

## **COMMUNITY RELATIONS**

### **Uniform Complaint Procedure**

Except as the Superintendent may otherwise specifically provide in other SJCOE policies, these uniform complaint procedures (UCP) shall be used to investigate and resolve only the complaints specified in SP 1312.3.

#### **Compliance Officer**

The Superintendent expects that complaints of alleged noncompliance or discrimination brought by students, employees, parents/guardians, or other members of the community will be resolved in a prompt and equitable manner.

The Superintendent designates the following position as the Noncompliance/Nondiscrimination Coordinator to receive and investigate complaints and to ensure SJCOE compliance with the law:

Director of Human Resources  
San Joaquin County Office of Education  
2901 Arch Airport Road, Stockton, CA 95206 (physical)  
P.O. Box 213030, Stockton, CA 95213-9030 (mailing)  
(209) 468-4820

The Director of Human Resources may assign another compliance officer to investigate and resolve a complaint. The Director of Human Resources shall promptly notify the complainant if another compliance officer is assigned to the complaint.

In no instance shall a compliance officer be assigned to a complaint in which he/she has a bias or conflict of interest that would prohibit him/her from fairly investigating or resolving the complaint. Any complaint against or implicating a compliance officer may be filed with the Superintendent or designee.

The Superintendent or designee shall ensure that employees assigned to investigate and resolve complaints receive training and are knowledgeable about the laws and programs at issue in the complaints to which they are assigned. Training provided to such employees shall include current state and federal laws and regulations governing the program, applicable processes for investigating and resolving complaints, including those involving alleged unlawful discrimination, harassment, intimidation, bullying, or related retaliation, applicable standards for reaching decisions on complaints, and appropriate corrective measures. Assigned employees may have access to legal counsel as determined by the Superintendent or designee.

The Director of Human Resources or, if necessary, any appropriate administrator shall determine whether interim measures are necessary during and pending the result of an investigation. If interim measures are determined to be necessary, the Director of Human Resources or the administrator shall consult with the Superintendent, the Superintendent's designee, or, if appropriate, the site administrator to implement, if possible, one or more interim measures. The interim measures may remain in place until the Director of Human Resources determines that they are no longer necessary or until the SJCOE issues its final written decision, whichever occurs first.

### **Notifications**

SJCOE UCP policy and administrative regulation shall be posted in all county-operated school sites and offices, including staff lounges. The Director of Human Resources shall annually provide written notification of the SJCOE UCP, including information regarding unlawful student fees, local control and accountability plan (LCAP) requirements, and requirements related to the educational rights of foster youth and homeless students, to students, employees, parents/guardians, advisory committees, appropriate private school officials or representatives, and other interested parties. (5 CCR § 4622)

The annual notification and complete contact information of the compliance officer may be posted on the SJCOE web site and, if available, provided through SJCOE-supported social media.

The Superintendent or designee shall ensure that all students and parents/guardians, including students and parents/guardians with limited English proficiency, have access to the relevant information provided in SJCOE policy, regulation, forms, and notices concerning the UCP.

If 15 percent or more of students enrolled in a particular county-operated program speak a single primary language other than English, the policy, regulation, forms, and notices concerning UCP shall be translated into that language in accordance with Education Code §§ 234.1 and 48985. In all other instances, SJCOE shall ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

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, harassment, intimidation, and bullying laws, if applicable.
3. Advise the complainant of the appeal process, including, if applicable, 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, such as the U.S. Department of Education's Office for Civil Rights (OCR) in cases involving unlawful discrimination, harassment, intimidation, bullying, or related retaliation.

4. Include statements that:

- a. SJCOE has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs.
- 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. A complaint alleging unlawful discrimination, harassment, intimidation, bullying, or related retaliation must be filed not later than six months from the date it occurred, or six months from the date the complainant first obtained knowledge of the facts of the alleged unlawful discrimination. The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension.
- d. A lactating student on a school campus shall be provided reasonable accommodation to express breast milk, breastfeed an infant child, or address other breastfeeding-related needs of the student.
- e. A student enrolled in a public school shall not be required to pay a fee for his/her participation in an educational activity that constitutes an integral fundamental part of the educational program of SJCOE, including curricular and extracurricular activities.
- f. The Board is required to adopt and annually update the LCAP in a manner that includes meaningful engagement of parents/guardians, students, and other stakeholders in the development and/or review of the LCAP.
- g. A foster youth shall receive information about educational rights related to his/her educational placement, enrollment in and checkout from school, as well as the responsibilities of the SJCOE liaison for foster youth to ensure and facilitate these requirements and to assist the student in ensuring proper transfer of his/her credits, records, and grades when he/she transfers between schools or between SJCOE and another district.
- h. A foster youth or homeless student who transfers into a county-operated high school or between county-operated high schools shall be notified of the SJCOE's responsibility to:
  - (1) Accept any coursework or part of the coursework that the student has satisfactorily completed in another public school, juvenile court school, or a nonpublic, nonsectarian school or agency, and to issue full or partial credit for the coursework completed.
  - (2) Not require the student to retake any course or a portion of a course which he/she has satisfactorily completed in another public school, juvenile court school, or a nonpublic, nonsectarian school or agency.

- (3) If the student has completed his/her second year of high school before the transfer, provide the student information about SJCOE-adopted coursework and SJCOE-imposed graduation requirements from which he/she may be exempted pursuant to Education Code 51225.1.
- i. A student shall not be assigned a course without educational content for more than one week in any semester or to a course the student has previously satisfactorily completed, without meeting specific conditions.
  - j. The course of study for a student in elementary school must include physical education for not less than 200 minutes each ten school days, exclusive of recesses and the lunch period.
  - k. SJCOE shall comply with federal and state laws or regulations governing its participation in any student financial assistance program authorized by Title IV as provided in Education Code § 52334.7.
  - l. SJCOE shall comply with all federal and state laws or regulations governing regional occupational centers and programs as provided in Education Code § 52334.7
  - m. The complainant has a right to appeal the decision of SJCOE to the CDE by filing a written appeal within 15 calendar days of receiving the decision.
  - n. The appeal to the CDE must include a copy of the complaint filed with the SJCOE and a copy of the SJCOE's decision.
  - o. Copies of the SJCOE UCP are available free of charge.

### **SJCOE Responsibilities**

All UCP-related complaints shall be investigated and resolved within 60 calendar days of the SJCOE's receipt of the complaint unless the complainant agrees in writing to an extension of the timeline.

The Director of Human Resources shall maintain a record of each complaint and subsequent related actions, including steps taken during the investigation and all information required for compliance with 5 CCR §§ 4631 and 4633.

All parties involved in the allegations shall be notified when a complaint is filed and when a decision or ruling is made. However, the Director of Human Resources shall keep all complaints or allegations of unlawful discrimination, harassment, intimidation, bullying, or related retaliation

confidential except when disclosure is necessary to carry out the investigation, take subsequent corrective action, conduct ongoing monitoring, or maintain the integrity of the process.

### **Filing of Complaint**

The complaint shall be presented to the Director of Human Resources who shall maintain a log of complaints received.

All complaints shall be filed in accordance with the following:

1. A written complaint alleging SJCOE violation of applicable state or federal law or regulations governing adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and training programs, child care and development programs, child nutrition programs, and special education programs may be filed by any individual, public agency, or organization.
2. Any complaint alleging noncompliance with the law regarding the prohibition against requiring students to pay student fees, deposits, charges, and regarding noncompliance with the LCAP requirements 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 school site administrator. However, any such complaint shall be filed no later than one year from the date the alleged violation occurred.
3. A complaint alleging unlawful discrimination, harassment, intimidation, bullying, or related retaliation may be filed by a person who alleges that he/she personally suffered unlawful discrimination, harassment, intimidation, bullying, or retaliation or by a person who believes that an individual, or any specific class of individuals, has been subjected to unlawful discrimination, harassment, intimidation, bullying, or retaliation. The complaint shall be initiated no later than six months from the date when the alleged discrimination, harassment, intimidation, bullying, or retaliation occurred or when the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation, bullying, or related retaliation. The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension.
4. When a complaint alleging unlawful discrimination, harassment, intimidation, bullying, or related retaliation is filed anonymously, the Director of Human Resources shall pursue an investigation or other response as appropriate, depending on the specificity and reliability of the information provided and the seriousness of the allegation.
5. When the complainant or alleged victim of unlawful discrimination, harassment, intimidation, bullying, or related retaliation requests confidentiality, the Director of Human Resources shall

inform him/her that the request may limit the ability of SJCOE to investigate the conduct or take other necessary action. When honoring a request for confidentiality, SJCOE shall nevertheless take all reasonable steps to investigate and resolve/respond to the complaint consistent with the request.

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

### **Mediation**

The Director of Human Resources may informally discuss with the complainant the possibility of using mediation. However, mediation shall not be offered or used to resolve any complaint involving an allegation of sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. If the complainant agrees to mediation, the Director of Human Resources shall make all arrangements for this process.

### **Investigation of Complaint**

The Director of Human Resources is encouraged to hold an investigative meeting within 10 calendar 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(s) orally and present any evidence, or information leading to evidence, to support the allegations in the complaint. Such evidence or information may be presented at any time during the investigation.

In conducting the investigation, the Director of Human Resources also shall collect all documents and review all available records, notes, or statements related to the complaint, including any additional evidence or information received from the parties during the course of the investigation. The Director of Human Resources shall individually interview all witnesses with information pertinent to the complaint, and may visit any reasonably accessible location where the relevant actions are alleged to have taken place. To investigate a complaint alleging unlawful discrimination, harassment, intimidation, bullying, or related retaliation, the compliance officer shall interview the alleged victim(s), any alleged offenders, and other relevant witnesses privately, separately, and in a confidential manner. As necessary, additional staff or legal counsel may conduct or support the investigation.

Refusal by the complainant to provide the investigator with documents or other evidence related to the allegations in the complaint, to fail or refuse to cooperate in the investigation, or to 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.

The accused and/or his/her representative and SJCOE representatives shall also have an opportunity to present any evidence or information relevant to the complaint.

Refusal by the accused and/or by SJCOE to provide the investigator with access to records and/or other information related to the allegations in the complaint, to fail or refuse to cooperate in the investigation, or to 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.

The Director of Human Resources shall apply a "preponderance of the evidence" standard in determining the veracity of the factual allegations in a complaint. This standard is met if the allegation is more likely to be true than not.

### **Report of Findings**

Within 60 calendar days of receiving the complaint, the Director of Human Resources shall prepare and send to the complainant a written report of the investigation and decision, as described below, unless the complainant agrees in writing to an extension of time.

If an investigation of an allegation of harassment, gender-based or otherwise, against an employee yields evidence that a student was subjected to harassment by other students, or if the investigation of an allegation against other students yields evidence of harassment by an employee, SJCOE will pursue an investigation on that issue as well.

### **Final Written Decision**

The report of the decision shall be in writing and sent to the complainant.

The report of the decision shall be written in English and in the primary language of the complainant whenever feasible or required by law. If it is not feasible to write this report in the complainant's primary language, SJCOE shall arrange a meeting at which a community member will interpret for the complainant.

This report shall include:

1. The findings of fact based on the evidence gathered. In reaching a factual determination, the following factors may be taken into account:
  - a. Statements made by any witnesses.
  - b. The relative credibility of the individuals involved.
  - c. How the complaining individual reacted to the incident.
  - d. Any documentary or other evidence relating to the alleged conduct.

- e. Past instances of similar conduct by any alleged offenders.
  - f. Past false allegations made by the complainant.
2. Conclusion(s) of law.
  3. Disposition of the complaint.
  4. Rationale for such disposition.

For complaints of unlawful discrimination, harassment, intimidation, bullying, or related retaliation, the disposition of the complaint shall include a determination for each allegation as to whether retaliation or unlawful discrimination has occurred.

The determination of whether a hostile environment exists may involve consideration of the following:

- a. How the misconduct affected one or more students' education.
  - b. The type, frequency, and duration of the misconduct.
  - c. The relationship between the alleged victim(s) and offender(s).
  - d. The number of persons engaged in the conduct and at whom the conduct was directed.
  - e. The size of the school, location of the incidents, and context in which they occurred.
  - f. Other incidents at the school involving different individuals.
5. Corrective action(s), including any actions that have been taken or will be taken to address the allegations in the complaint and including, with respect to a student fees complaint, a remedy that comports with Education Code § 49013 and 5 CCR § 4600.

For complaints of unlawful discrimination, harassment, intimidation, bullying, or related retaliation, the decision may, as required by law, include:

- a. The corrective actions imposed on the individual found to have engaged in the conduct that relate directly to the subject of the complaint.
- b. Individual remedies offered or provided to the complainant or another person who was the subject of the complaint.



- c. Systemic measures the school has taken to eliminate a hostile environment and prevent recurrence.
6. Notice of 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. The decision may also include follow-up procedures to prevent recurrence or retaliation and for reporting any subsequent problems.

For complaints alleging unlawful discrimination, harassment, intimidation, bullying, or related retaliation complaints based on state law, the decision shall also include a notice to the complainant that:

1. He/she may pursue available civil law remedies outside of the complaint procedures of SJCOE, including seeking assistance from mediation centers or public/private interest attorneys, 60 days after filing of an appeal with the CDE.
2. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law.
3. Complaints alleging discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the U.S. Department of Education, Office for Civil Rights at [www.ed.gov/ocr](http://www.ed.gov/ocr) within 180 days of the alleged discrimination.

### **Corrective Actions**

When a complaint is found to have merit, the Director of Human Resources shall adopt any appropriate corrective action permitted by law. Appropriate corrective actions that focus on the larger school or SJCOE environment may include, but are not limited to, actions to reinforce SJCOE policies; training for faculty, staff, and students; updates to school policies; or school climate surveys.

For complaints involving unlawful discrimination, harassment, intimidation, bullying, or related retaliation, appropriate corrective actions that focus on the victim may include, but are not limited to, the following:

1. Counseling.
2. Academic support.
3. Health services.
4. Assignment of an escort to allow the victim to move safely about campus.
5. Information regarding available resources and how to report similar incidents or retaliation.

6. Separation of the victim from any other individuals involved, provided the separation does not penalize the victim.
7. Restorative justice.
8. Follow-up inquiries to ensure that the conduct has stopped and there has been no retaliation.
9. Determination of whether any past actions of the victim that resulted in discipline were related to the treatment the victim received and described in the complaint.

For complaints involving unlawful discrimination, harassment, intimidation, bullying, or related retaliation, appropriate corrective actions that focus on a student offender may include, but are not limited to, the following:

1. Transfer from a class or school as permitted by law.
2. Parent/guardian conference.
3. Education regarding the impact of the conduct on others.
4. Positive behavior support.
5. Referral to a student success team.
6. Denial of participation in extracurricular or co-curricular activities or other privileges as permitted by law.
7. Disciplinary action, such as suspension or expulsion, as permitted by law.

SJCOE may also consider training and other interventions for the larger school community to ensure that students, staff, and parents/guardians understand the types of behavior that constitute unlawful discrimination, harassment, intimidation, or bullying, that SJCOE does not tolerate it, and how to report and respond to it.

If a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges, physical education instructional minutes for students in elementary schools, or any requirement related to the LCAP is found to have merit, SJCOE shall provide a remedy to all affected students and parents/guardians subject to procedures established by regulation of the State Board of Education.

For complaints alleging noncompliance with the laws regarding student fees, SJCOE shall attempt in good faith, by engaging in reasonable efforts, to identify and fully reimburse all affected students and parents/guardians who paid the unlawful student fees within one year prior to the filing of the complaint.

### **Appeals to the California Department of Education**

Any complainant who is dissatisfied with the final written decision made by SJCOE may file an appeal in writing to the CDE within 15 calendar days of receiving the decision of SJCOE.

When appealing to the CDE, within 15 days of receiving the decision, the complainant must specify the reason(s) for appealing 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 the decision.

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

1. A copy of the original complaint.
2. A copy of the written decision.
3. A summary of the nature and extent of the investigation conducted by SJCOE, 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 designated investigator.
5. A report of any action taken to resolve the complaint.
6. A copy of SJCOE uniform complaint procedures.
7. Other relevant information requested by the CDE.

The CDE may directly intervene in the complaint without waiting for action by SJCOE when one of the conditions listed in 5CCR § 4650 (Basis of Direct State Intervention) exists, including in those cases where SJCOE has not taken action within 60 calendar days of the date the complaint was filed.

(3/16)