

Uniform Complaint Procedure

The Tulare County Board of Education recognizes that Tulare County Office of Education (TCOE) has primary responsibility for complying with applicable state and federal laws and regulations governing educational programs. The county office shall investigate complaints alleging failure to comply with such laws and/or alleging discrimination and shall seek to resolve complaints in accordance with the county office's Uniform Complaint Procedures.

The county office shall follow the Uniform Complaint Procedures when addressing any complaints alleging unlawful discrimination against any protected group as identified under Education Code 200 and 220 and Government Code 11135, including actual or perceived sex, sexual orientation, gender, ethnic group identity, race, ancestry, national origin, color, religion, or mental or physical disability, or age, 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 program or activity conducted by a local agency, which is funded directly by, or that receives or benefits from any state funding. (California Code of Regulations, Title 5, Section 4610)

Uniform Complaint Procedures shall also be used when addressing complaints alleging failure to comply with state or federal laws in: adult education programs, career/technical education programs, child care and development programs, child nutrition programs, consolidated categorical aid programs, migrant education programs, and special education programs.

Complaints related to the sufficiency of textbooks or instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff, and teacher vacancies and misassignments shall be investigated pursuant to the County Office's Williams Uniform Complaint procedure. (AR 1312.4)

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

The County Board acknowledges and respects every individual's rights to privacy. Discrimination complaints shall be investigated in a manner that protects the confidentiality of the parties and the integrity of the process. This may include keeping the identity of the complainant confidential as appropriate, except to the extent necessary to carry out the investigation or proceedings, as determined by the County Superintendent or designee on a case-by-case basis. TCOE prohibits retaliation in any form for the filing of a complaint, the reporting of instances of discrimination or participation in the complaint procedure.

The County Board 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 discrimination. Such participation shall not in any way affect the status, grades, or work assignments of the complainant. The County Board recognizes that a neutral mediator can often suggest an early compromise that is agreeable to all parties in a dispute. The

County Superintendent shall ensure that the mediation results are consistent with state and federal laws and regulations.

Compliance Officer

The Tulare County Office of Education follows a Uniform Complaint Procedure established in Board Policy #1312.3. Complaints should be directed to the County Office's Compliance Officer:

Jeanne Nava, Assistant Superintendent Human Resources
2637 W. Burrel Avenue, P.O. Box 5091
Visalia, CA 93278-5091
(559) 733-6306

The County Superintendent or designee shall ensure that employees designated to receive and 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 County Superintendent or designee.

Notification

The County Superintendent or designee shall meet the notification requirements of the California Code of Regulations, Title 5, Section 4622, including the annual dissemination of TCOE's complaint procedures and information about available appeals, civil law remedies and conditions under which a complaint may be taken directly to the California Department of Education.

Parents or guardians, students, employees, district/site advisory committees, appropriate private school officials or representatives, and other concerned parties will be notified of TCOE's Uniform Complaint Procedures annually through distribution of this pamphlet. The County Superintendent or designee shall make available copies of the Uniform Complaint Procedures free of charge.

Procedures

The following procedures shall be used to address all complaints that allege that the county office has violated federal and or state laws or regulations governing educational programs. The compliance officer shall maintain a record of each complaint as required for compliance with California Code of Regulations, Title 5, Section 4632.

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 a Complaint

Any individual, public agency or organization may file a written complaint of alleged noncompliance by the county office. A complaint alleging unlawful discrimination 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 specific class of individuals has

been subjected to unlawful discrimination. A complaint alleging unlawful discrimination shall be initiated no later than six (6) months from the date the alleged discrimination occurred, or six months from the date when the complainant first obtained knowledge of the facts of the alleged discrimination. (California Code of Regulations, Title 5, Section 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 into writing due to conditions such as a disability or illiteracy, county office staff shall assist him/her to file the complaint (California Code of Regulations, Title 5, Section 4600).

If a complaint is not covered by this procedure, the complainant is referred to the proper agency for filing a 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 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 mediation 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 does not extend the county office's time lines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time. (California Code of Regulations, Title 5, Section 4631)

Step 3: Investigation of Complaint

The compliance officer is encouraged to hold an investigative meeting within five (5) working 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 of the complaint. (California Code of Regulations, Title 5, Section 4631)

A complainant's refusal to provide the county office'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. (California Code of Regulations, Title 5, Section 4631)

The county office'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 an imposition of a remedy in favor of the complainant. (California Code of Regulations, Title 5, Section 4631)

Step 4: County Office Response

Unless extended by a written agreement with the complainant, the compliance officer shall prepare a written report of the county office's investigation and decision, as described in Step #5 below, within sixty (60) days of the county office's receipt of the complaint.

Step 5: Final Written Decision

The county office's decision shall be in writing and sent to the complainant. (California Code of Regulations, Title 5, Section 4631) The county office's decision shall be written in English and in the language of the complainant, whenever feasible or required by law.

The report shall include: the findings of fact based on the evidence gathered, the conclusion(s) of law; the disposition of the complaint; the rationale for such disposition; corrective actions, if any are warranted; and notice of the complainant's right to appeal the county office's decision within fifteen (15) days to the California Department of Education and the procedures to be followed for initiating such an appeal. For discrimination complaints, notice must be given that the complainant must wait until sixty (60) days have elapsed from the filing of an appeal with the California Department of Education before pursuing civil law remedies.

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 county office 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 county office's decision, the complainant may appeal in writing to the California Department of Education within fifteen (15) working days of receiving the county office's decision. When appealing to the California Department of Education, the complainant must specify the basis for the appeal of the county office's 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 the county office's decision. (California Code of Regulations, Title 5, Section 4652)

Upon notification by the California Department of Education that the complainant has appealed the county office's decision, the County Superintendent or designee shall forward the following documents to the California Department of Education: a copy of the original complaint; a copy of the decision; a summary of the nature and extent of the investigation conducted by the county office; if not covered by the decision, 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; a report of any action taken to resolve the complaint; a copy of the county office's complaint procedures; and other relevant information requested by the California Department of Education.

The California Department of Education may directly intervene in the complaint without waiting for action by the county office when:

- The county office fails to comply with complaint procedures.
- Discrimination is alleged and there is indication of immediate harm or danger.
- The complainant requests anonymity or is in danger of retaliation.
- The county office fails to implement the final decision resulting from a local investigation or mediation process.
- The county office fails to take action regarding the complaint within sixty (60) working days. (California Code of Regulations, Title 5, Section 4650)

Contact Information for the California Department of Education:

California Department of Education
Categorical Programs Complaints Management
1430 N Street
Sacramento, CA 95814

CIVIL LAW REMEDIES

A complainant may pursue available civil law remedies outside of the county office'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 sixty (60) working days has elapsed from the filing of an appeal with the California Department of Education before pursuing civil remedies. This moratorium does not apply to injunctive relief and is applicable only if the county office has appropriately, and in a timely manner, apprised the complainant of his/her right to file a complaint in accordance with California Code of Regulations, Title 5, Section 4622.

2010-2011 School Year

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559-733-6306

For more information, contact:
Jeanne Nava, Assistant Superintendent
Human Resources
559-733-6306

Tulare County
Office of Education

Jim Vidak, County Superintendent of Schools
