

Community Relations

UNIFORM COMPLAINT PROCEDURES

a. **Compliance Officers:**

The Governing Board of the Hesperia Unified School District designates the following compliance officers to receive and investigate complaints and to ensure District compliance with law:

Student and Parent Concerns: Director of Student Services, 244-4411, ext. 7316.

Hesperia Unified School District's hiring process: Director of Personnel, 244-4411, ext. 7331.

Section 504 of the Rehabilitation Act of 1973: Director of Special Services, 244-4411, ext. 7209.

The Superintendent or designee shall ensure that employees designated to investigate complaints are knowledgeable about the laws and programs for which they are responsible. Such employees may have access to legal counsel as determined by the Superintendent or designee. (cf. 9124- Attorney)

The compliance officer who receives a complaint may assign another compliance officer to investigate the complaint. The compliance officer shall promptly notify the complainant if another compliance officer is designated to investigate the complaint. In no instance shall a compliance officer be designated to investigate a complaint if he/she is mentioned in the complaint or has a conflict of interest that would prohibit him/her from fairly investigating the complaint. Any complaint filed against or implicating a compliance officer may be filed with the Superintendent or designee.

b. **Notifications**

The Superintendent or designee shall annually provide written notification of the District's uniform complaint procedure, including information regarding unlawful student fees and local control and accountability plan (LCAP) requirements, to its students, employees, parents/guardians, the District advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties. (Education Code 262.3, 49013, 52075; 5 CCR 4622).

The Superintendent or designee shall make available copies of the District's uniform complaint procedures, free of charge (5 CCR 4622).

The notice shall:

1. Identify person(s), position(s), or unit(s) responsible for receiving complaints;

UNIFORM COMPLAINT PROCEDURES (Continued)

2. Advise the complainant of any civil law remedies that may be available to him/her under state or federal discrimination laws, if applicable;
3. Advise the complainant of the appeal process pursuant to Education Code Section 262.3, including the complainant's right to take a complaint directly to the California Department of Education (CDE) or to pursue remedies before civil courts or other public agencies, such as the U.S. Department of Education's Office for Civil Rights (OCR) in cases involving unlawful discrimination;
4. Include statements that:
 - a. The District is primarily responsible for compliance with applicable state and federal laws and regulations governing educational programs;
 - 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. An unlawful discrimination, retaliation, or bullying complaint must be filed not later than six (6) months from the date the alleged discrimination occurs, or six (6) months from the date the complainant first obtains knowledge of the facts of the alleged discrimination. The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension;
 - d. A student enrolled in a public school shall not be required to pay a fee for his/her participation in an educational activity that constitutes an integral fundamental part of the District's educational program, including curricular and extracurricular activities;
 - e. The 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;
 - f. The complainant has the right to appeal the District's decision to the CDE by filing a written appeal within fifteen (15) calendar days of receiving the District's decision;
 - g. The appeal to the CDE must include a copy of the complaint filed with the District and a copy of the District's decision;
 - h. Copies of the District's UCP are available free of charge.

(cf.5145.6-Parental Notifications)

UNIFORM COMPLAINT PROCEDURES (Continued)

c. Procedures

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

All school personnel who are in receipt of a complaint (either written or verbal) that pertains to uniform complaint procedures shall immediately notify the site administrator.

It is the policy of Hesperia Unified School District to resolve all complaints as quickly as possible, while ensuring that all investigations are thorough.

Investigations of discrimination complaints shall be conducted in a manner that protects confidentiality of the parties, the facts, and maintains the integrity of the process. (5 CCR 4630)

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

The District shall use these uniform complaint procedures when addressing all complaints alleging unlawful discrimination as described in Board Policy BP 1312.3.

Step 1: Filing a Complaint

Any individual, public agency, or organization may file a written complaint of alleged non-compliance by the District. (5 CCR 4630) All employees will notify the Director of Student Services, the Director of Human Resources or the Director of Special Services if they observe or receive a report of behavior or circumstances that may constitute discrimination as described in Board Policy BP 1312.3.

Any complaint alleging noncompliance with law regarding the prohibition against requiring students to pay student fees, deposits, and charges or any legal 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. (EC 49013, 52075) A complaint alleging noncompliance with the prohibition against pupil fees shall be filed no later than one year from the date the alleged violation occurred.

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

UNIFORM COMPLAINT PROCEDURES (Continued)

The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension. (5 CCR 4630)

Complaint forms may be obtained from the office of the Director of Student Services.

The complaint shall be presented to the appropriate compliance officer/investigator, who then (within three working days) may assign it to himself or give it to the appropriate investigator selected from:

Superintendent

Assistant Superintendent-Personnel Services

Director-Personnel Services

Assistant Superintendent-Business Services

Assistant Superintendent-Innovative Technology and Communication

Assistant Superintendent-Educational Services

Director of Special Services

Director of Student Services

Director of Secondary Education Assessment

Director of Elementary Education and Categorical Programs

The appropriate compliance officer shall maintain a log of uniform complaints received, providing each with a code number and a date stamp. Complaints will be considered received, and the sixty (60) calendar day timeline initiated, when they are logged in the office of the compliance officer who initially issued the uniform complaint form. Complaints will be logged during normal business hours.

If a complainant is unable to put a complaint in writing due to conditions such as illiteracy or a disability, district staff shall help him/her to file the complaint (5 CCR 4600). The District will provide language interpretation for any complainant whenever feasible. If it is not feasible to provide a language interpreter, the District will arrange a meeting at which a community member will interpret for the complainant.

Step 2: Reconciliation

Within three (3) business days of receiving the complaint, the compliance officer shall work with the appropriate administrator or classified department director to resolve the concern at the appropriate level. The compliance officer may informally discuss with the complainant and all parties the possibility of resolving the concern. If the reconciliation process does not resolve the problem within the parameters of law, the compliance officer shall proceed with his/her investigation of the complaint. The use of reconciliation shall not extend the District's time lines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time. (5 CCR 4631).

UNIFORM COMPLAINT PROCEDURES (Continued)

Step 3: Investigation of Complaint

The District's compliance officer/investigator shall hold an investigative meeting within five (5) business days of receiving the complaint or an unsuccessful attempt to reconcile the complaint. This meeting shall provide an opportunity for the complainant and/or his/her representative to repeat the complaint orally. The complainant and/or his/her representative shall have an opportunity to present the complaint and evidence, or information leading to evidence, to support the allegations in the complaint. (5 CCR 4631). The District's representative shall also have an opportunity to present its information relevant to the complaint and evidence, or information leading to evidence, to refute the allegations in the complaint. As necessary, additional staff or legal counsel may conduct or support the investigation.

Parties to the dispute may discuss the complaint and question each other or each other's witnesses. A complainant's refusal to provide the District's compliance officer/investigator with documents or other evidence related to the allegations in the complaint, or his/her failure to cooperate in the investigation or his/her engagement in any other obstruction of the investigation, may result in the dismissal of the complaint because of lack of evidence to support the allegation. (5 CCR 4631.)

The District's refusal to provide the District's compliance officer/investigator with access to records and/or other information related to the allegation in the complaint, or its failure or refusal to cooperate in the investigation or its engagement in any other obstruction of the investigation, may result in a finding, based on evidence collected, that a violation has occurred and may result in the imposition of a remedy in favor of the complainant. (5 CCR 4631).

The District's compliance officer/investigator will determine appropriate procedures for each investigation that will ensure an unbiased investigation and that all pertinent information is collected. Investigative procedures may include, but are not limited to, individual interviews or meetings with the complainant, District staff members, students, or witnesses; joint meetings with relevant persons; review of District documents or documents provided by complainants or other persons.

Step 4: Written Decision

Unless extended by written agreement with the complainant, a final written decision shall be sent to the complainant within 60 calendar days of the District's receipt of the complaint. (5 CCR 4631)

The report of the District's decision shall be written in English and in the language of the complainant whenever feasible or required by law. If it is not feasible to write this report in the complainant's primary language, the District will arrange a meeting at which a community member will interpret it for the complainant. (cf. 5145.6-Notifications required by law)

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This final written decision shall include:

1. A detailed statement of all specific issues that were brought up during the investigation
2. The findings of fact based on the evidence gathered (5 CCR 4631)
3. The conclusion(s) of law (5 CCR 4631)
4. Disposition of the complaint (5 CCR 4631)
5. Rationale for such disposition (5 CCR 4631)
6. Corrective actions, if any are warranted (5 CCR 4631)
7. Notice of the complainant's right to appeal the district's decision within 15 days to the California Department of Education and procedures to be followed for initiation such an appeal (5 CCR 4631)
8. For discrimination complaints, notice that the complainant must wait until 60 days have elapsed from the filing of an appeal with the California Department of Education before pursuing civil law remedies (Education Code 262.3)

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

If a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges or any requirement related to the LCAP is found to have merit, the District 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, 52075)

Step 5: Appeals

1. Appeals with the Compliance Officers decision.

If the complainant is dissatisfied with the compliance officer's decision (findings), he/she may, within five (5) days, file his/her appeal in writing with the Superintendent:

- A. The Superintendent may decide not to hear the complaint, in which case the compliance officer's decision is final.

UNIFORM COMPLAINT PROCEDURES (Continued)

B. If the Superintendent hears the complaint, the compliance officer shall send the Superintendent's decision to the complainant within (60) calendar days of the District's initial receipt of the complaint or within the time period that has been specified in a written agreement with the complainant. If the Superintendent does not hear the appeal, the compliance officer/investigator will notify the complainant that the compliance officer's/investigator's decision is final.

2. Appeals to the California Department of Education.

If dissatisfied with the District's final decision, the complainant may appeal, in writing, to the California Department of Education, within fifteen (15) days of receiving the District's final decision. When appealing to the California Department of Education, the Complainant must specify the reason(s) for appealing the District's decision and must include a copy of the locally filed complaint and the District's decision. (5 CCR 4632)

d. Civil Law Remedies

Nothing in this policy precludes a complainant from pursuing available civil law remedies outside of the District's complaint procedures. Such remedies may include mediation centers, public/private interest attorneys. Civil law remedies that may be imposed by a court include but are not limited to, injunctions and restraining orders. However, for discrimination complaints, a complainant must wait until 60 days have elapsed from the filing of an appeal with the California Department of Education before pursuing civil law remedies. The moratorium does not apply to injunctive relief and is applicable only if the District has appropriately, and in a timely manner, apprised the complainant of his/her right to file a complaint in accordance with 5 CCR 4622 and Education Code 262.3.

The complainant may not seek civil remedies until at least sixty (60) days have elapsed from the filing of an appeal to the State Department of Education. The 60-day waiting period applies only where the District informed the complainant of his/her right to file a complaint. The 60-day waiting period does not apply to injunctive relief. (Education Code Section 262.3)

Upon notification by the California Department of Education that the complainant has appealed the District's decision, the Superintendent or designee shall forward the following documents to the California Department of Education: (5 CCR 4633)

1. A copy of the original complaint
2. A copy of the decision

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3. A summary of the nature and extent of the investigation conducted by the district, if not covered by the decision
4. A copy of the investigation file, including but not limited to all notes, interviews, and documents submitted by the parties and gathered by the investigator
5. A report of any action taken to resolve the complaint
6. A copy of the District's complaint procedures
7. Other relevant information requested by the California Department of Education

The CDE may directly intervene in the complaint without waiting for action by the District when one of the conditions listed in 5 CCR 4650 exists, including cases in which the District has not taken action within 60 days of the date the complaint was filed with the district.

e. ADDITIONAL INFORMATION

A. For assistance regarding the filing of complaints under the uniform complaint procedure, call the appropriate compliance officer at (760) 244-4411. Director of Personnel (personnel issues), Director of Special Services (Special Education/504 issues) or Director of Student Services (student/parent issues).

B. Persons who believe the Hesperia Unified School District has discriminated against them or another person on the basis of race, color, national origin, gender, disability, age, or in any activity conducted by the district that receives or benefits from any Federal financial assistance may file a complaint with the U.S. Department of Education, Office for Civil Rights, 50 United Nations Plaza, Room 239, San Francisco, CA 94102; (415) 437-7700.

C. Employees of the District may file a complaint with the California Department of Fair Employment and Housing or the U.S. Equal Employment Opportunity Commission.

D. The following types of complaints shall NOT apply to these complaint procedures. The District shall refer the following complaints to the specified agencies for appropriate resolution (5 CCR 4611):

1. Child abuse allegations shall be referred to the applicable County Department of Social Services (DSS), Protective Services Division or appropriate law enforcement agency. However, the District is not relieved from investigating complaints pursuant to 5 CCR 4650(a)(8)(C).

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2. Health and safety complaints related to a child development program shall be referred to Department of Social Services for licensed facilities, and to the appropriate Child Development regional administrator for licensing-exempt facilities.
3. Employment discrimination complaints shall be sent to the State Department of Fair Employment and Housing (DFEH) pursuant to 22 CCR 9841 0. The complainant shall be notified by first class mail of any DFEH transferal.
4. Fraud allegations shall be referred to the responsible Department Division Director who may consult with the Department's Legal and Audits Branch.

Regulation

Adopted: September 16, 1992

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HESPERIA UNIFIED SCHOOL DISTRICT

Hesperia, California