

Pacific Grove Unified School District

UNIFORM COMPLAINT PROCEDURES

Mandated Procedures

Compliance Officers

The Governing Board designates the following compliance officer/s who shall be responsible for initially receiving all complaints, investigating as appropriate and/or delegating to the appropriate Program Administrator to investigate and ensure District compliance with law: (Title 5, Section 4621)

Director, Human Resources
435 Hillcrest Avenue
Pacific Grove, CA 93950
(831)-646-6507

The Superintendent or designee shall ensure that employees designated to investigate complaints are knowledgeable about the laws and programs for which they are responsible. Such employees may have access to legal counsel as determined by the Superintendent or designee. (Title 5, Section 4621)

Notifications

The Superintendent or designee shall meet the notification requirements of the Code of Regulations, Title 5, Section 4622, including the annual dissemination of District complaint procedures and information about available appeals, civil law remedies and conditions under which a complaint may be taken directly to the California Department of Education. The Superintendent or designee shall ensure that complainants understand that they may pursue other remedies, including actions before civil courts or other public agencies.

The above notification shall state that complainants may seek help from agencies such as legal assistance agencies, local mediation centers or the county office of education. Local resources include:

- Monterey County Office of Education
- Department of Fair Employment and Housing
- Office of Civil Rights
- Equal Employment Opportunity Commission

Procedures

The following procedures shall be used to address only the complaints specified in Board Policy 1312.3. Compliance officers shall maintain a record of each complaint and subsequent related actions, including all information required for compliance with the Code of Regulations, Title 5, Section 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.

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Filing of Complaint

1. Complaints alleging unlawful discrimination, harassment, intimidation or bullying

Complaints alleging unlawful discrimination, harassment, intimidation or bullying may be filed 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 unlawful discrimination. The complaint must be initiated no later than six months from the date when the alleged discrimination occurred or when the complainant first obtained knowledge of the facts of the alleged discrimination unless the time for filing is extended by the district superintendent or his or her designee, upon written request by the complainant setting forth the reasons for the extension. Such extension by the district superintendent or his or her designee shall be made in writing. The period for filing may be extended by the district superintendent or his or her designee for good cause for a period not to exceed 90 days following the expiration of the six month time period. The district superintendent shall respond immediately upon a receipt of a request for extension. (Title 5, Section 4630)

2. Complaints alleging violations of federal or state law governing certain programs

A written complaint alleging District violation of applicable federal or state laws governing adult education programs, consolidated categorical aid programs, migrant education, career technical education and training programs, Regional Occupational Centers and Programs, child care and development programs, state preschool program health and safety, child nutrition programs, foster and homeless youth services, lactating student accommodations, pregnant and parenting student parental leave and educational rights, physical education instructional minute requirements, educational content course requirements for grades 9-12, former juvenile court school students' graduation, coursework and continuing education options, graduation and coursework requirements for foster youth, homeless students, migratory and newly arrived immigrant students participating in a "Newcomer Program" and students living in active duty military households, school safety planning or special education programs, may be filed by any individual, public agency, or organization. (Education Code Sections 222, 51210, 51222, 51223, 51225.1, 51225.2, 51228.1, 51228.2, 51228.3, and Title 5, Sections 4610 and 4630)

3. Complaints regarding pupil fees and LCAP violations

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. However, those complaints must be filed no later than one year from the date the alleged violation occurred. (Education Code Sections 49013, 52075; Title 5 Section 4630)

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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 illiteracy or other disabilities, District staff shall help him or her to file the complaint. (Title 5, Section 4600)

Mediation

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

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

Investigation of Complaint

The compliance officer will hold an investigative meeting with the complainant within five school days of receiving the complaint. The complainant, and his or her representative, will have an opportunity to present the complaint(s) and evidence or information leading to support the allegations of non-compliance with state and federal laws and/or regulations. (Title 5, Section 4631)

Parties to the dispute may discuss the complaint and question each other or each other's witnesses. If the complainant does not attend the meeting, the District representative will make a formal note of the occurrence and move forward in completing the investigation.

The District will investigate the complaint and issue the complainant a written report within 60 days from the date of the receipt of the complaint, unless the complainant agrees in writing to an extension of time. (Title 5, Section 4631)

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 the 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. (Title 5, Section 4631)

Refusal by the District to provide the investigator with 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

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evidence collected that a violation has occurred and may result in the imposition of a remedy in favor of the complainant. (Title 5, Section 4631)

Response

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 is final.

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

Final Written Decision

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 shall arrange a meeting at which a community member will interpret it for the complainant.

This written decision shall include:

1. The findings of fact based on the evidence gathered,
2. Conclusions of law,
3. Disposition of the complaint,
4. The rationale for the disposition,
5. Corrective actions, if they are warranted, including, with respect to a pupil fee complaint, a remedy that comports with Education Code sections 49013(d) and Title 5, Section 4600(u).
6. Notice of the complainant's right to appeal the District's decision to the California Department of Education (CDE), and
7. Procedures to be followed for initiating an appeal to the CDE.
(Title 5, Section 4631)

If an employee is disciplined as a result of the complaint, this report shall simply state that effective action was taken and that the employee was informed of District expectations. The report shall not give any further information as to the nature of the disciplinary action.

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Appeals to the California Department of Education

If dissatisfied with the District's decision, the complainant may appeal in writing to the California Department of Education within 15 days of receiving the District's decision. For good cause, the Superintendent of Public Instruction may grant an extension for filing appeals. (Title 5, Section 4632) When appealing to the California Department of Education, the complainant must specify the reason(s) for appealing the District's decision and must include a copy of the locally filed complaint and the District's decision. (Title 5, Section 4632)

Direct State Intervention

Complainants may ask the California Department of Education to directly intervene without waiting for action by the District when certain conditions exist, including, but not limited to, the following: (1) the complaint alleges that the District has failed to comply with its Uniform Complaint Procedures, including, but not limited to, the failure or refusal to cooperate with an investigation; (2) the complainant requests anonymity due to the danger of retaliation and complainant would suffer immediate and irreparable harm if complainant files a complaint with the District; (3) complainant alleges a failure to comply with special education due process procedures pursuant to state and federal law or a due process hearing order; (4) the complaint is related to special education and alleges facts that indicate that one or more students may be in immediate physical danger or that the health, safety, or welfare of one or more students is threatened; or (6) complainant alleges that the District failed to follow a student's individualized education plan.

See Code of Regulations, Title 5, Section 4650 for the full list of situations that may warrant direct state intervention.

See Policy #1312.3
CSBA Date – 10/97