

NOTES

# UNIFORM COMPLAINT PROCEDURES



## HANDBOOK

for

*Staff*

*Students*

*Parents*

*Advisory Committees*

- 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.

## 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 below, within 60 days of the district's receipt of the complaint.

## Final Written Decision

The report of the district's decision shall be in writing and sent to the complainant. 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. For all complaints, the report will contain the following elements:

1. The findings of fact based on the evidence gathered
2. The conclusion 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 (CDE), and procedures to be followed for initiating such an appeal.
7. In addition, any decision concerning a 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.
8. 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.

## SCOPE OF UNIFORM COMPLAINT PROCEDURES

The Santa Ana Unified School District has the primary responsibility to ensure compliance with applicable state and federal laws and regulations.

The District has adopted policies and procedures for the investigation and resolution of complaints alleging discrimination, harassment, intimidation, or bullying based on actual or perceived characteristics of:

- |  |   |                         |
|--|---|-------------------------|
| • Age  | • Gender identity,<br>Gender expression | • Race                  |
| • Ancestry   | • Genetic Information                   | • Religion              |
| • Color  | • Mental or physical<br>disability      | • Sex                   |
| • Ethnic group<br>identification   | • Marital or Parental<br>Status         | • Sexual<br>orientation |
| • Gender   | • National origin                       |                         |
| • Or, on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics. |   |                         |

Uniform complaint procedures shall also be used to address any complaints alleging the District's failure to comply with state or federal laws in:

- |                                 |                      |
|---------------------------------|----------------------|
| • Adult Basic Education         | • Migrant Education  |
| • Career and Technical Training | • Nutrition Program  |
| • Child Care and Development    | • School Safety Plan |
| • Consolidated Categorical Aid  | • Special Education  |

## UNIFORM COMPLAINT PROCEDURES

The following procedures shall be used to address all complaints which allege that the district has violated federal or state laws or regulations, or has committed unlawful discrimination, harassment, intimidation, or bullying in any district or school program, school activity or attendance within a school under the jurisdiction of the superintendent of the school district that receives or benefits from state and/or federal financial assistance.

School personnel shall take immediate steps to intervene, when it is safe to do so, when he or she witnesses an act of discrimination, harassment, intimidation or bullying.

### Filing of Complaint

- A copy of the district's UCP policy and complaint procedures shall be available free of charge at any district school.
- A complaint may be filed by an individual, including a person's duly authorized representative, or any interested third party, public agency or organization. Individuals who may file complaints include district students, employees and parents or guardians. The District provides assurances regarding protection against retaliation and provisions of confidentiality.
- 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.
- Complaints alleging unlawful discrimination, harassment, intimidation, or bullying may be filed by a person who alleges that he/she personally suffered unlawful discrimination, harassment, intimidation or 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 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.
- 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/her file the complaint.

- The complaint shall be presented to the UCP Officer who shall maintain a log and record of each complaint as well as subsequent related actions.
- The following compliance officer shall receive complaints and shall ensure district compliance with law.

**Assistant Superintendent, Personnel Services**  
**Santa Ana Unified School District**  
**1601 E. Chestnut Ave.**  
**Santa Ana, CA 92701-6322**

### Mediation

The compliance officer may informally discuss with the complainant the possibility of using a mediator within three days of receiving the complaint. The compliance officer shall make all arrangements.

- 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 does not resolve the problem within a reasonable amount of time as required by 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.

### Investigation of Complaint

- The compliance officer shall hold an investigative meeting within 10 days of receiving the complaint or after an unsuccessful mediation.
- The complainant shall have an opportunity to present information relevant to the complaint. Parties to the dispute may discuss the complaint and question each other or each other's witnesses.
- 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.

## **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.

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.

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 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**

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.