

# Maple Creek School District

## Administrative Regulation

### Uniform Complaint Procedures

AR 1312.3

#### Community Relations

\*\*\*Note: 5 CCR 4621 mandates that the district's uniform complaint procedures be consistent with the procedures of 5 CCR 4600-4687. \*\*\*

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, complaints involving the implementation of the Local Control Funding Formula, 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)

\*\*\*Note: The following paragraph is required pursuant to Education Code 234.1, as amended by AB 9 (Ch. 723, Statutes of 2011), and Education Code 48985. \*\*\*

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

\*\*\*Note: 5 CCR 4621 mandates the district to identify in its policies and procedures the person(s), position(s), or unit(s) responsible for ensuring compliance with applicable state and federal laws and regulations governing educational programs, including receiving and investigating complaints alleging noncompliance or discrimination, harassment, intimidation, or bullying. During its Federal Program Monitoring (FPM) process, California Department of Education (CDE) staff will check to ensure that the district's procedures list the specific title(s) of the employee(s) responsible for investigating complaints. Districts should identify the specific

title(s) of the compliance officer(s) in the space provided below. \*\*\*

The following compliance officer(s) shall receive and investigate complaints and shall ensure district compliance with law:

Superintendent

15933 Maple Creek Road. Korbel, CA 95550

(707) 668-5596

\*If the compliance officer or a Board member is involved in the complaint the District will obtain an outside compliance officer to investigate and manage the complaint.

\*\*\*Note: 5 CCR 4621 mandates that the district's policy provide that employees responsible for compliance and/or investigation of complaints are knowledgeable about the laws and programs they are assigned to investigate. The second sentence below may be modified to reflect district practice. \*\*\*

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.

(cf. 9124 - Attorney)

Notifications

\*\*\*Note: During the FPM process, CDE staff will check to ensure that the district's policy contains a statement ensuring annual dissemination of notice of the district's uniform complaint procedures to the persons specified below. A sample of the annual notice is available through the CDE web site. \*\*\*

\*\*\*Note: Education Code 49013, as added by AB 1575 (Ch. 776, Statutes of 2012), mandates that district policy and procedures reflect the requirement to include information about student fees in the annual uniform complaint procedures notice; see also BP 3260 - Fees and Charges for language implementing this mandate. \*\*\*

The Superintendent or designee shall annually provide written notification of the district's uniform complaint procedures to students, employees, parents/guardians, the district advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties. (Education Code 262.3, 49013; 5 CCR 4622)

(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)

\*\*\*Note: During the FPM process, CDE staff will check the notice to ensure that it contains a summary of the complaint procedures as specified in items #1-4 below. \*\*\*

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 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.

\*\*\*Note: To ensure that the public is made aware of districts' obligation to provide the uniform complaint procedures free of charge pursuant to 5 CCR 4622, CDE staff review the notice during the FPM process. \*\*\*

- f. Copies of the district's uniform complaint procedures are available free of charge.

#### Procedures

\*\*\*Note: 5 CCR 4631 requires that all complaints be investigated and completely resolved within 60 calendar days of the receipt of the complaint. The sample timelines in Steps #1-3 below are designed to ensure that the district complies with the 60-day requirement and should be revised to reflect district practice. Pursuant to 5 CCR 4640, when a complaint is erroneously sent to the CDE without first being filed with the district, the 60-day period specified in 5 CCR

4631 begins when the district receives the complaint. \*\*\*

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

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

A complaint 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 it. The complaint 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. (5 CCR 4630)

\*\*\*Note: Education Code 49013, as added by AB 1575 (Ch. 776, Statutes of 2012), mandates districts to adopt procedures that allow for anonymous complaints to be filed when a district allegedly violates the prohibition against the charging of student fees. \*\*\*

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)

\*\*\*Note: The following paragraph may be revised to reflect district practice. \*\*\*

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, district staff shall assist him/her in the filing of the complaint. (5 CCR 4600)

#### Step 2: Mediation

\*\*\*Note: The following optional section should be used only by those districts that have

decided to establish procedures for attempting to resolve complaints through mediation; see the accompanying Board policy. Timelines should be revised to reflect district practice. \*\*\*

Within three business days of receiving the complaint, the compliance officer may informally discuss with all the parties the possibility of using mediation. If the parties agree 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 his/her investigation of the complaint.

The use of mediation shall not extend the district'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

\*\*\*Note: 5 CCR 4631, which requires the district to provide the complainant with the opportunity to present relevant information, does not provide any timeline. Thus, the timeline specified below may be modified to reflect district practice. \*\*\*

Within 10 calendar days of receiving the complaint, the compliance officer shall provide the complainant and/or his/her representative an opportunity to present the complaint and any evidence, or information leading to evidence, to support the allegations in the complaint. The compliance officer also shall collect all documents and interview all witnesses with information pertinent to the complaint.

\*\*\*Note: 5 CCR 4631 allows the district to dismiss a complaint when the complainant refuses to provide the investigator with relevant documents or otherwise obstructs the investigation. 5 CCR 4631 also provides that, if the district refuses to provide the investigator with access to records or other documents, the investigator may issue a finding in favor of the complainant. During the FPM process, CDE staff will check to ensure that both of these statements regarding the provision of access to information are included in the district's policy or procedures, as specified below. \*\*\*

A complainant's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, 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 allegation. (5 CCR 4631)

In accordance with law, the district shall provide the investigator with access to records and other information related to the allegation in the complaint and shall not in any way obstruct the investigation. Failure or refusal of the district to cooperate in 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 4: Response

\*\*\*Note: Pursuant to 5 CCR 4631, the district's written decision must be sent to the complainant within 60 calendar days of receiving the complaint. Option 1 below is for districts that do not allow complainants to appeal the compliance officer's decision to the Board. Option 2 is for districts that allow appeals to the Board, and it requires the compliance officer's decision within 30 calendar days so that the Board's decision can still be given within the 60-day time limit. \*\*\*

**Maple Creek Elementary School District has chosen Option 2**

##### OPTION 1:

Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant a written report of the district's investigation and decision, as described in Step #5 below, within 60 calendar days of the district's receipt of the complaint. (5 CCR 4631)

##### OPTION 2:

Within 30 calendar days of receiving the complaint, the compliance officer shall prepare and send to the complainant a written report of the district's investigation and decision, as described in Step #5 below. 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 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: Final Written Decision

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

\*\*\*Note: Education Code 48985 requires that reports sent to parents/guardians be written in the primary language when 15 percent or more of a school's enrolled students speak a single primary language other than English. During the FPM process, CDE staff will check to ensure compliance with this requirement. \*\*\*

The district's decision shall be written in English and, when required by Education Code 48985, in the complainant's primary language.

\*\*\*Note: 5 CCR 4631 specifies components that should be part of the district's decision. Inclusion of these items will help protect the district's position in case of an appeal to the CDE or

if litigation is filed. \*\*\*

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

1. The findings of fact based on the evidence gathered
2. The conclusion(s) of law
3. Disposition of the complaint
4. Rationale for such disposition
5. Corrective actions, if any are warranted
6. Notice of the complainant's right to appeal the district's decision within 15 calendar days to the CDE and procedures to be followed for initiating such an appeal

In addition, any decision concerning a discrimination, harassment, intimidation, or bullying complaint based on state law shall include a 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. (Education Code 262.3)

\*\*\*Note: The following paragraph provides a means for ensuring that the privacy rights of individuals involved are protected even as appropriate action is being taken to address a complaint and may be revised to reflect district practice. \*\*\*

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 district expectations. The report shall not give any further information as to the nature of the disciplinary action.

\*\*\*Note: Pursuant to Education Code 49013, as added by AB 1575 (Ch. 776, Statutes of 2012), if the district, or the CDE on appeal, finds merit in the complaint alleging noncompliance with the law regarding student fees and charges, the district is required to provide a remedy as specified below, based on regulations to be adopted by the State Board of Education. \*\*\*

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

\*\*\*Note: 5 CCR 4632-4633 provide that any complainant may appeal the district's decision to the CDE, as provided below. Pursuant to Education Code 49013, as added by AB 1575 (Ch. 776, Statutes of 2012), the district is mandated to adopt procedures that include the right to appeal to the CDE, in accordance with 5 CCR 4632, when a complainant is dissatisfied with the district's

decision on his/her complaint alleging noncompliance with the law that prohibits districts from requiring students to pay fees, deposits, or charges for their participation in educational activities.  
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If dissatisfied with the district's decision, the complainant may appeal in writing to the CDE.  
(Education Code 49013; 5 CCR 4632)

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. The appeal shall be accompanied by a copy of the locally filed complaint and a copy of the district's decision. (5 CCR 4632)

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)

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

\*\*\*Note: 5 CCR 4650 details circumstances under which the Superintendent of Public Instruction may directly intervene without waiting for action by the district. One such circumstance is when the district has not taken action on a complaint within 60 calendar days of the date that the complaint was filed with the district. \*\*\*

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

#### Civil Law Remedies

\*\*\*Note: During the FPM process, CDE staff will expect to see a statement detailing a complainant's right to pursue civil law remedies (i.e., action in a court of law) in addition to or in conjunction with the right to pursue administrative remedies from the CDE. \*\*\*



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 limited to, injunctions and restraining orders.

\*\*\*Note: Pursuant to Education Code 262.3, a complainant alleging discrimination, harassment, intimidation, or bullying based on state law must wait until 60 calendar days after filing an appeal with the CDE before filing a civil suit, except when he/she is only seeking injunctive relief from the court such as an injunction or restraining order. The 60-day waiting period does not apply when the discrimination complaint is based on federal law. \*\*\*

For complaints alleging discrimination, harassment, intimidation, and bullying based on state law, a complainant shall wait until 60 calendar days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies, provided 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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