

**KERN COUNTY SUPERINTENDENT OF SCHOOLS OFFICE****PERSONNEL****UNIFORM COMPLAINT POLICY AND PROCEDURES**

The Kern County Superintendent of Schools Office recognizes that it has the primary responsibility of ensuring that the office complies with applicable state and federal laws and regulations governing the educational programs that it operates. The office shall investigate complaints alleging failure to comply with such laws and regulations and/or alleging discrimination and shall seek to resolve those complaints in accordance with the procedures set out in Sections 4600-4687 of Title 5 of the California Code of Regulations and in accordance with the policies and procedures of the office.

Discrimination Complaints. The office shall follow uniform complaint procedures when addressing complaints alleging unlawful discrimination against any protected group as identified under Education Code Section 200 and Government Code Section 11135, including age, actual or perceived sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability, 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 program or activity that receives or benefits from state financial assistance. Pursuant to Title 5, California Code of Regulations Sections 4621 and 4630, 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 on a case-by-case basis.

Program Complaints. 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, childcare and development programs, child nutrition programs, and special education programs.

Williams Complaints. Complaints related to the sufficiency of textbooks or instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff, and teacher vacancies and misassignments shall be investigated pursuant to this office's separate "Williams Uniform Complaint Procedure."

Retaliation Prohibited. The office prohibits retaliation in any form for participating in complaint procedures, including, but not limited to the 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.

## COMPLIANCE OFFICER

The office designates the following compliance officers to receive and investigate complaints and ensure compliance with the law:

Administrator, Division of Human Resources and Special Services  
**(complaints relating to discrimination in employment)**  
 Kern County Superintendent of Schools Office  
 1300 17<sup>th</sup> Street – CITY CENTRE  
 Bakersfield, CA 93301-4533  
 Telephone: (661) 636-4673 FAX: (661) 636-4043

Deputy Superintendent  
**(all other complaints under this policy)**  
 Kern County Superintendent of Schools Office  
 1300 17<sup>th</sup> Street - CITY CENTRE  
 Bakersfield, CA 93301-4533  
 Telephone: (661) 636-4680 FAX: (661) 636-4127

The deputy superintendent may delegate the investigation of any complaint received to a division administrator. The office shall ensure that employees designated to receive and 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.

## NOTIFICATION

The Superintendent or designee shall annually provide written notification of the office's uniform complaint procedures to students, employees, parents/guardians, school advisory committees, appropriate private school officials or representatives, and other interested parties as required by law. The Superintendent or designee shall make available copies of the office's uniform complaint procedures free of charge.

## FILING OF COMPLAINT

The following procedures shall be used to address complaints, which allege that the office has violated federal or state laws or regulations governing educational programs that it operates. Compliance officers shall maintain a record of each complaint and subsequent related actions, including all information required for compliance with the California Code of Regulations, Title 5, Section 4631 and 4633.

An individual, public agency or organization may file a written complaint of an alleged non-compliance by the office with the appropriate compliance officer named above. If a complainant is unable to put a complaint in writing due to conditions such as illiteracy or other disabilities, the office staff shall assist him/her in filing the complaint. (Title 5, California Code of Regulations, Section 4600)

Complaints involving unlawful discrimination 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. The complaint must be initiated no later than six (6) months from the date when the alleged discrimination occurred, or when the complainant first obtained knowledge of the facts of the alleged discrimination (Title 5, California Code of Regulations, Section 4630).

All parties involved in allegations in a complaint shall be notified when a complaint is filed, when a complaint meeting or hearing is scheduled, and when a decision or ruling is made.

## **MEDIATION**

The office recognizes that a neutral mediator can often suggest a compromise that is agreeable to all parties in a dispute. In accordance with uniform complaint procedures, whenever all parties to a complaint agree to try to resolve their problem through mediation, the Superintendent or designee may initiate mediation.

Within three (3) days of receiving the complaint, the compliance officer may informally discuss with the complainant the possibility of using mediation. If the complainant agrees to mediation, the compliance officer shall make all arrangements for this process. Before initiating the mediation of a discrimination complaint, the compliance officer shall ensure that all parties agree to make the mediator a party to related confidential information.

If the mediation process is adopted and does not resolve the problem within the parameters of law, the compliance officer shall proceed with the investigation of the complaint.

If utilized, the use of mediation shall not extend the office's timelines for investigating and resolving the complaint unless the complainant agrees, in writing, to such an extension of time. Notwithstanding the use of mediation, all complaints alleging discrimination against a member of a protected group shall be promptly and thoroughly investigated as required by law.

## **INVESTIGATION OF COMPLAINT**

The compliance officer is encouraged, but not required, to hold an investigative meeting within five (5) days of receiving the complaint or an unsuccessful attempt to mediate the complaint. This meeting shall provide an opportunity for the complainant and/or the complainant's representative to repeat the complaint orally.

The complainant and/or the complainant's representative and the office's representative shall also have an opportunity to present the complaint and evidence or information leading to evidence which supports the allegations in the complaint (Title 5, California Code of Regulations, Section 4631).

A complainant's refusal to provide the office investigator with documents or other evidence related to the allegations in the complaint, or the complainant's failure or refusal to cooperate in

the investigation or the complainant's 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 office's failure 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.

## **WRITTEN DECISION**

Within sixty (60) days of receiving the complaint, the compliance officer shall prepare and send to the complainant a written report of the office's investigation and decision, unless this time period is extended by written agreement with the complainant.

The report shall include:

1. The findings of fact based on the evidence gathered. (Title 5, California Code of Regulations, Section 4631)
2. The conclusion(s) of law. (Title 5, California Code of Regulations, Section 4631)
3. The disposition of the complaint. (Title 5, California Code of Regulations, Section 4631)
4. The rationale for the disposition of the complaint. (Title 5 California Code of Regulations, Section 4631)
5. Corrective actions, if any are warranted. (Title 5, California Code of Regulations, Section 4631)
6. Notice of the complainant's right to appeal the decision within fifteen (15) days to the California Department of Education, and procedures to be followed for initiating such an appeal. (Title 5, California Code of Regulations, Sections 4631, 4652)
7. For discrimination complaints, notice that the complainant must wait until sixty (60) days have elapsed from the filing of an appeal with the California Department of Education before pursuing civil law remedies. (Title 5, California Code of Regulations, Section 4631, Education Code Section 262.3)

The written decision shall be in English and in the language in the complainant if required by law.

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

## **APPEAL TO THE SUPERINTENDENT**

If a complainant is dissatisfied with the compliance officer's decision, the complainant may, within five (5) days of receipt of the decision, appeal the decision to the Superintendent. If the Superintendent decides not to hear the appeal, or if the 60-day time period within which a decision on the complaint must be made will expire before the Superintendent can hear or decide the matter and the parties have not agreed to an extension of time, then the compliance officer's decision shall be the office's final written decision. If the Superintendent decides to hear the appeal, the Superintendent's decision shall be the office's final written decision on the complaint, and the compliance officer shall send the Superintendent's decision on the appeal to the complainant within sixty (60) days of the office's initial receipt of the complaint or within an extended time period agreed to in writing by the complainant.

Notwithstanding these procedures, the complainant and the office may meet at any time to consider resolution of the issues presented in the complaint.

## **APPEAL TO THE CALIFORNIA DEPARTMENT OF EDUCATION**

If dissatisfied with the office's final written decision, the complainant may appeal, in writing, to the California Department of Education within fifteen (15) days of receiving the office's final written decision. For good cause, the Superintendent of Public Instruction may grant an extension for filing appeals (Title 5, California Code of Regulations, Section 4652).

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 decision by the office. (Title 5, California Code of Regulations, Section 4632)

Upon notification by the California Department of Education that the complainant has appealed the decision of office, the Superintendent or designee shall forward the following documents to the California Department of Education:

1. A copy of the original complaint.
2. A copy of the decision by the office.
3. A summary of the nature and extent of the investigation conducted by the office, 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 office complaint procedures.
7. Other relevant information requested by the California Department of Education.

The California Department of Education may directly intervene in the complaint without waiting for action by the office when one of the conditions listed in Title 5, California Code of Regulations, Section 4650, exists. In addition, the California Department of Education may also

intervene in those cases where the office has not taken action within sixty (60) calendar days of the date the complaint was filed with the office compliance officer.

### **CIVIL LAW REMEDIES**

A complainant may pursue available civil law remedies outside of the office'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 sixty (60) days have elapsed from the filing of an appeal with the California Department of Education before pursuing civil law remedies. The moratorium does not apply to injunctive relief and is applicable only if the office has appropriately, and in a timely manner, apprised the complainant of his/her right to file a complaint in accordance with Title 5, California Code of Regulations, Section 4622.

Legal reference on next page.

Legal Reference:

EDUCATION CODE

200-262.3 Prohibition of discrimination  
8200-8498 Childcare and development programs  
8500-8538 Adult basic education  
18100-18172 School libraries  
32289 School safety plan, uniform complaint procedure  
35186 Alternative uniform complaint procedure  
48985 Notices in language other than English  
49060-49079 Student records  
49490-49590 Child nutrition programs  
52160-52178 Bilingual education programs  
52300-52499.6 Vocational education  
52500-52616.24 Adult schools  
52800-52870 School-based coordinated programs  
54000-54041 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  
56000-56885 Special education programs  
59000-59300 Special schools and centers  
62000-62005.5 Evaluation and sunseting of programs  
64000-64001 Consolidated application process

CODE OF REGULATIONS, TITLE 5

3080 Application of section  
4600-4671 Uniform complaint procedures  
4900-4965 Nondiscrimination in elementary and secondary education programs

PENAL CODE

422.6 Interference with constitutional right or privilege

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, including  
7114 Local educational program, safety plans  
7201-7283g Title V Promoting Informed Parental Choice and Innovative Programs  
7301- 7372 Title VI Rural and Low-Income School Programs