

Lewis Center for Educational Research

**BP 1312.3: COMMUNITY RELATIONS
UNIFORM COMPLAINT PROCEDURES**

Adopted: June 11, 2012

Revised: September 8, 2014

June 8, 2015

September 28, 2016

The Lewis Center for Educational Research ("LCER") complies with applicable federal and state laws and regulations governing educational programs. This policy contains rules and instructions about the filing, investigation and resolution of a Uniform Complaint Procedures ("UCP") complaint regarding an alleged violation by the above federal or state laws or regulations.

The LCER is the local agency primarily responsible for compliance with federal and state laws and regulations governing educational programs. This policy presents information about how the LCER processes UCP complaints concerning particular programs or activities for which it receives state or federal funding. A UCP complaint is a written and signed statement by a complainant alleging a violation of federal or state laws or regulations. A complainant is any individual, including a person's duly authorized representative or an interested third party, public agency, or organization who files a written complaint alleging violation of federal or state laws or regulations, including allegations of unlawful discrimination, harassment, intimidation, bullying and non-compliance with laws relating to pupil fees or non-compliance with the requirements of the LCER's LCAP. If the complainant is unable to put the complaint in writing, due to a disability or illiteracy, the LCER shall assist the complainant in the filing of the complaint.

Pursuant to this policy, persons responsible for conducting investigations shall be knowledgeable about the laws and programs which they are assigned to investigate. This complaint procedure is adopted to provide a uniform system of complaint processing for the following types of complaints:

- (1) Complaints of unlawful discrimination, harassment, intimidation or bullying against any protected group including actual or perceived discrimination, on the basis of the actual or perceived characteristics of age, ancestry, color, disability, ethnic group identification, gender expression, gender identity, gender, genetic information, nationality, national origin, race or ethnicity, religion, sex, or sexual orientation, or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics in any LCER program or activity;
- (2) Complaints of violations of state or federal law and regulations governing the following programs that are implemented by LCER, are subject to the UCP, and for which LCER receives state or federal funding: Adult Education; After School Education and Safety; Agricultural Vocational Education; American Indian Education Centers and Early Childhood Education Program Assessments; Bilingual Education; California Peer Assistance and Review Programs for Teachers; Career Technical and Technical Education and Career Technical and Technical Training; Career Technical Education; Child Care and Development; Child Nutrition; Compensatory Education; Consolidated Categorical Aid; Economic Impact Aid; Foster and Homeless Youth Services; Every Student Succeeds Act / No Child Left Behind; Migrant Education; Regional Occupational Centers and Programs; Special Education; State Preschool; and Tobacco - Use Prevention Education.

(3) A complaint may also be filed alleging that a pupil enrolled in a public school was required to pay a pupil fee for participation in an educational activity as those terms are defined below:

- a. Educational activity means an activity offered by a school, school district, charter school or county office of education that constitutes an integral fundamental part of elementary and secondary education, including, but not limited to, curricular and extracurricular activities.
- b. Pupil fee is a fee, deposit or other charge imposed on pupils, or a pupil's parents or guardians, in violation of Section 49011 of the Education Code and Section 5 of Article IX of the California Constitution, which require educational activities to be provided free of charge to all pupils without regard to their families' ability or willingness to pay fees or request special waivers.

A pupil fee includes, but is not limited to, all of the following:

- i. A fee charged to a pupil as a condition for registering for school or classes, or as a condition for participation in a class or an extracurricular activity, regardless of whether the class or activity is elective or compulsory, or is for credit.
- ii. A security deposit, or other payment, that a pupil is required to make to obtain a lock, locker, book, class apparatus, musical instrument, uniform or other materials or equipment.
- iii. A purchase that a pupil is required to make to obtain materials, supplies, equipment or uniforms associated with an educational activity.
- c. A pupil fees complaint may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance with laws relating to pupil fees.
- d. If the LCER finds merit in a pupil fees complaint, the LCER shall provide a remedy to all affected pupils, parents, and guardians, that, where applicable, includes reasonable efforts by the LCER to ensure full reimbursement to all affected pupils, parents, and guardians, subject to procedures established through regulations adopted by the state board.
- e. Nothing in this section shall be interpreted to prohibit solicitation of voluntary donations of funds or property, voluntary participation in fundraising activities, or school districts, school, and other entities from providing pupils prizes or other recognition for voluntarily participating in fundraising activities.

(4) Complaints may also be filed alleging noncompliance with the requirements governing the Local Control Funding Formula ("LCFF") or Sections 47606.5 and 47607.3 of the Education Code regarding Local Control Accountability Plans, as applicable. The LCAP is an important component of the LCFF, the revised school finance system that overhauled how California funds its K-12 schools. Under the LCFF, LCER is required to prepare an LCAP, which describes how the LCER intends to meet annual goals for its pupils, with specific activities to address state and local priorities identified pursuant to Education Code Section 52060(d).

- (5) Complaints of noncompliance with the requirements of Education Code Section 222 regarding the rights of lactating pupils on a school campus. If the LCER finds merit in a complaint, or if the Superintendent finds merit in an appeal, the LCER shall provide a remedy to the affected pupil.

The LCER acknowledges and respects every individual's rights to privacy. Unlawful discrimination, harassment, intimidation or bullying complaints shall be investigated in a manner that protects [to the greatest extent reasonably possible] the confidentiality of the parties and the integrity of the process. The LCER cannot guarantee anonymity of the complainant. This includes keeping the identity of the complainant confidential. The LCER will attempt to do so as appropriate. The LCER may find it necessary to disclose information regarding the complaint/complainant to the extent necessary to carry out the investigation or proceedings, as determined by the compliance officer investigating the complaint.

The LCER prohibits any form of retaliation against any complainant in the complaint process, including but not limited to a complainant's filing of a complaint or the reporting of instances of unlawful discrimination, harassment, intimidation or bullying. Such participation shall not in any way affect the status, grades or work assignments of the complainant.

The following complaints shall be referred to other agencies for appropriate resolution and are not subject to the LCER's UCP process set forth in this policy unless these procedures are made applicable by separate interagency agreements:

- (1) Allegations of child abuse shall be referred to County Dept of Social Services (DSS), Protective Services Division or appropriate law enforcement agency.
- (2) Health and safety complaints regarding a Child Development Program shall be referred to the Dept. of Social Services for licensed facilities, and to the appropriate Child Development regional administrator for licensing-exempt facilities.
- (3) Employment discrimination, harassment, intimidation or bullying complaints shall be sent to the State Dept. of Fair Employment and Housing (DFEH).
- (4) Allegations of fraud shall be referred to the Legal, Audits and Compliance Branch in the California Department of Education (CDE).

Compliance Officers

The following compliance officer(s) are responsible for receiving and investigating complaints and ensuring the LCER's compliance:

Coordinator of Uniform Complaint Procedures:

CEO Executive Assistant

Compliance Officers:

Director, Human Resources

Director, Special Education

Director, Finance

Director, Categorical Programs

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Apple Valley, CA 92307
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The above, responsible for compliance and investigations, are knowledgeable about the laws and programs which they are assigned to investigate. Designated employees may have access to legal counsel as determined by the CEO or designee.

Should the complaint be filed against the compliance officer, the compliance officer for that case shall be the CEO or designee.

Notifications

LCER shall annually provide written notification of its uniform complaint procedures to its students, employees, parents and/or guardians of its students, school and district advisory committee members, the Foundation Board, appropriate private school officials or representatives, and other interested parties, as applicable.

The annual notice shall include information regarding the requirements of Education Code sections 49010 through 49013 relating to pupil fees and information regarding the requirements of Education Code section 52075 relating to the LCAP.

The annual notice shall be in English, and when necessary, in the primary language, pursuant to section 48985 of the Education Code, or mode of communication of the recipient of the notice.

The LCER shall make available copies of the LCER's uniform complaint procedures free of charge. The annual notice shall include the following:

- a) A statement that the LCER is primarily responsible for compliance with state and federal laws and regulations.
- b) A statement that a pupil enrolled in a public school shall not be required to pay a pupil fee for participation in an educational activity.
- c) A statement identifying the person, position, or unit responsible for receiving complaints.
- d) A statement that the complainant has a right to appeal the LCER's decision to the CDE by filing a written appeal within 15 days of receiving the LCER's decision.
- e) A statement advising the complainant of any civil law remedies that may be available under state or federal discrimination, harassment, intimidation or bullying laws, if applicable, and of the appeal pursuant to Education Code § 262.3.
- f) A statement that copies of the local educational agency complaint procedures shall be available free of charge.

Procedures

The following procedures shall be used to address all complaints which allege that the LCER has violated federal or state laws or regulations governing educational programs. Compliance officers shall maintain a record of each complaint and subsequent related actions.

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.

- Step 1: Filing of Complaint

Any individual, public agency, or organization may file a written complaint of alleged noncompliance by the LCER.

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, harassment, intimidation, or bullying occurred, or six (6) months from the date when the complainant first obtained knowledge of the facts of the alleged unlawful discrimination, harassment, intimidation, or bullying. The period for filing a discrimination, harassment, intimidation or bullying complaint may be extended by the CEO or his or her designee for good cause for a period not to exceed 90 calendar days following the expiration of the six-month time period. The CEO shall respond immediately upon a receipt of a request for extension.

A complaint may be filed by a person who alleges that he/she personally suffered unlawful discrimination, harassment, intimidation, or bullying or by a person who believes that an individual or any specific class of individuals has been subjected to unlawful discrimination, harassment, intimidation, or bullying.

A pupil fees complaint and/or an LCAP complaint may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance.

A pupil fee complaint shall be filed not later than one (1) year from the date the alleged violation occurred.

The complaint shall be presented to the compliance officer who shall maintain a log of complaints received, providing each with a code number and date stamp.

If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, LCER staff shall assist him/her in the filing of the complaint.

- Step 2: Mediation

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

Before initiating the mediation of an unlawful discrimination, harassment, intimidation, or bullying complaint, the compliance officer shall ensure that all parties agree to make the mediator a party to related confidential information.

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

The use of mediation shall not extend the LCER's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time.

- Step 3: Investigation of Complaint

The compliance officer is encouraged to hold an investigative meeting within five (5) days of receiving the complaint or an unsuccessful attempt to mediate the complaint. This meeting shall provide an opportunity for the complainant and/or his/her representative to repeat the complaint orally.

The investigation shall provide an opportunity for the complainant or the complainant's representative, or both, to present evidence or information.

Refusal by the complainant to provide the LCER's investigator with documents or other evidence related to the allegations in the complaint, or to otherwise fail or refusal to cooperate in the investigation or engage in any other obstruction of the investigation, may result in the dismissal of the complaint because of a lack of evidence to support the allegations.

Refusal by the LCER to provide the investigator with access to records and/or other information related to the allegation in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage 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.

- Step 4: Response

A UCP complaint will be investigated and a written report (also known as a Decision) issued to the complainant within sixty (60) days of the receipt of the complaint, unless the complainant agrees in writing to an extension of time.

- Step 5: Final Written Decision

The LCER shall issue a written Decision based on the evidence that will contain the following elements:

The Decision shall include:

1. The findings of fact based on evidence gathered.
2. The conclusion(s) of law.

3. Disposition of the complaint.
4. Rationale for such disposition.
5. Corrective actions, if any are warranted.
6. Notice of the complainant's right to appeal the LCER's Decision to the CDE.
7. And procedures to be followed for initiating an appeal to the CDE.
8. For unlawful discrimination, harassment, intimidation or bullying complaints arising under state law, notice that the complainant must wait until sixty (60) days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies.
9. For unlawful discrimination, harassment, intimidation or bullying complaints arising under federal law such complaint may be made at any time to the U.S. Department of Education, Office for Civil Rights.

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

Appeals to the California Department of Education ("CDE")

The complainant may appeal the LCER's Decision in writing to the CDE within fifteen (15) days of receiving the LCER's Decision. When appealing to the CDE, the complainant must fully explain the basis for the appeal, stating how the facts of the LCER's Decision are incorrect and/or the law has been misapplied. The appeal shall be sent with a copy of the locally filed complaint and a copy of the LCER's Decision.

Nothing in this policy shall prohibit anyone involved in the complaint from utilizing alternative methods to resolve the allegations, such as mediation. Nor is the LCER prohibited from resolving complaints prior to the formal filing of a written complaint. Mediation is a problem solving activity whereby a third party assists the parties to the dispute in resolving the complaint.

Copies of these Uniform Complaint Procedures shall be available free of charge.

Upon notification by the CDE that the complainant has appealed the LCER's decision, the compliance officer or designee shall forward the following documents to the CDE:

1. A copy of the original complaint.
2. A copy of the decision.
3. A summary of the nature and extent of the investigation conducted by the LCER, 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 all parties and gathered by the investigator.
5. A report of any action taken to resolve the complaint.
6. A copy of the LCER's complaint procedures.

Other relevant information requested by the CDE.

Civil Law Remedies

A complainant may pursue available civil law remedies outside of LCER's complaint procedures. Complainants may seek assistance from mediation centers or public/private interest attorneys. Civil law remedies that may be imposed by a court include, but are not limited to, injunctions and restraining orders. For unlawful discrimination, harassment, intimidation or bullying complaints arising under state law, however, a complainant must wait until sixty (60) days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies. The moratorium does not apply to injunctive relief and is applicable only if the LCER has appropriately, and in a timely manner, apprised the complainant of his/her right to file a complaint in accordance with 5 CCR 4622.

UNIFORM COMPLAINT PROCEDURE FORM

Last Name: _____ First Name/MI: _____

Student Name (if applicable): _____ Grade: _____ Date of Birth: _____

Street Address/Apt. #: _____

City: _____ State: _____ Zip Code: _____

Home Phone: _____ Cell Phone: _____ Work Phone: _____

School/Office of Alleged Violation: _____

For allegation(s) of noncompliance, please check the program or activity referred to in your complaint, if applicable:

- | | | |
|---|---|--|
| <input type="checkbox"/> Adult Education | <input type="checkbox"/> After School Education and Safety | <input type="checkbox"/> Agricultural Vocational Education |
| <input type="checkbox"/> American Indian Education | <input type="checkbox"/> Consolidated Categorical Aid | <input type="checkbox"/> Career/Technical Education |
| <input type="checkbox"/> Child Development Programs | <input type="checkbox"/> Child Nutrition | <input type="checkbox"/> Foster/Homeless Youth |
| <input type="checkbox"/> Migrant Education | <input type="checkbox"/> No Child Left Behind/ESSA Programs | <input type="checkbox"/> Regional Occupational Programs |
| <input type="checkbox"/> Special Education | <input type="checkbox"/> State Preschool | <input type="checkbox"/> Tobacco-Use Prevention Education |
| <input type="checkbox"/> Pupil Fees | <input type="checkbox"/> Local Control Funding Formula | <input type="checkbox"/> Lactating Pupils |

For allegation(s) of unlawful discrimination, harassment, intimidation or bullying, please check the basis of the unlawful discrimination, harassment, intimidation or bullying described in your complaint, if applicable:

- | | | |
|--|---|--|
| <input type="checkbox"/> Age | <input type="checkbox"/> Gender / Gender Expression / Gender Identity | <input type="checkbox"/> Sex (Actual or Perceived) |
| <input type="checkbox"/> Ancestry | <input type="checkbox"/> Genetic Information | <input type="checkbox"/> Sexual Orientation (Actual or Perceived) |
| <input type="checkbox"/> Color | <input type="checkbox"/> National Origin | <input type="checkbox"/> Based on association with a person or group with one or more of these actual or perceived characteristics |
| <input type="checkbox"/> Disability (Mental or Physical) | <input type="checkbox"/> Race or Ethnicity | |
| <input type="checkbox"/> Ethnic Group Identification | <input type="checkbox"/> Religion | |

1. Please give facts about the complaint. Provide details such as the names of those involved, dates, whether witnesses were present, etc., that may be helpful to the complaint investigator.

2. Have you discussed your complaint or brought your complaint to any LCER personnel? If you have, to whom did you take the complaint, and what was the result?

3. Please provide copies of any written documents that may be relevant or supportive of your complaint.

I have attached supporting documents. Yes No

Signature: _____ Date: _____

Mail complaint and any relevant documents to:

Stacy Newman
Director Human Resources
Lewis Center for Educational Research
17500 Mana Road
Apple Valley, CA 92307