

**North Orange County Regional Occupational Program
UNIFORM COMPLAINT PROCEDURES
ROP AR 1312.3**

AR 1312.3 (a)

Administrative Regulation

Community Relations

Except as the Governing Board may otherwise specifically provide in other North Orange County Regional Occupational Program (NOCROP) policies, these uniform complaint procedures (UCP) shall be used to investigate and resolve only the complaints specified in BP 1312.3.

Compliance Officers

NOCROP designates the individual(s) identified below as the employee(s) responsible for coordinating NOCROP'S response to complaints and for complying with state and federal civil rights laws. The individual(s) also serve as the compliance officer(s) specified in AR 5145.3 - Nondiscrimination/Harassment as the responsible employee(s) to handle complaints regarding unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) and AR 5145.7 – Sexual Harassment for handling complaints about sexual harassment. The individual(s) shall receive and coordinate the investigation of complaints and shall ensure NOCROP's compliance with law.

Assistant Superintendent, Educational Services or designee
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The compliance officer who receives a complaint may assign another compliance officer to investigate and resolve the complaint. The compliance officer shall promptly notify the complainant and respondent, if applicable, if another compliance officer is assigned to the complaint.

In no instance shall the compliance officer be assigned to a complaint in which they have a bias or conflict of interest that would prohibit them from fairly investigating or resolving the complaint. Any complaint against the compliance officer or that raises a concern about the compliance officer's ability to investigate the complaint fairly and without bias shall be filed with the Superintendent or designee who shall determine how the complaint will be investigated.

The Superintendent or designee shall ensure that employees assigned to investigate and resolve complaints receive training and are knowledgeable about the laws and programs at issue in the complaints to which they are assigned. Training provided to such employees shall cover current state and federal laws and regulations governing the

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program, applicable processes for investigating and resolving complaints, including those alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), applicable standards for reaching decisions on complaints, and appropriate corrective measures. Assigned employees may have access to legal counsel as determined by the Superintendent or designee.

The compliance officer or any appropriate administrator shall determine whether interim measures are necessary during and pending the result of an investigation. If interim measures are determined to be necessary, the compliance officer or the administrator shall consult with the Superintendent or the Superintendent's designee to implement one or more interim measures. The interim measures shall remain in place until the compliance officer determines that they are no longer necessary or until NOCROP issues its final written decision, whichever occurs first.

Notifications

NOCROP's uniform complaint procedure policy and administrative regulation shall be posted in all NOCROP sites and offices. (Education Code 234.1)

The Superintendent or designee shall annually provide written notification of NOCROP'S UCP to students, employees, and parents/guardians of NOCROP students.

The notice shall include:

1. A statement that NOCROP is primarily responsible for compliance with federal and state laws and regulations, including those related to prohibition of unlawful discrimination, harassment, intimidation, or bullying against any protected group, and a list of all programs and activities that are subject to UCP as identified in the section "Complaints Subject to UCP" in the accompanying Board policy
2. The title of the person/position responsible for processing complaints, the identity of the person(s) currently occupying that position if known, and a statement that such persons will be knowledgeable about the laws and programs that they are assigned to investigate
3. A statement that a UCP complaint must be filed no later than one year from the date the alleged violation occurred
4. A statement that, in the case of a complaint alleging unlawful discrimination, harassment, intimidation, or bullying, a UCP complaint must be filed no later than six months from the date of the alleged conduct or the date the complainant first obtained knowledge of the facts of the alleged conduct

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5. A statement that a student enrolled in a NOCROP program shall not be required to pay a fee for participation in an educational activity that constitutes an integral fundamental part of NOCROP's educational program, including curricular and extracurricular activities
6. A statement that a complaint regarding student fees may be filed anonymously if the complainant provides evidence or information leading to evidence to support the complaint
7. A statement that NOCROP will post a standardized notice of the educational rights of foster youth, homeless students, former juvenile court school students now enrolled in the ROP, children of military families, migrant students, and immigrant students enrolled in a newcomer program, as specified in Education Code 48853, 48853.5, 49069.5, 51225.1, and 51225.2, and the complaint process
8. A statement that complaints will be investigated in accordance with NOCROP's UCP and a written decision will be sent to the complainant within 60 days from the receipt of the complaint, unless this time period is extended by written agreement of the complainant
9. A statement that the complainant has a right to appeal NOCROP's investigation report to California Department of Education for programs within the scope of the UCP by filing a written appeal, including a copy of the original complaint and NOCROP's decision, within 15 days of receiving NOCROP's decision
10. A statement advising the complainant of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal antidiscrimination laws, if applicable
11. A statement that copies of NOCROP's UCP are available free of charge

The annual notification, complete contact information of the compliance officer(s), and information related to Title IX as required pursuant to Education Code 221.61 shall be posted on NOCROP web site.

The Superintendent or designee shall ensure that all students and parents/guardians, including students and parents/guardians with limited English proficiency, have access to the relevant information provided in NOCROP's policy, regulation, forms, and notices concerning the UCP.

If 15 percent or more of students enrolled in a particular NOCROP school speak a single primary language other than English, NOCROP's policy, regulation, forms, and notices

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concerning the uniform complaint procedure shall be translated into that language, in accordance with Education Code 234.1 and 48985. In all other instances, NOCROP shall ensure meaningful access to all relevant uniform complaint procedure information for parents/guardians with limited English proficiency.

Filing of Complaints

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.

All complaints shall be filed in writing and signed by the complainant. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, NOCROP staff shall assist them in the filing of the complaint. (5 CCR 4600)

Complaints shall also be filed in accordance with the following rules, as applicable:

1. A complaint alleging NOCROP violation of applicable state or federal law or regulations governing the programs specified in the accompanying Board policy (item #1 of the section "Complaints Subject to the uniform complaint procedure") may be filed by any individual, public agency, or organization. (5 CCR 4630)
2. Any complaint alleging noncompliance with 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. A complaint about a violation of the prohibition against the charging of unlawful student fees may be filed with the Superintendent or designee.
3. A complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) may be filed only by a person who alleges that they personally suffered the unlawful discrimination or by a person who believes that an individual or any specific class of individuals has been subjected to it, or a duly authorized representative who alleges that an individual student has been subjected to discrimination, harassment, intimidation, or bullying.

The complaint shall be initiated no later than six months from the date when the alleged unlawful discrimination occurred, or six months from the date when the complainant first obtained knowledge of the facts of the alleged unlawful discrimination. The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension. (5 CCR 4630)

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4. When a complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) is filed anonymously, the compliance officer shall pursue an investigation or other response as appropriate, depending on the specificity and reliability of the information provided and the seriousness of the allegation.

5. When the complainant of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) or the alleged victim, when they are not the complainant, requests confidentiality, the compliance officer shall inform them that the request may limit NOCROP's ability to investigate the conduct or take other necessary action. When honoring a request for confidentiality, NOCROP shall nevertheless take all reasonable steps to investigate and resolve/respond to the complaint consistent with the request.

Mediation

Within three business days after the compliance officer receives the complaint, they may informally discuss with all the parties the possibility of using mediation. Mediation shall be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint involving an allegation of sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. If the parties agree to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the compliance officer shall ensure that all parties agree to make the mediator a party to relevant confidential information. The compliance officer shall also notify all parties of the right to end the informal process at any time.

If the mediation process does not resolve the problem within the parameters of law, the compliance officer shall proceed with their investigation of the complaint.

The use of mediation shall not extend NOCROP's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time.

If mediation is successful and the complaint is withdrawn, then NOCROP shall take only the actions agreed upon through the mediation. If mediation is unsuccessful, NOCROP shall then continue with subsequent steps specified in this administrative regulation.

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Investigation of Complaint

Within 10 business days after the compliance officer receives the complaint, the compliance officer shall begin an investigation into the complaint.

Within one business day of initiating the investigation, the compliance officer shall provide the complainant and/or their representative with the opportunity to present the information contained in the complaint to the compliance officer and shall notify the complainant and/or their representative of the opportunity to present the compliance officer with any evidence, or information leading to evidence, to support the allegations in the complaint. Such evidence or information may be presented at any time during the investigation.

In conducting the investigation, the compliance officer shall collect all available documents and review all available records, notes, or statements related to the complaint, including any additional evidence or information received from the parties during the course of the investigation. The compliance officer shall individually interview all available witnesses with information pertinent to the complaint, and may visit any reasonably accessible location where the relevant actions are alleged to have taken place. At appropriate intervals, the compliance officer shall inform both parties of the status of the investigation.

To investigate a complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the compliance officer shall interview the alleged victim(s), any alleged offenders, and other relevant witnesses privately, separately, and in a confidential manner. As necessary, additional staff or legal counsel may conduct or support the investigation.

A complainant's refusal to provide NOCROP'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.

Similarly, a respondent's refusal to provide NOCROP'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 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)

In accordance with law, NOCROP 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 NOCROP to cooperate in the investigation may result in a finding based on evidence collected that a violation has occurred and in

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the imposition of a remedy in favor of the complainant. (5 CCR 4631)

The compliance officer shall apply a "preponderance of the evidence" standard in determining the veracity of the factual allegations in a complaint. This standard is met if the allegation is more likely to be true than not.

Timeline for Investigation Report

Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant, and respondent if there is one, a written report, as described in the section "Investigation Report" below, within 60 calendar days of the NOCROP's receipt of the complaint. (5 CCR 4631)

For any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying), the respondent shall be informed of any extension of the timeline agreed to by the complainant. The respondent also shall be sent the ROP's final decision at the same time it is provided to the complainant.

Investigation Report

For all complaints, NOCROP's investigation report shall include: (5 CCR 4631)

1. The findings of fact based on the evidence gathered
2. A conclusion providing a clear determination for each allegation as to whether NOCROP is in compliance with the relevant law
3. Corrective action(s) whenever NOCROP finds merit in the complaint, including, when required by law, a remedy to all affected students and parents/guardians and, for a student fees complaint, a remedy that complies with Education Code 49013 and 5 CCR 4600
4. Notice of the complainant's right to appeal NOCROP's investigation report to California Department of Education, except when NOCROP has used the UCP to address a complaint not specified in 5 CCR 4610
5. Procedures to be followed for initiating an appeal to California Department of Education

The investigation report may also include follow-up procedures to prevent recurrence or retaliation and for reporting any subsequent problems.

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In consultation with NOCROP legal counsel, information about the relevant part of an investigation report may be communicated to a victim who is not the complainant and to other parties who may be involved in implementing the investigation report or are affected by the complaint, as long as the privacy of the parties is protected. In a complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying), notice of the investigation report to the alleged victim shall include information about any sanction to be imposed upon the respondent that relates directly to the alleged victim.

If the complaint involves a limited-English-proficient student or parent/guardian and the student involved is enrolled in a school at which 15 percent or more of the students speak a single primary language other than English, then the investigation report shall also be translated into that language pursuant to Education Code 48985.

In all other instances, NOCROP shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

For complaints alleging unlawful discrimination based on state law (such as discriminatory harassment, intimidation, and bullying), the investigation report shall also include a notice to the complainant that:

1. The complainant may pursue available civil law remedies outside of NOCROP's complaint procedures, including seeking assistance from mediation centers or public/private interest attorneys, 60 calendar days after the filing of an appeal with California Department of Education. (Education Code 262.3)
2. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law. (Education Code 262.3)
3. Complaints alleging discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the U.S. Department of Education, Office for Civil Rights at www.ed.gov/ocr within 180 days of the alleged discrimination.

Corrective Actions

When a complaint is found to have merit, the compliance officer shall adopt any appropriate corrective action permitted by law. Appropriate corrective actions that focus on the ROP environment may include, but are not limited to, actions to reinforce NOCROP policies; training for faculty, staff, and students; updates to ROP policies; or ROP climate surveys.

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For complaints involving retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), appropriate remedies that may be offered to the victim but not communicated to the respondent may include, but are not limited to, the following:

- Counseling
- Academic support
- Assignment of an escort to allow the victim to move safely about campus
- Information regarding available resources and how to report similar incidents or retaliation
- Separation of the victim from any other individuals involved, provided the separation does not penalize the victim
- Follow-up inquiries to ensure that the conduct has stopped and there has been no retaliation

For complaints involving retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), appropriate corrective actions that focus on a student offender may include, but are not limited to, the following:

- Transfer from a class as permitted by law
- Parent/guardian conference
- Education regarding the impact of the conduct on others
- Disciplinary action, such as suspension or expulsion, as permitted by law

When an employee is found to have committed retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), NOCROP shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law.

NOCROP may also consider training and other interventions for the larger school community to ensure that students, staff, and parents/guardians understand the types of behavior that constitute unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), that NOCROP does not tolerate it, and how to report and respond to it.

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When a complaint is found to have merit, an appropriate remedy shall be provided to the complainant or other affected person.

If a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges, NOCROP shall provide a remedy to all affected students and parents/guardians subject to procedures established by regulation of the State Board of Education. (Education Code 49013, 51223, 52075)

For complaints alleging noncompliance with the laws regarding student fees, NOCROP shall attempt in good faith, by engaging in reasonable efforts, to identify and fully reimburse all affected students and parents/guardians who paid the unlawful student fees within one year prior to the filing of the complaint. (Education Code 49013; 5 CCR 4600)

Appeals to the California Department of Education

Any complainant who is dissatisfied with a NOCROP investigation report on a complaint regarding any specified federal or state educational program subject to the uniform complaint procedure may file an appeal in writing with California Department of Education within 30 calendar days of receiving NOCROP's investigation report. (Education Code 222, 48853, 48853.5, 49013, 49069.5, 51223, 51225.1, 51225.2, 51228.3, 52075; 5 CCR 4632)

The appeal shall be sent to California Department of Education with a copy of the original locally filed complaint and a copy of NOCROP's investigation report for that complaint. The complainant shall specify and explain the basis for the appeal, including as least one of the following: (5 CCR 4632)

1. NOCROP failed to follow its complaint procedures.
2. Relative to the allegations of the complaint, NOCROP's investigation report lacks material findings of fact necessary to reach a conclusion of law.
3. The material findings of fact in NOCROP's investigation report are not supported by substantial evidence.
4. The legal conclusion in NOCROP's investigation report is inconsistent with the law.
5. In a case in which NOCROP found noncompliance, the corrective actions fail to provide a proper remedy.

Upon notification by California Department of Education that the complainant or respondent has appealed NOCROP's decision, the Superintendent or designee shall

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forward the following documents to California Department of Education within 10 days of the date of notification: (5 CCR 4633)

1. A copy of the original complaint
2. A copy of the NOCROP's investigation report
3. 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
4. A report of any action taken to resolve the complaint
5. A copy of NOCROP's uniform complaint procedures
6. Other relevant information requested by California Department of Education

If notified by California Department of Education that NOCROP's investigation report failed to address allegation(s) raised by the complaint, NOCROP shall, within 20 days of the notification, provide California Department of Education and the appellant with an amended investigation report that addresses the allegation(s) that were not addressed in the original investigation report. The amended report shall also inform the appellant of the right to separately appeal the amended report with respect to the allegation(s) that were not addressed in the original report. (5 CCR 4632)