

VENTURA COUNTY BOARD OF EDUCATION

ADMINISTRATIVE REGULATION NO. 1312.3

ADOPTED: 2/24/97

CLASSIFICATION: Community Relations

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10/14/05
6/28/06
5/30/07
1/04/13
5/27/14
9/22/14
3/18/19
6/27/22
03/06/23**

SUBJECT: Uniform Complaint Procedures

The Ventura County Office of Education (VCOE) shall follow Uniform Complaint Procedures when investigating and resolving only the complaints concerning the VCOE as specified in the accompanying Board policy.

COMPLIANCE OFFICERS

The County Board of Education and County Superintendent designate the following compliance officers to receive, coordinate, and investigate complaints and ensure county office compliance with state and federal civil rights laws:

Dr. Juan Santos
Chief Human Resources Officer
5189 Verdugo Way
Camarillo, California 93012
(805) 383-1910
jsantos@vcoe.org

Holly Minear
Executive Director of Student Services
5250 Adolfo Road
Camarillo, California 93012
(805) 383-1924
hminear@vcoe.org

The compliance officer who receives a complaint may assign another compliance officer to investigate and resolve the complaint. The compliance officer shall promptly notify the complainant and respondent if another compliance officer is assigned to the complaint.

In no instance shall a compliance officer be assigned to a complaint in which the compliance officer has a bias or conflict of interest that would prohibit the fair investigation or resolution of the complaint. Any complaint against a compliance officer or that raises a concern about the compliance officer's ability to investigate the complaint fairly and without bias shall be filed with the County Superintendent or designee who shall determine how the complaint will be investigated.

The County Superintendent or designee shall ensure that employees assigned to investigate 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 cover current state and federal laws and regulations governing the program; applicable processes for investigating and resolving complaints, including those alleging unlawful discrimination, harassment, intimidation, or bullying; applicable standards for reaching decisions on complaints; and appropriate corrective measures. Assigned employees may have access to legal counsel as determined by the County Superintendent or designee.

NOTIFICATIONS

The VCOE's UCP policy and administrative regulation shall be posted in all VCOE schools and offices, including staff lounges and student government meeting rooms. (Education Code 234.1)

Annual written notification of the VCOE's UCP will also be disseminated to students, employees, parent or guardians of its students, school and VCOE Advisory committee members, appropriate private school officials or representatives, and other interested parties. (5 CCR 4622)

The notice shall include:

1. A statement that the VCOE is primarily responsible for compliance with federal and state laws and regulations, including those related to prohibition of unlawful discrimination, harassment, intimidation, or bullying against any protected group, and a list of all programs and activities that are subject to UCP as identified in the section "Complaints Subject to UCP" in the accompanying Board policy.
2. The title of the position responsible for processing complaints, the identity of the person(s) currently occupying that position if known, and a statement that such persons will be knowledgeable about the laws and programs that they are assigned to investigate.
3. A statement that a UCP complaint, except a complaint alleging unlawful discrimination, harassment, intimidation, or bullying, must be filed no later than one year from the date the alleged violation occurred.
4. A statement that a UCP complaint alleging unlawful discrimination, harassment, intimidation, or bullying must be filed no later than six months from the date of the alleged conduct or the date the complainant first obtained knowledge of the facts of the alleged conduct.
5. A statement that a student enrolled in a public school shall not be required to pay a fee for participation in an educational activity that constitutes an integral fundamental part of VCOE's educational program, including curricular and extracurricular activities.

6. A statement that a complaint regarding student fees or the local control and accountability plan (LCAP) may be filed anonymously if the complainant provides evidence or information leading to evidence to support the complaint.
7. A statement that VCOE will post a standardized notice of the educational and graduation requirements of foster youth, homeless students, children of military families, and former juvenile court school students now enrolled in VCOE schools and programs, as specified in Education Code 48645.7, 48853, 48853.5, 49069.5, 51225.1, and 51225.2, and the complaint process.
8. A statement that complaints will be investigated in accordance with VCOE's UCP and a written decision will be sent to the complainant within 60 days from the receipt of the complaint, unless this time period is extended by written agreement of the complainant.
9. A statement that, for programs within the scope of the UCP as specified in the accompanying Board policy, the complainant has a right to appeal VCOE's investigation report to the California Department of Education (CDE) by filing a written appeal, including a copy of the original complaint and the VCOE's decision, within 30 calendar days of receiving the VCOE's decision.
10. A statement advising the complainant of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal laws prohibiting discrimination, harassment, intimidation, or bullying, if applicable.
11. A statement that copies of the VCOE's UCP are available free of charge.

The annual notification, complete contact information of the compliance officer(s), and information related to Title IX as required pursuant to Education Code 221.6 shall be posted on VCOE and VCOE school websites and may be provided through VCOE-supported social media, if available.

The County 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 VCOE's policy, regulation, forms, and notices concerning the UCP.

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

PROCEDURES

Step 1: Filing of Complaint

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 site administrator not designated as a compliance officer receives a complaint, the site administrator shall notify the compliance officer.

All complaints shall be filed in writing and signed by the complainant. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, VCOE staff shall assist in the filing of the complaint. (5 CCR 4600)

Complaints shall also be filed in accordance with the following rules, as applicable:

1. A complaint alleging county violation of applicable state or federal law or regulations governing the programs specified in the accompanying Board policy may be filed by any individual, public agency, or organization. (5 CCR 4600)
2. Any complaint alleging noncompliance with law regarding the prohibition against 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 or with the County Superintendent or designee.
3. A UCP complaint, except for a UCP complaint alleging unlawful discrimination, harassment, intimidation, or bullying, shall be filed no later than one year from the date the alleged violation occurred. For complaints related to the LCAP, the date of the alleged violation is the date when the County Superintendent of Schools approves the LCAP that was adopted by the Governing County Board. (5 CCR 4630)
4. A complaint alleging unlawful discrimination, harassment, intimidation, or bullying may be filed only by a person who alleges having personally suffered unlawful discrimination, a person who believes that any specific class of individuals has been subjected to unlawful discrimination, or a duly authorized representative who alleges that an individual student has been subjected to discrimination, harassment, intimidation, or bullying. (5 CCR 4630)
5. A complaint alleging unlawful discrimination, harassment, intimidation, or bullying shall be initiated no later than six months from the date that the alleged unlawful discrimination occurred, or six months from the date that 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 County Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension. (5 CCR 4630)
6. When a complaint alleging unlawful discrimination, harassment, intimidation, or bullying is filed anonymously, the compliance officer 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.

7. When a complainant of unlawful discrimination, harassment, intimidation, or bullying of the alleged victim, when not the complainant, requests confidentiality, the compliance officer shall inform the complainant or victim that the request may limit the VCOE's ability to investigate the conduct or take other necessary action. When honoring a request for confidentiality, VCOE shall nevertheless take all reasonable steps to investigate and resolve/respond to the complaint consistent with the request.

Step 2: Mediation

Within three (3) working days of receiving the complaint, the compliance officer 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 compliance officer shall make all arrangements for this process.

Before initiating the mediation of a complaint alleging discrimination, harassment, intimidation, or bullying, 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 an investigation of the complaint.

The use of a mediator shall not extend VCOE's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time.

Step 3: Investigation of Complaint

The compliance officer shall schedule an investigative meeting within five (5) days of receiving the complaint or an unsuccessful attempt to resolve the complaint pursuant to Step 2, and shall hold an investigative meeting within ten (10) working days. This meeting shall provide an opportunity for the complainant and/or the complainant's representative to repeat the complaint orally.

The complainant and/or the complainant's representative and VCOE's representatives shall also have an opportunity to present evidence or information relevant to the complaint.

In conducting the investigation, the compliance officer shall collect all available 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 compliance officer shall individually interview all available witnesses with information pertinent to the complaint and may visit any reasonably accessible location where the relevant actions are alleged to have taken place. At appropriate intervals, the compliance officer shall inform the parties of the status of the investigation.

A complainant's refusal to provide VCOE's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or 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).

The VCOE'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 investigation report shall be sent to the complainant within 60 calendar days of the VCOE's receipt of the complaint.

Within thirty (30) calendar days of receiving the complaint, the compliance officer shall prepare and send to the complainant a written report of VCOE's investigation and decision, as described in Step 5 below. If the complainant is dissatisfied with the compliance officer's decision, the complainant may, within five (5) calendar days, file a complaint in writing with the County Superintendent.

The County Superintendent will hold a meeting to consider the matter in sufficient time to meet the 60-day time limit within which the complaint must be answered. The County Superintendent may decide not to hear the complaint, in which case the compliance officer's decision is final.

If the County Superintendent hears the complaint, the compliance officer shall send the County Superintendent's decision to the complainant within sixty (60) calendar days of VCOE's 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 5: Investigation Report

The report of VCOE's investigation report shall be written in English and in the 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, the VCOE shall arrange a meeting at which a translator will interpret it for the complainant.

This report shall include: (5 CCR 4631)

1. The findings of fact based on the evidence gathered.
2. A conclusion providing a clear determination for each allegation as to whether the VCOE is in compliance with relevant law.
3. Corrective action(s) whenever the VCOE finds merit in the complaint, including, when required by law, a remedy to all affected students and parents/guardians and, for a student

fees complaint, a remedy that complies with Education Code section 49013 and 5 CCR 4600.

4. Notice of the complainant's right to appeal the VCOE's investigation report to CDE, except when VCOE has used the UCP to address a complaint not specified in 5 CCR 4610.
5. Procedures to be followed for initiating an appeal to CDE.

The investigation report may also include follow-up procedures to prevent recurrence or retaliation and for reporting any subsequent problems.

If investigation of a complaint results in discipline to a student or an employee, the decision shall simply state that effective action was taken and that the student or employee was informed of VCOE's expectations. The report cannot give any further information as to the nature of the disciplinary action.

In consultation with VCOE legal counsel, information about the relevant part of an investigation report may be communicated to a victim who is not the complainant and to other parties who may be involved in implementing the investigation report or are affected by the complaint, as long as the privacy of the parties is protected. In a complaint alleging unlawful discrimination, harassment, intimidation, and bullying, notice of the investigation report to the alleged victim shall include information about any sanction to be imposed upon the respondent that relates directly to the alleged victim.

For complaints alleging unlawful discrimination, harassment, intimidation, and bullying based on state law, the investigation report shall also include a notice to the complainant that:

1. The complainant may pursue available civil law remedies outside of VCOE's complaint procedures, including, but not limited to, injunctions, restraining orders or other remedies or orders, 60 calendar days after the filing of an appeal with CDE. (Education Code 262.3)
2. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law. (Education Code 262.3)
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 within 180 days of the alleged discrimination.

Corrective Actions

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

For complaints involving retaliation or unlawful discrimination, harassment, intimidation, or bullying, appropriate remedies that may be offered to the victim but not communicated to the respondent 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

For complaints of retaliation or unlawful discrimination, harassment, intimidation, or bullying involving a student as the respondent, appropriate corrective actions that may be provided to the student 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 cocurricular activities or other privileges as permitted by law
7. Disciplinary action, such as suspension, as permitted by law

When an employee is found to have committed retaliation or unlawful discrimination, harassment, intimidation, or bullying, the VCOE shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

The VCOE 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 the VCOE does not tolerate it, and how to report and respond to it.

When a complaint is found to have merit, an appropriate remedy shall be provided to the complainant or other affected person.

However, if a complaint alleging noncompliance with the law regarding student fees, deposits, and other charges, physical education instructional minutes, courses without educational content, or any requirement related to the LCAP is found to have merit, the VCOE shall provide a remedy to all affected students and parents/guardians subject to procedures established by regulation of the State Board of Education. (Education Code 49013, 51222, 51223, 51228.3, 52075)

For complaints alleging noncompliance with the law regarding student fees, the VCOE, by engaging in reasonable efforts, shall attempt in good faith 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. (Education Code 49013; 5 CCR 4600)

APPEALS TO THE CALIFORNIA DEPARTMENT OF EDUCATION (CDE)

If dissatisfied with VCOE's investigation report on a complaint regarding any specified federal or state education program subject to UCP, the complainant may file a written appeal with CDE within 30 calendar days of receiving VCOE's investigation report. (5 CCR 4632).

The appeal shall be sent to CDE with a copy of the original locally filed complaint and a copy of the VCOE's investigation report for that complaint. The complainant shall specify and explain the basis for the appeal, including at least one of the following: (5 CCR 4632)

1. The VCOE failed to follow its complaint procedures.
2. Relative to the allegations of the complaint, the VCOE's investigation report lacks material findings of fact necessary to reach a conclusion of law.
3. The material findings of fact in the VCOE's investigation report are not supported by substantial evidence.
4. The legal conclusion in the VCOE's investigation report is inconsistent with the law.
5. In a case in which VCOE found noncompliance, the corrective actions fail to provide a proper remedy.

Upon notification by CDE that the complainant has appealed VCOE's investigation report, the County Superintendent or designee shall forward the following documents to the CDE within 10 days of the date of notification: (5 CCR 4633)

1. A copy of the original complaint.
2. A copy of VCOE's investigation report.

3. 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.
4. A report of any action taken to resolve the complaint.
5. A copy of VCOE's UCP.
6. Other relevant information requested by CDE.

If notified by CDE that VCOE's investigation report failed to address allegation(s) raised by the complaint, VCOE shall, within 20 days of the notification, provide CDE and the appellant with an amended investigation report that addresses the allegation(s) that were not addressed in the original investigation report. The amended report shall also inform the appellant of the right to separately appeal the amended report with respect to the allegation(s) that were not addressed in the original report. (5 CCR 4632)

All complaints and responses are public records.