Butte County Office of Education

SUPERINTENDENT'S POLICY AND ADMINISTRATIVE REGULATIONS

SP 1312.3

UNIFORM COMPLAINT PROCEDURES

The County Superintendent recognizes that the Butte County of Education (BCOE) has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing its educational programs. The County Superintendent or designee encourages the early resolution of complaints whenever possible. To resolve complaints which may require a more formal process, the County Superintendent adopts the uniform system of complaint processes specified in 5 CCR 4600-4670 and incorporates any County Superintendent-approved procedures implementing this policy.

The BCOE's uniform complaint procedures (UCP) shall be used to investigate and resolve complaints regarding the following:

1. Any complaint alleging BCOE violation of applicable state or federal laws or regulations governing any program subject to the UCP which is offered by BCOE, including: Adult education programs, After School Education and Safety programs, Agricultural Career Technical Education, Career Technical and Technical Education and Career Technical and Technical Training Programs, Child Care and Development Programs, Compensatory Education, Consolidated Categorical Aid Programs, Every Student Succeeds Act (ESSA), Migrant education, Regional Occupational Centers and Programs, California State Preschool Programs, or any other BCOE-implemented program that is not funded through the local control funding formula pursuant to Education Code 64000 (5 CCR 4610)
2. Any complaint, by a student, employee, or other person participating in a BCOE program or activity, alleging the occurrence of unlawful discrimination, harassment, intimidation, or bullying in BCOE programs and activities, including those programs or activities funded directly by or that receive or benefit from any state financial assistance, based on one, or a combination of two or more, protected characteristics which include, but may not be limited to, the person's actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, immigration status, ethnic group identification, age, religion, marital status, pregnancy, false pregnancy, childbirth, termination of pregnancy or related conditions or recovery, parental status, physical or mental disability, medical condition, sex, sexual orientation, sex stereotypes, gender, gender identity, gender expression, genetic information, or any other characteristic identified in Education Code 200 or 220, Government Code 11135, or Penal Code 422.55, or based on the person's association with a person or group with one or more of these actual or perceived characteristics (5 CCR 4610)

   Unlawful discrimination includes BCOE sponsorship of any activity or program that promotes discriminatory bias on the basis or race or ethnicity, gender, religion, disability, nationality, sexual orientation, or any other characteristic listed in Education Code 220

   Complaints of employment discrimination and harassment are not subject to the UCP (see below) but may be addressed in accordance with other Superintendent's policies, as applicable. Additionally, although complaints of sexual harassment may be addressed through the UCP, any complaint that meets the more stringent definition of sexual harassment pursuant to 34 CFR 106.30 shall be investigated and resolved in accordance with 34 CFR 106.44-106.45.
3. Any complaint alleging BCOE noncompliance with the requirement to provide reasonable accommodation to a lactating student on school campus to express breast milk, breastfeed an infant child, or address other breastfeeding-related needs of the student (Education Code 222)
4. Any complaint alleging noncompliance with requirements to provide a pregnant or parenting student the accommodations specified in Education Code 46015, including those related to the provision of parental leave, right of return to the school of previous enrollment or to an alternative education program, if desired, and possible enrollment in school for a fifth year of instruction to enable the student to complete state and BCOE graduation requirements (Education Code 46015)
5. Any complaint alleging BCOE noncompliance with the prohibition against requiring students to pay fees, deposits, or other charges for participation in educational activities (5 CCR 4610)
6. Any complaint alleging noncompliance with applicable requirements of Education Code 52060-52077 related to the implementation of the local control and accountability plan, including the development of a local control funding formula budget overview for parents/guardians (Education Code 52075)

7. Any complaint alleging noncompliance with requirements related to the development of a school plan for student achievement or the establishment of a school site council, as required for the consolidated application for specified federal and/or state categorical funding (Education Code 64000-64001, 65000-65001)
8. Any complaint, by or on behalf of any student who is a foster youth as defined in Education Code 51225.2, alleging BCOE noncompliance with any requirement applicable to the student regarding placement decisions, the responsibilities of BCOE's educational liaison to the student, the award of credit for coursework satisfactorily completed in another public school, school or records transfer, or the grant of an exemption from any graduation requirements beyond state requirements (Education Code 48853, 48853.5, 49069.5, 51225.1, 51225.2)
9. Any complaint, by or on behalf of a student who is experiencing homelessness as a child or youth as defined in 42 USC 11434a, a former juvenile court school student, a child of a military family as defined in Education Code 49701, a migrant child as defined in Education Code 54441, or a newly arrived immigrant student who is participating in a newcomer program as defined in Education Code 51225.2, alleging BCOE noncompliance with requirements for the award of credit for coursework satisfactorily completed in another school, district, or country (Education Code 51225.2)
10. Any complaint alleging BCOE noncompliance with the requirements of Education Code 51228.1 and 51228.2 that prohibit the assignment of a student in grades 9-12 to a course without educational content for more than one week in any semester or to a course the student has previously satisfactorily completed, without meeting specified conditions (Education Code 51228.3)
11. Any complaint alleging BCOE noncompliance with the physical education instructional minutes requirements (Education Code 51210, 51222, 51223)
12. Complaint regarding Instructional Materials and Curriculum: Diversity (Education Code 243) A complaint alleging unlawful discrimination pursuant to Education Code 243 or 244 may, in addition to or in lieu of being filed with BCOE, be directly filed with the Superintendent of Public Instruction (SPI)
13. Complaints regarding school or athletic team names, mascots, or nicknames pursuant to Education Code 221.3
14. Complaints regarding a license-exempt California State Preschool Program's noncompliance with health and safety standards specified in Health and Safety Code 1596.7925 and related state regulations (Education Code 8235.5; Health and Safety Code 1596.7925)
15. Any complaint alleging retaliation against a complainant or other participant in the complaint process or anyone who has acted to uncover or report a violation subject to this policy
16. Any other state or federal education program, the State Superintendent of Public Instruction (SSPI) or designee deems appropriate

At its discretion, BCOE may use the UCP for any other type of complaint as specified in a BCOE policy or regulation. (5 CCR 4610)

All complainants shall be protected from retaliation, and the confidentiality of the parties shall be protected whenever possible and when required by law.

Records of all UCP complaints and the investigations of those complaints are to be maintained in accordance with applicable law and County Superintendent policies and procedures.

The County Superintendent or designee shall provide annual notification to BCOE staff, students, parents/guardians, advisory committees to ensure awareness and knowledge of current law and requirements related to UCP. This information may be made available on BCOE's website.

Non-UCP Complaints

The following complaints shall not be subject to the BCOE's UCP but shall be referred to the specified policy, agency, or through an alternative process: (5 CCR 4611)

1. Any complaint alleging child abuse or neglect shall be referred to the County Department of Social Services Protective Services Division and the appropriate law enforcement agency
2. Any complaint alleging health and safety violations by a child development program shall, for licensed facilities,

be referred to the Department of Social Services

3. Any complaint alleging fraud shall be referred to the Legal, Audits and Compliance Branch of the California Department of Education
4. Any complaint alleging employment discrimination or harassment shall be resolved in accordance with the procedures specified in the applicable Superintendent's Policy and may be filed with the California Civil Rights Department (CRD)
5. Any complaint alleging that a student, while in an education program or activity, was subjected to sexual harassment, as defined in 34 CFR 106.30 shall be addressed through the Title IX complaint procedures as specified in Superintendent's Administrative Regulation AR 5145.71
6. Any complaint alleging a violation of a state or federal law or regulation related to special education, a settlement agreement related to the provision of a free appropriate public education (FAPE), failure or refusal to implement a due process hearing order to which the Butte County Office of Education is subject, or a physical safety concern that interferes with the County Office's provision of FAPE shall be submitted to the California Department of Education (CDE) (5CCR 3200-3205)
7. Any complaint alleging noncompliance of BCOE's food service program with laws regarding meal counting and claiming, reimbursable meals, eligibility of children or adults, or use of cafeteria funds and allowable expenses shall be filed with or referred to CDE in accordance with SP 3555 - Nutrition Program Compliance (5 CCR 15580-15584)
8. Any complaint alleging discrimination based on race, color, national origin, sex, age, or disability in BCOE's food service program shall be filed with or referred to the U.S. Department of Agriculture in accordance with SP 3555 - Nutrition Program Compliance (5 CCR 15582)
9. Any complaint related to sufficiency of textbooks or instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff, or teacher vacancies and misassignments shall be investigated and resolved in accordance with AR 1312.4 - Williams Uniform Complaint Procedures administrative regulations (Education Code 35186)

Legal Reference:
EDUCATION CODE
200-262.4 Prohibition of discrimination, especially:
222 Reasonable accommodations; lactating students
8200-8498 Child care and development programs
8500-8538 Adult basic education
18100-18203 School libraries
32280-32289.5 School Safety Plans
33315 Uniform complaint procedures
35186 Williams uniform complaint procedures
46015 Parental leave for students
48645.7 Juvenile court schools
48853-48853.5 Foster youth
48900.5 Suspension; other means of correction
48985 Notices in language other than English
49010-49014 Student fees
49060-49079 Student records, especially:
49069.5 Records of foster youth
49490-49590 Child nutrition programs
49701 Interstate Compact on Educational Opportunity for Military Children
51204.5 Social sciences instruction; contributions of specified groups
51210 Courses of study grades 1-6
51222 Physical education, secondary schools
51223 Physical education, elementary schools
51225.1-51225.25 Foster youth, homeless children, former juvenile court school students, military-connected students, migrant students, and newly arrived immigrant students; course credits; graduation requirements

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51226-51226.1 Career technical education
51228.1-51228.3 Course periods without educational content
51501 Nondiscriminatory subject matter
52059.5 Statewide system of support
52060-52077 Local control and accountability plan, especially:
52075 Complaint for lack of compliance with local control and accountability plan requirements
52300-52462 Career technical education
52500-52617 Adult schools
52800-52870 School-based program coordination
54400-54425 Compensatory education programs
54440-54445 Migrant education
54460-54529 Compensatory education programs
59000-59300 Special schools and centers
60010 Instructional materials; definition
60040-60052 Requirements for instructional materials
64000-64001 Consolidated application process
65000-65001 School site councils

GOVERNMENT CODE
11135 Nondiscrimination in programs or activities funded by state
12900-12996 Fair Employment and Housing Act

HEALTH AND SAFETY CODE
1596.792 California child Day Care Act; general provisions and definitions
1596.7925 California Child Day Care Act; health and safety regulations

PENAL CODE
422.55 Hate crime; definition
422.6 Interference with constitutional right or privilege

CODE OF REGULATIONS, TITLE 2
11023 Harassment and discrimination prevention and correction

CODE OF REGULATIONS, TITLE 5
3080 Application of section
3200-3205 Special Education Compliance complaints
4600-4670 Uniform complaint procedures
4680-4687 Williams uniform complaint procedures
4690-4694 Complaints regarding health and safety issues in license-exempt preschool programs
4900-4965 Nondiscrimination in elementary and secondary education programs

UNITED STATES CODE, TITLE 20
1221 Application of laws
1232g Family Educational Rights and Privacy Act
1681-1688 Title IX of the Education Amendments of 1972 6301-6577 Title I basic programs
6301-6576 Title I Improving the Academic Achievement of the Disadvantaged
6801-7014 Title III language instruction for limited English proficient and immigrant students

UNITED STATES CODE, TITLE 29
794 Section 504 of Rehabilitation Act of 1973

UNITED STATES CODE, TITLE 42
2000d-2000e-17 Title VI and Title VII Civil Rights Act of 1964, as amended
2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964
6101-6107 Age Discrimination Act of 1975
11431-11435 McKinney-Vento Homeless Assistance Act

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12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 28
35.107 Nondiscrimination on basis of disability; complaints

CODE OF FEDERAL REGULATIONS, TITLE 34
99.1-99.67 Family Educational Rights and Privacy Act
100.3 Prohibition of discrimination on basis of race, color or national origin
104.7 Designation of responsible employee for Section 504
106.1-106.82 Nondiscrimination on the basis of sex in education programs
Designation of responsible employee for Title IX
Notification of nondiscrimination on basis of sex
110.25 Notification of nondiscrimination on the basis of age

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Butte County Office of Education

SUPERINTENDENT'S POLICY AND ADMINISTRATIVE REGULATIONS

AR 1312.3

UNIFORM COMPLAINT PROCEDURES

Except as the County Superintendent may otherwise specifically provide in other Butte County Office of Education (BCOE) policies, these Uniform Complaint Procedures (UCP) shall be used to investigate and resolve only the complaints specified in SP 1312.3.

Overview

This policy contains rules and instructions about the filing, investigation, and resolution of a UCP complaint regarding an alleged violation by BCOE of federal or state laws or regulations governing educational programs.

A UCP complaint is a written statement alleging a violation of federal or state laws or regulations, which may include an allegation of unlawful discrimination, harassment, intimidation, or bullying. Unless filed anonymously as permitted by law, a UCP complaint must be signed by the complainant. A signature may be handwritten, typed (including in an email), or electronically generated.

A UCP complaint alleging a violation of the rights of a specific, individually identified student may only be filed by that student or that student's duly authorized representative. This limitation does not apply to complaints filed by any individual, public agency, or organization alleging a systemic violation of federal or state laws or regulations affecting a class of students or the general public.

A complainant is any individual, public agency, or organization—including a person's duly authorized representative or an interested third party—that files a written complaint alleging violation of federal or state laws or regulations, including allegations of unlawful discrimination, harassment, intimidation or bullying in programs and activities funded directly by the state or receiving any financial assistance from the state.

Compliance Officers

BCOE designates the individual, position, or unit identified below as responsible for receiving, investigating, and coordinating BCOE's response to complaints and for complying with state and federal civil rights laws. The individual also serves as the compliance officer specified in AR 5145.3 - Nondiscrimination/Harassment, as the responsible employee to handle complaints regarding unlawful discrimination, harassment, intimidation, or bullying, and in AR 5145.7 – Sexual Harassment, as responsible for handling complaints regarding sexual harassment.

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The compliance officer who receives a complaint may assign another compliance officer to investigate and resolve a complaint. The compliance officer shall promptly notify the complainant and respondent if another compliance officer is assigned to the complaint.

In no instance shall a compliance officer be designated to investigate a complaint if they are mentioned in the complaint or have a perceptible bias or a conflict of interest that would prohibit them from fairly investigating and resolving the complaint. Any complaint filed against a compliance officer or that raises a concern about the compliance officer's ability to investigate the complaint fairly and without bias shall be filed with the County Superintendent or designee who shall determine how the complaint is investigated.

The County Superintendent or designee shall ensure that employees designated to investigate complaints receive training and are knowledgeable about the laws and programs at issue in the complaint for which they are assigned to investigate. Training provided to such designated employees shall cover steps and timelines specified in this administrative regulation, current state and federal laws and regulations governing the program; applicable processes

for investigating and resolving complaints, including those alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying); applicable standards for reaching decisions on complaints; and appropriate corrective measures. Assigned employees may have access to legal counsel as determined by the County Superintendent or designee.

The compliance officer or, if necessary, any appropriate administrator shall determine whether interim measures are necessary during and pending the results of an investigation. If interim measures are determined to be necessary, the compliance officer or the administrator shall consult with the County Superintendent, the County Superintendent's designee, or, if appropriate, the principal or program administrator to implement one or more interim measures. The interim measures shall remain in place until the compliance officer determines that they are no longer necessary or until BCOE issues its final written decision, whichever occurs first.

Notifications

BCOE's uniform complaint policy and administrative regulation shall be posted in all BCOE schools and offices, including staff lounges and student government meeting rooms and BCOE's website. (Education Code 234.1) If fifteen (15) percent or more of students enrolled in a particular BCOE program speak a single primary language other than English, BCOE's policy, regulation, forms, and notices concerning uniform complaint procedures shall be translated into that language. (Education Code 48985) In all other instances, BCOE shall provide meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

The County Superintendent or designee shall annually provide written notification of BCOE's UCP to students, employees, parents/guardians of students, county office advisory committee members, school advisory committee members, appropriate private school officials or representatives, and other interested parties, as applicable. (5 CCR 4622)

The notice shall include but not limited to all of the following:

1. The title of the position responsible for processing complaints, the identity of the person(s) currently occupying the position, if known, and a statement that such person(s) will be knowledgeable about the laws and programs they are assigned to investigate
2. Include statements that:
    a. BCOE has the primary responsibility to ensure compliance with state and federal laws and regulations governing educational programs, including those related to the prohibition of unlawful discrimination, harassment, intimidation, or bullying against any protected group and a list of all programs and activities that are subject to the UCP as identified in the section above entitled "Complaints Subject to UCP".
    b. A UCP complaint, except a complaint alleging unlawful discrimination, harassment, intimidation, or bullying, must be filed no later than one (1) year from the date the alleged violation occurred
    c. A UCP complaint alleging unlawful discrimination, harassment, intimidation, or bullying must be filed no later than six (6) months from the date the alleged conduct or the date the complainant first obtained knowledge of the facts of the alleged conduct
    d. A student enrolled in a public school shall not be required to pay a fee for their participation in an educational activity that constitutes an integral fundamental part of the county office's educational program, including curricular and extracurricular activities
    e. The County Board is required to adopt and annually update a local control and accountability plan (LCAP), in a manner that includes meaningful engagement of parents/guardians, students, and other community members in the development and/or review of the LCAP, and that any complaint regarding student fees or the LCAP may be filed anonymously if the complainant provides evidence or information leading to evidence to support the complaint
    f. BCOE will post a standardized notice of the educational and graduation requirements of foster youth, students experiencing homelessness, children of military families, former juvenile court school students now enrolled with the COE, students who are migratory, and students enrolled in a newcomer program, as specified in Education Code 48645.7,48853, 48853.5, 49069.5, 51225.1, and 51225.2, and the complaint process

g. Complaints will be investigated in accordance with BCOE's UCP, and a written decision will be sent to the complainant within sixty (60) days from the date of receipt of the complaint, unless the complainant agrees in writing to an extension of the timeline
h. For programs within the scope of the UCP, as specified in the UCP Policy, the complainant has a right to appeal BCOE's investigation report to the California Department of Education (CDE) by filing a written appeal, including a copy of the original complaint and BCOE's decision, within thirty (30) calendar days of receiving BCOE's decision
i. The complainant may have civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders under state or federal laws prohibiting discrimination, harassment, intimidation, or bullying
j. Copies of BCOE's UCP are available free of charge

The annual notification, complete contact information for the compliance officer, and any other information related to Title IX as required by Education Code 221.61 and 34 CFR 106.8, shall be posted on the BCOE website, published in handbooks or catalogs, and, if available, may be provided through BCOE-supported social media.

Step 1: Filing a Complaint
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 site administrator not designated as a compliance officer receives a complaint, the site administrator shall notify the compliance officer.

All complaints shall be filed in writing and signed by the complainant. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, BCOE staff shall assist in the filing of the complaint. (5 CCR 4600)

Complaints shall also be filed in accordance with the following rules, as applicable:

1. Any individual, public agency or organization may file a complaint of alleged violation by BCOE with federal or state laws or regulations governing the programs as specified in the accompanying Superintendent's Policy 1312.3 (5 CCR 4600)
2. A complaint alleging a violation of the prohibition against student fees, deposits, and charges or any requirement related to the LCAP may be filed anonymously if the complainant provides evidence or information leading to evidence to support the allegation of non-compliance (Education Code 49013, 52075)

   A complaint about a violation of the prohibition against the charging of unlawful student fees may be filed with the County Superintendent, principal, or program administrator, or designee. However, any such complaint shall be filed no later than one year from the date the alleged violation occurred (Education Code 49013)
3. A UCP complaint, except a complaint alleging unlawful discrimination, harassment, intimidation, or bullying, must be filed no later than one (1) year from the date the alleged violation occurred (5 CCR 4630)

   For complaints related to the LCAP, the date of alleged violation is the date when the County Superintendent of Schools approves the LCAP (5 CCR 4630)
4. Complaints alleging unlawful discrimination, harassment, intimidation, or bullying may only be filed by a person who alleges having personally suffered unlawful discrimination, or by a person who believes that any specific class of individuals has been subjected to unlawful discrimination, or a duly authorized representative who alleges that an individual student has been subjected to discrimination, harassment, intimidation, or bullying (5 CCR 4630)
5. A complaint alleging unlawful discrimination, harassment, intimidation, or bullying shall be initiated no later than six (6) months from the date when the alleged discrimination occurred or six (6) months from the date when the complainant first obtained knowledge of the facts of the alleged unlawful discrimination. (5 CCR 4630)

   Upon written request setting forth the reason(s) for the request, the County Superintendent or designee, for good cause, may extend the filing period for up to ninety (90) calendar days. (5 CCR 4630)
6. When a complaint alleging unlawful discrimination, harassment, intimidation, or bullying is filed anonymously,

the compliance officer shall pursue an investigation or other response as appropriate, depending on the specificity and reliability of the information provided and the seriousness of the allegation

7. When the complainant of unlawful discrimination, harassment, intimidation, or bullying or the alleged victim, when not the complainant, requests confidentiality, the compliance officer shall inform the complainant that the request may limit the county office's ability to investigate the conduct or take other necessary action

   When honoring a request for confidentiality, BCOE will nevertheless take all reasonable steps to investigate and resolve/respond to the complaint consistent with the request
8. A complaint alleging discriminatory bias in instruction or BCOE-sponsored activities does not require a showing of direct harm to members of a protected group and members of a protected group need not be present while the discriminatory bias is occurring for the act to be considered discriminatory bias

For complaints alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) BCOE shall inform the respondent when the complainant agrees to an extension of the timeline for investigating and resolving the complaint. Compliance officers shall maintain a record of each complaint and subsequent related actions, including the steps taken during the investigation of those complaints, including all information required for compliance with 5 CCR 4631 and 4633. All records shall be destroyed in accordance with state law and BCOE policy.

All parties involved in the allegations shall be notified when a complaint is filed, and when a decision or ruling is made. However, the compliance officer shall keep all complaints or allegations of retaliation, and unlawful discrimination, harassment, intimidation, or bullying confidential except when disclosure is necessary to carry out the investigation, take subsequent corrective action, conduct ongoing monitoring, or maintain the integrity of the process. (5 CCR 4630, 4964)

Step 2: Mediation
Within three (3) business days of receiving the complaint, the compliance officer may informally discuss with the parties the possibility of using mediation. Meditation shall be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint involving an allegation of a sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. If the parties agree to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a complaint alleging retaliation, unlawful discrimination, harassment, intimidation, or bullying, the compliance officer shall ensure that all parties agree to make the mediator a party to relevant confidential information. The compliance officer shall notify all parties of the right to end the informal process at any time.

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

The use of mediation shall not extend BCOE's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such extension of time. If mediation is successful and the complaint is withdrawn, then BCOE shall take only the actions agreed to through the mediation. If mediation is unsuccessful, BCOE shall then continue with subsequent steps specified in this administrative regulation.

Step 3: Investigation of Complaint
Within ten (10) business days after the compliance officer receives the complaint, the compliance officer shall begin an investigation of the complaint.

Within three (3) business days of initiating the investigation, the compliance officer shall notify the complainant and/or their representative of the opportunity to present to the compliance officer any evidence or information leading to evidence to support the allegations in the complaint. Such evidence or information may be presented at any time during the investigation. (5 CCR 4631)

In conducting the investigation, the compliance officer shall collect all available documents and review all available

records, notes, or statements related to the complaint, including any additional evidence or information received from the parties during the course of the investigation. The compliance officer shall individually interview all available witnesses with information pertinent to the complaint, and may visit any reasonably accessible location where the relevant actions are alleged to have taken place. At appropriate intervals, the compliance officer shall inform the parties of the status of the investigation.

To investigate a complaint alleging discriminatory bias in instruction or BCOE-sponsored activities, the compliance officer is not required to interview members of the protected class.

To investigate a complaint alleging retaliation or unlawful discrimination, harassment, intimidation, or bullying, the compliance officer shall interview the alleged victim(s), any alleged offender(s), and other relevant witnesses privately, separately, and in a confidential manner. As necessary, additional staff or legal counsel may conduct or support the investigation.

A complainant's refusal to provide BCOE's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or engagement in any other obstruction of the investigation may result in the dismissal of the complaint. Similarly, a respondent's refusal to provide BCOE's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or engagement in any other obstruction of the investigation may result in a finding, based on evidence collected, that a violation has occurred and in the imposition of a remedy in favor of the complainant. (5 CCR 4631)

BCOE shall provide the investigator in accordance with law, access to records and/or other information related to the allegation in the complaint. Failure or refusal by BCOE 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)

The compliance officer shall apply a "preponderance of the evidence" standard in determining the veracity of the factual allegations in a complaint. This standard is met if the allegation is more likely to be true than not.

Step 4: Investigation Timeline
Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant a written report of BCOE's investigation and decision, as described in Step #5 below, within sixty (60) calendar days of BCOE's receipt of the complaint. (5 CCR 4631)

Step 5: Final Written Decision
In consultation with BCOE's legal counsel, information about the relevant part of a decision may be communicated to a victim who is not the complainant and to other parties who may be involved in implementing the decision or are affected by the complaint, as long as the privacy of the parties is protected.

In a complaint alleging unlawful discrimination as described herein, notice of BCOE's decision to the alleged victim, may following consultation with legal counsel, include information about any sanctions to be imposed upon the respondent that relates directly to the alleged victim.

For all complaints, BCOE's investigation report shall include: (5 CCR 4531):

1. The findings of fact based on the evidence gathered
   In reaching a factual determination, the following factors may be taken into account:
   a. statements made by any witnesses
   b. the relative credibility of the individuals involved
   c. how the complaining individual reacted to the incident
   d. any documentary or other evidence relating to the alleged conduct
   e. past instances of similar conduct by any alleged offenders

f. past false allegations made by the complainant

2. The conclusion providing a clear determination for each allegation as to whether BCOE is in compliance with the relevant law
3. Corrective action(s), whenever BCOE finds merit in the complaint, including any actions that have been taken or will be taken to address the allegations in the complaint and including, with respect to a student fees complaint, a remedy that comports with Education Code 49013 and 5 CCR 4600

   For complaints of unlawful discrimination, including discrimination, harassment,intimidation, or bullying, the decision may, as required by law, include:

   a. The corrective actions imposed on the individual found to have engaged in the conduct that relate directly to the subject of the complaint
   b. Individual remedies offered or provided to the complainant or another person who was the subject of the complaint
   c. Systemic measures the school has taken to eliminate a hostile environment and prevent recurrence
4. Notice of the complainant's right to appeal BCOE's decision to the CDE, except when BCOE has used the UCP to address a complaint not specified in 5 CCR 4610
5. Procedures to be followed for initiating an appeal to CDE

The decision may also include follow-up procedures to prevent recurrence or retaliation and forreporting any subsequent problems.

If the complaint involves a limited-English-proficient (LEP) student or parent/guardian, then BCOE's response, if requested by the complainant, and the investigation report shall be written in English and the primary language in which the complaint was filed.

For complaints alleging unlawful discrimination based on state law, including discrimination, harassment, intimidation, or bullying based on state law, the decision shall also include a notice to the complainant that:

1. The complainant may pursue available civil law remedies outside of the BCOE's complaint procedures, including, but not limited to, injunctions, restraining orders, or other remedies or orders sixty (60) calendar days after the filing of an appeal with the CDE (EducationCode 262.3)
2. The sixty (60) day moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law (Education Code 262.3)
3. Complaints alleging discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the US Department of Education's Office for Civil Rights at www.ed.gov/ocr within 180 days of the alleged discrimination

Corrective Actions

When a complaint is found to have merit, the compliance officer shall adopt any appropriate corrective action permitted by law. Appropriate corrective actions that focus on the larger school or BCOE's environment may include, but are not limited to, actions to reinforce BCOE policies; training for faculty, staff, and students; updates to school policies or procedures; or school climate surveys.

For complaints involving retaliation, unlawful discrimination, harassment, intimidation or bullying, appropriate corrective actions that focus on the student victim (but not communicated to the respondent) may include, but are not limited to, providing the following:

1. Counseling
2. Academic support
3. Health services
4. Assigning an escort to allow the victim to move safely about campus
5. Information regarding available resources and how to report similar incidents or retaliation
6. Separating the victim from any other individuals involved, provided the separation does not penalize the victim
7. Restorative justice

8. Making follow-up inquiries to ensure that the conduct has stopped and there has been no retaliation

For complaints involving retaliation unlawful discrimination, harassment, intimidation, or bullying, appropriate corrective actions that focus on a student offender may include, but are not limited to, the following:

1. Transfer from a class or school as permitted by law
2. Parent/guardian conference
3. Education regarding the impact of the conduct on other
4. Positive behavior support
5. Referral to a student success team
6. Denial of participation in extracurricular or co-curricular activities or other privilegesas permitted by law
7. Disciplinary action, such as suspension or expulsion, as permitted by law.

When an employee is found to have committed retaliation or unlawful discrimination, harassment, intimidation, or bullying, BCOE shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and applicable collective bargaining agreement.

BCOE may also consider training and other interventions for the larger school community to ensure that students, staff, and parents/guardians understand the types of behavior that constitute unlawful discrimination, harassment, intimidation, or bullying, that BCOE does not tolerate it, and how to report and respond to it.

If the County Board of Education knows or has reason to know that materials were used in a classroom, staff development materials or services were used, or an action occurred which subjected an individual to unlawful discrimination pursuant to Education code 220, the County Superintendent or designee shall remediate the action, which may include, but is not limited to, implementation of restorative justice practices.

Additionally, if the Board of Education is notified by the Superintendent of Public Instruction (SPI) that BCOE has violated Education Code 244 related to the adoption, approval, or use of any textbook, instructional material, supplemental instructional material, staff development material, or curriculum for classroom instruction, BCOE shall implement any required corrective actions as soon as possible and no later than the beginning of the next school year.

If it is determined that any textbook instructional material, supplemental instructional material, staff development material, or curriculum provided by an organization has violated Education Code 244, BCOE shall notify the organization that corrective action is required unless the SPI has already done so. If corrective action is not taken within 60 days, CDE may use any means authorized by law to effect compliance. When a complaint is found to have merit, an appropriate remedy shall be provided to the complainant or other affected person.

However, if a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges, courses without educational content, physical education instructional minutes for students in grades K-6, or any requirement related to the LCAP is found to have merit, BCOE shall provide a remedy to all affected students and parents/guardians subject to procedures established by regulation of the State Board of Education. (Education Code 49013, 51223, 51228.3, 52075)

For complaints alleging noncompliance with the laws regarding student fees, such remedies, where applicable, shall include reasonable efforts to identify and fully reimburse all affected students and parents/guardians who paid the unlawful student fees within one year prior to filing the complaint. (Education Code 49013, 5 CCR 4600)

Appeals to the California Department of Education

Any complainant who is dissatisfied with BCOE's investigation report on a complaint regarding any specified state or federal education program subject to UCP, may appeal in writing to the CDE within thirty (30) calendar days of receiving BCOE's decision. (5 CCR 4632)

When a respondent in any complaint alleging unlawful discrimination, harassment, intimidation, and bullying is

dissatisfied with BCOE's final decision, they may, in the same manner as the complainant, file an appeal with the CDE.

When appealing to the CDE, the complainant must include a copy of the locally filed complaint and a copy of BCOE's decision and specify the basis for the appeal, including at least one of the following: (5CCR 4632)

1. BCOE failed to follow its complaint procedures
2. Relative to the allegations of the complaint, BCOE's written decision lacks material findings of fact necessary to reach a conclusion of law
3. The material findings of fact in BCOE's investigation report are not supported by substantial evidence
4. The legal conclusion in BCOE's investigation report is inconsistent with the law
5. In a case in which BCOE found noncompliance, the corrective actions fail to provide a proper remedy

Additionally, for complaints alleging unlawful discrimination, the complainant may file an appeal directly with the SPI if BCOE fails to issue an investigation report within the timeline specified above. When the complainant is appealing a complaint on these grounds directly to the SPI, the complainant shall present evidence that supports the basis for the direct filing and why immediate action is necessary.

Upon notification by the CDE that the complainant has appealed the decision by BCOE, the County Superintendent or designee shall forward the following documents to the CDE within ten (10) days of the date of notification:

1. A copy of the original complaint
2. A copy of the decision
3. A copy of the investigation file, including but not limited to all notes, interviews, anddocuments submitted by the parties and gathered by the investigator
4. A report of any action taken to resolve the complaint
5. A copy of BCOE's UCP
6. Other relevant information requested by the CDE (5 CCR 4633)

If notified by CDE that BCOE's investigation report failed to address allegations(s) raised by the complaint, BCOE shall, within twenty (20) days of the notification, provide CDE and the appellant with an amended investigation report that addresses the allegation(s) that were not addressed in the original investigation report. The amended report shall also inform the appellant of the right to separately appeal the amended report with respect to the allegation(s) that were not addressed in the original report. (5 CCR 4632)

The CDE may directly intervene in the complaint without waiting for action by BCOE when one of the conditions listed in 5 CCR 4650 exists, including when BCOE has not taken action within sixty (60) calendar days of the date the complaint was filed with BCOE.

Health and Safety Complaints in License-Exempt Preschool Programs

Any complaint regarding health or safety issues in a license-exempt California State Preschool Program (CSPP) shall be addressed through the procedures described in 5 CCR 4690-4694.

In order to identify appropriate subjects of CSPP health and safety issues pursuant to Health and Safety Code 1596.7925, a notice shall be posted in each BCOE license-exempt CSPP classroom notifying parents/guardians, students, and teachers of the health and safety requirements of Title 5 regulations that apply to CSPP programs pursuant to Health and Safety Code 1596.7925 and the location at which to obtain a form to file any complaint alleging noncompliance with those requirements. For this purpose, the Superintendent or designee may download and post a notice available from CDE's website. (Education Code 8212; 5 CCR 4691)

BCOE's annual UCP notification distributed pursuant to 5 CCR 4622 shall clearly indicate which of its CSPP programs are operating as exempt from licensing and which CSPP programs are operating pursuant to requirements under Title 22 of the Code of Regulations. (5 CCR 4691)

Any complaint regarding specified health or safety issues in a license-exempt CSPP program, pursuant to HSC Section 1596.7925, shall be filed with the Senior Director-EEPS or designee, and may be filed anonymously. The complaint form shall specify the location for filing the complaint, contain a space to indicate whether the complainant desires a response to the complaint, and allow a complainant to add as much text as desired to explain the complaint. (Education Code 8212; 5 CCR 4690)

If it is determined that the complaint is beyond the authority of the Senior Director-EEPS, the matter shall be forwarded to the Uniform Complaint Officer or designee in a timely manner, not to exceed 10 working days, for resolution. The Senior Director-EEPS, or the Uniform Complaint Officer or designee, shall make all reasonable efforts to investigate any complaint within their authority. (Education Code 8212; 5 CCR 4692)

Investigation of a complaint regarding health or safety issues in a license-exempt CSPP program shall begin within 10 days of receipt of the complaint. (Education Code 8212; 5 CCR 4692)

The Senior Director-EEPS or designee shall remedy a valid complaint within a reasonable time period not to exceed 30 working days from the date the complaint was received. If the complainant has indicated on the complaint form a desire to receive a response to the complaint, the Senior Director-EEPS, or the Uniform Complaint Officer or designee shall, within 45 working days of the initial filing of the complaint, report the resolution of the complaint to the complainant and CDE's assigned field consultant. If the Senior Director-EEPS makes this report, the information shall be reported at the same time to the Uniform Complaint Officer or designee and County Superintendent. (Education Code 8212; 5 CCR 4692)

If a complaint regarding health or safety issues in a license-exempt CSPP program involves an LEP student or parent/guardian, then BCOE's response, if requested by the complainant, and the investigation report shall be written in English and the primary language in which the complaint was filed.

If a complainant is not satisfied with the resolution of a complaint, the complainant has the right to describe the complaint to the County Superintendent or designee, within 30 days of the date of the written report and may file a written appeal of the BCOE's decision to the Superintendent of Public Instruction (SSPI) in accordance with 5 CCR 4632. (Education Code 8212; 5 CCR 4693, 4694)

The complainant shall comply with the same appeal requirements of 5 CCR section 4632 as in the section above UCP Complaint Appeal Process.

The complainant shall include a copy of the Investigation Report and specify and explain the basis for the appeal, including at least one of the following:

- The Senior Director-EEPS or Uniform Complaint Officer or the designee of the County Superintendent who failed to follow its complaint procedures, and/or
- The Investigation Report lacks material findings of fact necessary to reach a conclusion of law, and/or
- Material findings of fact in the Investigation Report are not supported by substantial evidence, and/or
- The legal conclusion in the Investigation Report is inconsistent with the law, and/or
- If the preschool program is found noncompliant, the corrective actions fail to provide a proper remedy

The SSPI or designee shall comply with the requirements of 5 CCR Section 4633 and shall provide a written Investigation Report to the State Board of Education describing the basis for the complaint, the response to the state preschool health and safety issues pursuant to HSC Section 1596.7925 complaint and its remedy or proposed remedy and, as appropriate, a proposed remedy for the issue described in the complaint, if different from BCOE's remedy.

All complaints and responses are public records. (5 CCR 4690)

On a quarterly basis, the Uniform Complaint Officer or designee shall report summarized data on the nature and resolution of all CSPP health and safety complaints, including the number of complaints by general subject area, with the

number of resolved and unresolved complaints to the County Superintendent. (5 CCR 4693)

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