



## **Board Governance BP 01-14**

### **Board Policy: UNIFORM COMPLAINT PROCEDURES**

## **Policy**

The Governing Board recognizes that Gateway Community Charters' ("GCC") schools are the local agencies responsible for ensuring compliance with state and federal laws and regulations governing educational programs. Pursuant to this policy, persons responsible for conducting investigations shall be knowledgeable about the laws and programs which they are assigned to investigate. This complaint procedure is adopted to provide a uniform system of complaint processing for the following types of complaints:

- 1) Complaints alleging misconduct or unlawful discrimination based on ethnic group identification, religion, age, gender, gender identity, gender expression, color, race, ancestry, national origin, physical or mental disability, or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics, in any program or activity.
- 2) Complaints alleging failure to comply with state or federal law in governing the following programs: Title II, Title IX, Section 504 of the Rehabilitation Act, No Child Left Behind, adult basic education, Local Control Funding Formula/Local Control Accountability Plan, consolidated categorical aid programs, migrant education, vocational education, child care and development programs, child nutrition programs, and special education programs.

For all other complaints, please refer to the GCC Employee Handbook: Internal Complaints Review, Non-Discrimination and Sexual Harassment Policy, Whistleblower Policy.

The Board encourages the early, informal resolution of complaints at the site level whenever possible.

Upon receipt of a written complaint such as those described above uniform complaint procedures shall be initiated and the Superintendent/CEO or designee shall distribute full information about these procedures.

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/CEO or designee shall initiate a mediation process before

beginning a formal compliance investigation. The Superintendent/CEO or designee shall ensure that mediation results are consistent with state and federal laws and regulations.

The Board acknowledges and respects student and employee rights to privacy. Alleged misconduct or discrimination complaints shall be investigated in a manner that protects the confidentiality of the parties and 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/CEO or designee on a case-by-case basis.

The Board prohibits retaliation in any form for the filing of a complaint, the reporting of alleged misconduct, instances of discrimination, or participation in complaint procedures. Such participation shall not in any way affect the status, grades or work assignments of the complaint.

## **Procedure**

### **Compliance Officers GCC Schools**

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

#### Assistant Superintendent

5726 Dudley Blvd. , McClellan, CA 95652

916.286.5129

916-993-4114 (Fax)

The Assistant Superintendent 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 Assistant Superintendent or designee.

### **Notifications**

The above notification shall state that complainants may seek help from agencies such as legal assistance agencies, local mediation centers or county office of education.

The Assistant Superintendent or designee shall annually provide written notification of the Charter School's uniform complaint procedures to students, employees, parents/guardians, appropriate private officials or representatives, and other interested parties.

The Assistant Superintendent or designee shall make copies of the Charter School's uniform complaint procedures free of charge.

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 the 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 Charter School 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 Charter School's decision to the CDE by filing a written appeal within 15 days of receiving the Charter School's decision; and
  - e. The appeal to the CDE must include a copy of the complaint filed with the Charter School and a copy of the Charter School's decision.

## **Procedures**

The following procedures shall be used to address all complaints which allege that the school has violated federal or state laws or regulations governing educational programs. Compliance officers shall maintain a record of each complaint and subsequent related actions.

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 school.

Complaints alleging misconduct or 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 six months from the date when the complainant first obtained knowledge of the facts of the alleged discrimination.

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, the school staff shall assist him or her with the filing of the complaint.

### *Step 2: Mediation*

Within ten business 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 school'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 compliance officer shall hold an investigative meeting within ten business 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 school'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.

A complainant's refusal to provide the Charter School's investigator with documents or other evidence related to the allegations in the complaint, his or her failure or refusal to cooperate in the investigation, or his or 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.

The Charter School's refusal to provide the investigator with access to records and/or other information related to the allegation in the complaint, 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.

#### *Step 4: Response*

Within 60 business days of receiving the complaint, the compliance officer shall prepare and send to the complainant a written report of the school's investigation and decision, as described in Step #5 below.

The Superintendent/CEO may consider the matter and review the investigation of the Compliance Officer. Parties should consider and accept the Superintendent/CEO decision as final. However, the complainant, the employee, or the Superintendent or designee may ask to address the Board regarding the complaint. The Superintendent/CEO in consultation with GCC Executive Committee may decide if a Board hearing is required.

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

#### *Step 5: Final Written Decision*

The school's decision shall be in writing and sent to the complainant. The report of the school'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 school shall arrange a meeting at which a community member will interpret it for the complainant.

This report shall include:

1. The findings of fact based on evidence gathered
2. The conclusion(s) of law.
3. The disposition of the complaint
4. The rationale for such disposition
  
5. Corrective actions, if any are warranted\*
  
6. Notice of the complainant's right to appeal the decision within fifteen days to the California Department of Education, and procedures to be followed for initiating such an appeal
  
7. For discrimination complaints arising under state law, notice that the complainant must wait until 60 have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies.
  
8. For discrimination complaints arising under federal law, such complaint may be made at any time to the U.S. Department of Education, Office for Civil Rights.
  
9. 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, this report shall simply state that effective action was taken and that the employee was informed of school 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 school's decision, the complainant may appeal in writing to the CDE within 15 business days of receiving the school's decision. For good cause, the Director of Public Instruction may grant an extension for filing appeals.

When appealing to the CDE, the complainant must specify the reason(s) for appealing the school's 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 the school's decision.

Upon notification by the CDE that the complainant has appealed the Charter School's decision, the Principal or his or her designee shall forward the following documents to the CDE:

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 Charter School, 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 all parties and gathered by the investigator.
5. A report of any action taken to resolve the complaint.
6. A copy of the Charter School'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 Charter School when one of the conditions listed in Title 5, California Code of Regulations, Section 4650 5 CCR 4650 exists, including cases in which the Charter School has not taken action within 60 days of the date the complaint was filed with the Charter School.

#### Civil Law Remedies

A complainant may pursue available civil law remedies outside of the Charter School'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 arising under state law, 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 Charter School has appropriately and in a timely manner apprised the complainant of his or her right to file a complaint in accordance with 5 CCR 4622.

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Board Adopted: August 7, 2008  
Revision Board Adopted: June 7, 2011  
Revision Board Adopted: July 23, 2013  
Revision Board Adopted: May 6, 2014  
Revision Board Adopted: October 7, 2014