



## MEMORANDUM

DATE: July 2017

TO: All Staff

FROM: Renee Hendrick  
Associate Superintendent, Administrative Services

SUBJECT: Uniform Complaint Procedures (Annual Notice)

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The Orange County Department of Education (OCDE) is primarily responsible for compliance with federal and state laws and regulations related to complaint procedures.

The OCDE will investigate complaints alleging failure to comply with applicable state and federal laws and regulations and/or alleging discrimination, harassment, intimidation or bullying (including student lactation accommodations, and Lesbian, Gay, Bisexual, Transgender, and Questioning (LGBTQ) resources), or failure to comply with legal requirements regarding the LCAP, unauthorized student fees, foster or homeless student rights as specified, courses without educational content in grades 9-12, and physical education instructional minutes, and will seek to resolve those complaints in accordance with the procedures set out in sections 4600-4687 of Title 5, California Code of Regulations and in accordance with the policies and procedures of the OCDE. OCDE posts a notice of the educational rights of foster and homeless youth and the complaint process to be followed as identified in this notice. Unlawful discrimination complaints may be based on actual or perceived gender, gender identity, gender expression, sex, sexual orientation, ethnic group identification, race, ancestry, nationality, national origin, religion, color, mental or physical disability, marital or parental status, genetic information, age, any other characteristic that is contained in the definition of hate crimes in Penal Code section 422.55, or on a person's association with a person or group with one or more of these actual or perceived characteristics, in any program or activity that receives or benefits from state financial assistance.

Complaints should be filed with the Associate Superintendent, Administrative Services, who is designated as the Uniform Complaint Officer. The Uniform Complaint Procedure (programs, discrimination, non-compliance with LCAP requirements, foster or homeless student rights as specified, courses without educational content in grades 9-12, and physical education instructional minutes), the Unauthorized Student Fee Complaint Procedure, and the Williams Complaint Procedure (textbooks and instructional materials, teacher vacancy or misassignment, facilities, and high school exit examination) are described in the attached pages. Guidelines for filing a complaint are included in Orange County Superintendent's Policy 500-5. Copies of the guidelines and the OCDE complaint procedures are available free of charge in the office of the Uniform Complaint Officer. Spanish translations of the guidelines and procedures are available upon request.

Attachments



## GENERAL COMPLAINT PROCEDURE

### Grounds for Filing Complaint

- Pursuant to Title 5 California Code of Regulations (CCR) section 4620 and applicable statutes, the following procedures apply to complaints related to:

Adult Education	Education of Pupils in Foster Care and Pupils who are Homeless
After School Education and Safety	Local Control Funding Formula (LCFF) and Local Control and Accountability Plans (LCAP) including Charter Schools as described in Education Code 47606.5 and 47607.3
Agricultural Vocational Education	No Child Left Behind Act (2001) programs (Titles I-VII), including improving academic achievement, compensatory education, English learner programs, and migrant education (to be replaced by the Every Student Succeeds Act [ESSA])
American Indian Education Centers and Early Childhood Education Program Assessments	Physical Education: Instructional Minutes
Bilingual Education	Pupil Instruction: Course Periods Without Educational Content or Previously Completed Courses
California Peer Assistance and Review Programs for Teachers	Reasonable Accommodations to a Lactating Student
Technical and Career Technical Education and Training programs	Regional Occupational Centers and Programs
Child Care and Development (including State Preschool)	School Safety Plans
Child Nutrition	Special Education
Consolidated Categorical Aid	State Preschool
Discrimination, harassment, intimidation, bullying, student lactation accommodations, and Lesbian, Gay, Bisexual, Transgender, and Questioning (LGBTQ) resources	Tobacco-Use Prevention Education
Economic Impact Aid	Unlawful Pupil Fees

- Discrimination, harassment, intimidation, and/or bullying complaints may be based on actual or perceived gender, gender identity, gender expression, sex, sexual orientation, ethnic group identification, race, ancestry, nationality, national origin, religion, color, mental or physical disability, marital or parental status, genetic information, age, any other characteristic that is contained in the definition of hate crimes in Penal Code section 422.55, or on a person's association with a person or group with one or more of these actual or perceived characteristics, in any program or activity that receives or benefits from state financial assistance.

### Filing of Complaint

Except for complaints under Title 5 CCR 4680-4687 (*Williams Complaints*), complaints shall be filed in accordance with the Superintendent's Policy 500-5 not later than six months from the date the alleged violation occurred, or the date the complainant first obtained knowledge of the facts, unless the Uniform Complaint Officer grants an extension under 5CCR 4630(b). OCDE has sixty days from the date of the receipt of the complaint to conduct and complete an investigation and issue a written decision.

Complaints regarding unauthorized student fees or LCAP requirements may be filed anonymously. If the complainant is not satisfied with the decision of the OCDE, the individual may appeal the decision to the State Superintendent of Public Instruction. The State Superintendent of Public Instruction is required to issue a decision on the appeal within 60 days of the Superintendent of Public Instruction's receipt of the appeal.

If the OCDE finds merit in the complaint or the Superintendent of Public Instruction finds merit in an appeal, the OCDE will provide a remedy to all affected pupils, parents, and guardians.

### Appealing OCDE Decisions

Any complainant(s) may appeal an OCDE complaint decision to the CDE by filing a written appeal with the CDE within fifteen (15) days of receiving the OCDE Decision. Extensions for filing appeals may be granted, in writing, for good cause.

The complainant shall specify the reason(s) for appealing the OCDE Decision. The appeal shall include:

1. A copy of the locally filed complaint; and
2. A copy of the OCDE Decision.

### Civil Law Remedies

Civil law remedies may be available under state or federal discrimination laws, if applicable. A complainant may pursue available civil law remedies outside of OCDE's complaint procedures. Civil law remedies that may be imposed by a court include, but are not limited to injunctions and restraining orders.

Assistance with the above civil law remedies may be obtained from various sources, including the following:

- Private legal counsel.
- Legal assistance agencies, such as:
  - Legal Aid Society of Orange County (714.571.5200)
  - Legal Center of Hermandad Mexicana (714.541.0250)



## UNAUTHORIZED CHARGES OF PUPIL FEES COMPLAINT PROCEDURE

### Grounds for Filing a Complaint

Pursuant to Title 5 California Code of Regulations (CCR) section 4621, the following procedures apply to complaints related to unauthorized charges of pupil fees in any program or activity conducted by the Orange County Department of Education (OCDE). Students in OCDE programs or activities shall not be required to pay a pupil fee for participation in an educational activity. All supplies, materials, and equipment needed to participate in educational activities shall be provided to pupils free of charge. "Pupil fee" means a fee, deposit, or other charge imposed on pupils, or a pupil's parents or guardians, that is not otherwise authorized by law and is in violation of California Education Code section 49011 and Section 5 of Article IX of the California Constitution, which require educational activities to be provided free of charge to all pupils without regard to their families' ability or willingness to pay fees or request special waivers.

### Filing of Complaint

A complaint of noncompliance with the requirements of Article 5.5 of Chapter 6 of Part 27 of Division 4 of Title 2 of the Education Code (commencing with Section 49010) may be filed with the principal of a school under the Uniform Complaint Procedures, or with the Associate Superintendent, Administrative Services. A complaint shall be filed no later than one year from the date the alleged violation occurred. A complaint may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance with the requirements of this article.

OCDE has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs. OCDE has sixty days from the date of the receipt of the complaint to conduct and complete an investigation and issue a written decision. Following is information regarding the opportunity to appeal the OCDE decisions to the California Department of Education (CDE).

### Appealing OCDE Decisions

Any complainant(s) may appeal an OCDE complaint decision to the CDE by filing a written appeal with the CDE within fifteen (15) days of receiving the OCDE Decision. Extensions for filing appeals may be granted, in writing, for good cause. A complainant not satisfied with the decision of the district may appeal the decision to the State Department of Education and shall receive a written appeal decision within 60 days of the department's receipt of the appeal.

If the district finds merit in a complaint, or the department finds merit in an appeal, the public school shall provide a remedy to all affected pupils, parents, and guardians that, where applicable, includes reasonable efforts by the district to ensure full reimbursement to all affected pupils, parents, and guardians, subject to procedures established through regulations adopted by the state board. OCDE will attempt in good faith by engaging in reasonable efforts to identify and fully reimburse pupils, parents, and guardians who paid a pupil fee within one year prior to the filing of the complaint.

The complainant shall specify the reason(s) for appealing the OCDE Decision. The appeal shall include:

1. A copy of the locally filed complaint; and
2. A copy of the OCDE Decision.

## Civil Law Remedies

Civil law remedies may be available under state or federal discrimination laws, if applicable. A complainant may pursue available civil law remedies outside of OCDE's complaint procedures. Civil law remedies that may be imposed by a court include, but are not limited to injunctions and restraining orders.

Assistance with the above civil law remedies may be obtained from various sources, including but not limited to the following:

- Private legal counsel.
- Legal assistance agencies, such as:
  - Legal Aid Society of Orange County (714.571.5200)
  - Legal Center of Hermandad Mexicana (714.541.0250)



## WILLIAMS COMPLAINT PROCEDURE

### Grounds for Filing Complaint

Pursuant to Education Code section 35186 and Title 5, California Code of Regulations sections 4680-4687, the following procedures to investigate and resolve complaints may be used when the complainant alleges that any of the following has occurred:

#### Insufficient Textbooks and 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 at home or after school in order to complete required homework assignments.
3. Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.
4. A pupil was provided photocopied sheets from only a portion of a textbook or instructional materials to address a shortage of textbooks or instructional materials.

#### Teacher Vacancy or Misassignment:

1. A semester begins and a certificated teacher vacancy exists.
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.

\*\* "Vacancy" is defined as a position to which a single designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.

\*\* "Misassignment" is defined as the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold.

#### Facilities:

1. There are school facilities that are not clean, safe, and maintained in good repair and pose an emergency or urgent threat to the health or safety of students or staff.
2. A school restroom has not been cleaned, maintained, or kept open in accordance with Education Code 35292.5.

\*\* "Emergency or urgent threat" is defined as structures or systems that are in a condition that poses a threat to the health and safety of students or staff while at school, including but not limited to gas leaks, nonfunctioning heating, ventilation, fire sprinklers, air conditioning systems, electrical power failure, major sewer stoppage, major pest or vermin infestation, broken windows or exterior doors or gates that will not lock that pose a security risk, abatement of hazardous materials previously undiscovered that pose an immediate threat to students or staff, or structural damages creating a hazardous or uninhabitable condition.

### Filing of Complaint, Response, and Appeal

A complaint alleging any of the conditions specified above shall be filed with the Principal/Program Administrator of the school/school program in which the complaint arises and the Associate Superintendent, Administrative Services. The Principal will coordinate the investigation of the complaint.

The Principal/Program Administrator or Associate Superintendent, Administrative Services' designee shall make all reasonable efforts to investigate any problems within his or her authority. A complaint that is reported to the Principal but is about a problem beyond the scope of authority of the Principal shall be forwarded in a timely manner, but not to exceed 10 working days, to the appropriate administrator for resolution. An attempt to resolve a valid complaint within a reasonable time period not to exceed 30 working days from the date the complaint was received will be made. Complaints may be filed anonymously. If the complainant has indicated on the complaint form that he or she would like response to the complaint, a response with a resolution of the complaint will be made to the complainant within 45 working days of the initial filing of the complaint. This response will be mailed to the address provided on the complaint form and will be prepared in English and in the primary language in which the complaint was filed. If the Principal is the administrator who has prepared this report, the Principal shall also forward the report to the Associate Superintendent, Administrative Services.

If a complainant is not satisfied with the resolution of the complaint, the complainant may describe the complaint to the County Superintendent or designee.

For complaints involving a condition of a facility that poses an emergency or urgent threat to the health or safety of students, as described in Education Code section 17592.72, a complainant who is not satisfied with the resolution proffered by the Principal, or the County Superintendent or his or her designee, has the right to file an appeal to the State Superintendent of Public Instruction within 15 days of receiving the report. The appeal of the complaint shall comply with the requirements of 5 CCR section 4632.

For complaints concerning a facility condition that poses an emergency or urgent threat to the health or safety of students as described above, a complainant who is not satisfied with the resolution proffered by the principal, Superintendent, or designee may file an appeal to the State Superintendent of Public Instruction.

### Reporting

Complaints and written responses shall be public records. The Associate Superintendent, Administrative Services or designee shall report summarized data on the nature and resolution of all complaints on a quarterly basis to the County Superintendent of Schools. The summaries shall be publicly reported on a quarterly basis at a regularly scheduled meeting of the governing board of the school district. The report shall include the number of complaints by general subject area with the number of resolved and unresolved complaints.

### Forms and Notices

The Associate Superintendent, Administrative Services or designee shall ensure that the OCDE's complaint form contains a space to indicate whether the complainant desires a response to his or her complaint and specifies the location for filing a complaint. A complainant may add as much text to explain the complaint as he or she wishes.

The Associate Superintendent, Administrative Services or designee shall ensure that a notice is posted in each classroom in each school containing the components specified in Education Code section 35186.



WILLIAMS UNIFORM COMPLAINT PROCEDURES
COMPLAINT FORM

Complaints may be filed anonymously. However, if you wish to receive a response to your complaint, you must provide contact information below. The complaint and response are public documents as provided by statute. Response requested? [ ] Yes [ ] No

Name: \_\_\_\_\_ Address: \_\_\_\_\_
Phone Number: Day (\_\_\_\_) \_\_\_\_-\_\_\_\_ Evening (\_\_\_\_) \_\_\_\_-\_\_\_\_\_

Issue(s) of the complaint (select all that apply – a complaint may contain more than one allegation of deficiency or deficiencies):

1. Textbooks and Instructional Materials:

\_\_\_ A pupil, including an English learner, does not have standards-aligned textbooks or instructional materials or state-adopted or district-adopted textbooks or other required instructional materials to use in class.

\_\_\_ A pupil does not have access to textbooks or instructional materials to use at home or after school. This does not require two sets of textbooks or instructional materials for each pupil.

\_\_\_ Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage. A pupil was provided photocopied sheets from only a portion of a textbook or instructional materials to address a shortage of textbooks or instructional materials.

2. Teacher Vacancy or Misassignment:

\_\_\_ A semester begins and a teacher vacancy exists. (A teacher vacancy is a position to which a single designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.)

\_\_\_ 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.

\_\_\_ A teacher is assigned to teach a class for which the teacher lacks subject matter competency.

3. Facility Conditions:

\_\_\_ A condition poses an urgent or emergency threat to the health or safety of pupils or staff, including: gas leaks, nonfunctioning heating, ventilation, fire sprinklers or air-conditioning systems, electrical power failure, major sewer line stoppage, major pest or vermin infestation, broken windows or exterior doors or gates that will not lock and that pose a security risk, abatement of hazardous materials previously undiscovered that pose an immediate threat to pupils or staff, structural damage creating a hazardous or uninhabitable condition, and any other emergency conditions the school district determines appropriate.

\_\_\_ A school restroom has not been maintained or cleaned regularly, is not fully operational, or has not been stocked at all times with toilet paper, soap, and paper towels or functional hand dryers.

\_\_\_ The school has not kept all restrooms open during school hours when pupils are not in classes, and has not kept a sufficient number of restrooms open during school hours when pupils are in classes.

Table with 2 columns: Date of Problem, Course or Grade Level; Location of Problem (School Name, Address), Teacher & Room Number; and a large text area for describing the issue.

Please file this complaint with the school Principal/Program Administrator and with the Associate Superintendent, Administrative Services at the following location: 200 Kalmus Drive, Costa Mesa, CA 92626.