

UNIFORM COMPLAINT PROCEDURES

The TVROCP Governing Board recognizes that the TVROCP is primarily responsible for complying with applicable state and federal laws and regulations governing educational programs. The TVROCP shall investigate complaints alleging failure to comply with such laws and/or alleging discrimination, and shall seek to resolve those complaints in accordance with the TVROCP's uniform complaint procedures. (5 CCR 4620)

The TVROCP shall follow uniform complaint procedures when addressing 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 identification, race, ancestry, national origin, religion, color, 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 district program or activity that receives or benefits from state financial assistance. (5 CCR 4610)

Uniform complaint procedures shall also be used when addressing complaints alleging failure to comply with state and/or federal laws in adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and career technical and technical training programs, child care and development programs, child nutrition programs, special education programs, and federal safety planning requirements. (5 CCR 4610) Individuals, agencies, organizations, students and interested third parties have the right to file a complaint using this procedure described below.

Complaints related to 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 TVROCP's Williams uniform complaint procedure.

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

The Board acknowledges and respects every individual's right 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 and except to the extent necessary to carry out the investigation or proceedings, as determined by the Superintendent or designee, on a case-by-case basis.

The 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.

UNIFORM COMPLAINT PROCEDURES

The Governing Board recognizes that a neutral mediator can often suggest a compromise that is agreeable to all parties in a dispute. In accordance with uniform complaint procedures, whenever all parties to a complaint agree to try resolving their problem through mediation, the Superintendent or designee shall initiate that process. The Superintendent or designee shall ensure that the results are consistent with state and federal laws and regulations.

*Legal Reference:*EDUCATION CODE

200-262.4 Prohibition of discrimination
8200-8498 Child care and development programs
8500-8538 Adult basic education
18100-18203 School libraries
32289 School safety plan, uniform complaint procedure
35186 Williams uniform complaint procedure
41500-41513 Categorical education block grants
48985 Notices in language other than English
49060-49079 Student records
49490-49590 Child nutrition programs
52160-52178 Bilingual education programs
52300-52499.6 Career-technical education
52500-52616.24 Adult schools
52800-52870 School-based coordinated programs
54000-54028 Economic impact aid programs
54100-54145 Miller-Unruh Basic Reading Act
54400-54425 Compensatory education programs
54440-54445 Migrant education
54460-54529 Compensatory education programs
56000-56885 Special education programs
59000-59300 Special schools and centers
64000-64001 Consolidated application process

PENAL CODE

422.6 Interference with constitutional right or privilege

CODE OF REGULATIONS. TITLE 5

3080 Application of section
4600-4687 Uniform complaint procedures
4900-4965 Nondiscrimination in elementary and secondary education programs

UNIFORM COMPLAINT PROCEDURES

UNITED STATES CODE, TITLE 20

6301-6577 Title I basic programs

6601-6777 Title II preparing and recruiting high quality teachers and principals

6801-6871 Title III language instruction for limited English proficient and immigrant students

7101-7184 Safe and Drug-Free Schools and Communities Act

7201-7283g Title V promoting informed parental choice and innovative programs

7301-7372 Title V rural and low-income school programs

Management Resources:

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/offices/OCR>

UNIFORM COMPLAINT PROCEDURES

Compliance Officers

The TVROCP Governing Board designates the following compliance officer to receive and investigate complaints and to ensure district compliance with law:

Director, Business & Technology Services
2600 Kitty Hawk Rd., #117
Livermore, CA 94551
925-455-4800

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

Notifications

The Superintendent or designee shall annually provide written notification of the TVROCP's uniform complaint procedures to students, employees, parents/guardians, the TVROCP advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties. (5 CCR 4622)

The Superintendent or designee shall make available copies of the TVROCP's uniform complaint procedures free of charge. (5 CCR 4622)

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 pursuant to Education Code 262.3, including 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 TVROCP is primarily responsible for compliance with state and federal laws and regulations

UNIFORM COMPLAINT PROCEDURES

- 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. An unlawful discrimination complaint must be filed not later than six months from the date the alleged discrimination occurs, or six months from the date the complainant first obtains knowledge of the facts of the alleged discrimination
- d. The complainant has a right to appeal the district's decision to the California Department of Education (CDE) by filing a written appeal within 15 days of receiving the district's decision
- e. The appeal to the CDE must include a copy of the complaint filed with the TVROCP and a copy of the TVROCP's decision

Procedures

The following procedures shall be used to address all complaints which allege that the TVROCP 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 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 alleged noncompliance by the TVROCP. (5 CCR 4630)

A complaint alleging unlawful discrimination shall be initiated no later than six months from the date when the alleged discrimination occurred, or six (6) months from the date when the complainant first obtained knowledge of the facts of the alleged discrimination. A complaint 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 any specific class of individuals has been subjected to unlawful discrimination. (5 CCR 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 in writing due to conditions such as a disability or illiteracy, TVROCP staff shall assist him/her in the filing of the complaint. (5 CCR 4600)

UNIFORM COMPLAINT PROCEDURES

Step 2: Mediation

Within three 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 all arrangements for this process.

Before initiating the 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 the mediation process does not resolve the problem within the parameters of law, the compliance officer shall precede with his/her investigation of the complaint.

The use of mediation shall not extend the TVROCP's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time. (5 CCR 4631)

Step 3: Investigation of Complaint

The compliance officer is encouraged to hold an investigative meeting within five (5) 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 in the complaint. (5 CCR 4631)

A complainant's refusal to provide the district'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. (5 CCR 4631)

The TVROCP'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)

UNIFORM COMPLAINT PROCEDURES**Step 4: Response**

Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant a written report of the TVROCP's investigation and decision, as described in Step #5 below, within 60 days of the TVROCP's receipt of the complaint. (S CCR 4631) This sixty (60) day time period may be extended by written agreement of the complainant. The TVROCP person responsible for investigating the complaint shall conduct and complete the investigation in accordance with sections 4680-4687 and in accordance with local procedures adopted under section 4621.

Step 5: Final Written Decision

The TVROCP's decision shall be in writing and sent to the complainant. (S CCR 4631)

The TVROCP's decision shall be written in English and in the language of the complainant whenever feasible or as required by law. The decision shall include:

1. The findings of fact based on the evidence gathered (S CCR 4631)
2. The conclusion(s) of law (S CCR 4631)
3. Disposition of the complaint (S CCR 4631)
4. Rationale for such disposition (S CCR 4631)
5. Corrective actions, if any are warranted (S CCR 4631)
6. Notice of the complainant's right to appeal the TVROCP's decision within 15 days to the CDE and procedures to be followed for initiating such an appeal (S CCR 4631)
7. For discrimination complaints, notice that the complainant must wait until 60 days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies (Education Code 262.3)

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

UNIFORM COMPLAINT PROCEDURES**Appeals to the California Department of Education**

If dissatisfied with the TVROCP's decision, the complainant may appeal in writing to the CDE within 15 days of receiving the TVROCP's decision. When appealing to the CDE, the complainant must specify the basis for the appeal of 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 a copy of the TVROCP's decision. (5 CCR 4632)

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

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 TVROCP, 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 TVROCP's complaint procedures
7. Other relevant information requested by the CDE

The CDE may directly intervene in the complaint without waiting for action by the TVROCP when one of the conditions listed in 5 CCR 4650 exists, including cases in which the TVROCP has not taken action within 60 days of the date the complaint was filed with the TVROCP.

Civil Law Remedies

A complainant may pursue available civil law remedies outside of the TVROCP'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 60 days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies. The moratorium does not apply to injunctive relief and is applicable only if the TVROCP has appropriately, and in a timely manner, apprised the complainant of his/her right to file a complaint in accordance with 5 CCR 4622.