

**CONFIDENTIAL**



**TAMALPAIS UNION HIGH SCHOOL DISTRICT**

**INCIDENT / COMPLAINT REPORT FORM**

To: Principal or Immediate Supervisor \_\_\_\_\_ Date \_\_\_\_\_

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COMPLAINT LODGED BY:      Student                  Employee                  Other

\_\_\_\_\_  
Name

\_\_\_\_\_  
School Site / Work Location

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
Telephone (School/Work)

\_\_\_\_\_  
City                                  Zip Code

\_\_\_\_\_  
Telephone (Home)

- 
1.      Type of Incident / Complaint: *(attach additional paper if necessary)*
  
  
  
  
  
  
  
  
  
  
  2.      Date / Time / Place of Incident(s) / Complaint:
  
  
  
  
  
  
  
  
  
  
  3.      Name(s) of Person(s) Involved:
  
  
  
  
  
  
  
  
  
  
  4.      Name(s) of Witness(es):
  
  
  
  
  
  
  
  
  
  
  5.      Describe prior attempt to resolve complaint with the person, if any: *(attach additional paper if necessary)*
  
  
  
  
  
  
  
  
  
  
  6.      Desired resolution to incident / complaint: *(attach additional paper if necessary)*

\_\_\_\_\_  
Complainant's Signature

\_\_\_\_\_  
Date

Copy of Board Policy and Regulations provided.

## UNIFORM COMPLAINT PROCEDURES

### Community Relations

### BP 1312.3(a)

The Board of Trustees recognizes that the District is responsible for ensuring that it complies with state and federal laws and regulations governing educational programs. The District shall follow uniform complaint procedures when addressing complaints alleging non-compliance with the adoption of school safety plans or unlawful discrimination regarding actual or perceived sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color or mental or physical disability and age in any program or activity that receives or benefits from state financial assistance. The District shall also follow uniform complaint procedures when addressing complaints alleging failure to comply with state or federal law in adult basic education, consolidated categorical aid programs, vocational education, child nutrition programs and special education programs.

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*

*(cf. 0420.1 - School-Based Coordinated Programs)*

*(cf. 0430 - Comprehensive Local Plan for Special Education)*

*(cf. 3553 - Free and Reduced Price Meals)*

*(cf. 6171 - Title I Programs)*

*(cf. 6174 - Education for English Language Learners)*

*(cf. 6178 - Vocational Education)*

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 alleged discrimination, or for participation in complaint procedures. Such participation shall not in any way affect the status, grades, or work assignments of the complainant.

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.

*(cf. 4119.23 - Unauthorized Release of Confidential/Privileged Information)*

*(cf. 5125 - Student Records)*

*(cf. 9011 - Disclosure of Confidential/Privileged Information)*

The Superintendent or designee shall ensure that employees designated to investigate complaints 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.

*(cf. 9124 - Attorney)*

The Board recognizes that a neutral mediator can often suggest an early compromise that is agreeable to all parties in a dispute. In accordance with uniform complaint procedures whenever all parties to a complaint agree to try resolving their problem through mediation, the Superintendent or designee shall initiate a mediation process before beginning a formal compliance investigation. The Superintendent or designee shall ensure that mediation results are consistent with state and federal laws and regulations.

*(cf. 1312.1 - Complaints Concerning District Employees)*  
*(cf. 1312.2 - Complaints Concerning Instructional Materials)*  
*(cf. 4031 - Complaints Concerning Discrimination in Employment)*  
*(cf. 5141.4 - Child Abuse Reporting Procedures)*

The District shall cooperate fully in the event that the complaint is appealed to the State and in any investigation initiated at the State level.

*Legal Reference:*

EDUCATION CODE

200-262.3 Prohibition of discrimination  
 8500-8538 Adult basic education  
 18100-18179 School libraries  
 35146 Closed sessions  
 35160 Authority of governing boards  
 35160.5 Requirement of school district policies: parental complaints re: employees  
 44670.1-44670.1 School personnel staff development and resource centers  
 48985 Notices in language other than English  
 49060-49079 Student Records  
 49490-49560 Child nutrition programs  
 51513 Personal beliefs  
 52300-52483 Vocational education  
 52500-52616.24 Adult schools  
 52800-52863 School-based coordinated programs  
 54000-54041 Economic impact aid programs  
 54400-54425 Compensatory education programs  
 54460-54529 Compensatory education programs  
 56000-56885 Special education programs  
 59000-59300 Special education programs  
 64000 Consolidation application process  
CODE OF REGULATIONS, TITLE 5  
 3080 Application of section 4600-4671  
 4600-4671 Uniform Complaint Procedures

GOVERNMENT CODE

54957-54957.8 Closed sessions  
 20 U.S.C.A. Section 1221, 1232g  
UNITED STATES CODE, TITLE 20  
 1221-1232g General Education Provisions Act  
 1681-1688 Discrimination based on sex or blindness, Title IX  
CODE OF FEDERAL REGULATIONS, TITLE 34  
 100.1-100.13 Nondiscrimination

Policy  
 adopted: November 10, 1992  
 revised: December 10, 2002  
 revised: January 13, 2004  
 revised: March 6, 2007

**TAMALPAIS UNION HIGH SCHOOL DISTRICT**  
 Larkspur, California

## UNIFORM COMPLAINT PROCEDURES

### Community Relations

AR 1312.3(a)

### Compliance Officers

The Board designates the following compliance officer to receive complaints and ensure district compliance with law:

Superintendent/Designee  
Tamalpais Union High School District  
P.O. Box 605  
Larkspur, CA 94977

The Superintendent may designate a staff member to investigate complaints. The person(s), employee(s), position(s) or unit(s) responsible for compliance and/or investigations shall be knowledgeable about the laws/programs that he/she is assigned to investigate.

### Notifications

The Superintendent or designee shall meet the notification requirements of 5 CCR 4622, including the annual dissemination of district complaint procedures to students, employees, parents/guardians of its students, school and district advisory committees, appropriate private school officials or representatives, and other interested parties. Copies of the complaint procedures shall be made available free of charge.

The notice shall:

1. Identify the person(s), position(s) responsible for receiving complaints.
2. Advise the complainants that they may pursue civil law remedies under state or federal discrimination laws.
3. Advise the complainants of the appeal process pursuant to Education Code 262.3, including the complainant's right to take a complaint directly to the California Department of Education (CDE) or to pursue remedies before civil courts or public agencies.
4. Include statements that:
  - a. The district is primarily responsible for compliance with state and federal laws and regulations
  - 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. An unlawful discrimination complaint must be filed not later than six months from the date the alleged discrimination occurs, or six months from the date the complainant first obtains knowledge of the facts of the alleged discrimination

## **Uniform Complaint Procedures (continued)**

**AR 1312.3(b)**

- d. The complainant has a right to appeal the district's decision to the CDE by filing a written appeal within 15 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

*(cf. 5145.6 - Parental Notifications)*

*(cf. 5145.6 - Notifications Required by Law)*

### **Procedures**

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 as set forth in 5 CCR 4600.

Compliance officers shall maintain a record of each complaint and subsequent related actions, including all information required for compliance with 5 CCR 4632.

The district will use its uniform complaint procedures when addressing all complaints regarding sex equity.

Investigations of discrimination complaints shall be conducted in a manner that protects confidentiality of the parties and the facts. (5 CCR 4630)

All parties involved in allegations shall be notified when a complaint is filed 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 alleged noncompliance by the district by using the district Incident/Complaint Report Form (E 1312.3).

A complaint must be in writing and contain a concise statement of the facts constituting the grounds for the complaint, and, where applicable, the laws or regulations violated. The complainant must sign and date the complaint.

If a complainant is unable to put a complaint in writing due to conditions such as illiteracy or other handicaps, district staff shall help him/her to file the complaint. (5 CCR 4600)

The complaint shall be presented to the Superintendent, who may then designate a compliance officer. The Superintendent's office will maintain a log of complaints received, providing each with a code number and a date stamp.

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 working days of receiving the complaint, the compliance officer shall informally discuss with the complainant the possibility of using mediation. If all parties agree to mediation, the compliance officer shall provide the parties with a list of neutral mediators. Within two working days thereafter, each party shall indicate which of the suggested mediators is acceptable to him/her. Then, the compliance officer shall make arrangements for a mediation conference with one of the mutually acceptable mediators.

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.

**Step 3: Investigation of Complaint**

The investigation shall provide an opportunity for the complainant, the complainant's representative, or both, and district representatives, to present information relevant to the complaint. The compliance officer shall hold an investigative meeting at which the parties may discuss the complaint and question each other and each other's witnesses. If such a meeting is called, the compliance officer and the parties may each ask witnesses of their choosing to attend and provide relevant information.

To ensure that all pertinent facts are made available, the compliance officer and the complainant may ask other individuals to attend this meeting and provide additional information.

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 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 by the district 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, 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.

**Step 4: District Decision**

Within 60 days from receipt of a complaint, the Superintendent or designee shall complete the investigation in accordance with this procedure and prepare a written decision (“decision”) unless the complainant agrees in writing to an extension of time.

The decision shall be written in English and in the primary language of the complainant whenever 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 an interpreter or a community member will interpret it for the complainant.

The decision shall be sent to the complainant within 60 days from receipt of the complaint by the Superintendent or designee. The decision shall include:

1. The findings and disposition of the complaint, including corrective action, if any.
2. The conclusion of law.
3. The rationale for the above disposition.
4. Notice of the complainant’s right to appeal the decision to the California Department of Education, and procedures to be followed for initiating such an appeal.
5. A detailed statement of all specific issues that were brought up during the investigation and the extent to which these issues were resolved. If an employee is disciplined as a result of the complaint, the decision 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.
6. For discrimination complaints, notice that the complainants must wait until 60 days have elapsed from the filing of an appeal with CDE before pursuing civil law remedies (Education Code 262.3)

**Step 5: Appeals**

Any complainant may appeal a district decision to the California Superintendent of Public Instruction by filing a written appeal with the Superintendent of Public Instruction within 15 days of receiving the district decision. For good cause, the Superintendent of Public Instruction may grant extensions for filing appeals.

The appeal shall specify the reason(s) for appealing the district decision and shall include a copy of the complaint and a copy of the district decision. (5 CCR 4632)

Upon notification by the Superintendent of Public Instruction that the district decision has been appealed to the state level, the district shall forward the following to the Superintendent of Public Instruction (5 CCR 4632):

1. The original complaint.
2. A copy of the district decision.
3. A summary of the nature and extent of the investigation conducted by the district, if not covered in the decision.

## **Uniform Complaint Procedures (continued)**

**AR 1312.3(b)**

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 an action taken to resolve the complaint.
6. A copy of the district's complaint procedures
7. Such other relevant information as the Superintendent of Public Instruction may require.

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

### **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 CDE 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.

Regulation  
approved: November 10, 1992  
revised: December 10, 2002  
revised: March 6, 2007  
revised: August 26, 2008

TAMALPAIS UNION HIGH SCHOOL DISTRICT  
Larkspur, California



**Title 5, Section 4650 - Basis of Direct State Intervention**

(a) The Superintendent shall directly intervene without waiting for local agency action if one or more of the following conditions exists:

(i) The complaint includes an allegation, and the Department verifies, that a local educational agency failed to comply with the complaint procedures required by this Chapter;

(ii) Discrimination is alleged by the complainant and the facts alleged indicate that the complainant will suffer an immediate loss of some benefit such as employment or education if the Department does not intervene. However, nothing in this section gives the Department jurisdiction over employment discrimination claims.

(iii) The complaint relates to agencies other than local educational agencies funded through the Child Development and Child Nutrition Programs;

(iv) The complainant requests anonymity and presents clear and convincing evidence and the Department verifies that he or she would be in danger of retaliation if a complaint were filed locally, or has been retaliated against because of past or present complaints;

(v) The complainant alleges that the local educational agency failed or refused to implement the final decision resulting from its local investigation or local Mediation Agreement;

(vi) The local agency refuses to respond to the Superintendent's request for information regarding a complaint;

(vii) The complainant alleges and the Department verifies, or the Department has information that no action has been taken by the local educational agency within 60 calendar days of the date the complaint was filed locally.

(viii) For complaints relating to special education the following shall also be conditions for direct state intervention:

(A) The complainant alleges that a public agency, other than a local educational agency, as specified in Government Code Section 7570 et seq., fails or refuses to comply with an applicable law or regulation relating to the provision of free appropriate public education to handicapped individuals;

(B) The complainant alleges that the local educational agency or public agency fails or refuses to comply with the due process procedures established pursuant to federal and state law and regulation; or has failed or refused to implement a due process hearing order;

**Title 5, Section 4650 - Basis of Direct State Intervention (continued) E 1312.3 (b)**

(C) The complainant alleges facts that indicate that the student or group of students may be in immediate physical danger or that the health, safety or welfare of a student or group of students is threatened.

(D) The complainant alleges that a handicapped pupil is not receiving the special education or related services specified in his or her Individualized Educational Program (IEP).

(E) The complaint involves a violation of federal law governing special education, 20 U.S.C. Section 1400 et seq., or its implementing regulations.

(b) The complaint shall identify upon which basis, as described in paragraph (a) of this section, that direct filing to the state is being made.

NOTE: Authority cited: Section 232 and 33031, Education Code; Section 11138, Government Code.

Reference: Sections 11135, 11136 and 11138, Government Code; 34 CFR 76.780-76.783 and 106.8.