

## **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 Arch Airport Road, 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, the Superintendent's 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 the 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. (5 CCR § 4622)

The notice shall include:

1. Identification of the responsible staff member(s), position(s), or unit(s) designated to receive complaints.

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.

We ensure annual dissemination of a written notice of our complaint procedures to all students, employees, parents or guardians of its students, school and district advisory committee members, appropriate private school officials or representatives, and other interested parties that includes information regarding allegations about discrimination, harassment, intimidation, or bullying.

Our UCP Annual Notice shall also include information regarding the requirements of EC Section 49010 through 49013 relating to pupil fees and information regarding the requirements of EC

Section 52075 relating to the LCAP.

Our UCP Annual Notice shall be in English and in the primary language, pursuant to section 48985 of the Education Code, or mode of communication of the recipient of the notice.

In order to identify appropriate subjects of state preschool health and safety issues, we also have a notice that is posted in each California state preschool program classroom in each school notifying parents, guardians, pupils, and teachers of (1) the health and safety requirements under Title 5 of the California Code of Regulations that apply to California state preschool programs pursuant to HSC section 1596.7925 and (2) where to get a form for a state preschool health and safety issues complaint.

1. Identify the person(s), position(s), or unit(s) responsible for receiving complaints.
2. Include statements that:
  - a. A complaint alleging unlawful discrimination, harassment, intimidation, bullying, or related retaliation 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 unlawful discrimination. 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.
  - b. All complainants are protected from retaliation
  - c. The appeal to the CDE must include a copy of the complaint filed with the SJCOE and a copy of the SJCOE's decision.
  - d. Copies of the SJCOE UCP are available free of charge.

### **SJCOE Responsibilities**

All UCP-related complaints shall be investigated and resolved within 60 calendar days of the 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 §§ 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. According to state and federal codes and regulations, the programs and activities subject to the UCP are:
  - a. Accommodations for Pregnant and Parenting Pupils
  - b. Adult Education
  - c. After School Education and Safety
  - d. Agricultural Career Technical Education
  - e. Career Technical and Technical Education; Career Technical; Technical Training (State)
  - f. Career Technical Education (Federal)
  - g. Child Care and Development
  - h. Compensatory Education
  - i. Course Periods without Educational Content
  - j. Education Of Pupils In Foster Care, Pupils Who Are Homeless, Former Juvenile Court Pupils Now Enrolled In A School District, and Pupils Of Military Families
  - k. Every Student Succeeds Act / No Child Left Behind (Titles I–VII)
  - l. Local Control and Accountability Plans (LCAP)
  - m. Migrant Education
  - n. Physical Education Instructional Minutes
  - o. Pupil Fees
  - p. Reasonable Accommodations to a Lactating Pupil
  - q. Regional Occupational Centers and Programs
  - r. School Plans For Student Achievement
  - s. School Safety Plans
  - t. Schoolsite Councils
  - u. State Preschool
  - v. State Preschool Health And Safety Issues In LEAs Exempt From Licensing

The following complaints shall be referred to other agencies for appropriate resolution and are not subject to our UCP process set forth in this document unless these procedures are made applicable by separate interagency agreements:

Allegations of child abuse shall be referred to County Department of Social Services (DSS), Protective Services Division or appropriate law enforcement agency.

Health and safety complaints regarding a Child Development Program shall be referred to Department of Social Services for licensed facilities, and to the appropriate Child Development regional administrator for licensing-exempt facilities.

Employment discrimination, harassment, intimidation or bullying complaints shall be sent to the State Department of Fair Employment and Housing (DFEH).

Allegations of fraud shall be referred to the Legal, Audits and Compliance Branch in the California Department of Education (CDE).

2. Any complaint alleging noncompliance with the law regarding the prohibition against requiring students to pay pupil 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. Any complaint regarding state preschool health and safety issues pursuant to HSC Section 1596.7925 can be filed with the preschool program administrator or his or her designee. A state preschool health and safety issues complaint pursuant to HSC Section 1596.7925 about problems beyond the authority of the preschool program administrator shall be forwarded in a timely manner, but not to exceed 10 working days to the appropriate local educational agency official for resolution. A state preschool health and safety issues complaint pursuant to HSC Section 1596.7925 may be filed anonymously. A complainant who identifies himself or herself is entitled to a response if he or she indicates that a response is requested. A complaint form shall include a space to mark to indicate whether a response is requested. If Section 48985 of the EC is otherwise applicable, the response, if requested, and report shall be written in English and the primary language in which the complaint was filed. A complaint form for a state preschool health and safety issue pursuant to HSC Section 1596.7925 shall specify the location for filing a complaint. A complainant may add as much text to explain the complaint as he or she wishes.
  - a. The preschool program administrator or the designee of the district superintendent shall (1) make all reasonable efforts to investigate any problem within his or her authority. Investigations shall begin within 10 days of the receipt of the complaint and (2) remedy a valid complaint within a reasonable time period, but not to exceed 30 working days from the date the complaint was received and report to the complainant the resolution of the complaint within 45 working days of the initial filing. If the preschool program

administrator makes this report, he or she shall also report the same information in the same timeframe to the designee of the district superintendent.

4. 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, have 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 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.
5. 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.
6. 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 the 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.
7. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, SJCOE staff shall help him/her in the 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 retaliation or 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, the 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 their representative to present the information contained in the complaint and shall notify the complainant and/or the 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, or 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. The conclusion(s) of law.



3. Disposition of the complaint.
3. Rationale for such disposition.
4. Corrective actions, if any are warranted.
5. Notice of the complainant's right to appeal our Decision to the CDE.
6. Procedures to be followed for initiating an appeal to CDE.

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. The manner in which 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 complainant involved 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 the 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 regarding Reasonable Accommodations to a Lactating Pupil; Course Periods without Educational Content (grades nine through twelve); or Education of Pupils in Foster Care, Pupils who are Homeless, former Juvenile Court Pupils now enrolled in a school district, and pupils in military families, the public or LEA shall provide a remedy to the affected pupil.

Additionally, if 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 retaliation or 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.
8. Disciplinary action, such as suspension or expulsion, as permitted by law.

When an employee is found to have committed retaliation or 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 it, 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**

An appeal is a request made in writing to a level higher than the original reviewing level by an aggrieved party requesting reconsideration or a reinvestigation of the lower adjudicating body's decision.

A complainant may appeal our Decision of a UCP complaint to the State Superintendent of Public Instruction (SSPI) or his or her designee at the CDE (here and after known as SSPI) regarding all specified federal and state educational programs subject to the UCP.

To appeal our Decision of all UCP complaints except State Preschool Health and Safety Issues the complainant must file a written appeal within 15 days of receiving the Decision to the SSPI.

To appeal our Decision of State Preschool Health and Safety Issues only the complainant must file a written appeal within 30 days of receiving the Decision to the SSPI.

This appeal to the CDE must fully explain the basis for the appeal, stating how the facts of our Decision are incorrect and/or the law is misapplied.

In addition, the appeal shall be sent to CDE with:

1. A copy of the original locally filed complaint; and

2. A copy of our Decision of this original locally filed complaint.

A complainant not satisfied with the resolution of the preschool program administrator or the designee of the district superintendent has the right to describe the complaint to our board at a regularly scheduled hearing.

A complainant shall comply with the appeal requirements of 5 CCR Section 4632.

The SSPI shall comply with the requirements of 5 CCR Section 4633 and shall provide a written decision to the State Board of Education describing the basis for the complaint, the LEA's response to the state preschool health and safety issues pursuant to HSC Section 1596.7925 complaint and its remedy or proposed remedy and, as appropriate, a proposed remedy for the issue described in the complaint, if different from the LEA's remedy.

SJCOE shall report summarized data on the nature and resolution of all state preschool health and safety issues complaints pursuant to HSC Section 1596.7925 on a quarterly basis to the county superintendent of schools and the governing board or body. Summaries shall be publicly reported on a quarterly basis at a regularly scheduled SJCOE Board meeting. The report shall include the number of complaints by general subject area with the number of resolved and unresolved complaints.

All complaints and responses are public records.

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