

**UNIFORM COMPLAINT PROCEDURES FOR DISCRIMINATION AND ST/FED REGULATIONS CONCERNS**

The Mendocino County Board of Education and the County Superintendent recognize that the Mendocino County Office of Education (MCOE) is responsible for complying with applicable state and federal laws and regulations governing educational programs. This procedure covers such alleged violations in the following program areas, including but not limited to:

- career technical education (vocational education);
- child care and development;
- child nutrition;
- consolidated categorical aid; and
- special education (alleged noncompliance).

This procedure shall also be used to address all complaints which allege that MCOE has engaged in unlawful discrimination on the basis of including actual or perceived sex, gender identity, gender expression, sexual orientation, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability, or age, or on the basis of a persons 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 or federal funding.

The County Board and the County Superintendent prohibits retaliation in any form for participation in complaint procedures, including but not limited to the filing of a complaint or the reporting of instances of alleged discrimination. Such participation shall not in any way affect the status, grades, or work assignments of the complainant.

This procedure does not cover complaints regarding child abuse, 504 violations, sexual harassment, or disagreements regarding special education issues (fair hearing process continues to apply).

**Purpose**

To resolve program complaints using applicable laws and regulations.

**Timeline**

Prior to initiating this process, concerned parties are encouraged but not required to express concerns by informally contacting the appropriate program administrator of the program or service that is in question. If the complaint is not resolved through this informal process, the program administrator shall provide the complainant with a copy of the Uniform Complaint Form.

Six (6) months - Complaint must be initiated no later than six months from the date when the alleged discrimination occurred or when the complainant first obtained knowledge of the facts of the alleged discrimination.

Sixty (60) days - Within sixty (60) calendar days from receipt of the complaint, the County Superintendent and/or his/her designee shall ensure that the complaint process is completed unless the complainant agrees in writing to an extension of time.

### **Filing of Complaint**

1. Any individual, duly authorized representative, interested third party, public agency or organization may file a written complaint of alleged noncompliance using the Uniform Complaint Form (BE 1312.01). Complaints alleging unlawful discrimination may be filed by a person who alleges that s/he personally suffered unlawful discrimination or by one who believes that an individual or any specific class of individuals has been subjected to unlawful discrimination.

If complainant is unable to put a complaint in writing due to conditions such as illiteracy or other handicaps, the County Office shall provide staff to assist her/ him to file the complaint in accordance with Title 5, Section 4600 of the California Administrative Code.

2. Complainant presents the complaint to the County Superintendent and/or his/her designee located at 2240 Old River Road, Ukiah, CA 95482.

The County Superintendent and/or his/her designee may assign portions of the investigation to staff or designate another administrator to investigate.

3. The County Superintendent and/or his/her designee shall maintain a record of each complaint and subsequent related actions, including all information required for compliance with the Code of Regulations Title 5, Section 4632. 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.

The complainant need not use Complaint Forms provided to file a complaint.

### **Conducting the Investigation/Mediation**

1. The administrator investigating the alleged compliance violation shall be knowledgeable about the laws/programs that he/she is assigned to investigate.

Investigator shall provide an opportunity for the complainant or the complainant's representative or both and County Office representatives to present information relevant to the complaint. At the discretion of the investigating administrator, the investigation

may include an opportunity for the parties of the dispute to meet to discuss the complaint or to question each other or each other's witnesses. Refusal by the complainant to provide the investigating administrator with documents or other evidence related to the allegations in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation, may result in the dismissal of the complaint because of a lack of evidence to support the allegations.

Refusal of an MCOE program or staff member(s) to provide the investigating administrator with access to records and/or other information related to the allegation in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage 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.

2. The investigating administrator, in consultation with the County Superintendent and/or his/her designee, decides whether the complaint should be referred for mediation. Conducting the mediation shall not extend the timelines for investigating and resolving the complaint at the County Office level unless the complainant agrees, in writing, to the extension of the timeline. In no event shall mediation be mandatory in resolving complaints.

Before initiating the mediation process, if mediation is to be used, the County Office shall ensure that all parties agree to make the mediator a party to related confidential information. The mediator shall be provided with a copy of all relevant County Office policies and state laws and regulations. If mediation is used, the County Office shall pay for the services of the mediator. The investigating administrator shall be responsible for designating which County Office staff shall participate in the mediation on behalf of the County Office. The investigating administrator shall designate the timeline for mediation.

If the mediation process does not resolve the problem within the parameters of law or timelines, the investigating administrator shall proceed with her/his investigation of the complaint of all unresolved issues subject to this complaint process.

### **Preparing the Written Decision**

1. The investigating administrator prepares the County Office decision, 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 County Office shall arrange a meeting at which a person will be available to interpret it for the complainant. This report shall include the following elements:
  - findings of fact based on evidence gathered;
  - conclusions of law;
  - disposition of the complaint;
  - rationale for the above disposition;
  - corrective actions, if any are warranted;

- detailed statement of all specific issues that were brought up during the investigation and the extent to which these issues were resolved;
  - notice of the complainant's right to appeal the decision within fifteen (15) days to the Department of Education and procedures to be followed for initiating such an appeal (5 CCR 4631, 4652); and
  - notice that the complainant must wait until sixty (60) days have elapsed from the filing of an appeal for discrimination complaints with the California Department of Education before pursuing civil law remedies, with the exception of injunctive relief, for which the 60-day moratorium does not apply (5 CCR 4631; Education Code 262.3).
2. The investigating administrator ensures confidentiality of students and staff. 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 County Office expectations. The report shall not give any further information as to the nature of the disciplinary action which shall be conducted in accordance with applicable laws, rules, regulations and collective bargaining agreements.
  3. The investigating administrator files the investigation report with the County Superintendent and/or his/her designee at least five (5) days prior to the final sixty (60) day investigation timeline.
  4. The investigating administrator sends the written report to the complainant within sixty (60) days from the County Office's receipt of the complaint unless a continuance has been agreed to in writing by the complainant. Included in the written report shall be a notice of the complainant's right to appeal to the California Department of Education (CDE).

Complainant may file an appeal to the Superintendent of Public Instruction within fifteen (15) days of receiving the report. Complainant shall comply with the appeal requirements of Title 5, Section 4632.

When appealing to the CDE, the complainant must specify the reason(s) for appealing the County Office's decision and must include a copy of the locally filed complaint and a copy of the County Office's decision (Title 5, Section 4652).

5. The County Superintendent and/or his/her designee forwards the following to the State Superintendent upon notification that the County Office decision has been appealed to the state level pursuant to Section 4652 of the Code of Regulations Title 5:
  - original complaint;
  - copy of the County Office decision;
  - summary of the nature and extent of the investigation conducted by the County Office if not covered in the County Office's decision;
  - report of any action taken to resolve the complaint;
  - copy of the County Office complaint procedures;
  - other relevant information that the State Superintendent may require.

6. The investigating administrator monitors the action of the California Department of Education regarding the appeal and provides necessary responses on behalf of the County Office.

**Direct State Intervention**

1. The complainant does have the right to and may request direct intervention by the state in lieu of a local investigation and written report. The criteria for direct state intervention are set forth in Section 4650 of the Code of Regulations Title 5 and a copy shall be provided to the complainant upon request.
2. The County Superintendent and/or his/her designee acts as the contact person for the State in the event that the State does intervene.
3. The complainant has the option to follow the process described above if the State decides not to intervene.

**Civil Law Remedies**

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

**Notifications**

The County Superintendent and/or his/her designee shall meet the notification requirements of 5 CCR 4622, including the annual dissemination of County Office complaint procedures and information about available appeals, civil law remedies, and conditions under which a complaint may be taken directly to the California Department of Education. The County Superintendent and/or his/her designee shall ensure that complainants understand that they may pursue other remedies, including actions before civil courts or other public agencies.

Methods to provide annual notifications may include, but are not limited to, the following:

- Students may be noticed in school handbooks, administrative bulletins, and/or at back-to-school nights.
- Employees may be noticed by including a pamphlet in their pay envelope on a certain month every year or by administrative bulletins, in addition to;
- Receiving information at annual employee workshops designed to provide routine annual notices as required by law. New employees or substitute teachers may receive this information in their employment orientation or in an employee handbook.

- Parents or guardians may be noticed annually by administrative bulletin or as an agenda item at the groups' first meeting. The minutes will indicate that the notice was made.

**MENDOCINO COUNTY BOARD OF EDUCATION**

---

**Date Adopted:** 09/11/2006

**Date Revised:** 06/11/2012