

Community RelationsUniform Complaint Procedures

The Governing Board recognizes that the district is primarily responsible for complying with applicable state and federal laws and regulations governing educational programs. The district shall investigate complaints alleging failure to comply with such laws and/or alleging discrimination and shall seek to resolve those complaints in accordance with the district's uniform complaint procedures.

The district shall follow uniform complaint procedures when addressing complaints alleging unlawful discrimination against any protected group as identified under Education Code 200 and 220 and Government Code 11135, including actual or perceived sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability, or age, or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics in any district program or activity that receives or benefits from state financial assistance. Uniform complaint procedures shall also be used when addressing complaints alleging failure to comply with state and/or federal laws in adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and career technical and technical training programs, child care and development programs, child nutrition programs, and special education programs.

The Board acknowledges and respects every individual's right to privacy. Discrimination complaints shall be investigated in a manner that protects the confidentiality of the parties and the integrity of the process. This may include keeping the identity of the complainant confidential, as appropriate and except to the extent necessary to carry out the investigation or proceedings, as determined by the Superintendent or designee, on a case-by-case basis.

The Board prohibits any form of retaliation against any complainant in the complaint process, including but not limited to a complainant's filing of a complaint or the reporting of instances of discrimination. Such participation shall not in any way affect the status, grades, or work assignments of the complainant.

The Superintendent or designee shall ensure that employees designated to investigate complaints are knowledgeable about the laws and programs for which they are responsible.

Legal Reference:	Education Code	
	200-262.4	Prohibition of discrimination
	8200-8498	Child care and development programs
	8500-8538	Adult basic education
	18100-18203	School libraries
	32289	School safety plan, uniform complaint procedure
	35186	Williams uniform complaint procedure
	41500-41513	Categorical education block grants
	48985	Notices in language other than English

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Legal Reference: Education Code (continued)

49060-49079	Student records
49490-49590	Child nutrition programs
52160-52178	Bilingual education programs
52300-52499.6	Career-technical education
52500-52616.24	Adult schools
52800-52870	School-based coordinated programs
54000-54028	Economic impact aid programs
54100-54145	Miller-Unruh Basic Reading Act
54400-54425	Compensatory education programs
54440-54445	Migrant education
54460-54529	Compensatory education programs
56000-56867	Special education programs
59000-59300	Special schools and centers
64000-64001	Consolidated application process

Code of Regulations, Title 5

3080	Application of section
4600-4687	Uniform complaint procedures
4900-4965	Nondiscrimination in elementary and secondary education programs

Penal Code

422.6	Interference with constitutional right or privilege
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United States Code, Title 20

6301-6577	Title I basic programs
6601-6777	Title II preparing and recruiting high quality teachers and principals
6801-6871	Title III language instruction for limited English proficient and immigrant students
7101-7184	Safe and Drug-Free Schools and Communities Act
7201-7283g	Title V promoting informed parental choice and innovative programs
7301-7372	Title V rural and low-income school programs

Policy Adopted: August 1992
 Policy Revised: February 2000
 June 18, 2008

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Compliance Officers

The Governing Board designates the following compliance officer(s) to receive and investigate complaints and to ensure district compliance with law:

Director of Educational Services (or Superintendent's designee)
Evergreen School District, 3188 Quimby Road, San Jose, CA 95148
(408) 270-6800

The 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 Superintendent or designee.

Notifications

The Superintendent or designee shall annually provide written 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.

The Superintendent or designee shall make available copies of the district's uniform complaint procedures free of charge.

Procedures

These procedures shall be used to address all complaints which allege the district has violated federal or state laws or regulations governing educational programs. 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 alleged noncompliance by the district.

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A complaint alleging unlawful discrimination shall be initiated no later than six months from the date when the alleged discrimination occurred, or six months from the date when the complainant first obtained knowledge of the facts of the alleged discrimination. A complaint 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.

Complainants may use any civil law remedies that may be available such as local mediation centers, legal assistance agencies, etc. (ex. Legal Aid Society of Santa Clara County)

The written 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 a complaint.

Step 2 Investigation of Complaint

The compliance officer is encouraged to hold an investigative meeting within five days of receiving the complaint. This meeting shall provide an opportunity for the complainant to repeat the complaint orally. The complainant shall also have an opportunity to present the complaint and evidence or information leading to evidence to support the allegations in the complaint. To ensure that all pertinent facts are presented, the compliance officer and the complainant may ask other individuals to attend the meeting and provide additional information.

A complainant's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, or his/her failure or refusal to cooperate in the investigation or his/her 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.

The district's refusal to provide the investigator with access to records and/or other information related to the allegation in the complaint, or its failure or refusal to cooperate in the investigation or its engagement 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.

Step 3 Response

Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant a written report of the district's investigation and decision, as described in step 4 below, within 60 days of the district's receipt of the complaint.

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Step 4 Final Written Decision

The district's decision shall be in writing and sent to the complainant.

The district's decision shall be written in English and in the language of the complainant whenever feasible or as required by law.

The written report 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 district's decision within 15 days to the CDE and procedures to be followed for initiating such an appeal.
7. For discrimination complaints, 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.

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

If dissatisfied with the district's decision, the complainant may appeal in writing to the California Department of Education within fifteen days of receiving the district's decision. When appealing to the California Department of Education, the complainant must 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.

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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:

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 complaint procedures.
7. Other relevant information requested by the CDE.

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 discrimination complaints, however, a complainant must wait until 60 days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies. The moratorium does not apply to injunctive relief and is applicable only if 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.

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