

SANTA ANA UNIFIED SCHOOL DISTRICT

AR 1312.3(a)

Community Relations

Uniform Complaint Procedures

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

Associate Superintendent, Human Resources
1601 E. Chestnut Avenue
Santa Ana, CA 92701
(714) 558-5860

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. (cf. 9124 - Attorney)

Notifications

The Superintendent or designee shall 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 on an annual basis. (5 CCR 4622)

The notice shall:

- 1) Identify the person(s), position(s) or unit(s) responsible for receiving complaints
- 2) Advise the complainant of any civil law remedies that may be available to him/her under state or federal discrimination, harassment, intimidation, or bullying laws, if applicable
- 3) Advise the complainant of the appeal process pursuant to Education Code 262.3, including the complainant's right to take a complaint directly to the California Department of Education (CDE) or pursue remedies before civil courts or other public agencies.
- 4) Include statements that:
 - a. The district is primarily responsible for complying with applicable state and federal laws and regulations.
 - 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. An unlawful discrimination, harassment, intimidation, or bullying complaint must be filed not later than six months from the date the alleged discrimination occurs, or six months from the date the complainant first obtains knowledge of the facts of the alleged discrimination.
 - d. A pupil enrolled in a public school shall not be required to pay an unauthorized pupil fee for participation in an educational activity.

- e. A complaint alleging noncompliance with the law regarding the prohibition against requiring students to pay student fees, deposits and charges or a complaint alleging noncompliance with the Local Control and Accountability Plan may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance. (Education Code sections 49013, 52075)
- f. The complainant shall specify the reason(s) for appealing the District's decision and whether the facts are incorrect and/or the law has been misapplied. The appeal shall include a copy of the complaint and the District's decision. (cf.5145.6 - Parental Notification)
- g. Copies of the district's uniform complaint procedures are available free of charge.

Procedures

The following procedures shall be used to address all complaints which allege that the district has violated federal or state laws or regulations governing educational programs for which the district receives state or federal funding or which allege unlawful discrimination, harassment, intimidation, or bullying. 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.

If school personnel witness an act of discrimination, harassment, intimidation or bullying, he or she shall take immediate steps to intervene when safe to do so.

Step 1: Filing of Complaint

Any individual, public agency or organization may file a written complaint of *the* district's alleged noncompliance with federal or state laws or regulations governing educational programs. (5 CCR 4630)

Complaints alleging unlawful discrimination, harassment, intimidation, or bullying shall be filed by a person who alleges that he/she personally suffered unlawful discrimination, harassment, intimidation, bullying or by a person who believes that an individual or any specific class of individuals has been subjected to unlawful discrimination, harassment, intimidation, or bullying. The complaint must be initiated no later than six months from the date when the alleged discrimination, harassment, intimidation, or bullying occurred or when the complainant first obtained knowledge of the facts of the alleged discrimination. However, upon written request by the complainant, the Superintendent or designee may extend the filing period for up to 90 days. (5 CCR 4630)

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.

A pupil shall not be required to pay a pupil fee for participation in an educational activity, unless the charge for such a fee is specifically authorized by law and does not violate Education Code 49011. Pupil fees complaint may be filed anonymously. (EC 49013(d)) A complaint alleging noncompliance with the law regarding the prohibition against requiring students to pay student fees, deposits, and charges or a complaint alleging noncompliance with the Local Control and Accountability Plan may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance. (Education Code sections 49013, 52075)

If a complainant is unable to put a complaint in writing due to conditions such as illiteracy or a disability, district staff shall help him/her to file the complaint. (5 CCR 4600)

Step 2: Mediation

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

Before initiating the mediation of an unlawful discrimination, harassment, intimidation, or bullying 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. (5 CCR 4631)

Step 3: Investigation of Complaint

The compliance officer is encouraged to hold an investigative meeting within ten calendar days of receiving the complaint or an unsuccessful attempt to mediate the complaint. This meeting shall provide an opportunity for the complainant and/or his/her representative to repeat the complaint orally.

The complainant and/or his/her representative and the district's representatives shall also have an opportunity to present the complaint and evidence or information to the complaint. (5 CCR 4631)

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. (California Code of Regulations, Title 5, Section 4631)

The District 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 an imposition of a remedy in favor of the complainant. (California Code of Regulations, Title 5, Section 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)

Step 4: 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 #5 below, within 60 days of the district's receipt of the complaint. (5 CCR 4631)

If a public school finds merit in a pupil fees complaint or Local Control and Accountability Plan complaint, that public school shall provide a remedy to all affected pupils, parents, and guardians that, where applicable, includes reasonable efforts by the public school to ensure full reimbursement to all affected pupils, parents, and guardians, subject to procedures established through regulations adopted by the state board.

Step 5: Final Written Decision

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

The report of the district's decision shall be written in English and when required by Education Code 48985, in the complainant's primary language. 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.

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

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 decision within 15 days to the California Department of Education, and procedures to be followed for initiating such an appeal.

7. In addition, any decision concerning discrimination, harassment, intimidation, or bullying complaint based on state law shall include a 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. (Education Code 262.3)

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

If a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges or a complaint alleging noncompliance with the Local Control and Accountability Plan is found to have merit, the district shall provide a remedy to all affected students and parents/guardians. This shall, where applicable to a student fee complaint, include reasonable efforts to ensure full reimbursement to them.

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. When appealing to the California Department of Education, the complainant must specify the reason(s) for appealing the district's decision and whether the facts are incorrect and/or the law has been misapplied. The appeal must include a copy of the locally filed complaint and the district's decision. (5 CCR 4652)

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 4632)

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 California Department of Education 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

Civil law remedies may be available under state or federal discrimination, harassment, intimidation, or bullying laws, if applicable. In appropriate cases, an appeal may be filed pursuant to Education Code section 262.3. 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, harassment, intimidation, or bullying complaints based on state law, a complainant shall 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.