



ADMINISTRATIVE PROCEDURE
SAN DIEGO UNIFIED SCHOOL DISTRICT

NO: 1700

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CATEGORY: **General Administration, Legal Processes**

EFFECTIVE: **6-29-94**

SUBJECT: **Uniform Complaint Procedure**

REVISED: **8-26-09**

A. PURPOSE AND SCOPE

1. To outline complaint and appeal procedures for alleged violation of federal or state law or regulation governing educational programs.

B. LEGAL AND POLICY BASIS

1. **Reference:** Board policy: A-3500, C-4700, F-2200, F-2510, F-3900, F-3975, K-8300; Education Code Sections 200, 262.3, 35186, 48985; 5 California Code of Regulations, Sections 3080, 4600-4671.

C. GENERAL

1. **Originating Office.** Suggestions or questions concerning this procedure should be directed to Legal Services.
2. **The district is primarily responsible** for compliance with federal and state law/regulations.
3. **Any individual, public agency, or organization may file a written complaint alleging:**
 - a. **A violation of federal or state law or regulation** governing the following programs:
 - (1) Adult Education (Education Code Sections 8500-8538 and 52500-52616.5)
 - (2) Child Nutrition (Education Code Sections 49490-49560)
 - (3) Child Care and Development (Education Code Section 8200-8493)
 - (4) Consolidated Categorical Aid (Education Code Section 64000[a])
 - (5) Migrant Education (Education Code Sections 54440-54445)
 - (6) Special Education (Education Code Sections 56000-56885 and 59000-59300)
 - (7) Vocational Education (Education Code Sections 52300-52480)
 - (8) *No Child Left Behind Act* (School Safety Planning Requirements, 20 U.S.C. Section 7114[d][7])

- b. **Unlawful discrimination** on the basis of ethnic group identification, religion, age, gender, sex, color, sexual orientation, race, ancestry, national origin, or physical or mental disability, in any program or activity conducted by the district, which is funded directly by, or that receives or benefits from any state financial assistance.
4. **A complaint may also be filed alleging a violation of any of the following:**
- a. **Issues related to sufficiency of instructional materials**
 - (1) A pupil, including an English learner, does not have standards-aligned textbooks or instructional materials or state- or district-adopted textbooks or other required instructional materials to use in class.
 - (2) A pupil does not have access to instructional materials to use in class and to take home. (Please be advised that this requirement of one textbook to use in class and one to take home applies only for the core subjects of math, English language arts, history/social studies, and science in grade K-5 and adds world language and health in grades 6-12.)
 - (3) Textbooks or instructional materials are in poor or unusable conditions, have missing pages, or are unreadable due to damage.
 - b. **Facility conditions that pose an emergency or urgent threat to the health or safety of pupils or staff**, such as:
 - (1) Gas leaks.
 - (2) Nonfunctioning heating, ventilation, fire sprinklers, or air-conditioning systems.
 - (3) Electrical power failure.
 - (4) Major sewer line stoppage.
 - (5) Major pest or vermin infestation.
 - (6) Broken windows or exterior doors or gates that will not lock and that pose a security risk.
 - (7) Abatement of hazardous materials previously undiscovered that pose an immediate threat to pupils or staff.

- (8) Structural damage creating a hazardous or uninhabitable condition.
- (9) Any other emergency conditions that the school district determines appropriate.
- (10) Emergency facilities needs do not include any cosmetic or nonessential repairs.
- (11) A school restroom has not been cleaned, maintained, or kept open during school hours when pupils are not in classes or an insufficient number of restrooms are open during school hours when students are in classes.

c. Teacher vacancy and misassignment issues

- (1) A semester begins and a certificated teacher is not assigned to teach the class.
- (2) A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20 percent English learner pupils in the class.
- (3) A teacher is assigned to teach a class for which the teacher lacks subject matter competency.

d. California High School Exit Examination (CAHSEE) intensive instruction and services

A pupil, including an English learner, who has not passed the exit exam by the end of grade 12 was not provided the opportunity to receive intensive instruction and services after completion of grade 12 for two consecutive academic years or until the pupil has passed both parts of the exam, whichever comes first.

D. IMPLEMENTATION

1. Complaints Filed Under Paragraph C.3.

- a. **Complaints should be filed** on the Uniform Complaint Form (Form 1700-01, Attachment 1) with Legal Services, which will forward them to program coordinators for resolution.

- b. **Discrimination complaints must be filed** no later than six (6) months from the alleged occurrence or from when the knowledge was first obtained but may be extended by consent for good cause, not to exceed an additional ninety (90) days.
- c. **For all other than discrimination complaints**, any individual, public agency or organization may file a written complaint alleging a matter, which if true, would constitute a violation of federal or state law or regulation.
- d. **The complaint may be filed** by the person making the allegation or by someone else on behalf of the individual or class.
- e. **A complainant may also pursue** civil law remedies.
- f. **Investigation of discrimination** complaints must be conducted so as to protect the confidentiality of parties and facts.
- g. **The investigation shall be conducted** by a person knowledgeable about the law/programs, i.e., program coordinator, and shall be completed within sixty (60) days of receipt of the complaint unless the complainant agrees in writing to an extension of time.
- h. **The investigation shall include:**
 - (1) Opportunity for the complainant to present relevant information.
 - (2) Option for both parties to discuss the complaint.
 - (3) A written report that includes findings and such disposition sent to the complainant within sixty (60) days from receipt of the complaint.
- i. **The written report shall contain** the findings and disposition, any corrective action (if necessary), the rationale for disposition, and a notice of the right to appeal to the California Department of Education, as set forth in D.1.h.(l).
- j. **Legal Services** will maintain a record of each complaint and subsequent actions.
- k. **Complainants shall be protected** from retaliation for filing the complaint.
- l. **When a complainant is not satisfied** with the district's decision, he/she/they may appeal to the California Department of Education pursuant to the following guidelines:

- (1) Written appeal of the district's decision must be filed with the State Superintendent of Public Schools within fifteen (15) days of receipt of the decision. Extensions for good cause may be granted by the Superintendent of Public Schools.
- (2) Appeal by the complainant shall include the reason for the appeal, a copy of the complaint, and a copy of the district's decision or response.
- (3) Upon notification by the State Superintendent that a complainant has appealed, the district must forward:
 - (a) The original complaint.
 - (b) A copy of the district's written decision.
 - (c) A summary of the investigation, if not included in the decision.
 - (d) A report of the action taken to resolve the complaint.
 - (e) A copy of this procedure.
 - (f) Any other relevant information.
 - (g) In a complaint of unlawful discrimination, a complainant has a right to seek civil law remedies no sooner than sixty (60) days have elapsed since filing an appeal, with the exception of injunctive relief, for which the moratorium does not apply, provided the complainant is timely advised of the right to file a complaint.

m. Written notice of the local complaint procedures is disseminated annually to students, employees, parents or guardians of its students, school and district advisory committees, and other interested parties. Annual written notice and responses to complainants shall be in the language of the school clientele when appropriate.

2. Complaints Filed Under Paragraph C.4.

- a. **Complaints shall be made** using the standard format attached (Form 1700-02, Attachment 2).
 - (1) Complaints may be anonymous.

- (2) If the complainant requests a response and provides contact information, the district shall provide a response in writing.
- b. **Complaints shall be filed** with the applicable school principal or his/her designee.
- c. **If the complaint is beyond the authority** of the school principal, he/she must forward it to the appropriate school district official within ten (10) days of receipt of the complaint.
- d. **The principal or the superintendent's designee** must make all reasonable efforts to investigate any problem within his/her authority.
- e. **Valid complaints** must be remedied within thirty (30) working days of receipt.
- f. **The principal or the superintendent's designee** has forty-five (45) days from the initial filing to report the resolution in writing to the complainant.
- g. **Appeal procedures**
 - (1) If a person is not satisfied with the resolution of the complaint, the person can appeal to the Board of Education.
 - (2) The Board of Education will respond to the appeal in writing within thirty (30) days.
 - (3) If the complaint involves facility issues that pose an emergency or urgent threat, an appeal can be sent directly to the Superintendent of Public Instruction (SPI). SPI will provide a written report to the State Board of Education describing the complaint and a proposed remedy, as appropriate.
- h. **Notice**
 - (1) Effective January 1, 2005, a notice shall be posted in each classroom notifying parents/guardians of the opportunity to complain about instructional materials, facility issues, and teacher misassignments. Effective October 12, 2007, a notice shall be posted in each classroom notifying parents/guardians of the opportunity to complain about CAHSEE intensive instruction and services.
 - (2) Each classroom shall use the standardized notice for Complaints under Paragraph C.4.a, b, c, and d. (Form 1700-3A, Attachment 3-A).

Classrooms may also use the standardized notice as a supplement for Complaints under Paragraph C.4.d. (Form 1700-3B, Attachment 3-B).

- (3) Pursuant to Education Code Section 48985, the notice must be in the parents'/guardians' primary language when 15 percent or more of the pupils enrolled in the school speak a primary language other than English.
- (4) School principals are responsible for ensuring that each classroom has posted the required notice.

i. **Reporting requirements**

- (1) All complaints and written responses are public records and copies shall be faxed to Legal Services for reporting purposes and retention as public records, using the Fax Transmittal Cover Sheet (Form 1700-04, Attachment 4).
- (2) Starting with the quarter of January through March 2005, the superintendent or his/her designee is responsible for submitting a quarterly report to the County Superintendent and the Board of Education on the nature and resolution of complaints addressing insufficient instructional materials, teacher vacancies and misassignments, and emergency or urgent facilities issues.
- (3) The summaries must be publicly reported on a quarterly basis at a regularly scheduled meeting of the Board of Education.
- (4) The quarterly reports will be done in the report format attached (Form 1700-05, Attachment 5).

- j. **Public records.** Complaints, responses, and quarterly reports will all be considered public records.

E. FORMS AND AUXILIARY REFERENCES

1. Uniform Complaint Form for complaints under paragraph C.3., Form 1700-01, Attachment 1, available from the district web site under "legal forms" or directly from Legal Services
2. Uniform Complaint Form for complaints under paragraph C.4., Form 1700-02, Attachment 2, available at the school site, from the district web site under "legal forms," or directly from Legal Services

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3. Standardized Notice Form, Form 1700-03A, Attachment 3-A, Form 1700-03B, Attachment 3-B
4. Fax Transmittal Cover Sheet, Form 1700-05, Attachment 4, available from Legal Services
5. Quarterly Uniform Complaint Report Summary, Form 1700-05, Attachment 5

F. REPORTS AND RECORDS

G. APPROVED BY



General Counsel, Legal Services
For the Superintendent of Schools