

INTERNAL COMPLAINT PROCEDURES

California Code of Regulations outline a Uniform Complaint Procedure (“UCP”) that must be followed for certain types of complaints within the school setting. These regulations articulate the steps that should be followed for filing these complaints, the timelines within which a school must respond, appeal rights to the California Department of Education or State Superintendent of Public Instruction, among other things.

The UCP process must be followed for claims of a violation of federal or state laws or regulations in the following applicable programs administered by the CDE: Consolidated Categorical Aid Programs listed in Education Code section 64000(a), Migrant Education established pursuant to Education Code section 54440 through 54445, Career Technical and Technical Education and Career Technical and Technical Training Programs established pursuant to Education Code sections 52300 through 52480, Child Care and Development Programs established pursuant to Education Code sections 8200 through 8493, Child Nutrition Programs established pursuant to Education Code sections 49490 through 49570; and Special Education Programs established pursuant to Education Code sections 56000 through 56885 and 59000 through 59300.

The UCP also applies to filing complaints alleging unlawful discrimination, harassment, intimidation or bullying against any protected group as identified in Education Code sections 200 and 220, including actual or perceived characteristics or on the basis of a person’s association with a person or group with one or more of these actual or perceived characteristics.

Complaints relating to improper imposition of student fees must also be included. These types of complaints may be made anonymously. A complaint for failure to accommodate lactating students must also be included.

Complaints alleging failure to comply with Education Code sections 47606.5 (annual update of goals and actions identified in charter and using SBE adopted template) and 47607.3 (failure to improve outcomes for pupil subgroups) shall also be made under the UCP. In those cases, the complaints may be made anonymously.

Complaints that the school has not complied with requirements relating to the transfer of foster care pupil records and related requirements under Education Code section 49069.5. Complaints that the school has not complied with the requirements of Education Code section 48853.5 relating to foster children and educational liaisons shall also be included.

The appeal in these instances is filed with the Superintendent of Public Instruction. It is doubtful that the distinction in the differences to whom the appeal is filed is material since the SPI typically utilizes the staff of the CDE to perform duties assigned. However, this policy is drafted in accordance with the language of the statutes.

Complaints relating solely to employment discrimination, however, should be handled in accordance with the complaint process identified in the employee handbook, and are ultimately to be sent to the Department of Fair Employment and Housing (“DFEH”) for investigation. It is not recommended that these types of complaints be included in this policy since it would confer

rights to the employee greater than that of an at-will employee. Consult with competent legal counsel to draft an appropriate employee complaint procedure for discrimination.

Many charter schools are not LEAs for the purposes of providing special education services. Thus, charter schools should consult with their SELPAs to ensure that the UCP policy used for special education complaints is consistent with the SELPA's UCP policy. For instance, the SELPA may have a specific individual identified to receive and investigate special education complaints. This is likely not the same person as is located at the charter school. This policy should be modified to deal with this potential scenario, including the potential that special education complaints are handled through a separate policy.

This policy is drafted consistently with the requirements of the UCP and provides notice that complaints will be filed directly with the DFEH or may be transferred to the DFEH by the school. Annually, the school must notify, in writing, its students, parents, employees, and other interested parties, the complaint procedures, any civil law remedies and the opportunity to appeal to the CDE under the UCP.

It is the policy of the **Creekside Charter School** (the “School”) to maintain a positive and productive working and educational environment. The School does not discriminate on the basis of disability, perceived or actual gender, gender identity, gender expression, nationality, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, race, color, ancestry, or ethnicity, religion, sex, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in California Penal Code section 422.55 in its programs and activities and provides equal access to the Boy Scouts and other designated youth groups. OCR Notice of Non-Discrimination for Title VI, IX, Section 504, Age Disc. Act and Boy Scouts Act. The School is primarily responsible to ensure that it is compliant with all applicable federal and state laws and regulations. There are some circumstances, however, when employees or students may take issue with other employees or students or someone may believe that a violation of federal or state law is occurring in certain educational programs. The School encourages complainants to first address the issue with the other person directly using conflict resolution skills when possible.

Types of Complaints to be Filed Using the UCP: If, however, the complainant does not feel comfortable with this approach or the complaint involves harassment, discrimination, intimidation, or bullying based upon the above-identified characteristics, or any other legally protected category, in its programs or activities, federal or state laws, or regulations governing educational programs, or improper student fees, failure to accommodate lactating students, and Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) resources, failure to comply with statutes relating to foster care pupil records transfers or foster care pupil education or a complaint that the School has not complied with the requirements of Education Code sections 47606.5 (annual update to goals and annual actions) or 47607.3 (outcomes for pupil subgroups), as applicable, or other violation of state or federal law under the following programs **[insert the applicable programs here that your school participates in pursuant to 5 C.C.R. § 4610(b): Adult Education, Federal Title I-VII programs, including improving academic achievement, compensatory education, English learner programs, After School Education**

and Safety, Agricultural Vocation Education, American Indian Education Centers and Early Childhood Education Program Assessments, Migrant Education, Career Technical and Technical Education and Training Programs, Child Care and Development Programs, Child Nutrition Programs, Special Education Programs, or Safety Planning Requirements, Physical Education: Instructional Minutes; Pupil Instruction: Course Periods without Educational Content or Previously Completed Courses; Regional Occupational Centers and Programs; and Tobacco Use Prevention Education], the complainant must use the below identified complaint procedure. The School will investigate complaints and seek to resolve them in compliance with this policy.

Internal Procedures:

The Executive Director has the responsibility to maintain a work place and educational environment free from any form of sexual or other unlawful harassment, discrimination or conduct. Unlawful discrimination or harassment may be based upon actual or perceived sex, sexual orientation, gender, gender identity, gender expression, ethnic group identification, race, ancestry, national origin, religion, color, mental or physical disability, age or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics, or any other category protected by law. Consequently, should **Executive Director** become aware of any conduct that may constitute discrimination, harassment or other prohibited behavior, immediate action will be taken to address and remediate such conduct.

Making a Complaint: Any person who has experienced or is aware of a situation that is believed to be sexually and/or otherwise unlawfully harassing or represents a violation of law as identified above, has a responsibility to report the situation immediately to **Jeff Kraunz, Executive Director**. Employees who believe they have been the victim of any employment discrimination should follow the complaint procedures identified in the employee handbook. If the complainant is unable to put the complaint in writing, due to a disability or illiteracy, the School will assist the complainant in filing the complaint.

If the employee or student is not comfortable contacting **[title previously provided]** or if that individual is not available, the employee or student should contact **[insert a different title here, with office address and telephone number]**, who has been designated to handle inquiries regarding the non-discrimination policies and other complaints identified. OCR Non-discrimination notice. A Harassment/Retaliation/Unlawful Conduct Complaint Form may be obtained from **[insert title of appropriate individual]**.

Anonymous Complaints: Any employee or student who believes that there has been a violation of state or federal law as articulated above, or an improper imposition of student fees, should make a written complaint to the **[insert title of individual who receives complaints]**. Students making a complaint of improper fees or complaints that the School has failed to comply with Education Code sections 47606.5 or 47607.3, may make the complaint anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance with the applicable Education Codes.

6 Month Limit on Certain Complaints: Complaints relating to discrimination (other than employment discrimination) must be filed within six months of the alleged discrimination or when the complainant first obtained knowledge of the alleged discrimination, unless an extension has been obtained from the [insert title of head of charter school, e.g., **Chairman of the Board of Directors**] or his/her designee. Such extension by the [insert title of head of charter school identified previously] or his/her designee shall be made in writing. The period for filing may be extended by the [insert title here] or his/her designee for good cause for a period not to exceed 90 days following the expiration of the six month time period. The [insert title] shall respond immediately upon a receipt for extension.

[Note: The regulations allow for the parties to resolve the complaint through means other than the complaint process provided below. However, they do not require such other resolution process. This policy is drafted to allow for such alternative resolution mechanism.] **Informal Resolution:** If the parties mutually agree, the complainant and the School may resolve the matter through mediation or otherwise informally. If mediation fails to resolve the matter, or the parties do not agree to mediate the matter, the formal complaint procedure identified below shall be followed.

Investigation of Complaints: If the complaint alleges wrongdoing involving discrimination (other than employment discrimination) or claims of failure to comply with applicable state or federal laws or regulations, the School will complete an investigation and submit to the complainant a written decision regarding the complaint within 60 days of receipt of the complaint. During the investigation, the complainant, his/her representative or both, will have the opportunity to present the complaint and evidence or information leading to evidence to support the allegations of the complaint. The 60 day timeframe may be extended by the written consent of the complainant.

Refusal by the complainant to provide the investigator, at any level of the investigation, 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 lack of evidence to support the allegations.

Complaints will be handled as discreetly as possible, consistent with the need to investigate effectively and promptly resolve the matter.

[Insert title of person responsible] will be knowledgeable of the laws/programs that he/she is assigned to investigate. If the complaint alleges employment discrimination, the Board of Directors will send it to the Department of Fair Employment and Housing (the “DFEH”) for investigation as required by law.

Written Decision: The [insert title] shall prepare a written decision, which decision shall contain the following: 1) findings of fact based on the evidence gathered; 2) conclusions of law; 3) disposition of the complaint; 4) the rationale for such disposition; 5) the corrective actions, if

any are warranted; 6) notice of the complainant's right to appeal the School's decision to the California Department of Education; and 7) the procedures to be followed for initiating an appeal to the Department of Education. Within 60 days of receipt of the complaint, the [insert title] will send a copy of the written decision to the complainant.

Appeal of School's Decision

Appeal to CDE: Except for complaints regarding instructional materials and teacher vacancies or misassignments, a complainant may appeal a decision to the California Department of Education ("CDE") by filing a written appeal within 15 days of receiving the decision. The complainant shall specify the basis for the appeal and whether the facts are incorrect and/or the law is misapplied. The appeal should be accompanied by a copy of the locally filed complaint and a copy of the School's decision. If the CDE determines the appeal raises issues not contained in the local complaint, the CDE will refer those new issues back to the School for resolution. If the CDE determines that the decision failed to address an issue raised by the complaint, the CDE will refer the matter to the School to make the necessary findings and conclusions on any issue not addressed. The School will have 20 days to make those findings.

Any employee found to have participated in improper harassment or discrimination will be subject to disciplinary action, up to and including possible dismissal. Any student found to have participated in improper harassment or discrimination will be subject to disciplinary action, up to and including possible suspension or expulsion.

External Procedures: Filing a Complaint with the DFEH.

Employees or job applicants who believe that they have experienced unlawful employment discrimination or harassment may file a complaint directly with the DFEH. The DFEH serves as a neutral fact-finder and attempts to help the parties voluntarily resolve disputes. If the DFEH finds sufficient evidence to establish discrimination occurred and settlement efforts fail, the DFEH may file a formal accusation.

Employees may also pursue the matter through a private lawsuit in civil court after a complaint has been filed with the DFEH and a Right to Sue Notice has been issued. For more information, contact the DFEH toll free at (800) 884-1684, or email the DFEH at contact.center@dfeh.ca.gov or visit its website at www.dfeh.ca.gov. To contact the nearest field office of the Equal Employment Opportunity Commission ("EEOC"), call 1-800-669-4000. You should be aware that state and federal law provide time limits within which complaints must be filed. Contact the relevant agency to determine the applicable time limit.

Retaliation Policy

It is in violation of the School's policy for the School or any employee to demote, suspend, reduce, fail to hire or consider for hire, fail to give equal consideration in making employment decisions, fail to treat impartially in the context of any recommendations for subsequent

employment that the School may make, adversely affect working conditions or otherwise deny any employment benefit to an individual because that individual has opposed practices prohibited by law or has filed a complaint, testified, assisted or participated in any manner in an investigation, conducted by the DFEH or their staff. Any employee retaliating against another employee, applicant or student will be disciplined, up to and including termination.

Examples of protected activities under the School's retaliation policy include seeking advice from the DFEH or Commission; filing a complaint with the DFEH, irrespective of whether the complaint is actually sustained; opposing employment practices the employee reasonably believes to exist and believes to be a violation of the law; participating in an activity that is perceived by the School as opposition to discrimination, whether or not so intended by the employee expressing the opposition; participating in the proceeding of a local human rights or civil rights agency on a legal basis.

Nothing in this policy shall be construed to prevent the School from enforcing reasonable disciplinary policies and practices, nor from demonstrating that the actions of an applicant or employee were either disruptive or otherwise detrimental to legitimate business interests so as to justify the denial of an employment benefit.

Dissemination

The School will send to students, employees, parents or guardians of its students, school advisory committees, and other interested parties a notice of rights under this policy on an annual basis. Upon request, a copy of this policy will be made available free of charge and is also available on the School's website.

Adopted:

Amended: