

# Mt. Diablo USD

## Red-lined Existing Administrative Regulation with Proposed Changes Uniform Complaint Procedures

AR 1312.3

### Community Relations

Except as the Governing Board may otherwise specifically provide in other Board policies, the uniform complaint procedures shall be used only to investigate and resolve complaints alleging violations of federal or state laws or regulations governing specific educational programs, the prohibition against requiring students to pay fees, deposits, or other charges for participating in educational activities, and unlawful discrimination, harassment, intimidation, or bullying, as specified in accompanying Board policy.

*(cf. 1312.1 - Complaints Concerning District Employees)*

*(cf. 1312.2 - Complaints Concerning Instructional Materials)*

*(cf. 1312.4 - Williams Uniform Complaint Procedures)*

*(cf. 4031 - Complaints Concerning Discrimination in Employment)*

The district's uniform complaint procedures policy and administrative regulation shall be posted in all district schools and offices, including staff lounges and student government meeting rooms. If 15 percent or more of students enrolled in a particular district school speak a single primary language other than English, the district's policy, regulation, forms, and notices concerning uniform complaint procedures shall be translated into that language. (Education Code 234.1, 48985)

*(cf. 5145.6 - Parental Notifications)*

### Compliance Officers

The ~~Governing Board designates~~ the following compliance officer(s) shall ~~to~~ receive and investigate complaints and shall ~~to~~ ensure district compliance with law:

~~Elementary Education~~  
Rose Lock, Assistant Superintendent  
~~Superintendent~~  
1936 Carlotta Drive  
Concord, California 94519  
Phone: (925) 682-8000, ext. 4015  
Fax: (925) 689-1466  
Email: lockr2@mdusd.org

~~Secondary Education~~  
~~Dr. Alan Young, Associate~~  
~~1936 Carlotta Drive~~  
~~Concord, California 94519~~  
~~Phone: (925) 682-8000 X4011~~  
~~Fax: (925) 691-1649~~  
~~Email: younga@mdusd.k12-ca.us~~

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

**UNIFORM COMPLAINT PROCEDURES** (continued)

(cf. 9124 - Attorney)

**Notifications**

The Superintendent or designee shall ~~meet the notification requirements of 5 CCR 4622, including the annual dissemination of district 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. An annual~~ annually provide written notice notification of the LEA's district's uniform complaint procedures shall be sent to students, employees, parents/\_or-guardians, of its students, school and the district advisory committees, school advisory committees, appropriate private school officials or representatives, and other interested parties. (Education Code 262.3, 49013; 5 CCR 4622) The Superintendent or designee shall ensure that complainants understand that they may pursue other remedies, including actions before civil courts of other public agencies.

*(cf. 0420 - School Plans/Site Councils)**(cf. 1220 - Citizen Advisory Committees)**(cf. 3260 - Fees and Charges)**(cf. 4112.9/4212.9/4312.9 - Employee Notifications)**(cf. 5145.6 - Parental Notifications)*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, 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
4. Include statements that:
  - a. The district 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, or bullying must be filed not later than six months from the date it occurred, or

**UNIFORM COMPLAINT PROCEDURES** (continued)

six months from the date the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation, or bullying.

- d. The complainant has a right to appeal the district's decision to the CDE by filing a written appeal within 15 calendar days of receiving the district's decision.
- e. The appeal to the CDE must include a copy of the complaint filed with the district and a copy of the district's decision.
- f. Copies of the district's uniform complaint procedures are available free of charge.

**Procedures**

All complaints shall be investigated and resolved within 60 calendar days of the district's receipt of the complaint. (5 CCR 4631)

~~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 ~~4632~~ 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 the district's alleged noncompliance by the district with federal or state laws or regulations governing educational programs. (5 CCR 4630).

A complaints alleging concerning unlawful discrimination, harassment, intimidation, or bullying may be filed only by a person who alleges that he/she personally suffered unlawful discrimination, harassment, intimidation, or bullying or by a person who believes that an individual or any specific class of individuals has been subjected to ~~unlawful discrimination~~ it. The complaint ~~must~~ shall be initiated no later than six months from the date when the alleged discrimination, harassment, intimidation, or bullying occurred, or six months from the date when the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation, or bullying. However, upon written request by the complainant, the Superintendent or designee may extend the filing period for up to 90 calendar days. (5CCR 4630)

**UNIFORM COMPLAINT PROCEDURES** (continued)

A complaint alleging noncompliance with the law regarding the prohibition against requiring students to pay student fees, deposits, and charges may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance. (Education Code 49013)

The complainant 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~~ stamped copy of the date the complaint was received.

If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy or other disabilities, district staff shall ~~help~~ assist him/her ~~to file in the filing of~~ the complaint. (5 CCR 4600)

**Step 2: Investigation of Complaint**

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

Within 10 calendar days of receiving the complaint, the compliance officer shall provide the complainant and/or his/her representative and the district's representatives shall also have an opportunity to present the complaint and any evidence, or information relevant to leading to evidence, to support the complaint. Parties to the dispute may discuss the complaint and question each other or each other's witnesses. The compliance officer also shall collect all documents and interview all witnesses with information pertinent to the complaint. (5 CCR 4631)

~~A complainant's refusal by the complainant to provide the district's investigator with documents or other evidence related to the allegations in the complaint, or to otherwise fail or refuse failure or refusal to cooperate in the investigation, or 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 allegations.~~

In accordance with law, the district shall Refusal by the LEA to provide the investigator with access to records and/or other information related to the allegation in the complaint and shall not in any way obstruct the investigation. , or to otherwise fail to refuse or Failure or refusal of the district to cooperate in the investigation or engage in any other obstruction of the investigation, may result in a finding based on evidence collected that a violation has occurred and in the imposition of a remedy in favor of the complainant. (5 CCR 4631)

**Step 3: Response**

Within 30 calendar days of receiving the complaint, the compliance officer shall prepare and

**UNIFORM COMPLAINT PROCEDURES** (continued)

send to the complainant a written report of the district's investigation and decision, as described in Step #4 below. ~~(5 CCR 4631)~~ If the complainant is dissatisfied with the compliance officer's decision, he/she may, within five business days, file his/her complaint in writing with the Board.

The Board may consider the matter at its next regular Board meeting or at a Special Board Meeting convened in order to meet the 60-day time limit within which the complaint must be answered. The Board may decide not to hear the complaint, in which case the compliance officer's decision shall be final.

If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 60 calendar days of the district's ~~initially receiving~~ initial receipt of the complaint or within the time period that has been specified in a written agreement with the complainant. (5 CCR 4631)

**Step 4: Final Written Decision**

~~The report of~~ The district's decision shall be in writing and sent to the complainant. (5 CCR 4631)

~~The report of the~~ district's decision shall be written in English and, when required by Education Code 48985, in the complainant's primary language. ~~of the complainant whenever feasible or required by law. If it is not feasible to write the report in the complainant's primary language, the district shall arrange a meeting at which a community member will interpret it for the complainant.~~

For all complaints, the decision ~~This report~~ shall include: (5 CCR 4631)

1. The findings of fact based on the evidence gathered and disposition of the complaint, including corrective actions, if any (5 CCR 4631)
2. The conclusion(s) of law
3. Disposition of the complaint
24. ~~The Rationale for the above~~ such disposition (5 CCR 4631)
5. Corrective actions, if any are warranted
36. Notice of the complainant's right to appeal the decision within 15 calendar days to the CDE; and procedures to be followed for initiating such an appeal (5 CCR 4631, 4652)
4. In addition, any decision concerning a ~~For~~ discrimination, harassment, intimidation, or

**UNIFORM COMPLAINT PROCEDURES** (continued)

bullying complaints based on state law shall include; notice that the complainant must wait until 60 calendar days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies (5-CCR 4631; Education Code 262.3)

~~5. — A detailed statement of all specific issues that were brought up during the investigation and the extent to which these issues were resolved~~

If investigation of a complaint results in discipline to a student or an employee is disciplined as a result of the complaint, this report the decision shall simply state that effective action was taken and that the student or employee was informed of district expectations. The report shall not give any further information as to the nature of the disciplinary action.

If a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges is found to have merit, the district shall provide a remedy to all affected students and parents/guardians, which, where applicable, shall include reasonable efforts to ensure full reimbursement to them. (Education Code 49013)

**Appeals to the California Department of Education**

If dissatisfied with the district's decision, the complainant may appeal in writing to the CDE. (Education code 49013; 5 CCR 4652)

The complainant shall file his/her appeal within 15 calendar days of receiving the district's decision and the appeal shall specify the basis for the appeal of the decision and whether the facts are incorrect and/or the law has been misapplied. For good cause, the Superintendent of Public Instruction may grant an extension for filing appeals. When appealing to the California Department of Education, the complainant must specify the reason(s) for appealing the district's decision and include The appeal shall be accompanied by a copy of the locally filed complaint and a copy of the district's decision. (5 CCR 4632)

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

~~If the Department determines the appeal raises issues not contained in the local complaint, the Department will refer those new issues back to the local educational agency for resolution as a new complaint under section 4630 or 4631.~~

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

**UNIFORM COMPLAINT PROCEDURES** (continued)

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

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

**Department Resolution Procedures**

~~When the Department determines that direct State intervention is warranted pursuant to any provision of section 4650, the following procedures shall be used to resolve the issues of the complaint:~~

- ~~1. — The Department shall consider alternative methods to resolve the allegations in the complaint.~~
- ~~2. — If both parties request mediation, the Department shall offer to mediate the dispute which may lead to a state mediation agreement.~~
- ~~3. — The Department shall conduct an investigation, including an on-site investigation if necessary, into the allegation in the complaint unless a settlement agreement has been reached between the parties that disposes of all the issues in the complaint.~~

**Civil Law Remedies**

A complainant may pursue available civil law remedies outside of the 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

**UNIFORM COMPLAINT PROCEDURES** (continued)

limited to, injunctions and restraining orders.

For complaints alleging discrimination, harassment, intimidation, and bullying based on state law, complaints, however, a complainant ~~must~~ shall wait until 60 calendar days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies, provided ~~The moratorium does not apply to injunctive relief and is applicable only if the 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. The moratorium does not apply to injunctive relief and to discrimination complaints based on federal law. (Education Code 262.3)

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