

UNIFORM COMPLAINT PROCEDURES

It is the policy of the Santa Cruz City Schools District to ensure that its programs, activities, services and personnel practices comply with state and federal laws and regulations governing educational programs. Furthermore, it is the policy of Santa Cruz City Schools to ensure that its programs, activities, services and personnel practices do not discriminate based on ethnicity, religion, age, gender, sexual orientation, color, sex, race, ethnic group identification, ancestry, natural origin, physical or mental disability. It is the intent of this policy, and its accompanying administrative regulations, to provide all parents, students, employees and other constituents of the Santa Cruz City Schools District with the procedures for filing complaints. The procedures exist to ensure that complaints are dealt with in a timely and equitable manner.

This policy shall be utilized when addressing all complaints alleging violations of federal or state laws governing adult education, consolidated categorical aid programs, vocational education, child care and development, nutrition services, and special education programs. This policy also applies to complaints alleging unlawful discrimination on the basis of ethnic group identification, religion, age, sex, color, or physical or mental disability in any program or activity conducted by the District and funded by the State. For complaints alleging sufficiency of textbooks or instructional materials, safe and decent school facilities, or qualified teachers see Williams supplement, AR 1312.2.

The following types of complaints are exempted from these procedures:

- ◆ Complaints of child abuse, health and safety complaints regarding child development programs, discrimination issues involving Title IX to the extent there is no state discrimination law or regulation at issue, discrimination involving child nutrition programs, employment discrimination complaints, or allegations of fraud. Complaints regarding these items exempted from this policy shall be referred to the appropriate agency as specified in Title 5 regulations.
- ◆ Matters of agreed upon scope within any ratified collective bargaining agreement entered into by the District, nor matters of student discipline addressed under other District policies and California Education Code.

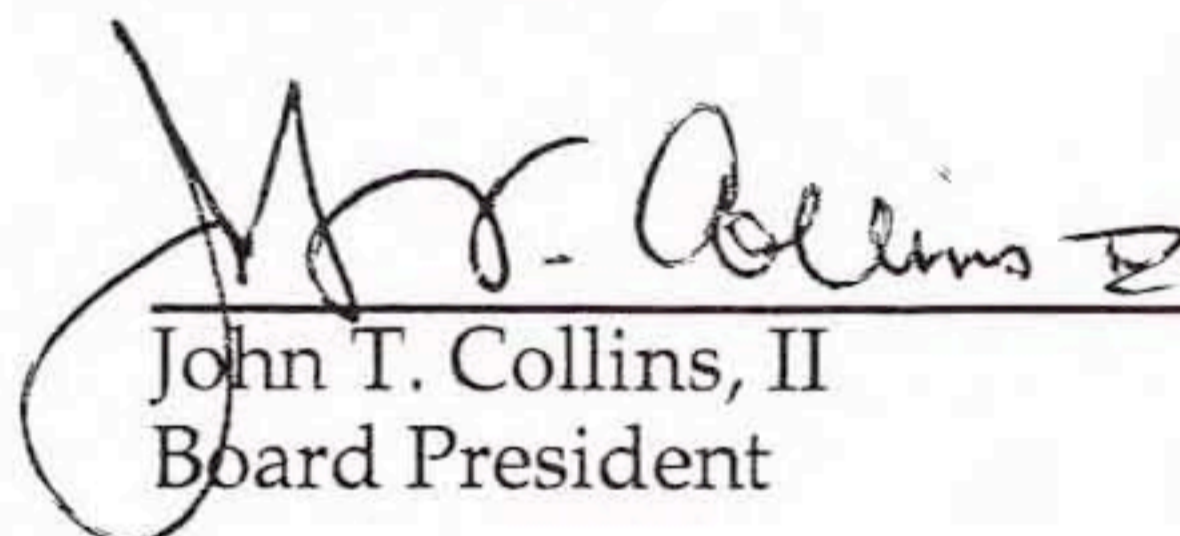
The Board prohibits retaliation in any form for the filing of a complaint, the reporting of instances of discrimination, or for participation in complaint procedures. Such participation shall not in any way affect the status, grades, or work assignments of the complainant.

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Discrimination complaints shall be investigated in a manner that protects the confidentiality of the parties and the facts. This process includes keeping the identity of the complainant confidential 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 superintendent or designee shall ensure that employees designated to investigate complaints are knowledgeable about the laws and programs for which they are responsible. Such employees will have access to legal counsel as determined by the superintendent or designee.

ADOPTED:

John T. Collins, II
Board PresidentApril 13, 2005

Date

Approved by District Counsel:March 11, 2005

Originally approved: April 14, 1993

Legal References:

- cf. 0410 Nondiscrimination in District Programs and Activities
- cf. 0420.1 School-Based Coordinated programs
- cf. 0420.2 School Improvement Program
- cf. 0430 Comprehensive Local Plan for Special Education
- cf. 3553 Free and Reduced Lunch Program
- cf. 6171 Title I Programs
- cf. 6174 Education for Students of Limited-English Proficiency
- cf. 6178 Vocational Education
- cf. 6179 Child Care and Development Programs

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Education Code

- EC 200-262.3 - Prohibition of Discrimination
- EC 35146 - Closed Sessions
- EC 35160.5 - Requirement of school district policies; parental complaints re employees
- EC 48985 - Notices in language other than English
- EC 49060-49079 - Student Records
- EC 56500-56507 - Procedural Safeguards
- EC 60650 - Personal Beliefs

Code of Regulations, Title 5

- 3080 - Application of Section 4600-4671
- 4600-4671 - Uniform Complaint Procedures

Government Code

- 950-950.8 - Actions against public employees
- 54957-54957.8 - Closed sessions

Legislation

- Senate Bills (SB) 6, 550
- Assembly Bills 1550, 2727, 3001
- Eliezer Williams, et al., vs State of California, et al. (Williams Case)

Civil Rights Act of 1964

42 U.S.C.A. Section 2000c et seq.

Title IX, Education Amendments of 1972

20 U.S.C.A. Section 1231g, 1681 et seq.

Section 504, Rehabilitation Act of 1973

29 U.S.C.A. Section 721, 761, 794

General Education Provisions Act

20 U.S.C.A. 1221 et seq.

Family Education & Privacy Rights Act of 1974

20 U.S.C.A. Section 1221, 1232g

34 Code of Federal Regulations

Section 100.7(e), 200.74 and part 300

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I. Definitions

- A. "Complainant" means any individual or representative of an individual or interested third party or public agency, or an organization who files a written complaint as defined in paragraph (b) below.
- B. "Complaint" under this policy means a written and signed statement, on the standard District complaint form (Appendix A), alleging violations of federal or state laws or regulations governing adult education, consolidated categorical aid programs, vocational education, child care and development, nutrition services, and special education programs. This policy also applies to complaints alleging unlawful discrimination on the basis of ethnic group identification, religion, age, sex, color, or physical or mental disability in any program or activity conducted by the District and funded by the State.
- C. A "day" refers to calendar days throughout this policy, unless otherwise specified.
- D. "Discrimination" under this policy is defined as alleged acts of discrimination on the basis of ethnic group identification, religion, age, gender, color, and physical or mental disability as applied to state and federal categorical programs.
- E. "Program Administrator" is the District Office level administrator.

II. Administrative Responsibility

The Assistant Superintendent of Human Resources shall be responsible for initially receiving all complaints and delegating the complaint to the appropriate compliance officer to direct the investigation and to ensure District compliance with the law.

Assistant Superintendent of Human Resources
Santa Cruz City School District
405 Old San Jose Road
Soquel, CA 95073
(831) 429-3410

III. Compliance Officers - Duties

The compliance officer (see pages 3-4) shall record the date of receipt of the complaint and forward the complaint to the appropriate supervisor for processing pursuant to the procedures set forth below.

The compliance officer shall maintain a record of each complaint and subsequent related actions. Within 60 days of receiving the complaint, the District shall prepare a written report and inform the complainant of the decision. The compliance officer shall ensure that the complaint is processed within the requisite timelines.

IV. Notifications

The superintendent or designee shall meet the notification requirements, including the annual dissemination of District complaint procedures and information about available appeals, civil law remedies, and the types of complaints which may be taken directly to the California Department of Education.

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V. Informal Resolution of Complaint

Before implementing a Level I complaint (VI.A.1, below), an attempt shall be made to resolve the complaint informally through a discussion of the issues with the complainant and relevant parties, (e.g., the employee against whom the complaint is being filed or program administrator).

VI. Filing of Complaint

A. Procedure

In the event the issues are not resolved informally, the following procedure shall be adhered to with complete confidential status at each level. The supervisor involved at the informal level will inform the complainant of the procedure to be followed in processing a formal complaint.

If a complainant is unable to put a complaint in writing due to conditions such as illiteracy or other handicaps, District staff shall help him/her to file the complaint. The District prohibits retaliation against any participant in the complaint process.

1. Level I

a. The complainant must submit a complaint form (Appendix A) stating the complaint with supporting evidence. The complaint form shall be filed with the Assistant Superintendent of Human Resources. Based on the nature of the complaint, the director of human resources shall immediately forward the complaint to the appropriate compliance officer for monitoring, recording and processing.

- (1) Complaints against District employees or officers of the District shall be delegated to:

Assistant Superintendent of Human Resources
Santa Cruz City School District
405 Old San Jose Road
Soquel, CA 95073
(831) 429-3410

- (2) Complaints against a District program shall be delegated to:

Director of Special Projects
Santa Cruz City School District
405 Old San Jose Road
Soquel, CA 95073
(831) 429-3410

- (3) Complaints against students, or about District practices, policies and administrative regulations shall be directed to:

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Assistant Superintendent of Educational Services
Santa Cruz City School District
405 Old San Jose Rd.
Soquel, CA 95073
(831) 429-3410

b. The compliance officer shall promptly delegate the complaint to the supervisor where the complaint arose, for resolution.

The supervisor shall hold an investigative meeting as soon as possible after receiving the complaint. This meeting shall provide an opportunity for the complainant and/or his/her representative to repeat the complaint orally. The employee, his/her representative or district's representative shall also have an opportunity to present information relevant to the complaint. Parties to the dispute may discuss the complaint and question each other or each other's witnesses. This meeting must be held within 10 days from the District receiving the complaint.

To ensure that all pertinent facts are made available, the supervisor and the complainant may ask other individuals to attend this meeting and provide additional information.

c. Within 10 days of the District holding the meeting, the supervisor shall deliver to the complainant a written report of his/her investigation and decision. This report will be written in English and in the primary language of the complainant.

This decision shall include:

- (1) The findings and disposition of the complaint, including corrective actions, if any;
- (2) The rationale for the above disposition;
- (3) A detailed statement of all specific issues that were brought up during the investigation and the extent to which these issues were resolved; and
- (4) Notice of the complainant's right to appeal the decision to the next level (Level II), including a copy of these regulations and the name and address of the Assistant Superintendent of Human Resources.

If an employee is disciplined as a result of the complaint, this report 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.

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2. Level II

a. Within 5 days after receiving the decision of the supervisor, either party may appeal the Level I decision to the compliance officer assigned to monitor the case. The appeal shall be in writing and shall be accompanied by a copy of the decision at Level I. The Level II appeal must indicate what aspects of the Level I decision are being appealed and provide supporting rationale. (Appendix B)

b. Within 10 days after receiving the appeal, the appropriate compliance officer shall deliver a decision in writing, together with supporting reasons, to all parties. The decision will be written in English and in the primary language of the complainant.

c. The decision shall include notice of the complainant's right to appeal the decision to the next level (Level III) and the name and address of the District superintendent (secretary to the Board of Trustees).

3. Level III

a. If either party believes it is necessary to carry the complaint beyond the decision reached at Level II, an appeal may be made within 5 days of the Level II decision to the Board of Trustees. The appeal shall be in writing and shall be accompanied by a copy of the decisions at Levels I and II.

The Level III appeal must indicate what aspects of the Level II decision are being appealed and provide supporting rationale.

b. Upon receipt of the Level III appeal, the superintendent (secretary for the Board of Trustees) will place the item on the Board's next closed session agenda unless both parties request to be heard in open session.

c. The Level III appeal may be heard at a special Board meeting convened in order to meet the 60-day time limit within which the complaint must be answered. A written decision will be rendered within 60 days of the District initially receiving the complaint. The decision will be written in English and in the primary language of the complainant. The Board's written decision shall include a notice of the complainant's right to appeal in writing to the California Department of Education within 15 days of receiving the District's decision. For good cause, the State Superintendent of Public Instruction may grant an extension for filing appeals.

B. Appeals to the California Department of Education

Complaints may be further appealed to the California Department of Education within 15 days of receiving the District's written decision. When appealing to the California Department of Education, the complainant must specify the reason(s) for appealing the District's decision and must include a copy of the original complaint and the District's decision.

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Upon notice from the State Superintendent of Schools that an appeal has been filed, the compliance officer shall forward the following to the State Superintendent:

1. the original complaint;
2. a copy of the written report;
3. a summary of the nature and extent of the investigation conducted by the District, if not covered in the written report;
4. a report of any action taken to resolve the complaint;
5. a copy of the complaint procedures;
6. such other relevant information as the State Superintendent may require.

VII. Complaints Alleging Unlawful Discrimination

Complaints alleging unlawful discrimination must 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. The complaint must be initiated no later than six (6) months from the date when the alleged discrimination or violation of law occurred or when the complainant first obtained knowledge of the facts of the alleged discrimination.

Investigations of discrimination complaints shall be conducted in a manner that protects confidentiality of the parties and the facts. 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.

In a complaint of unlawful discrimination, a complainant has a right to seek civil law remedies no sooner than sixty days have elapsed since filing an appeal with CDE, with the exception of injunctive relief, for which the moratorium does not apply, provided complainant is timely advised of right to file complaint. (EC 262.3)

VIII. Direct Intervention by the Superintendent of Public Instruction - Department of Education:

Title 5, Section 4650 indicates the basis of direct filing of complaints and intervention by the Superintendent of Public Instruction for the State of California as follows:

The Superintendent of Public Instruction shall directly intervene without waiting for local agency action if one or more of the following conditions exists:

- A. The complaint includes an allegation, and the State Department of Education verifies that a local educational agency failed to comply with the complaint procedures required by sections in Title 5.
- B. Discrimination is alleged by the complainant and the facts alleged indicate that the complainant will suffer an immediate loss of some benefit such as employment or education if the Department of Education does not intervene. However, nothing in this section gives the Department of Education jurisdiction over employment discrimination claims.

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- C. The complaint relates to agencies other than local educational agencies funded through the Child Development and Child Nutrition Programs.
- D. The complainant requests anonymity, presents a clear and convincing evidence and the State Department of Education verifies that he or she would be in danger of retaliation if a complaint were filed locally, or has been retaliated against because of past or present complaints.
- E. The complainant alleges that the District failed or refused to implement the final decision resulting from its local investigation.
- F. The District refuses to respond to the Superintendent's request for information regarding a complaint.
- G. The complainant alleges and the State Department of Education verifies, or the Department of Education has information that no action has been taken by the District within 60 calendar days of the date the complaint was filed locally.
- H. For complaints relating to special education, the following shall also be conditions for direct State intervention:
 - 1. The complainant alleges that a public agency, other than a local educational agency, as specified in Government code Section 7570, et seq., fails or refuses to comply with an applicable law or regulation relating to the provisions of free appropriate public education to handicapped individuals;
 - 2. The complainant alleges that the local educational agency or public agency fails or refuses to comply with the due process procedures established pursuant to Federal and State law and regulation; or has failed or refused to implement a due process hearing order;
 - 3. The complainant alleges facts that indicate that the child or group of children may be in immediate physical danger or that the health, safety or welfare of a child or group of children is threatened;
 - 4. The complainant alleges that a handicapped pupil is not receiving the special education or related services specified in his or her Individualized Educational Program (IEP); and complaints alleging non-compliance with Section 504 of the Rehabilitation Act of 1973 and/or Title II of the Americans with Disabilities Act of 1990, may be filed with the U.S. Department of Education, the Federal Office for Civil Rights, or in a Federal court of competent jurisdiction.
 - 5. The complaint involves a violation of Federal law governing special education, 20 U.S.C. Section 1400, et seq., or its implementing regulations.

The complaint shall identify upon which basis, as described above, that direct filing to the State is being made.

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IX. Failure to Observe Time Limits

Except as provided in section VIII above, if a complainant fails to exhaust all remedies under the procedures provided herein, or to abide by the time limits (Appendix C) with respect to each step, his/her complaint shall be presumed to be abandoned, and the matter shall be considered settled in accordance with the District's last answer thereto. In the event the District fails to give an answer at any step within the time limits prescribed, the complainant shall have the right to proceed immediately to the next step. Any time limit may be extended by written mutual agreement of the complainant and the District.

X. Retention of Complaint Proceedings

- A. All documents, communications and records concerned with the processing of a complaint shall be considered confidential.
- B. All records of proceedings will be retained in a special complaint file maintained by the human resources department, which shall be filed separately from an employee's personnel file.
- C. When a complaint is found to be upheld by the District against an employee, a copy of the findings shall be placed in the employee's personnel file in accordance with EC 44031:

Information of a derogatory nature shall not be entered or filed unless and until the employee is given notice and an opportunity to review and comment thereon. An employee shall have the right to enter, and have

attached to any such derogatory statement, his/her own comments. Such review shall take place during normal business hours (when the district office is open), and the employee shall be released from duty for this purpose without salary reduction.

- D. Anyone who files a complaint shall not be retaliated against for making such a complaint. Retaliation by an employee shall result in disciplinary action.

XI. Civil Law Remedies

Nothing in this policy precludes a complainant from pursuing civil law remedies, such as injunctions or restraining orders, through local, state or federal legal aid agencies, offices, local mediation centers, or public or private interest attorneys.

APPROVED:

Alan Pagano, Superintendent

Date: July 8, 2005

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Legal References:

- cf. 0410 Nondiscrimination in District Programs and Activities
- cf. 0420.1 School-Based Coordinated programs
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General Education Provisions Act

20 U.S.C.A. 1221 et seq.

Family Education & Privacy Rights Act of 1974

20 U.S.C.A. Section 1221, 1232g

34 Code of Federal Regulations

Section 100.7(e), 200.74 and part 300

SANTA CRUZ CITY SCHOOLS
LEVEL I COMPLAINT FORM (Administrative Release 1312)

Name: _____

Address: _____

Home Phone: _____ Work Phone: _____

Student Name (if applicable): _____ Grade: _____

School Name (if applicable): _____

Name of employee of program about whom the complaint is being made:

Date and place the event/incident occurred: _____

Date of informal resolution meeting (if applicable): _____

Details of the complaint (attach appropriate supporting documents):

Specific remedy sought:

Signature _____

Date _____

Received By _____

Date _____

Submit to: Assistant Superintendent of Human Resources, Santa Cruz City Schools,
405 Old San Jose Road, Soquel, CA 95073

SANTA CRUZ CITY SCHOOLS
COMPLAINT APPEAL FORM (Administrative Release 1312)

DIRECTIONS: This form is to be used to appeal a Level I or Level II decision regarding a complaint about an employee or program of the school district. It must be submitted within five days after receiving the decision of the supervisor (Level II). Attach a copy of the decision(s)

Submit this appeal form to the appropriate administrator (circle one):

LEVEL I:

Assistant Superintendent of Human Resources

Director of Special Projects

Assistant Superintendent of Educational Services

Date you received the Level I decision: _____

LEVEL II:

District Superintendent (Secretary to the Board of Trustees)

Date you received the Level II decision: _____

Name: _____

Address: _____

Home Phone: _____ Work Phone: _____

Student Name (if applicable): _____ Grade: _____

School Name (if applicable): _____

Name of employee of program about whom the complaint is being made:

Aspects of the Level I or Level II decision you want to appeal: _____

Provide supporting rationale for your appeal: _____

Specific remedy sought: _____

Name _____

Signature _____