

El Dorado County Office of Education Policy
Superintendent Administrative Regulation – AR 4100

AR 4100

ALL PERSONNEL

AR4100 – Uniform Complaint Procedures

Compliance Officers

Any individual, public agency or organization may file a written complaint with the County Superintendent of Schools, whose office is located at 6767 Green Valley Road, Placerville, California 95667. The following compliance officers will receive and investigate complaints and ensure compliance with law:

<i>Special Education</i>	Executive Director
<i>Child Development and Nutrition</i>	Executive Director
<i>Charter Programs</i>	Executive Director
<i>All Other Areas</i>	Deputy Superintendent

The Superintendent or designee shall ensure that employees designated to receive and 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.

Procedures

The following procedures shall be used to address all complaints that allege that the County Office of Education has violated federal or state laws or regulations governing educational programs. Compliance officers shall maintain a record of each complaint as required for compliance with the California Code of Regulations, Title 5, Section 4632. 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 Superintendent or designee shall make available copies of the County Office’s uniform complaint procedures free of charge.

Filing of Complaint

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

The complaint must be initiated no later than six months from the date when the alleged discrimination occurred or six months from the date when the complainant first obtained knowledge of the facts of the alleged discrimination unless the time for filing is extended by the Superintendent, upon written request by the complainant setting forth the reasons for the extension. Such extension by the Superintendent shall be made in writing. The period for filing may be extended by the Superintendent for good cause for a period not to exceed ninety

(90) days following the expiration of the time allowed. The Superintendent shall respond immediately upon receipt of requests for extensions.

A complaint 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 shall be presented to the compliance officer who shall maintain a log of complaints received. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, County Office staff shall assist him/her in filing the complaint.

A complaint regarding any deficiencies related to intensive instruction and services provided to pupils who have not passed one or both parts of the high school exit examination after the completion of grade 12 shall be submitted to the compliance officer. A complaint may be filed at the County Office of Education administrative offices, or it may be filed at the schoolsite and shall be immediately forwarded to the compliance officer.

The complaint review will be concluded within 60 calendar days from the date of receipt of the complaint unless the complainant agrees in writing to extend the time line.

Mediation

Within five days of receiving the complaint, the compliance officer shall informally discuss with the complainant the possibility of using mediation.

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 County Office's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time.

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.

The complainant and/or his/her representative shall have an opportunity to present the complaint and evidence or information leading to evidence to support the allegations in the complaint.

Refusal by the complainant to provide the investigator with documents or other evidence related to the allegations in the complaint, or to otherwise fail or refuse to cooperate in the investigation, may result in the dismissal of the complaint because of a lack of evidence to support the allegations.

Refusal by the County Office of Education to provide the investigator 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.

Response

Within 30 days of receiving the complaint, the compliance officer shall prepare and send to the County Superintendent of Schools a written report of the investigation and a proposed decision, and the County Superintendent of Schools shall provide a copy of the final decision to the complainant within 60 days of the County Office's receipt of the complaint.

Final Written Decision

The report of the County Superintendent of Schools' and/or the County Board of Education's decision shall be written in English and in the language of the complainant whenever feasible or required by law. The Decision shall contain:

1. The findings of fact based on evidence gathered,
2. Conclusions 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 County Superintendent's decision within 15 days to the Department and procedures to be followed for initiating such an appeal; and
7. For discrimination complaints, notice that the complainant must wait until 60 days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies.

Appeals to the California Department of Education

If dissatisfied with the County Board of Education's decision, a written appeal may be made to the California Department of Education within 15 days of receiving the decision. When appealing to the Department, the complainant must specify the basis for the appeal of the decision, and whether the facts are incorrect and/or the law has been misapplied. The appeal to the Department must include a copy of the locally filed complaint and a copy of the County Board of Education's decision.

Upon notification by the Superintendent that the County Office Decision has been applied to the state level, the County Office shall forward the following to the Superintendent:

- (a) The original complaint;
- (b) A copy of the County Office Decision;

- (c) A summary of the nature and extent of the investigation conducted by the County Office, if not covered in the County Office Decision;
- (d) 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;
- (e) A report of any action taken to resolve the complaint;
- (f) A copy of the County Office complaint procedures; and
- (g) Such other relevant information as the Superintendent may require.

The California Department of Education may directly intervene without waiting for action by the County Office when any of the conditions listed in 5 C.C.R. §4650 exists, including cases in which the County Office has not taken action within 60 days of the date of the complaint being filed with the County Office.

Referring Complaint Issues to Other Appropriate State or Federal Agencies

The following complaints shall be referred to the specified agencies for appropriate resolution and are not subject to the County Office complaint procedures and are not under the jurisdiction of the California Department of Education:

- (a) Allegations of child abuse shall be referred to the applicable County Department of Social Services (DSS), Protective Services Division or appropriate law enforcement agency. However, nothing in this section relieves the Department from investigating complaints pursuant to section 4650(a)(vii)(C).
- (b) Health and safety complaints regarding a Child Development Program shall be referred to Department of Social Services for licensed facilities, and to the appropriate Child Development regional administrator for licensing-exempt facilities.
- (c) Discrimination issues involving Title IX of the Educational Amendments of 1972 shall be referred to the U.S. Office of Civil Rights (OCR). Title IX complaints will only be referred to the OCR if there is no state discrimination law or regulation at issue. Unless otherwise negotiated through a memorandum of understanding/agreement, a preliminary inquiry and/or investigation concerning these complaints will be conducted by OCR. The complainant shall be notified by certified mail if his or her complaint is transferred to OCR by the Superintendent.
- (d) Complaint of discrimination involving Child Nutrition Programs administered by the Department from program participants or applicants shall be referred to either Administrator, U.S. Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302 or Secretary of Agriculture, Washington, D.C. 20250. Discrimination complaints received by a local agency or the Department shall be immediately directed to U.S. Department of Agriculture, Food and Nutrition Service, Western Regional Office.

- (e) Employment discrimination complaints shall be sent to the State Department of Fair Employment and Housing (DFEH) pursuant to Title 22, CCR, Section 98410. The complainant shall be notified by first class mail of any DFEH transferal.
- (f) Allegations of fraud shall be referred to the responsible Department Division Director and the Department's Legal Office.

Civil Law Remedies

Nothing in this policy precludes a complainant from pursuing available civil law remedies outside of the County Office of Education's complaint procedures. Such remedies may include mediation centers, public/private interest attorneys, injunctions, restraining orders, etc. For discrimination complaints, however, a complainant must wait until 60 days has elapsed from the filing of an appeal with the California Department of Education before pursuing civil law remedies. The 60 day wait does not apply to judicial or administrative agency ordered injunctive relief and is applicable only if the County has appropriately, and in a timely manner, apprised the complainant of his/her right to file a complaint.

For assistance you may contact legal assistance agencies, including but not limited to the California Department of Education Special Education Division Procedural Safeguards Referral Service at 1-800-926-0648, local mediation centers, or private attorneys.