

# Lake Tahoe USD

## Administrative Regulation

### AR 1312.3 Community Relations

#### Uniform Complaint Procedures

#### Compliance Officers

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

Director of Human Resources  
1021 Al Tahoe Boulevard  
South Lake Tahoe, CA 96150  
(530) 541-2850

The Superintendent or designee shall ensure that employees designated to 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.

(cf. 9124 - Attorney)

#### Notifications

The Superintendent or designee shall annually provide written notification of the district's uniform complaint procedures to students, employees, parents/guardians, the district advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties. (5 CCR 4622)

The Superintendent or designee shall make available copies of the district's uniform complaint procedures free of charge. (5 CCR 4622)

The notice shall:

1. Identify the person(s), position(s), or unit(s) responsible for receiving complaints
2. Advise the complainant of any civil law remedies that may be available to him/her under state or federal discrimination laws, if applicable
3. Advise the complainant 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 other 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
- 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)

The above notification shall state that complainants may seek help from agencies such as legal assistance agencies, local mediation centers or the County Office of Education.

Local resources include:

South Lake Tahoe Women's Center	(530) 544-2118
El Dorado County Office of Education	(530) 622-7130
El Dorado Community Roundtable on Human Rights	(530) 644-7439
Protection and Advocacy, Sacramento	(916) 477-3324 or (800)776-5746
Legal Center for the Elderly and Disabled, Sacramento	(916) 444-6760
Developmental Disabilities Area Board III, Sacramento	(916) 924-2265
American Civil Liberties Union, San Francisco	(415) 621-2488
	(English/Spanish)
Language Rights Information Line	(800) 864-1664
	(English/Cantonese/Mandarin/Spanish)
NAACP Legal Defense and Educational Fund	(800) 211-7822

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. Compliance officers shall maintain a record of each complaint and subsequent related actions, including all information required for compliance with 5 CCR 4631 and 4633.

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.

### Step 1: Filing of Complaint

Any individual, public agency, or organization may file a written complaint of alleged noncompliance by the district. (5 CCR 4630)

A complaint alleging unlawful discrimination shall 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. 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. (5 CCR 4630)

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.

If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, district staff shall assist him/her in the filing of the complaint. (5 CCR 4600)

### 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)

### Step 3: Investigation of Complaint

The compliance officer is encouraged to 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 shall have an opportunity to present the complaint and evidence or information leading to evidence to support the allegations in the complaint. (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 a lack of evidence to support the allegation. (5 CCR 4631)

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. (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, he/she may, within five days, file his/her complaint in writing with the Board.

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 shall be 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 initial receipt the complaint or within the time period that has been specified in a written agreement with the complainant. (5 CCR 4631)

#### Step 5: Final Written Decision

The district's decision shall be in writing and sent to the complainant. (5 CCR 4631)

The district's decision shall be written in English and in the language of the complainant whenever feasible or as required by law.

The decision shall include:

1. The findings of fact based on the evidence gathered (5 CCR 4631)
2. The conclusion(s) of law (5 CCR 4631)

3. Disposition of the complaint (5 CCR 4631)
4. Rationale for such disposition (5 CCR 4631)
5. Corrective actions, if any are warranted (5 CCR 4631)
6. Notice of the complainant's right to appeal the district's decision within 15 days to the CDE and procedures to be followed for initiating such an appeal (5 CCR 4631)
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 (Education Code 262.3)

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.

#### Appeals to the California Department of Education

If dissatisfied with the district's decision, the complainant may appeal in writing to the CDE within 15 days of receiving the district's decision. When appealing to the CDE, 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 shall be accompanied by a copy of the locally filed complaint and a copy of the district's decision. (5 CCR 4632)

Upon notification by the CDE that the complainant has appealed the district's decision, the Superintendent or designee shall forward the following documents to the CDE: (5 CCR 4633)

1. A copy of the original complaint
2. A copy of the decision
3. A summary of the nature and extent of the investigation conducted by the district, if not covered by the decision
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 any action taken to resolve the complaint
6. A copy of the district's complaint procedures
7. Other relevant information requested by the CDE

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.

### Tahoe/Alpine Special Education Local Plan Area (SELPA) Uniform Complaint Procedures

The school districts within the Tahoe/Alpine SELPA do not discriminate on the basis of national origin, race, religion, gender, age or disability. The SELPA Compliance Officer is the Director of the Tahoe/Alpine SELPA. The Compliance Officer will assist in resolving any complaint of discrimination against the district, its employees or contractors and students. The Compliance Officer will also assist complainants in preparing written complaints and will provide the information required by law. The Compliance Officer will refer complainants to other agencies responsible for the investigation and resolution of complaints when appropriate.

A complaint, which alleges a violation of the law under the IDEA must be in writing and contain the law or regulation that is alleged to have been violated, the facts which support the allegation and the name, address and telephone number of the complainant. If filed with the school district, it will be mailed or faxed to the California Department of Education (CDE), Compliance Unit, within 24 hours. If the complaint cannot be resolved by the complainant and the school district within 10 days, CDE will complete an evaluation within 60 days of the date the complaint was initially filed. If the complainant is concerned that there may be retaliation against him/her or his/her child if his/her identity is revealed to the school district, the complainant should file the complaint directly with the California Department of Education, Director of Special Education, P.O. Box 944272, Sacramento, CA 94244-2720.

Complaints of discrimination under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act may be initiated by filing a complaint with the school district or the SELPA, or these complaints may be filed directly with the Regional Director for Civil Rights, Region IX, 50 United National Plaza, San Francisco, CA 94102-4987, telephone: (415) 437-7700.

The Lake Tahoe Unified School District would like to work to resolve all complaints at the local level whenever possible. Complainants are invited to meet with the Compliance Officer in an attempt to resolve complaints informally. Confidentiality will be maintained as permitted by law. If the complaint cannot be resolved at this level, a formal investigation as outline above will be initiated or the issue will be referred to the appropriate agency.

## Definitions

Public Education Agency (PEA) includes a school district and a county office of education.

Free Appropriate Public Education (FAPE) is defined by the federal law as an education (1) provided at the public expense, under public supervision and direction, and without charge; (2) meets the standards of the California Department of Education; and (3) is provided in conformity with a written individualized education program developed for a child to confer an educational benefit and to be implemented in a preschool, elementary, or secondary school program of the State. This education may be provided in a nonpublic or private school if there is no appropriate program available by a PEA.

Independent Education Evaluation (IEE) means an assessment conducted by a qualified examiner who is not employed by the PEA providing an education to a child, but satisfies the same requirements of the California Department of Education (CDE) and the PEA; this assessment can be introduced as evidence in a due process hearing. Public Expense means that the public agency either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent. An IEE is also an option for the parent to elect at his/her own expense. The IEE may be a public expense if the parent requests payment by the PEA and prevails in a due process hearing convened at the request of the PEA to determine the appropriateness of the PEA's assessment. The names of the independent evaluators will be provided upon request.

Least Restrictive Environment (LRE) means that to the maximum extent appropriate, children with disabilities will be educated with children who are not disabled, and that special classes, separate schooling, or other removal of children with disabilities from the regular education program will occur only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Notice of Rights means that parents/guardians have a right to receive a written copy of the due process rights pertaining to the child when (1) the child is referred for special education, (2) a written notice of an IEP Team meeting is sent to the parent/guardian, (3) before the three-year re-evaluation, and (4) when a complaint is registered with the California Department of Education. The written notice of rights must be in the native language of the complainant, unless it is clearly not feasible, or in the complainant's primary mode of communication, if that language is not written. Additional information

about rights is available through the SELPA Office at (530) 541-2850 or CDE Parent Information Line at (800) 434-2465.

The Individuals with Disabilities Education Act (IDEA) defines children with disabilities as children with mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments or specific learning disabilities. In California special education is provided to disabled students between birth and twenty-one years of age. Federal and state laws offer protection throughout the procedures for evaluation and identification of special education placement and services.

Consent means that the parent (parent includes a guardian, surrogate and non-conserved adult student) of the student has been given all information relevant to any activity for which consent is sought in his/her native language or other mode of communication unless it is clearly not feasible to do so. A parent must understand and agree in writing to the implementation of the activity to which he/she consents. The consent form executed by the parent should contain a description of the activity and a list of records that will be released and to whom the records will be released in order to initiate or implement the activity. Consent is voluntary and can be revoked at any time.

Evaluation means the assessment of a child using various tests and measures in accordance with Education Code Section 56320-56339 and 20 U.S.C. Section 141(a), (b) and (c) to determine whether the child has a disability and the nature and extent of special education and related services needed by the child for his/her educational benefit. The assessment tools are individually selected for the child and are administered by competent professionals employed by the PEA. These tests do not include the basic tests given to all children in the school setting<sup>5</sup> CCR 4622.

Notification of Majority Rights means that the child has the right to receive all information about his/her education program and to make all decisions when he/she reaches the age of eighteen unless determined incompetent by state law and procedures. Non-conserved adults are presumed under the laws of the State of California to be competent.

Regulation LAKE TAHOE UNIFIED SCHOOL DISTRICT  
Approved: May 13, 2003 South Lake Tahoe, California  
Revised: February 28, 2006