

## **COMMUNITY RELATIONS**

### **Uniform Complaint Procedure**

Except as the Superintendent may otherwise specifically provide in other SJCOE policies, these uniform complaint procedures (UCP) shall be used to investigate and resolve only the complaints specified in SP 1312.3.

### **Compliance Officer**

The Superintendent expects that complaints of alleged noncompliance or discrimination brought by students, employees, parents/guardians, or other members of the community will be resolved in a prompt and equitable manner.

The Superintendent designates the following position as the Noncompliance/Nondiscrimination Coordinator to receive and investigate complaints and to ensure SJCOE compliance with the law:

Division Director of Human Resources  
San Joaquin County Office of Education  
2922 Transworld Drive, Stockton, CA 95206 (physical)  
P.O. Box 213030, Stockton, CA 95213-9030 (mailing)  
(209) 468-4820

The Division Director of Human Resources may assign another compliance officer to investigate and resolve a complaint. The Division Director of Human Resources shall promptly notify the complainant if another compliance officer is assigned to the complaint.

In no instance shall a compliance officer be assigned to a complaint in which they have a bias or conflict of interest that would prohibit the fair investigation or resolution of the complaint. Any complaint against a compliance officer or that raises a concern about the compliance officer's ability to investigate the complaint fairly and without bias shall be filed with the Superintendent or designee who shall determine how the complaint will be investigated.

The Superintendent or designee shall ensure that employees assigned to investigate and resolve complaints receive training and are knowledgeable about the laws and programs at issue in the complaints to which they are assigned. Training provided to such employees shall cover current state and federal laws and regulations governing the program, applicable processes for investigating and resolving complaints, including those alleging unlawful discrimination, harassment, intimidation, bullying, or related retaliation, applicable standards for reaching decisions on complaints, and appropriate corrective measures. Assigned employees may have access to legal counsel as determined by the Superintendent or designee.

The Division Director of Human Resources or, if necessary, any appropriate administrator shall determine whether interim measures are necessary during and pending the result of an investigation. If interim measures are determined to be necessary, the Division Director of Human Resources, or the administrator, shall consult with the Superintendent or designee or, if appropriate, the site administrator to implement one or more interim measures. The interim measures shall remain in place until the Division Director of Human Resources determines that they are no longer necessary or until SJCOE issues its final written decision, whichever occurs first.

### **Notifications**

SJCOE UCP policy and administrative regulation shall be posted in all SJCOE school sites and offices, including staff lounges. The Division Director of Human Resources shall annually provide written notification of the SJCOE UCP, to students, employees, parents/guardians, of SJCOE students, SJCOE advisory committees, school advisory committee members, appropriate private school officials or representatives, and other interested parties.

The notice shall include:

1. A statement that SJCOE is primarily responsible for compliance with federal and state laws and regulations, including those related to prohibition of unlawful discrimination, harassment, intimidation, or bullying against any protected group and all programs and activities that are subject to UCP as identified in the section “Complaints Subject to UCP” in the accompanying Superintendents Policy.
2. A statement that a complaint regarding student fees or the Local Control and Accountability Plan (LCAP) may be filed anonymously if the complainant provides evidence or information leading to evidence to support the complaint.
3. A statement that a student enrolled in a public school shall not be required to pay a fee for participation in an educational activity that constitutes an integral fundamental part of SJCOE’s educational program, including curricular and extracurricular activities.
4. A statement that a complaint regarding student fees must be filed no later than one year from the date the alleged violation occurred.
5. A statement that SJCOE will post a standardized notice of the educational rights of foster youth, homeless student, former juvenile court school students now enrolled in SJCOE programs, children of military families, migrant students, and immigrant students enrolled in a newcomer program, as specified in Education Code §’s 48853, 47753.5, 49069.5, 51225.2, and the complaint process.
6. Identification of the responsible staff member(s), position(s), or unit(s) designated to receive complaints.
7. A statement that complaints will be investigated in accordance with SJCOE’s UCP and a written decision will be sent to the complainant within 60 days from the receipt of the complaint, unless this time period is extended by written agreement of the complainant.

8. A statement that the complainant has a right to appeal SJCOE's decision to California Department of Education (CDE) by filing a written appeal, including a copy of the original complaint and SJCOE's decision, within 15 days of receiving SJCOE's decision.
9. A statement advising the complainant of any civil law remedies, including but not limited to injunctions, restraining orders, or other remedies or orders that may be available under state or federal antidiscrimination laws, if applicable.
10. A statement that copies of SJCOE's UCP are available free of charge.

The annual notification and complete contact information of the compliance officer and information related to Title IX pursuant to Education Code § 221.61 shall be posted on the SJCOE web site and, if available, provided through SJCOE-supported social media

The Superintendent or designee shall ensure that all students and parents/guardians, including students and parents/guardians with limited English proficiency, have access to the relevant information provided in SJCOE policy, regulation, forms, and notices concerning the UCP.

If 15 percent or more of students enrolled in a particular SJCOE program speak a single primary language other than English, the policy, regulation, forms, and notices concerning UCP shall be translated into that language in accordance with Education Code §'s 234.1 and 48985. In all other instances, SJCOE shall ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

### **SJCOE Responsibilities**

All UCP-related complaints shall be investigated and resolved within 60 calendar days of SJCOE's receipt of the complaint unless the complainant agrees in writing to an extension of the timeline.

The Division Director of Human Resources shall maintain a record of each complaint and subsequent related actions, including steps taken during the investigation and all information required for compliance with 5 CCR §'s 4631 and 4633.

All parties involved in the allegations shall be notified when a complaint is filed and when a decision or ruling is made. However, the Division Director of Human Resources shall keep all complaints or allegations of unlawful discrimination, harassment, intimidation, bullying, or related retaliation confidential except when disclosure is necessary to carry out the investigation, take subsequent corrective action, conduct ongoing monitoring, or maintain the integrity of the process.

### **Filing of Complaint**

The complaint shall be presented to the Division Director of Human Resources who shall maintain a log of complaints received, providing each with a code number and a date stamp.

All complaints shall be filed in writing and signed by the complainant. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, SJCOE staff shall assist in the filing of the complaint.

All complaints shall be filed in accordance with the following:

1. A written complaint alleging SJCOE violation of applicable state or federal law or regulations governing including adult education programs; After School Education and Safety programs; agricultural career technical education; American Indian education centers and early childhood education program assessments; bilingual education; California Peer Assistance and Review programs for teachers; state career technical and technical education, and technical training programs; federal career technical education; child care and development programs, child nutrition programs, compensatory education; consolidated categorical aid programs; Economic Impact Aid; the federal Every Student Succeeds Act; migrant education; school safety plans; special education programs; California State Preschool Programs; Tobacco-Use Prevention Education programs; and any other SJCOE-implemented state categorical program that is not funded through the local control funding formula pursuant to Education Code § 64000 may be filed by any individual, public agency, or organization.
2. Any complaint alleging noncompliance with the law regarding the prohibition against requiring students to pay student fees, deposits, 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 school site administrator or with the Superintendent or designee. However, any such complaint shall be filed no later than one year from the date the alleged violation occurred.
3. A complaint alleging unlawful discrimination, harassment, intimidation, bullying, or related retaliation may be filed by persons who allege that they have personally suffered unlawful discrimination, harassment, intimidation, bullying, or retaliation or by persons who believe that an individual, or any specific class of individuals, has been subjected to unlawful discrimination, harassment, intimidation, bullying, or retaliation. The complaint shall be initiated no later than six months from the date when the alleged discrimination, harassment, intimidation, bullying, or retaliation occurred or when the complainant first obtained knowledge of the facts of the alleged unlawful discrimination, harassment, intimidation, bullying, or related retaliation. The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension.
4. When a complaint alleging unlawful discrimination, harassment, intimidation, bullying, or related retaliation is filed anonymously, the Division Director of Human Resources shall pursue an investigation or other response as appropriate, depending on the specificity and reliability of the information provided and the seriousness of the allegation.

5. When the complainant or alleged victim of unlawful discrimination, harassment, intimidation, bullying, or related retaliation requests confidentiality, the Division Director of Human Resources shall inform complainant or victim that the request may limit the ability of SJCOE to investigate the conduct or take other necessary action. When honoring a request for confidentiality, SJCOE shall nevertheless take all reasonable steps to investigate and resolve/respond to the complaint consistent with the request.
6. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, SJCOE staff shall help in filing the complaint.

### **Mediation**

Within three business days after receiving the complaint, the Division Director of Human Resources may informally discuss with all the parties, the possibility of using mediation. Mediation shall be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint involving an allegation of sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. If the parties agree to mediation, the Division Director of Human Resources shall make all arrangements for this process.

Before initiating the mediation of a complaint alleging unlawful discrimination, harassment, intimidation, bullying, or related retaliation, the Division Director of Human Resources shall ensure that all parties agree to make the mediator a party to relevant confidential information. The Division Director of Human Resources shall also notify all parties of the right to end the informal process at any time.

If the mediation process does not resolve the problem within the parameters of the law, the Division Director of Human Resources shall proceed with an investigation of the complaint.

The use of mediation shall not extend SJCOE's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time. If mediation is successful and the complaint is withdrawn, SJCOE shall take only the actions agreed upon through mediation. If mediation is unsuccessful, SJCOE shall then continue with subsequent steps specified in this administrative regulation.

### **Investigation of Complaint**

Within 10 business days after the Division Director of Human Resources receives the complaint, the Division Director of Human Resources shall begin an investigation into the complaint.

Within one business day of initiating the investigation, the Division Director of Human Resources shall provide an opportunity for the complainant and/or representative to present the information contained in the complaint and shall notify the complainant and/or representative of the opportunity to present the Division Director of Human Resources with any evidence, or information leading to evidence, to support the allegations in the complaint. Such evidence of information may be presented at any time during the investigation.

In conducting the investigation, the Division Director of Human Resources also shall collect all documents and review all available records, notes, or statements related to the complaint, including any additional evidence or information received from the parties during the course of the investigation. The Division Director of Human Resources shall individually interview all witnesses with information pertinent to the complaint, and may visit any reasonably accessible location where the relevant actions are alleged to have taken place. At appropriate intervals, the Division Director of Human Resources shall inform both parties of the status of the investigation.

To investigate a complaint alleging unlawful discrimination, harassment, intimidation, bullying, or related retaliation, the Division Director of Human Resources shall interview the alleged victim(s), any alleged offenders, and other relevant witnesses privately, separately, and in a confidential manner. As necessary, additional staff or legal counsel may conduct or support the investigation.

Refusal by the complainant to provide the investigator with documents or other evidence related to the allegations in the complaint, to fail or refuse to cooperate in the investigation, or to 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.

The accused and/or their representative and SJCOE representatives shall also have an opportunity to present any evidence or information relevant to the complaint. Refusal by the accused and/or by SJCOE to provide the investigator with access to records and/or other information related to the allegations in the complaint, to fail or refuse to cooperate in the investigation, or to engage 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.

### **Timeline for Final Decision**

Unless extended by written agreement with complainant, the Division Director of Human Resources shall prepare and send to the complainant a written report, as described in the following section, within 60 calendar days of SJCOE's receipt of the complaint.

For any complaint alleging unlawful discrimination, harassment, intimidation, bullying, or related retaliation, the respondent shall be informed of any extension of the timeline agreed to by the complainant. The respondent also shall be sent SJCOE's final written decision at the same time it is provided to the complainant.

### **Final Written Decision**

The report of the decision shall be in writing and sent to the complainant.

The report of the decision shall be written in English and in the primary 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, SJCOE shall arrange a meeting at which a community member will interpret for the complainant.

This report shall include:

1. The findings of fact based on the evidence gathered. In reaching a factual determination, the following factors may be taken into account:
  - a. Statements made by any witnesses.
  - b. The relative credibility of the individuals involved.
  - c. How the complaining individual reacted to the incident.
  - d. Any documentary or other evidence relating to the alleged conduct.
  - e. Past instances of similar conduct by any alleged offenders.
  - f. Past false allegations made by the complainant.
2. Conclusion(s) of law.
3. Disposition of the complaint.
4. Rationale for such disposition.

For complaints of unlawful discrimination, harassment, intimidation, bullying, or related retaliation, the disposition of the complaint shall include a determination for each allegation as to whether retaliation or unlawful discrimination has occurred.

The determination of whether a hostile environment exists may involve consideration of the following:

- a. How the misconduct affected one or more students' education.
  - b. The type, frequency, and duration of the misconduct.
  - c. The relationship between the alleged victim(s) and offender(s).
  - d. The number of persons engaged in the conduct and at whom the conduct was directed.
  - e. The size of the school, location of the incidents, and context in which they occurred.
  - f. Other incidents at the school involving different individuals.
5. Corrective action(s), including any actions that have been taken or will be taken to address the allegations in the complaint and including, with respect to a student fees complaint, a remedy that comports with Education Code § 49013 and 5 CCR § 4600.

For complaints of unlawful discrimination, harassment, intimidation, bullying, or related retaliation, the decision may, as required by law, include:

- a. The corrective actions imposed on the respondent.
  - b. Individual remedies offered or provided to the complainant or another person who was the subject of the complaint, but this information should not be shared with the respondent.
  - c. Systemic measures the school has taken to eliminate a hostile environment and prevent recurrence.
6. Notice of complainant's and respondent's right to appeal the decision within 15 days to the CDE and procedures to be followed for initiating such an appeal. The decision may also include follow-up procedures to prevent recurrence or retaliation and for reporting any subsequent problems.

In consultation with legal counsel, information about the relevant part of a decision may be communicated to a victim who is not the complainant and to other parties who may be involved in implementing the decision or are affected by the complaint, as long as the privacy of the parties is protected. In a complaint alleging unlawful discrimination, harassment, intimidation, bullying, or related retaliation, notice of SJCOE's decision to the alleged victim shall include information about any sanction to be imposed upon the respondent that relates directly to the alleged victim.

If the complaint involves a limited-English-proficient student or parent/guardian and the student involved is enrolled in a school at which 15 percent or more of the students speak a single primary language other than English, then the decision shall also be translated into that language pursuant to Education Code § 48985. In all other instances, SJCOE shall ensure meaningful access to all relevant information for parents/guardians with limited-English proficiency.

For complaints alleging unlawful discrimination, harassment, intimidation, bullying, or related retaliation complaints based on state law, the decision shall also include a notice to the complainant that:

1. The complainant may pursue available civil law remedies outside of SJCOE's complaint procedures, including seeking assistance from mediation centers or public/private interest attorneys, 60 days after filing of an appeal with the CDE.
2. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law.
3. 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 at [www.ed.gov/ocr](http://www.ed.gov/ocr) within 180 days of the alleged discrimination.



### **Corrective Actions**

When a complaint is found to have merit, the Division Director of Human Resources shall adopt any appropriate corrective action permitted by law. Appropriate corrective actions that focus on the larger school or SJCOE environment may include, but are not limited to, actions to reinforce SJCOE policies; training for faculty, staff, and students; updates to school policies; or school climate surveys.

For complaints involving unlawful discrimination, harassment, intimidation, bullying, or related retaliation, appropriate corrective remedies that may be offered to the victim but not communicated to the respondent may include, but are not limited to, the following

1. Counseling.
2. Academic support.
3. Health services.
4. Assignment of an escort to allow the victim to move safely about campus.
5. Information regarding available resources and how to report similar incidents or retaliation.
6. Separation of the victim from any other individuals involved, provided the separation does not penalize the victim.
7. Restorative justice.
8. Follow-up inquiries to ensure that the conduct has stopped and there has been no retaliation.

For complaints involving unlawful discrimination, harassment, intimidation, bullying, or related retaliation, appropriate corrective actions that focus on a student offender may include, but are not limited to, the following:

1. Transfer from a class or school as permitted by law.
2. Parent/guardian conference.
3. Education regarding the impact of the conduct on others.
4. Positive behavior support.
5. Referral to a student success team.
6. Denial of participation in extracurricular or co-curricular activities or other privileges as permitted by law.
7. Disciplinary action, such as suspension or expulsion, as permitted by law.

When an employee is found to have committed unlawful discrimination harassment, intimidation, bullying or related retaliation, SJCOE shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

SJCOE may also consider training and other interventions for the larger school community to ensure that students, staff, and parents/guardians understand the types of behavior that constitute unlawful discrimination, harassment, intimidation, bullying, or related retaliation that SJCOE does not tolerate, and how to report and respond to it.

When a complaint is found to have merit, an appropriate remedy shall be provided to the complainant or other affected person.

However, if a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges, physical education instructional minutes for students in elementary schools, or any requirement related to the LCAP is found to have merit, SJCOE shall provide a remedy to all affected students and parents/guardians subject to procedures established by regulation of the State Board of Education.

For complaints alleging noncompliance with the laws regarding student fees, SJCOE shall attempt in good faith, by engaging in reasonable efforts, to identify and fully reimburse all affected students and parents/guardians who paid the unlawful student fees within one year prior to the filing of the complaint.

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

Any complainant who is dissatisfied with SJCOE's final written decision on a complaint regarding any specified federal or state educational program subject to UCP may file an appeal in writing with CDE within 15 calendar days of receiving the decision of SJCOE.

When appealing to the CDE, within 15 days of receiving the decision, the complainant must specify the reason(s) for appealing 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 the decision.

When a respondent in any complaint alleging unlawful discrimination, harassment, intimidation, bullying, or related retaliation is dissatisfied with the final written decision, the respondent, in the same manner as the complainant, may file an appeal with CDE.

Upon notification by the CDE that SJCOE's decision has been appealed, the Superintendent or designee shall forward the following documents to the CDE:

1. A copy of the original complaint.
2. A copy of the written decision.
3. A summary of the nature and extent of the investigation conducted by SJCOE, 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 designated investigator.
5. A report of any action taken to resolve the complaint.
6. A copy of SJCOE uniform complaint procedures.
7. Other relevant information requested by the CDE.