PROPOSED CHANGES

Community Relations AR 1312.3(a)

UNIFORM COMPLAINT PROCEDURES

Compliance Officers

The Governing Board designates the following compliance officer to receive and investigate complaints and ensure District compliance with law:

Assistant Superintendent for Educational Services
14735 Juniper Street, San Leandro, CA 94579
(510) 667-3538

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.

Except as the Governing Board may otherwise specifically provide in other Board policies, the uniform complaint procedures shall be used only to investigate and resolve complaints alleging violations of federal or state laws or regulations governing specific educational programs, the prohibition against requiring students to pay fees, deposits, or other charges for participating in educational activities, and unlawful discrimination, harassment, intimidation, or bullying, as specified in accompanying Board policy.

(cf. 9124 – Attorney)

Notifications

The Superintendent or designee shall annually provide written notification of the District's uniform complaint procedures to pupils, employees, parents/legal guardians, the District Advisory Committee, school advisory committees, appropriate private school officials or representatives, and other interested parties. The Superintendent or designee shall make available copies of the District's uniform complaint procedures free of charge.

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, and bullying laws, if applicable.

UNIFORM COMPLAINT PROCEDURES (continued)

3. Advise the complainant of the appeal process 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 investigation 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, and bullying complaint must be filed not later than six months from the date the alleged discrimination, harassment, intimidation, and bullying occurs, or six months from the date the complainant first obtains knowledge of the facts of the alleged discrimination, harassment, intimidation, and bullying.
   d. The complainant has a right to appeal the District's decision to the CDE by filing a written appeal within 15 calendar 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 a copy of the District's decision.
   f. Copies of the district's uniform complaint procedures are available free of charge.

(cf. 5145.6 – Parental Notifications)

The above notification shall state that complainants may seek help from agencies such as legal assistance agencies, local mediation centers or the county office of education. Local resources include:

Bay Area Legal Aid 510-663-4744

Alameda County Office of Education 510- 670-4105

An additional listing of free or low cost legal services may be found in E(1)1312.3, Appendix A.

UNIFORM COMPLAINT PROCEDURES (continued)

Notification of the Uniform Complaint Procedures will be accomplished by the following:

1. Including a summary of the policy in the District's Student/Parent Handbook.
2. Providing notification of the policy (including all required elements) to pupils, employees, parents/legal guardians, the District Advisory Committee, school advisory committees, appropriate private school officials or representatives and other interested parties.
3. Providing copies of the policy with appropriate instructions to all administrators and supervisors in the District.
4. Providing copies of the policy (with appropriate instruction as needed) upon request.

Step 1: Filing a Complaint

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. Compliance officer shall maintain a record of each complaint and subsequent related actions, including 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.

Any individual, public agency or organization may file a written complaint alleging a matter, which, if true, would constitute a violation of federal or state law or regulation governing the educational programs set forth above or unlawful discrimination, harassment, intimidation, and bullying.

A complaint alleging unlawful discrimination, harassment, intimidation, and bullying shall be initiated no later than 6 months from the date when the alleged discrimination, harassment, intimidation, and bullying occurred or 6 months from date when the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation, and bullying. A complaint may be filed by a person who alleges that he/she personally suffered unlawful discrimination, harassment, intimidation, and bullying, or by a person who believes that an individual or any specific class of individual has been subjected to unlawful discrimination, harassment, intimidation, and bullying.

UNIFORM COMPLAINT PROCEDURES (continued)

A complaint alleging noncompliance with the law regarding the prohibition against requiring students to pay student fees, deposits, and charges may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance. (Education Code 49013)

The complaint shall be presented in writing to the Assistant Superintendent of Educational Services except complaints of employment discrimination, harassment, intimidation, and bullying, which shall be presented to the Assistant Superintendent of Human Resources. A complaint must be in writing and contain a concise statement of the facts constituting the ground for the complaint, and, where applicable, the laws or regulations violated. Complainant should complete the Uniform Complaint Form E(3) 1312.3, or provide a written statement describing the nature of the complaint and what resolution he/she is seeking. The use of the Uniform Complaint Form E(3) 1312.3 shall not be required for the filing of the complaint.

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

The compliance officer shall maintain a log of complaints received, providing each with a code number and a date stamp.

Step 2: Mediation

Within three calendar 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, harassment, intimidation, and 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.

UNIFORM COMPLAINT PROCEDURES (continued)

Step 3: Investigation of Complaint

The compliance officer is encouraged to hold an investigative meeting within five 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 shall have the opportunity to present the complaint and evidence or information to support the allegations in the complaint.

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/here engagement in any other obstruction of the investigation may result in the dismissal of the complaint because of lack of evidence to support the allegation.

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 or the complainant.

Step 4: Response

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, as described in Step #5 below. If the complainant is dissatisfied with the compliance officer's decision, he/she may within five calendar days, file his/her complaint in writing with the Board of Education.

The Board may consider the matter at its next regular Board meeting or at a special Board meeting convened in order to meet the 60 calendar-day time limit within which the complaint must be answered. The Board may decide not to hear the complaint, in which case the compliance officer's decision shall be final.

UNIFORM COMPLAINT PROCEDURES (continued)

If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 60 calendar days of the District's initial receipt of the complaint or within the time period that has been specified in a written agreement with the complainant.

Step 5: Final Written Decision

The District's decision shall be in writing and sent to the complainant. The District's decision shall be written in English and in the language of the complainant whenever feasible or required by law.

The decision shall include:

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
    - The report shall not give any information as to the nature of any disciplinary action against an employee.
6. Notice of the complainant's right to appeal the District's decision within 15 calendar days to the California Department of Education (CDE) and procedures to be followed for initiating such an appeal
7. For discrimination, harassment, intimidation, and bullying complaints, notice that the complainant must wait until 60 calendar days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies.

If investigation of a complaint results in discipline to a student or an employee, the decision shall simply state that effective action was taken and that the student or employee 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 is found to have merit, the district shall provide a remedy to all affected students and parents/guardians, which, where applicable, shall include reasonable efforts to ensure full reimbursement to them. (Education Code 49013)

UNIFORM COMPLAINT PROCEDURES (continued)

Step 6: Right to Appeal

Appeals to the California Department of Education (CDE)

If dissatisfied with the District's decision, the complainant may appeal in writing to the CDE within 15 calendar days of receiving the District's decision. When appealing to CDE, 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 District's decision.

Upon notification by 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 complaint procedures
7. Other relevant information requested by CDE

The CDE 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, and bullying complaints, however, a complainant must wait until 60 calendar days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies. The moratorium does to apply to injunctive relief and is

UNIFORM COMPLAINT PROCEDURES (continued)

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.

Regulation
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SAN LEANDRO UNIFIED SCHOOL DISTRICT
San Leandro, California