

NOVATO UNIFIED SCHOOL DISTRICT BOARD POLICY

SERIES 1000

BP 1312.3

COMMUNITY RELATIONS

UNIFORM COMPLAINT PROCEDURES

The Board of Trustees shall ensure that its educational programs are in compliance with state and federal laws governing these programs and that all programs, activities or personnel practices comply with state and federal laws and Board policy on discrimination. The district 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 procedures set out in sections 4600-4687 of the Title 5 Regulations and in accordance with the district's uniform complaint procedures (T5CCR 4620).

The district shall follow uniform complaint procedures when addressing complaints alleging unlawful non-compliance with the adoption of school safety plans or unlawful discrimination based on actual or perceived sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, age or physical or mental disability in any program or activity that receives or benefits from state financial assistance. Uniform complaint procedures shall also be used when addressing complaints alleging failure to comply with state and/or federal laws in adult education, consolidated categorical aid programs, migrant education, career/technical instruction, career/technical programs, child care and development programs, child nutrition programs and special education programs. The Board encourages the early, informal resolution of complaints at the site level whenever possible.

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. Remarks that could embarrass or humiliate students and/or parents who file complaints shall not be tolerated.

The Board acknowledges and respects student and employee rights to privacy. Discrimination complaints shall be investigated in a manner that protects the confidentiality of the parties and the facts. This 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 Board recognizes that a neutral mediator can often facilitate an early compromise that is agreeable to all parties in a dispute. Whenever all parties to a complaint agree to try and resolve their problem through mediation, the Superintendent or designee shall initiate a mediation. The Superintendent or designee shall ensure that mediation results are consistent with state and federal laws and regulations.

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The uniform complaint procedures policy and information about available appeals, civil law remedies, and conditions under which a complaint may be taken directly to the California Department of Education shall be disseminated annually.

UNIFORM COMPLAINT PROCEDURES

Legal Reference:

- (cf. 0410 – Nondiscrimination in District Programs and Activities)
- (cf. 1312.1 – Complaints Concerning District Employees)
- (cf. 1312.2 – Complaints Concerning Instructional Materials)
- (cf. 1312.4 - Williams Uniform Complaint Procedures)
- (cf. 3553 – Free and Reduced Price Meals)
- (cf. 4031 – Complaints Concerning Discrimination in Employment)
- (cf. 5141.4 – Child Abuse Reporting Procedures)
- (cf. 5148 – Child Care and Development)
- (cf. 6159 – Individualized Education Program)
- (cf. 6171 – Title 1 Programs)
- (cf. 6174 – Education for English Language Learners)
- (cf. 6175 – Migrant Education Program)
- (cf. 6178 – Vocational Education)
- (cf. 6200 – Adult Education)
- (cf. 9011 – Disclosure of Confidential/Privileged Information)

EDUCATION CODE

200-262.3	Prohibition of discrimination
8200-8498	Child care and development programs
8500-8538	Adult basic education
18100-18179	School libraries
32289	School safety plan, uniform complaint procedure
35186	Alternative uniform complaint procedure
48985	Notices in language other than English
49060-49079	Student records
49490-49590	Child nutrition programs
52160-52178	Bilingual education programs
52300-52499.6	Vocational education
52500-52616.24	Adult schools
52800-52870	School-based coordinated programs
54000-54041	Economic impact aid programs
54100-54145	Miller-Unruh Basic Reading Act

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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
62000-62005.5	Evaluation and sunseting of programs
64000-64001	Consolidated application process

CODE OF REGULATIONS, TITLE 5

3080	Application of section
4600-4671	Uniform complaint procedures
4900-4965	Nondiscrimination in elementary and secondary education programs

PENAL CODE

422.6 Interference with constitutional right or privilege

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, including
7114	Local educational program, safety plans
7201-7283g	Title V Promoting Informed Parental Choice and Innovative Programs
7301- 7372	Title VI Rural and Low-Income School Programs

Board Adopted: December 8, 1992;

Revised: July 28, 1998, March 4, 2003, April 29, 2003, February 24, 2004, April 5, 2005,
December 5, 2006, February 27, 2007

NOVATO UNIFIED SCHOOL DISTRICT

Administrative Rules and Regulations

SERIES 1000

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UNIFORM COMPLAINT PROCEDURES

A. Compliance Officers

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

Superintendent
1015 Seventh Street, Novato, CA 94945
(415) 897-4222

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

The Superintendent or designee shall annually provide written notification of the district's uniform complaint procedures to pupils, employees, parents/guardians, the district advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties.

B. Notifications

The Superintendent or designee shall meet the notification requirements of 5 CCR 4622, including the annual dissemination of district 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 Superintendent or designee shall ensure that complainants understand that they may pursue other remedies, including actions before civil courts or other public agencies.

C. Procedures

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 following procedures shall be used to address all complaints, which allege that the district 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 4632.

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UNIFORM COMPLAINT PROCEDURES

Step 1: Filing of Complaint

Any individual, public agency or organization may file a written complaint of alleged noncompliance by the district.

The Superintendent's designee shall provide the complainant with a copy of the policy, procedures and complaint form (Exhibit 1312.3). The form is optional and a letter indicating that it is a formal complaint may be substituted.

The complaint shall be presented to the Superintendent, who will then give it to the appropriate compliance officer. The Superintendent will 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 illiteracy or other handicaps, the Superintendent's designee shall help him/her to file the complaint. (5 CCR 4600)

Complaints alleging unlawful discrimination 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. The 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. (5 CCR 4630)

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 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)

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UNIFORM COMPLAINT PROCEDURES

Step 3: Investigation of Complaint

The compliance officer shall hold an investigative meeting within five 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 and the district's representatives 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. (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 lack of evidence to support the allegation (5 CCR 4631).\

Step 4: Response

Within 30 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, the complainant may request a hearing before the Board of Trustees. Such a request must be filed in writing within 5 days.

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 is final.

If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 60 days of the district's initially receiving the complaint or within the time period that has been specified in a written agreement with the complainant. (5 CCR 4631)

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Step 5: Final Written Decision

The report of the district's decision shall be in writing and sent to the complainant.

The report of the district's decision shall be 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 district shall arrange a meeting at which a community member will interpret it for the complainant.

The district'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. (5CCR 4631).

UNIFORM COMPLAINT PROCEDURES

This report shall include:

1. The findings and disposition of the complaint, including corrective actions, if any. (5 CCR 4631)
2. The conclusion(s) of law. (5CCR 4631)
3. Corrective actions, if any are warranted. (5CCR 4631)
4. The rationale for the above disposition. (5 CCR 4631)
5. Notice of the complainant's right to appeal the District's decision within 15 days to the California Department of Education, and procedures to be followed for initiating such an appeal. (5 CCR 4631, 4652)
6. For discrimination complaints, notice that the complainant must wait until 60 days have elapsed from the filing of an appeal with the California Department of Education before pursuing civil law remedies. (5 CCR 4361; Education Code 262.3)
7. A detailed statement of all specific issues that were brought up during the investigation and the extent to which these issues were resolved.

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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.

D. Appeals to the California Department of Education

If dissatisfied with the district's decision, the complainant may appeal in writing to the California Department of Education within 15 days of receiving the district's decision. For good cause, the Superintendent of Public Instruction may grant an extension for filing appeals. (5 CCR 4652)

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 locally filed complaint and the district's decision. (**5CCR 4652**)

The California Department of Education may directly intervene in the complaint without waiting for action by the district when one of the conditions listed in 5 CCR 4650 exists. In addition, the California Department of Education may also intervene in those cases where the district has not taken action within 60 calendar days of the date the complaint was filed with the district.

UNIFORM COMPLAINT PROCEDURES

E. Civil Law Remedies

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. For discrimination complaints, however, a complainant must wait until 60 days have elapsed from the filing of an appeal with the California Department of Education before pursuing civil law remedies. The moratorium does not apply to injunctive relief and is applicable only if 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.

Board Adopted: December 8, 1992;

Revised: July 28, 1998, March 4, 2003, April 29, 2003, February 24, 2004, April 5, 2005,
December 5, 2006

NOVATO UNIFIED SCHOOL DISTRICT EXHIBIT

Series 1000

EX 1312.1, 1312.3

CONFIDENTIAL

COMPLAINT FORM

(To be used with Policies 0410, 1312.1, 1312.3)
Hay copias de este papel en español.

It is the intent of the Board of Trustees to provide a process for the community to address complaint(s) to appropriate district personnel and to receive a prompt and well-reasoned response without fear of retaliation. It is also the intent of the Board of Trustees to protect personnel from unfair and unfounded accusations and to resolve any complaints swiftly.

The Board acknowledges and respects student and employee rights to privacy. Complaints shall be investigated in a manner that protects the confidentiality of the parties and the facts.

Type of Complaint

Sexual Harassment

Program

Personnel

Materials

Discrimination

NAME _____ Home Phone _____

ADDRESS _____ Work Phone _____

As you are filing this complaint on behalf of yourself or your child for whom you are a guardian?

Myself _____ Child _____

Name of student, if applicable _____

Person, school or department your complaint involves _____

Date (s) of incident (s) _____

The school board policies related to complaints about discrimination, programs, materials all require that efforts be made first to resolve complaints directly with the person involved.

NOVATO UNIFIED SCHOOL DISTRICT EXHIBIT

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EX 1312.1, 1312.3

Please list the people you have met with and the results of those meetings.

1. Name _____
Position _____ Date of Meeting _____
Results _____

2. Name _____
Position _____ Date of Meeting _____
Results _____

Please describe your complaint in as much detail as possible and/or attach any correspondence related to this complaint. (Use extra sheets of paper if necessary.) Please state resolution desired.

(Attach additional pages as needed.)

Signature _____
Date

Please submit this form to the Superintendent, Novato Unified School District, 1015 Seventh Street, Novato, CA 94945. If you need assistance in completing this form, please contact the Superintendent's Office at 897-4222.

Resolution Agreed To: _____

Date: _____

Complainant Signature _____
Superintendent/Designee Signature

Hay copias de este papel en español.