

**County Office Regulation 1312.3: Uniform Complaint Procedures**

**Status:** ADOPTED

**Original Adopted Date:** 01/06/2004 | **Last Revised Date:** 07/28/2022 | **Last Reviewed Date:** 07/28/2022

The Napa County Board of Education recognizes that the Napa County Office of Education (NCOE) has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs. The NCOE shall investigate and seek to resolve any complaints alleging failure to comply with such laws and/or alleging unlawful discrimination, harassment, intimidation, or bullying in accordance with the uniform complaint procedures.

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

1. Any complaint alleging an NCOE violation of applicable state or federal law or regulations governing consolidated categorical aid programs, career technical and technical education and training programs, child care and development programs, child nutrition programs, special education programs, and the development and adoption of a school safety plan.
2. Any complaint alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying, in NCOE programs and activities against any person based on his/her actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, 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 his/her association with a person or group with one or more of these actual or perceived characteristics. Notwithstanding the foregoing, claims that meet the Title IX definition of sexual harassment shall be addressed under the applicable Title IX policy (See 4119.13/4219.13/4319.13 for employees, and 5145.71 for students).
3. Any complaint alleging bullying in NCOE programs and activities
4. Any complaint alleging an NCOE violation of the prohibition against requiring students to pay fees, deposits, or other charges for participation in educational activities
5. Any complaint alleging that the NCOE has not complied with legal requirements related to the implementation of the Local Control and Accountability Plan (LCAP)
6. Any complaint alleging NCOE 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

The County Board encourages the early, informal resolution of complaints at the site level whenever possible.

The County Board recognizes that alternative dispute resolution (ADR) can, depending on the nature of the allegations, offer a process to reach a resolution to the complaint that is agreeable to all parties. One type of ADR is mediation, which 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 sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. The Napa County Superintendent of Schools or designee shall ensure that the use of ADR is consistent with state and federal laws and regulations.

In filing and investigating complaints, the confidentiality of the parties involved shall be protected as required by law. As appropriate for any complaint alleging retaliation, unlawful discrimination, or bullying, the County Superintendent or designee shall keep confidential the identity of the complainant and/or the subject of the complaint, if he/she is different from the complainant, as long as the integrity of the complaint process is maintained.

The County Board prohibits any form of retaliation against any complainant in the complaint process. Participation in the complaint process shall not in any way affect the status, grades, or work assignments of the complainant.

In investigating complaints, the confidentiality of the parties involved and the integrity of the process shall be protected. As appropriate for any complaint alleging discrimination, harassment, intimidation, or bullying, the County Superintendent or designee may keep the identity of a complainant confidential to the extent that the investigation of the complaint is not obstructed.

Compliance Officer

The County Superintendent designates the following compliance officer to receive and investigate complaints and to ensure NCOE compliance with law:

Deputy Superintendent

2121 Imola Avenue

Napa, CA 94559

(707) 253-6819

#### Notifications

The County Superintendent or designee shall annually provide written notification of the NCOE uniform complaint procedures to students, employees, parents/guardians, the NCOE advisory committees, school advisory committees, appropriate private school officials or representatives, and other interested parties.

#### Procedures

The following procedures shall be used to address all complaints which allege that the NCOE 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 5 CCR 4631 and 4633.

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

#### Step 1: Filing of Complaint

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

A complaint alleging unlawful discrimination 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. A complaint may be filed 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 unlawful discrimination.

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

#### Step 2: Mediation

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

Before initiating the mediation of a discrimination 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 NCOE's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time.

Notwithstanding the foregoing, claims that meet the Title IX definition of sexual harassment shall be addressed under the applicable Title IX policy (See 4119.13/4219.13/4319.13 for employees, and 5145.71 for students).

### Step 3: Investigation of Complaint

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

The complainant and/or his/her representative shall have an opportunity to present the complaint and evidence or information leading to evidence to support the allegations in the complaint.

A complainant's refusal to provide NCOE's investigator with documents or other evidence related to the allegations in the complaint, or his/her failure or refusal to cooperate in the investigation or his/her 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.

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

### 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 the NCOE investigation and decision, as described in Step #5 below, within 60 days of the NCOE receipt of the complaint.

### Step 5: Final Written Decision

NCOE's decision shall be in writing and sent to the complainant.

NCOE's decision shall be written in English and in the language of the complainant whenever feasible or as required by law. The decision shall include:

1. The findings of fact based on the evidence gathered
2. The conclusion(s) of law
3. Disposition of the complaint
4. Rationale for such disposition
5. Corrective actions, if any are warranted
6. Notice of the complainant's right to appeal the decision within 15 days to the California Department of Education (CDE) and procedures to be followed for initiating such an appeal
7. For discrimination complaints, notice that the complainant must wait until 60 days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies

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 NCOE'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

If dissatisfied with the Napa County Office of Education's decision, the complainant may appeal in writing to the CDE within 15 days of receiving the Napa County Office of Education's decision. For good cause, the Superintendent of Public Instruction may grant an extension for filing appeals.

When appealing to the CDE, the complainant must specify the reason(s) for appealing the NCOE's decision and must include a copy of the locally filed complaint and the NCOE's decision.

Upon notification by the CDE that the complainant has appealed the decision of the NCOE, the County Superintendent or designee shall forward the following documents to the CDE:

1. A copy of the original complaint
2. A copy of the decision
3. A summary of the nature and extent of the investigation conducted by the NCOE, 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 NCOE's complaint procedures
7. Other relevant information requested by the CDE

The CDE may directly intervene in the complaint without waiting for action by the NCOE when one of the conditions listed in 5 CCR 4650 exists. In addition, the CDE may also intervene in those cases where the NCOE has not taken action within 60 calendar days of the date the complaint was filed with NCOE.

#### Appeals to the United States Department of Education

All complaints related to federally-funded programs may be appealed to the U.S. Department of Education by either party after intervention by the California Department of Education.

#### Civil Law Remedies

A complainant may pursue available civil law remedies outside of the Napa County Office of Education's complaint procedures. Complainants may seek assistance from mediation centers or public/private interest attorneys. Civil law remedies that may be imposed by a court include, but are not limited to, injunctions and restraining orders. For discrimination complaints, however, a complainant must wait until 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 NCOE has appropriately, and in a timely manner, apprised the complainant of his/her right to file a complaint in accordance with 5 CCR 4622.

When an allegation that is not subject to the UCP is included in a UCP complaint, the county office shall refer the non-UCP allegation to the appropriate staff or agency and shall resolve the UCP-related allegation(s) through the NCOE's UCP.

The following complaints shall not be subject to the county office's UCP but shall be referred to the specified agency:

1. Any complaint alleging child abuse or neglect shall be referred to the County Department of Social Services, the County 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 Department of Social Services and shall, for licensing-exempt facilities, be referred to the appropriate Child Development regional administrator.
3. Any complaint alleging employment discrimination shall be sent to the California Department of Fair Employment and Housing and the compliance officer shall notify the complainant by first class mail of the transfer.
4. Any complaint alleging fraud shall be referred to the CDE.

In addition, the NCOE's Williams Uniform Complaint Procedures, AR 1312.4, shall be used to investigate and resolve 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.

Nothing in this policy precludes a complainant from pursuing available civil law remedies outside of the NCOE's complaint procedures.

## CALIFORNIA DEPARTMENT OF EDUCATION

### Contacts for Programs and Services Covered Under the Uniform Complaint Procedures

\* Agricultural Vocational Education

(916) 319-0887

\* Child Care and Development (including State Preschool)

(916) 322-6233

\* Educational Equity

(Discrimination, Harassment, Intimidation, Bullying, and Civil Rights Guarantees)

(916) 445-9174

\* Facilities

(916) 322-2470

\* Class Size Reduction

(916) 324-4533

\* Local Control Funding Formula (LCFF) Content or Procedures

(916) 319-0809

\* Local Control Funding Formula (LCFF) Fiscal

(916) 322-2034

\* NCLB: Titles I - VII

(916) 319-0926

\* Nutrition Services (including Child Nutrition)

(916) 445-0850

\* Career Technical Education and Workforce Development Centers

(916) 322-5050

\* Special Education

(800) 926-0648

\* Tobacco-Use Prevention Education

(916) 319-0914

\* Child Protective Services in Napa County

(707) 253-4261

\* Social Services Licensing for Child Care Programs

(916) 657-2586

\* Employment Discrimination

(800) 884-1684

\* CDE Fraud Prevention Unit

(916) 319-0929

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