

# Administrative Regulations

## Community Relations

### UNIFORM COMPLAINT PROCEDURES

AR 1312.3

Except as the Board of Education may otherwise specifically provide in other Board policies, the uniform complaint procedures shall be used to investigate and resolve complaints alleging (1) unlawful discrimination, including discriminatory harassment, intimidation or bullying, and retaliation, and (2) violations of other state and federal laws and regulations. The steps for each type of complaint are explained below.

1. Unlawful discrimination including discriminatory harassment, intimidation, or bullying, in district programs and activities based on actual or perceived characteristics of race or ethnicity, color, nationality, national origin, ethnic group identification, age, religion, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or any other characteristic identified in Education Code 200 or 220, Penal Code 422.55, or Government Code 11135, or based on association with a person or group with one or more of these actual or perceived characteristics. All discrimination complaint investigations will be conducted by the District Compliance Officer according to the procedures described below.

In addition, a complaint may be filed alleging retaliation against any individual who has filed or participated in a complaint of unlawful discrimination filed under this procedure or who has otherwise acted to assert or protect the rights of students to be free from unlawful discrimination

2. Violations of federal or state laws or regulations governing specific educational programs and the prohibition against requiring students to pay fees, deposits, or other charges for participating in educational activities.

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

*(cf. 4030 - Nondiscrimination in Employment)*

*(cf. 4031 - Complaints Concerning Discrimination in Employment)*

*(cf. 5131.2 - Bullying)*

*(cf. 5145.3 - Nondiscrimination/Harassment)*

*(cf. 5145.7 - Sexual Harassment)*

*(cf. 1312.1 - Complaints Concerning District Employees)*

*(cf. 1312.2 - Complaints Concerning Instructional Materials)*

*(cf. 1312.4 - Williams Uniform Complaint Procedures)*

*(cf. 4031 - Complaints Concerning Discrimination in Employment)*

*(cf. 5145.6 - Parental Notifications)*

**Compliance Officer**

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

Associate Superintendent – Educational Services  
25 Churchill Avenue, Palo Alto, CA 94306  
(650) 329-3709

The Superintendent or designee shall ensure that the compliance officer and any other employees designated to investigate complaints or otherwise resolve complaints receive training and are knowledgeable about the laws and programs for which they are responsible. This includes knowledge about federal and state anti-discrimination laws, appropriate steps for investigating and documenting discrimination complaint investigations, and the applicable legal standards for reaching decisions on such complaints. Designated employees may have access to legal counsel as determined by the Superintendent or designee.

*(cf. 9124 - Attorney)*

**Notifications**

The Superintendent or designee shall annually provide written/online notification of the district's uniform complaint procedures to students, employees, parents/guardians, the district advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties. (5 CCR 4622)

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) Additionally, when otherwise necessary to provide access to information for limited English proficient students and parents/guardians, as required by federal law, the district's policy, regulation, forms, and notices concerning uniform complaint procedures shall be translated into the student's or parent/guardian's primary language.

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

*(cf. 1220 - Citizen Advisory Committees)*

*(cf. 3260 - Fees and Charges)*

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

*(cf. 5145.6 - Parental Notifications)*

The notice shall:

1. Identify the person(s), position(s), or unit(s) responsible for receiving complaints
2. Explain any civil law remedies that may be available to a victim of discrimination under state or federal discrimination laws, if applicable

3. Describe the appeal process, including, if applicable, a 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.
  - c. A complaint alleging unlawful discrimination, including discriminatory 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.
  - d. A complainant has a right to appeal the district's decision to the CDE by filing a written appeal within 15 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 procedures are available free of charge.  
*(cf. 5145.6 - Parental Notifications)*

**Procedures**

1. **Complaints Alleging Unlawful Discrimination, Including Discriminatory Harassment, Intimidation and/or Bullying**

All complaints alleging unlawful discrimination, including conduct prohibited by the District's Nondiscrimination/Harassment Policy – BP 5145.3, and Sexual Harassment Policy – BP 5145.7, as well as other discriminatory intimidation, harassment, or bullying shall be handled in accordance with the following procedure and shall be investigated and resolved within 60 calendar days of the district's receipt of the complaint. (5 CCR 4631) Such complaints shall be investigated using this procedure regardless of whether the alleged harassment occurred on or off campus.

Recordkeeping: The compliance officer shall maintain a log of complaints received. (Education Code 49013) The District Compliance Officer shall also maintain a record of actions taken by the District in response to each complaint. The record shall include documentation of the steps taken during an investigation, including interview summaries and all information required for compliance with 5 CCR 4631 and 4633.

**A. Reports and Complaints:**

Any student, parent/guardian, third party, or other individual or organization who believes that he/she or another student or group has been subjected to unlawful discrimination, including discriminatory harassment, intimidation and/or bullying, or who has witnessed such conduct, whether the conduct initially occurred on or off campus, may report the conduct orally to any school employee or administrator, and/or file a formal written complaint under these procedures.

**i. Oral reports to any school employee or administrator; .**

- a. A staff member who receives a report of discrimination, including discriminatory harassment, intimidation and/or bullying, shall, within one school day of receiving the report, notify the site Principal/designee. In addition, any school employee who observes any incident of unlawful discrimination, including discriminatory harassment, intimidation and/or bullying involving a student shall, within one school day, report this observation to the Principal/designee, whether or not the victim makes a report.
  - o Where an oral report is made of unlawful discrimination, including discriminatory harassment, intimidation and/or bullying involving the Principal/designee to whom the report would ordinarily be communicated, the employee who receives the report or who observes the incident shall instead report to the Compliance Officer within one school day.
- b. The Principal/designee shall, within one day of receiving an oral report of unlawful discrimination, including discriminatory harassment, intimidation and/or bullying, shall inform the individual making the report of the resolution options under these procedures, including the right to file a written complaint. 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)

- c. If the individual making the oral report does not want to be identified or does not give names of the perpetrators, the school may still have a duty to respond in some way depending upon the seriousness of the allegations and the risk of future harm to the student or others.
  - ii. **File a formal written complaint under these procedures** with the District Compliance Officer. If a written complaint is submitted to a school site administrator, the administrator shall, within two school days of receiving it, send the complaint to the District Compliance Officer.
- B. **Interim Measures:** After a report or complaint is made, the responsible administrator (Principal/designee and/or the Compliance Officer) shall determine whether interim measures are necessary to stop, prevent or address the effects of discrimination, including discriminatory intimidation or retaliation, harassment, or bullying during and pending any informal resolution and/or investigation, such as placing students in separate classes or transferring a student to a class taught by a different teacher. Interim measures will be implemented in a manner that minimizes the burden on the individual who was the target of the discrimination.
- C. Though an incident of alleged harassment, intimidation, and/or bullying as defined within this policy may occur off campus, if the effects of the off-campus incident result in harassment, intimidation, or bullying at school that is sufficiently serious to interfere with or limit the targeted student's ability to participate in or benefit from the education program, the school must respond promptly and effectively to eliminate the harassment that occurs at school, prevent its recurrence, and address its effects. Such response may include discipline of the alleged harasser in accordance with applicable law and as provided in Board Policy (BP) and Administrative Regulation (AR) 5144. Other possible responses include, but are not limited to, those listed in this AR under Section G – Remedial Action.
- D. **Optional Informal Resolution at the Site Level**  
When a written complaint alleging unlawful discrimination, including discriminatory harassment, intimidation and/or bullying, against an individual is submitted under these procedures, with the consent of the individual who is the subject of the complaint and his/her parent/guardian, the site Principal/designee may engage in informal efforts to resolve the complaint. The Principal/designee will notify the District Compliance Officer that informal resolution has been requested. The informal resolution process must be completed within 10 days of receipt of the complaint.

The Principal/designees will notify the individual who is the subject of the complaint and his or her parent of the right to terminate informal resolution at any time and request that the Compliance Officer proceed with investigation of the complaint.



The individual who is the subject of the complaint or his/her parent/guardian may not be asked or required to meet directly with the accused individual as part of the informal resolution process. The subject of the complaint or parent/guardian filing the complaint, or their representative, must be advised that he or she may file a formal complaint at any time during or after the informal process,

**Optional Mediation:** In cases of student-on-student unlawful discrimination including discriminatory harassment, intimidation and/or bullying, when the student who complained, his/her parent, and the accused student so agree, the Principal/designee may arrange for them to resolve the complaint informally with the help of a counselor, teacher, administrator, or trained mediator.

At the conclusion of 10 days, the principal/designee will document whether informal resolution has been successful in resolving the complaint to the satisfaction of subject of the complaint and his/her parent/guardian, and will notify the District Compliance Officer in writing of the outcome.

**E. Formal Complaint**

**i. Initiation of Investigation**

The District Compliance Officer shall initiate an impartial investigation of an allegation of unlawful discrimination, including discriminatory harassment, intimidation and/or bullying, within five school days of receiving a formal complaint under this procedure. The time may be extended if informal resolution is undertaken pursuant to 2 above. However in all cases investigation must begin within 10 days of receipt of the complaint unless the District Compliance Officer has confirmed that the complaint has been resolved informally to the satisfaction of the subject of the complaint and his/her parent/guardian.

When a student is reported to be engaging in unlawful discrimination, including discriminatory harassment, intimidation, and/or bullying, against an individual off campus, the District Compliance Officer shall investigate and document the activity and shall identify specific facts or circumstances that explain the impact or potential impact on school activity, school attendance, or the subject of the complaint's educational performance.

If the Compliance Officer receives an anonymous complaint or media report about alleged unlawful discrimination including discriminatory harassment, intimidation and/or bullying, he/she shall determine whether it is appropriate to pursue an investigation considering the specificity and reliability of the information, the seriousness of the alleged incident, and whether any individuals can be identified who were subjected to the alleged harassment.

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/or other information related to the allegation in the complaint. (5 CCR 4631)

ii. **Initial Interview with the Subject of the Complaint:**

At the beginning of an investigation, the Compliance Officer shall describe the district's complaint procedure to the subject of the complaint and his/her parent or guardian, and discuss what actions are being sought in response to the complaint. The subject of the complaint shall have an opportunity to describe the incident, identify witnesses who may have relevant information and provide other evidence or information leading to evidence of the alleged conduct.

If the subject of the complaint and/or his or her parent/guardian requests confidentiality, he/she shall be informed that such a request may limit the district's ability to investigate or take other action. If the subject of the complaint insists that his or her name not be revealed, the Compliance Officer should nevertheless take all reasonable steps to investigate and respond to the complaint consistent with the request.

iii. **Investigation Process:** The Compliance Officer shall keep the complaint and allegation confidential, except as necessary to carry out the investigation or take other subsequent necessary action. (5 CCR 4964)

The Compliance Officer shall interview individuals who have information relevant to the investigation, including, but not limited to, the subject of the complaint and, where appropriate, his or her parents/guardians, the person accused of unlawful discrimination, anyone who witnessed the reported conduct, and anyone mentioned as having relevant information. The Compliance Officer will also review any records, notes, or statements related to the complaint and may take other steps such as visiting the location where the conduct is alleged to have taken place.

When necessary to carry out his/her investigation or to protect student safety, and consistent with federal and state privacy laws, the Compliance Officer also may discuss the complaint with the Superintendent or designee, the parent/guardian of the accused individual if the accused individual is a student, a teacher or staff member whose knowledge of the students involved may help in determining the facts, law enforcement and/or child protective services, and district legal counsel or the district's risk manager.

Interviews of the alleged victim, alleged perpetrator, and all relevant witnesses are conducted privately, separately, and are confidential. At no time will the alleged perpetrator and victim be interviewed together.

Interviews and other information gathered will be documented. Documentation of complaints and their resolution will be maintained for a minimum of two years.

*(cf. 5141.4 - Child Abuse Prevention and Reporting)*

*(cf. 5138 - Conflict Resolution)*

- iv. **Factors in Reaching a Determination:** In reaching a decision about the complaint, the Compliance Officer may take into account:
  - a. Statements made by the subject of the complaint, the individual accused, and other persons with knowledge relevant to the allegations
  - b. The details and consistency of each person's account
  - c. Evidence of how the subject of the complaint reacted to the incident
  - d. Evidence of any past instances of unlawful discrimination, including discriminatory harassment, intimidation and/or bullying, or other misconduct by the accused individual

To judge the severity of the unlawful discrimination, including discriminatory harassment, intimidation and/or bullying, the Compliance Officer may take into consideration:

- a. How the misconduct affected the subject of the complaint
- b. The type, frequency, and duration of the misconduct
- c. The age race, gender/gender identity and/or disability of the subject of the complaint and the individual accused of the conduct, and the relationship between them
- d. The number of persons engaged in the alleged conduct
- e. The size of the school, location of the incidents, and context in which they occurred
- f. Other incidents of discrimination at the school

- F. **Written Report on Findings and Follow-Up:** Within 60 calendar days of receiving the complaint, the Compliance Officer shall conclude the investigation and prepare a written report of his/her findings, as described below. This timeline may be extended for good cause. If an extension is needed, the Compliance Officer shall notify the complainant and explain the reasons for the extension.

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

The district's decision shall be written in English and, when required by Education Code 48985, in the complainant's primary language. Additionally, when otherwise necessary to provide access to information for limited English proficient students and parents/guardians, as required by federal law, the decision shall be translated into the student's or parent/guardian's primary language.

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

- a. The findings of fact based on the evidence gathered
- b. As to each allegation, the Districts conclusion(s) as to whether unlawful discrimination has occurred
- c. Rationale for such conclusion(s)
- d. Corrective actions, if any are warranted, which may include consequences imposed on the individual found to have engaged in the discriminatory conduct that relate directly to the subject of the complaint, as required by law, such as requiring that the individual found to have engaged in the discrimination stay away from the complainant, prohibiting the individual from attending school for a period of time, or transferring the individual to other classes or another school.

Individual remedies offered or provided to the subject of the complaint, such as counseling, academic remedies, or other measures taken to eliminate any hostile environment and prevent the discrimination from recurring.

Systemic measures the school has taken to eliminate a hostile environment and prevent recurrence may include counseling and academic support services for other affected students, training for faculty and staff, revisions to the school's policies, and campus climate surveys.

- e. Notice that the individual who was the subject of the complaint and his/her parent/guardian should immediately report any reoccurrence of the conduct or retaliation to the District compliance officer or principal/designee

- f. 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

Any decision concerning a complaint of discrimination, including discriminatory harassment, intimidation, and/or bullying 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 state law civil law remedies. (Education Code 262.3)

#### **G. Remedial Action**

Remedial action will be designed to end the discriminatory conduct, to prevent its recurrence, and to address its effects on the subject of the complaint. Examples of appropriate action include:

1. Interventions for the individual who engaged in the discrimination, such as parent or supervisor notification, discipline (discussed below), counseling, or training.
2. Interventions for the subject of the complaint, such as counseling, academic support, and information on how to report further incidents of discrimination.
3. Separating the subject of the complaint and the individual who engaged in the discrimination, provided the separation does not penalize the subject of the complaint.
4. Follow-up inquiries with the subject of the complaint and witnesses to ensure that the discriminatory conduct has stopped and that they have not experienced any retaliation.
5. Training or other interventions for the larger school community to ensure that students, staff, and parents understand the types of behavior that constitute discrimination, that the District does not tolerate it, and how to report it.

In addition, the Compliance Officer shall ensure that the individual who was the target of discrimination and his/her parent/guardian, are informed of the procedures for reporting any subsequent problems. The Compliance Officer shall make follow-up inquiries to see if there have been any new incidents or retaliation and shall keep a record of this information.

#### **H. Disciplinary Action**

Students who are found to have engaged in discriminatory conduct may be subject to discipline up to and including expulsion. Disciplinary action may include oral warnings, written warnings, mandatory training, counseling, suspension, transfer, or expulsion for students. Such disciplinary action shall be in accordance with Board Policy and state law. Suspension and recommendations for expulsion must follow applicable law.

Staff members who are found to have engaged in discriminatory conduct toward students shall be subject to discipline up to and including dismissal. Disciplinary action may include oral warnings, written warnings, mandatory training, counseling, suspension, transfer, demotion, or termination of employees. Such disciplinary action shall be determined by site and District Administration in accordance with applicable policies, laws, and/or collective bargaining agreements.

In identifying appropriate disciplinary action, repeated incidents and/or multiple victims will result in more severe penalties.

Individuals who knowingly file false complaints of discrimination, including discriminatory harassment, intimidation, and/or bullying or give false statements in an investigation shall be subject to discipline by measures up to and including suspension, expulsion, and or dismissal, as shall any individual who is found to have retaliated against another in violation of this policy

## **2. Complaints Alleging Noncompliance with Other Federal or State laws**

A complaint alleging noncompliance with federal or state laws or regulations governing specific educational programs or the law regarding the prohibition against requiring students to pay student fees, deposits, and charges may also be filed under this procedure.

Such complaints may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance.

If a complaint alleging noncompliance with federal or state laws or regulations governing specific educational programs or 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)

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

If dissatisfied with the district's decision under this procedure, 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 or designee shall forward the following documents to the CDE: (5 CCR 4633)

## UNIFORM COMPLAINT PROCEDURES

AR 1312.3

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 the 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 calendar days of the date the complaint was filed with the district.

### **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, including discriminatory harassment, intimidation, bullying, or sexual harassment 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.

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. ([www.ed.gov/ocr](http://www.ed.gov/ocr)) Such complaints must generally be filed within 180 days of the alleged discrimination.

Regulation

Staff approved: 10.10.11, 08.29.12, and 02.11.14

**PALO ALTO UNIFIED SCHOOL DISTRICT**

Palo Alto, California