

UNIFORM COMPLAINT PROCEDURES

The Board of Education recognizes that the district is responsible for ensuring that it complies with state and federal laws and regulations governing educational programs. The district shall investigate complaints alleging failure to comply with such laws and/or alleging discrimination and shall seek to resolve those complaints in accordance with the district's uniform complaint procedures. (5 CCR 4600)

The district shall follow uniform complaint procedures when addressing complaints alleging unlawful discrimination based on ethnic group identification, race, ancestry, national origin, religion, age, a person's actual or perceived sex, sexual orientation, gender, color, or physical/mental 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 district program or activity that receives or benefits from state financial assistance. (5 CCR 4610) The district shall also follow uniform complaint procedures pursuant to state regulations when addressing complaints alleging failure to comply with state and federal laws regarding the following programs: (1) consolidated categorical aid, (2) special education, (3) child care and development, (4) child nutrition, and (5) migrant education. The district shall seek to resolve those complaints in accordance with the district's uniform complaint procedures.

(cf. 1312.4 – Williams Uniform Complaint Procedures)

Complaints related to sufficiency of textbooks or instructional materials, emergency or urgent facility conditions that pose a threat to the health or safety of students or staff, and teacher vacancies and misassignments shall be investigated pursuant to the district's Williams uniform complaint procedure (AR1312.4).

(cf. 1312.4 – Williams Uniform Complaint Procedures)

An individual may file a complaint if he/she believes that the district has not complied with the school safety planning requirement of the No Child Left Behind Act, 20 USC 7114 (d)(7). The California Department of Education interprets this to mean only complaints as to the development and adoption of the school safety plan need to be considered under this procedure.

(cf. 0410 – Nondiscrimination in District Programs and Activities)

(cf. 1312.1 – Complaints Concerning District Employees)

(cf. 1312.2 – Complaints Concerning Instructional Materials)

(cf. 3553 – Free and Reduced Lunch)

(cf. 5141.4 – Child Abuse Prevention and Reporting)

(cf. 6171 – Title I Programs)

(cf. 6174 – Education for English Language Learners)

UNIFORM COMPLAINT PROCEDURES (continued)

The board encourages the early, informal resolution of complaints at the site level whenever possible.

Upon receipt of a written complaint from an individual, public agency, or organization, uniform complaint procedures shall be initiated. The superintendent or designee shall distribute full information about these procedures.

The board acknowledges and respects every individual's right to privacy. Discrimination complaints shall be investigated in a manner that protects confidentiality of the parties and integrity of the process. The identity of any complainant alleging discrimination shall be kept confidential except to the extent necessary to carry out the investigation or proceedings, as determined by the superintendent or designee on a case-by-case basis.

(cf. 5125 – Student Records)

(cf. 9011 – Disclosure of Confidential/Privileged Information)

The board prohibits retaliation in any form for the filing of a complaint, the reporting of instances of discrimination, or for participation in complaint procedures. Such participation shall not in any way affect the status, grades, or work assignments of the complainant.

The board 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 resolving their problem through mediation, the superintendent or designee shall initiate that process. The superintendent or designee shall ensure that the results are consistent with state and federal laws and regulations.

The California Department of Education may directly intervene in a complaint without waiting for district action under certain conditions, including when a district has failed to cooperate with the investigation or when the complainant has requested anonymity because he/she would be in danger of retaliation and would suffer immediate harm if a complaint was filed at the district.

Legal Reference: (see next page)

UNIFORM COMPLAINT PROCEDURES (continued)

Legal Reference:

EDUCATION CODE

- 200- 262.4 Prohibition of discrimination
 - 8200-8498 Child care and development programs
 - 8500-8538 Adult basic education
 - 18100-18203 School libraries
 - 32289 School safety plan, uniform complaint procedure
 - 35186 Williams uniform complaint procedure
 - 41500-41513 Categorical education block grants
 - 48985 Notices in language other than English
 - 49060-49079 Student Records
 - 49490-49590 Child nutrition programs
 - 52160-52178 Bilingual education programs
 - 52300-52499.6 Career-technical education
 - 52500-52616.24 Adult schools
 - 52800-52870 School-based coordination 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
 - 64000-64001 Consolidated application process
- CODE OF REGULATIONS, TITLE 5
- 3080 Application of section
 - 4600-4687 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
- 7201-7283g Title V Promoting Informed Parental Choice and Innovative Programs
- 7301-7372 Title V Rural and Low-Income School Programs

UNIFORM COMPLAINT PROCEDURES (continued)

Management Resources:

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office for Civil Rights:

<http://www.ed.gov/offices/OCR>

Policy
adopted: October 23, 2003
revised: January 18, 2007
revised: September 24, 2009

ESCONDIDO UNION SCHOOL DISTRICT
Escondido, California

UNIFORM COMPLAINT PROCEDURES

Compliance Officers

The Board of Education designates the following compliance officer to receive and investigate complaints and ensure district compliance with law:

Assistant Superintendent, Educational Services
Escondido Union School District
2310 Aldergrove Avenue
Escondido, CA 92029
(760) 432-2400

In addition, each administrator in charge of a program subject to this policy shall be designated as the person responsible for conducting the investigation into the allegations of a complaint and preparing a written response in conjunction with the compliance administrator indicated above.

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 annually 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. (5 CCR 4622)

(cf. 5145.6 - Parental Notification)

The superintendent or designee shall make available copies of the district's uniform complaint procedures free of charge. (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 laws, if applicable

UNIFORM COMPLAINT PROCEDURES (continued)

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 to pursue remedies before civil courts or other public agencies
4. Include statements that:
 - a. The district is primarily responsible for compliance with state and federal laws and regulations
 - b. The complaint review shall be completed within 60 calendar days from the date of the receipt of the complaint unless the complainant agrees in writing to an extension of the timeline
 - c. An unlawful discrimination 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. The complainant has a right to appeal the district's decision to the CDE by filing a written appeal within 15 days of receiving the district's decision
 - e. The appeal to the CDE must include a copy of the complaint filed with the district and copy of the district's decision

(cf. 5145.6 – Parental Notification)

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. The compliance officer shall maintain a record of each complaint and subsequent related actions, including all information required for compliance with the 5 CCR 4632 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. For any complaint filed regarding migrant education, a copy of that complaint will be sent to the San Diego Office of Migrant Education.

Step 1: Filing of Complaint

Any individual, public agency, or organization may file a written complaint of alleged noncompliance by the district. (5 CCR 4630) The complainant can obtain a complaint form from the education center or from any school office. The complaint shall be

UNIFORM COMPLAINT PROCEDURES (continued)

presented by mail or personal delivery to the compliance officer who will share it with the appropriate program administrator. If the complaint is filed with a site or program administrator, the complaint will be dated and the original forwarded to the compliance officer.

A complaint alleging unlawful discrimination shall be initiated no later than six months from the date when the alleged discrimination occurred, or six months from the date when the complainant first obtained knowledge of the facts of the alleged discrimination. A complaint 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 have been subjected to unlawful discrimination (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.

If a complainant is unable to put a complaint in writing due to conditions such as illiteracy or other handicaps, 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 or program administrator may informally discuss with the complainant the possibility of using mediation. If all parties agree to mediation, the compliance officer may proceed to resolve the complaint through the mediation 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 fails to resolve the issue, the compliance administrator shall proceed with the investigation. 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 and/or program administrator may hold an information clarification meeting within five days of receiving the complaint or an unsuccessful attempt to mediate the complaint. This meeting would provide an opportunity for the complainant and/or his/her representative to repeat the complaint orally.

UNIFORM COMPLAINT PROCEDURES (continued)

The complainant and/or his/her representative and the district's representatives will have an opportunity to present information relevant to the complaint. Parties to the dispute may discuss the complaint and question each other or other meeting participants. (5 CCR 4631)

To ensure that all pertinent facts are made available, the compliance officer and the complainant may ask other individuals to attend this meeting and provide additional information.

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 allegations. (5 CCR 4631)

The district's 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 the imposition of a remedy in favor of the complainant. (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)

Step 5: Final Written Decision

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

Within 30 calendar days of receiving the complaint, the compliance officer shall prepare and send to the complainant a written report of the district's investigation and decision, including:

1. The findings of fact based on the evidence gathered (5 CCR 4631)

UNIFORM COMPLAINT PROCEDURES (continued)

2. The conclusions(s) of law (5 CCR 4631)
3. Disposition of the complaint (5 CCR 4631)
4. The rationale for the above disposition (5 CCR 4631)
5. Corrective actions, if any are warranted (5 CCR 4631)
6. Notice of the complainant's right to appeal the decision within 10 calendar days to the board and 15 calendar days to the California Department of Education, and procedures to be followed for initiating such an appeal (5 CCR 4631)
7. For discrimination complaints, notice that the complainant must wait until 60 days have elapsed from the filing of an appeal with the California Department of Education before pursuing civil law remedies (Education Code 262.3)
8. A detailed statement of all specific issues that were brought up during the investigation and the extent to which these issues were resolved

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

Appeals to the California Department of Education

If the complainant is dissatisfied with the district's decision, he/she may appeal in writing to the California Department of Education within 15 days of receiving the district's decision. For good cause, the state Superintendent of Public Instruction may grant an extension for filing appeals. (5 CCR 4652)

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 and must include a copy of the locally filed complaint and the district's decision. (5 CCR 4362)

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 4633)

1. A copy of the original complaint

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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 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. In addition, the California Department of Education may also intervene in those cases where 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 complaints, however, a complainant must wait until 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 district has appropriately, and in a timely manner, apprised the complainant of his/her right to file a complaint in accordance with the law. (5 CCR 4622)

**Escondido Union School District
UNIFORM COMPLAINT PROCEDURE**

COMPLAINT FORM

Complainant: _____

Phone: _____ Work: _____ Cell: _____

Name: _____

Address: _____

Date you believe the violation occurred: _____

State of complaint: (Please include names of persons involved, dates, locations, remedies attempted, and other facts pertinent to the complaint. Attach additional pages as needed.)

What would you like to see happen to resolve this complaint?

Signature of Complainant

Date

Received by (name)

Date received by District

Distribution:

Compliance Administrator

Program Administrator

Complainant

What happens after you file this complaint?

1. Within the 30 calendar days, the district will investigate the complaint, prepare a findings and disposition report, and send a copy of that report to the complainant.
2. If all parties agree, the district may try to resolve the complaint through mediation.
3. If the complainant is dissatisfied with the decision, within 10 calendar days, he/she may file his/her complaint in writing with the Board of Education.
4. A final decision will be sent to the complainant within 60 calendar days of the district's receipt of the complaint.
5. If the complainant is dissatisfied with the district's final decision, within 15 calendar days, he/she may appeal in writing to the California Department of Education.

September 24, 2009

ESCONDIDO UNION SCHOOL DISTRICT
Escondido, California