the complaint. (5 CCR 4631)

Investigations of discrimination complaints shall be conducted in a manner such that the complainants are protected from retaliation and that the identity of a complainant alleging discrimination, harassment, intimidation or bullying will remain confidential as appropriate. (5 CCR 4621).

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 District's alleged noncompliance with federal or state laws or regulations governing educational programs. (5 CCR 4630)

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If a complainant is unable to put a complaint in writing due to conditions such as illiteracy or other handicaps, District staff shall help him/her to file the complaint (Title 5, Section 4600).

The complaint shall be presented to the Superintendent/designee, who will then give it to the appropriate compliance officer. The Superintendent/designee will maintain a log of complaints received, providing each with a code number and a date stamp.

A complaint concerning unlawful discrimination, harassment, intimidation, or bullying may be filed only 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 it. The complaint shall be initiated no later than six months from the date when the alleged discrimination, harassment, intimidation, or bullying occurred, or six months from the date when the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation, or bullying. However, upon written request by the complainant, the Superintendent/designee may extend the filing period for up to 90 calendar days. (5 CCR 4630) (Title 5, Section 4630).

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)

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. 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)

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Step 2: Mediation

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

Before initiating the mediation of a complaint alleging discrimination, harassment, intimidation, or bullying, 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 District's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time. (5 CCR 4631)

Step 3: Investigation of Complaint

Within 10 calendar days of receiving the complaint, the compliance officer shall provide an opportunity for the complainant and/or his/her representative 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 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)

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

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based on evidence collected that a violation has occurred and in the imposition of a remedy in favor of the complainant. (5 CCR 4631)

Step 4: Response

Within 30 calendar days of receiving the complaint, the compliance officer shall prepare and send to the complainant, a written report of the District'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 business days, file his/her complaint in writing with the Board.

The 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 Board may decide not to hear the complaint, in which case the compliance officer's decision shall be final.

If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 60 calendar days of the District's initial receipt of the complaint or within the time period that has been specified in a written agreement with the complainant. (5 CCR 4631)

Step 5: Final Written Decision

The District's decision shall be in writing and sent to the complainant. (5 CCR 4631)

The report of the District's decision shall be written in English and in the language of the complainant whenever feasible or required by law. If it is not feasible to write this report in the complainant's primary language, the District will arrange a meeting at which a community member will interpret it for the complainant.

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

1. The findings of fact based on the evidence gathered.
2. The conclusion(s) of law.

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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 District's decision within 15 calendar days to the CDE and procedures to be followed for initiating such an appeal.

In addition, any decision concerning a discrimination, harassment, intimidation, or bullying complaint based on state law shall include a notice that the complainant must wait until 60 calendar 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 District expectations. The report shall not give any further information as to the nature of the disciplinary action.

If a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges is found to have merit, the District shall provide a remedy to all affected students and parents/guardians which, where applicable, shall include reasonable efforts to ensure full reimbursement to them. (Education Code 49013)

Appeal to the Governing Board

If a complainant is dissatisfied with the administrative designee's decision he/she may, within five days, file his/her complaint in writing with the Governing Board. The 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 Board may decide not to hear the complaint, in which case the decision of the compliance officer shall be the District's final written decision. If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 60 calendar days of the District's initially receiving

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the complaint or within an extended time period that has been specified in a written agreement with the complainant.

Appeals to the CDE

If dissatisfied with the District's decision, the complainant may appeal in writing to the CDE. (Education Code 49013; 5 CCR 4632)

The complainant shall file his/her appeal within 15 calendar days of receiving the District's decision and the appeal 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/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 Procedure.
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 when the District has not taken action within 60 calendar days of the date the complaint was filed with the District. (5 CCR 4650)

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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 discrimination, 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)(1/06 3/12 1/13)

Regulation

Reviewed: 10/20/92

Reviewed: 04/16/96

Reviewed: 12/11/13

Reviewed: 03/07/18

CHULA VISTA ELEMENTARY SCHOOL DISTRICT
Chula Vista, California