

## Board Policy

### **1008.1 Complaint Policy and Dispute Resolution Procedure**

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**Board Action:**

**Effective Date:**

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#### **Uniform Complaint Policy Procedures**

##### Procedures

The following procedures shall be used to address all complaints which allege that POLAHS has committed a violation of a law or regulation specified in Board Policy 1008. 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 POLAHS.

A complaint alleging unlawful discrimination or harassment 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.

The complaint shall be presented to the compliance officer who shall maintain a log of complaints received, providing each with a code number and date stamp.

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

- **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 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 POLAHS'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 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.

A complainant's refusal to provide POLAHS'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.

POLAHS'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.

- **Step 4: Response**

OPTION 1:

Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant a written report of POLAHS's investigation and decision, as described in Step #5 below, within 60 days of POLAHS's receipt of the complaint.

OPTION 2:

Within 30 days of receiving the complaint, the compliance officer shall prepare and send to the complainant a written report of POLAHS'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 POLAHS's initial receipt of the complaint or within the time period that has been specified in a written agreement with the complainant.

● **Step 5: Final Written Decision**

POLAHS's decision shall be in writing and sent to the complainant. POLAHS'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 evidence gathered.
2. The conclusion(s) 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 POLAHS's decision within fifteen (15) days to the CDE 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 days 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.

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 POLAHS's 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 POLAHS's decision, the complainant may appeal in writing to the CDE within fifteen (15) days of receiving POLAHS'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 POLAHS's decision.

Upon notification by the CDE that the complainant has appealed POLAHS's decision, the Principal or 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 POLAHS, 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 POLAHS's complaint procedures.
7. Other relevant information requested by the CDE.

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

An appeal may be made in writing to:  
California Department of Education's Office of Equal Opportunity  
1430 N Street  
Sacramento, CA 95814

#### Civil Law Remedies

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