

Uniform Complaint Procedures

Community Relations

Compliance Officers

The Berryessa Union School District designates the following compliance officer(s) to receive and investigate complaints and to ensure Berryessa Union School District compliance with law:

Personnel Related:

Assistant Superintendent of Personnel
1376 Piedmont Rd.
San Jose, CA 95132
(408) 923-1856

Student Related:

Director of Special Education
and Student Services
1376 Piedmont Rd.
San Jose, CA 95132
(408) 923-1841

The Assistant Superintendent of Personnel or designee shall ensure that employees designated to investigate complaints are knowledgeable about the laws and programs for which they are responsible. Designated employees may have access to legal counsel as determined by the Superintendent or designee.

(cf. 9124 - Attorney)

Notifications

The Superintendent or designee shall annually provide written notification of the district uniform complaint procedures to students, employees, parents/guardians, the district advisory committees, school advisory committees, appropriate private school officials or representatives, and other interested parties. (5 CCR 4622)

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

The notice shall:

1. Identify the person(s), position(s), or unit(s) responsible for receiving complaints
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 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
4. Include statements that:
 - a. The district is primarily responsible for compliance with state and federal laws and regulations
 - b. The complaint review shall be completed within 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, harassment, intimidation, and bullying complaint must be filed not later than six months from the date the alleged discrimination occurs, or six months from the date the complainant first obtains knowledge of the facts of the alleged discrimination, harassment, intimidation, and bullying
 - d. The complainant has a right to appeal district's decision to the CDE by filing a written appeal within 15 days of receiving the district decision
 - e. The appeal to the CDE must include a copy of the complaint filed with district and a copy of district's decision
 - f. If the district finds merit in a pupil fees complaint, the district shall provide a remedy to all affected pupils, parents, and guardians where applicable and includes reasonable efforts by the public school to ensure full reimbursement to all affected pupils, parents, and guardians, subject to procedures established through regulations adopted by the state board.

(cf. 5145.6 - Parental Notifications)

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 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 district. (5 CCR 4630)

Any complaint alleging noncompliance with 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 principal of the school. 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)

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, district staff shall assist him/her in the filing of the complaint. (5 CCR 4600)

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, harassment, intimidation, and 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 district's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time. (5 CCR 4631)

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. (5 CCR 4631)

A complainant's refusal to provide district'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. (5 CCR 4631)

District'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. (5 CCR 4631)

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 district investigation and decision, as described in Step #5 below, within 60 days of the district receipt of the complaint. (5 CCR 4631)

Step 5: Final Written Decision

District's decision shall be in writing and sent to the complainant. (5 CCR 4631)

District'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 (5 CCR 4631)
2. The conclusion(s) of law (5 CCR 4631)
3. Disposition of the complaint (5 CCR 4631)
4. Rationale for such disposition (5 CCR 4631)
5. Corrective actions, if any are warranted (5 CCR 4631)
6. Notice of the complainant's right to appeal the decision within 15 days to the CDE and procedures to be followed for initiating such an appeal (5 CCR 4631)

7. For discrimination, harassment, intimidation, and bullying 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 (Education Code 262.3)

If the district finds merit in a complaint, or the California Department of Education finds merit in an appeal, the district shall provide a remedy to all affected pupils, parents, and guardians that, where applicable, includes reasonable efforts to ensure that the district will attempt in good faith by engaging in reasonable efforts to identify and fully reimburse all pupils, parents, and guardians who paid a pupil fee within one year prior to the filing of the complaint. (5CCR 4600(u))

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 district'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 decision, the complainant may appeal in writing to the CDE within 15 days of receiving the decision. When appealing to the CDE, the complainant must specify the basis for the appeal of the decision and whether the facts are incorrect and/or the law has been misapplied. The appeal shall be accompanied by a copy of the locally filed complaint and a copy of district's decision. (5 CCR 4632)

Upon notification by the CDE that the complainant has appealed district's decision, the Superintendent or designee shall forward the following documents to the CDE: (5 CCR 4633)

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 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 district's complaint procedures
7. Other relevant information requested by the CDE

The CDE may directly intervene in the complaint without waiting for action by 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.

Civil Law Remedies

A complainant may pursue available civil law remedies outside of district'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, harassment, intimidation, and bullying 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 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.

Regulation approved: 9-13-16