

# 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 Board encourages the early resolution of complaints whenever possible. To resolve complaints which may require a more formal process, the County Board 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 the following complaints:

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, federal career technical education, child care and development programs, compensatory education, consolidated categorical aid programs, the federal Every Student Succeeds Act, migrant education, Regional Occupational Centers and Programs, school safety plans, 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 (such as discriminatory 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, parental status, physical or mental disability, medical condition, sex, sexual orientation, sex stereotypes, gender, gender identity, gender expression, or 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)

Complaints of employment discrimination and harassment are not subject to the UCP (see below) but may be addressed in accordance to 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

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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 transfers after the second year of high school and is a homeless student as defined in 42 USC 11434a, a former juvenile court school student as defined in Education Code 51225.2, a child of a military family as defined in Education Code 49701, or a migrant student as defined in Education Code 54441, or by or on behalf of an immigrant student participating in a newcomer program as defined in Education Code 51225.2 in the third or fourth year of high school, alleging BCOE noncompliance with any requirement applicable to the student regarding the grant of an exemption from any graduation requirements beyond state requirements (Education Code 51225.1)
10. Any complaint, by or on behalf of a student who is a homeless 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)
11. 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)
12. Any complaint alleging BCOE noncompliance with the physical education instructional minutes requirements (Education Code 51210, 51222, 51223)
13. 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)
14. 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
15. 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)

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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.

#### **Non-UCP Complaints**

The following complaints shall not be subject to the BCOE's UCP but shall be referred to the specified policy or agency: (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 and may, for license-exempt facilities, be referred to the appropriate Child Development regional administrator.
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)

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

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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

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

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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

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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### **AR 1312.3**

#### **UNIFORM COMPLAINT PROCEDURES**

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

#### **Compliance Officers**

The County Superintendent designates the following compliance officer(s) to receive and investigate complaints and ensure Butte County of Education (BCOE) compliance with law:

Mikeial Williamson  
Assistant Superintendent – Human Resources  
1859 Bird Street Oroville, CA 95965  
530-532-5650  
mwilliamson@bcoe.org

BCOE designates the individual, position, or unit identified above as responsible for 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, and in AR 5145.7 – Sexual Harassment, as responsible for handling complaints regarding sexual harassment. The County Superintendent or designee shall ensure that employees designated to investigate complaints are knowledgeable about the laws and programs at issue in the complaint for which they are assigned to investigate. Assigned employees may have access to legal counsel as determined by the County Superintendent or designee.

Training provided to such designated employees may include the steps and timelines specified in this administrative regulation, current state and federal laws and regulations governing the program, applicable processes for investigating complaints, including those involving alleged unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), applicable standards for reaching decisions on complaints, and appropriate corrective measures.

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.

In no instance shall a compliance officer be designated to investigate a complaint if they are mentioned in the complaint or has a perceptible bias or a conflict of interest that would prohibit them from fairly investigating 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.

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### Notifications

BCOE's uniform complaint policy and regulation shall be posted in all BCOE schools and offices, including staff lounges and student government meeting rooms. 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 234.1, 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 including requirements related to student fees, local control accountability plans, and the educational rights of foster and homeless students and children of military families, to students, employees, parents/guardians, school advisory committees, appropriate private school officials or representatives, and other interested parties. (Education Code 262.3, 48853, 48853.5, 49013, 49069.5, 51225.1, 51225.2, 52075, 5 CCR 4622)

The annual notification and contact information for the compliance officer, and any other information related to Title IX as required by Education Code 221.61, shall be posted on the BCOE web site and, if available, may be provided through BCOE supported social media.

The notice shall:

1. Identify the staff person(s), position(s), or unit(s) responsible for receiving complaints.
2. Advise the complainant of any civil law remedies, including but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal discrimination laws, if applicable.
3. Advise the complainant of the appeal process, including, if applicable, 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, such as the U. S. Department of Education's Office for Civil Rights ("OCR") in cases involving unlawful discrimination.
4. Include statements that:
  - a. BCOE has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs, including those related to prohibition of unlawful discrimination, harassment, intimidation, or bullying against any protected group and all programs and activities that are subject to the UCP as identified in the section above entitled "Complaints Subject to UCP".
  - b. The complaint review shall be completed within sixty (60) calendar days from the date of receipt of the complaint unless the complainant agrees in writing to an extension of the timeline.
  - c. 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, and that any such complaint must be filed no later than one year from the date of the alleged violation.

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- d. 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 stakeholders in the development and/or review of the LCAP, and that any complaint may be filed anonymously if the complainant provides evidence or information leading to evidence to support the complaint.
- e. A statement that BCOE post a standardized notice of the educational rights of foster youth, homeless students, children of military families, migrant students, and immigrant students enrolled in a newcomer program, as specified in Education Code 48853, 48853.5, 49069.5, 51225.1, and 51225.2, and of the complaint process.
- f. That the complainant has a right to appeal BCOE's decision to CDE by filing a written appeal, including a copy of the original complaint and BCOE's decision, within 30 days of receiving BCOE's decision
- g. Advising the complainant of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal antidiscrimination laws, if applicable
- h. That copies of BCOE's UCP are available free of charge.

#### **Procedures**

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.

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).

All complaints shall be investigated and a decision issued within sixty (60) calendar days of the receipt of the complaint by BCOE unless the complainant agrees in writing to an extension of the deadline. (5 CCR 4631)

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, (such as discriminatory 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)

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### **Step 1: Filing of Complaint**

Any individual, public agency or organization may file a written complaint, signed by the complainant, of alleged noncompliance by the BCOE with federal and state laws or regulations governing educational programs as specified in the accompanying Superintendent's Policy 1312.3. (5 CCR 4630)

A complaint alleging noncompliance with the law regarding the prohibition against requiring students to pay student fees, deposits, and charges, or any requirement related to the LCAP, may be filed anonymously if the complaint provides evidence, or information leading to evidence, to support an allegation of noncompliance.

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. However, any such complaint shall be filed no later than one year from the date the alleged violation occurred. (Education Code 49013, 52075; 5 CCR 4630)

Complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying under this policy, may only be filed by a person who alleges having 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 six (6) months from the date when the complainant first obtained knowledge of the facts of the alleged unlawful discrimination. 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)

When a complaint alleging unlawful discrimination (such as discriminatory 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.

When the complainant of unlawful discrimination (such as discriminatory 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 respond to the complaint consistent with the request.

### **Step 2: Mediation**

Within three (3) business days of receiving the complaint, the compliance officer may informally discuss with the complainant the possibility of using mediation. Mediation may 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 complainant agrees to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a complaint alleging retaliation, unlawful discrimination (such as discriminatory 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.

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If the mediation process does not resolve the problem 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 time lines 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, 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 retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the compliance officer shall interview the alleged victim(s), any alleged offenders, 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, or 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 because of a lack of evidence to support the allegation. 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.

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### **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 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)

For any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying), the respondent shall be informed of any extension of the timeline agreed to by the complainant. The respondent also shall be sent BCOE's final written decision at the same time it is provided to the complainant.

### **Step 5: Final Written Decision**

A report of BCOE's decision on how it will resolve the complaint shall be in writing and sent to the complainant. (5 CCR 4631)

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.

If the complaint involves a limited-English-proficient student or parent/guardian and the student involved attends a school at which 15 percent or more of the students speak a single primary language other than English, then the decision written in English shall also be translated into that language. In all other instances, BCOE shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

The decision shall include the following six elements:

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(s) of law (5 CCR 4631)

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.

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For complaints of unlawful discrimination, including discriminatory 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 within thirty (30) days of the investigation report and procedures to be followed for initiating such an appeal (5 CCR 4631)

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

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

1. The complainant may pursue available civil law remedies outside of the county office's complaint procedures, including, but not limited to, injunctions, restraining orders or other remedies or orders 60 calendar days after the filing of an appeal with the CDE (Education Code 262.3).
2. The 60 days 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 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 (such as discriminatory 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:

- a. Counseling
- b. Academic support
- c. Health services
- d. Assigning an escort to allow the victim to move safely about campus
- e. Information regarding available resources and how to report similar incidents or retaliation
- f. Separating the victim from any other individuals involved, provided the separation does not penalize the victim
- g. Restorative justice

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

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

- a. Transfer from a class or school as permitted by law
- b. Parent/guardian conference
- c. Education regarding the impact of the conduct on other
- d. Positive behavior support
- e. Referral to a student success team;
- f. Denial of participation in extracurricular or co-curricular activities or other privileges as permitted by law
- g. Disciplinary action, such as suspension or expulsion, as permitted by law.

When an employee is found to have committed retaliation or unlawful discrimination (such as discriminatory 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 (such as discriminatory harassment, intimidation, or bullying), that BCOE does not tolerate it, and how to report and respond to it.

When a complaint is found to have merit, an appropriate remedy shall be provided to the complainant or other affected person.

If a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges, 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, 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 final written decision on a complaint subject to the UCP, may appeal in writing to the CDE within thirty (30) calendar days of receiving BCOE's decision. (Education Code 222, 48853, 48853.5, 49013, 49069.5, 51223, 51225.1, 51225.2, 51228.3, 52017; 5 CCR 4632)

## Butte County Office of Education

### SUPERINTENDENT'S POLICY AND ADMINISTRATIVE REGULATIONS

When a respondent in any complaint alleging unlawful discrimination (such as discriminatory 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)

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

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 10 days of the date of notification:

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 BCOE, 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 BCOE's UCP
7. Other relevant information requested by the CDE (5 CCR 4633)

If notified by CDE that BCOE's investigation report failed to address allegation(s) raised by the complaint, BCOE shall, within 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.

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.

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