

AMADOR COUNTY PUBLIC SCHOOLS UNIFORM COMPLAINT PROCEDURES 2009-2010

Complaints Concerning District Employees:

The Governing Board accepts responsibility for providing a means by which the public can hold employees responsible for their actions. The Board desires that complaints be resolved expeditiously without disrupting the educational process.

The Superintendent or designee shall develop regulations which permit the public to submit complaints against district employees in an appropriate way. These regulations shall protect the rights of involved parties. The Board may serve as an appeals body if the complaint is not resolved. (cf: 1312.2 – Complaints concerning instructional materials; cf: 1312.3 – Uniform complaint procedures;) cf: 3515.2 – Disruptions)

The Board prohibits retaliation against complainants. The Superintendent or designee, at his/her discretion, may keep a complainant's identity confidential, except to the extent necessary to investigate the complaint. The district will not investigate anonymous complaints unless it wishes to do so.

Resolution of Complaints Regarding Amador County Unified School District/Amador County Office of Education Employees

- Whenever possible, complaints regarding Amador County Unified School District/Amador County Office of Education personnel should be made directly by the complainant to the person against whom the complaint is made. Resolution may be achieved at any point on this list.
- If a complainant is unwilling or unable to resolve the complaint directly with the person involved, he/she may submit an oral or written complaint to the employee's immediate supervisor or the Principal.
- When a written complaint is received, the employee shall be notified in accordance with collective bargaining agreements.
- All complaints related to ACUSD/ACOE personnel other than administrators shall be submitted in writing (using the ACUSD/ACOE Complaint Form) to the Principal or immediate supervisor. If the complainant is unable to prepare the complaint in writing, administrator shall help him/her to do so.
- Complaints related to a principal or district office administrator shall be initially filed in writing with the Superintendent or designee.
- Complaints related to a Board Member or to the Superintendent shall be initially filed in writing to the board.
- A written complaint must include:
 - The name of each individual involved.
 - A brief, but specific, summary of the complaint and the facts surrounding it.
 - A specific description of any prior attempt to discuss the complaint with the employee and the failure to resolve the matter.
 - The written complaint must be received within 20 school days of the complainant's knowledge of the alleged action.
- The person responsible for investigating complaints will attempt to resolve the complaint to the satisfaction of the individuals involved within 30 days. The proposed resolution must be given to the complainant in writing.
- The complainant may appeal a decision by the principal or immediate supervisor to the Superintendent or designee, who will attempt to resolve the complaint to the satisfaction of the person(s) involved within 30 days. This appeal must be received by the Superintendent within 20 school days from the time the complainant received the initial response. Complainants should consider and accept the Superintendent or designee's decision as final. However, the complainant, the employee, or the Superintendent or designee may ask to address the Board regarding the complaint. This hearing will be held in closed session. The request to address the Board must be received by the Superintendent within 20 school days from the time the complainant received the written response from the Superintendent.
- Before any board consideration of a complaint, the Superintendent or designee shall submit to the Board a written report concerning the complaint, including but not limited to:
 - The name of each employee involved.
 - A brief but specific summary of the complaint and the facts surrounding it
 - sufficient to inform the board and the employee(s) as to the precise nature of the complaint and provide for preparation of a defense.
 - A copy of the signed original complaint.
 - A summary of the action taken by the Superintendent or designee, together with
 - his/her specific finding that the problem has not been resolved and the reasons for non-resolution.

The Board may uphold the Superintendent's decision without hearing the complaint.

All parties to a complaint may be asked to attend a closed session board meeting in order to present all available evidence and allow every opportunity for explaining and clarifying the issue. Before the Board holds a closed session to hear complaints or charges brought against an employee, the employee shall receive a written notice of his/her right to have the complaints or charges heard in open session rather than closed session. This notice shall be delivered personally or by mail at least 24 hours before the time of the session, and the employee may request that the complaints or charges be heard in open session. Complaints concerning Board Members shall be addressed in open session unless a closed session is warranted pursuant to Education Code 35146 or 48918 or Government Code 54957 or 54957.6. (GC 54957) Any decision of the board shall be final.

ACUSD/ACOE shall have the primary responsibility to insure compliance with applicable state and federal regulations [T5CCR 4620].

ACUSD/ACOE shall investigate complaints alleging failure to comply with applicable state and federal laws and regulations and/or alleging discrimination, and seek to resolve those complaints in accordance with the procedures set out in sections 4600-4687 of the Title 5 Regulations and in accordance with the policies and procedures of the governing board. [T5CCR 4610]

Programs applicable to ACUSD/ACOE included under the scope of UPC: Federal – Title I, Title II, Title III, Title IV and Title V; State – Adult Education, Career Technical Education, Child Development, Consolidated Categorical Aid (EIA/SEC, EIA/LEP, Peer Assistance Review) Indian Education, Nutrition Services, Special Education.

Complaints Regarding Child Abuse: There are also procedures for reporting an act of child abuse committed at a school site by a school employee or other person. First, parents should contact the site administrator regarding any known or suspected instances of child abuse. The administrator then must contact the Superintendent of Schools and a local child protective agency by phone immediately, and in writing, within 36 hours. State law requires the protective agency to investigate the complaints and report directly to the office of the Superintendent.

ACUSD/ACOE may also retain the services of legal counsel to complete a dual investigation into further employment of an employee. Parents may contact the Superintendent of schools directly if they feel that the site administrator is not taking appropriate action.

Complaints Regarding Instructional Materials

The Governing Board takes great care in the adoption of instructional materials and is aware that all adopted materials may not be acceptable to all students, their parents/guardians, or other District residents. (cf. 6161.1 - Selection and Evaluation of Instructional Materials; cf 6161.11 - Supplementary Instructional Materials)

The Superintendent or designee shall establish procedures which will permit proper consideration of any complaints against the use of any instructional materials, including textbooks, supplementary textbooks, library books, and other instructional materials and equipment.

The Board believes the Superintendent and staff are well qualified to consider complaints concerning instructional materials. Complainants are advised to consider and accept the Superintendent or designee's decision as final. However, if the complainant finds the decision of the Superintendent or designee unsatisfactory, he/she may request that the matter be placed on the agenda of a regular Board meeting. (cf 1312.3 - Uniform Complaint Procedures)

The Board's decision in any such case will be based on educational suitability and will not be influenced by a desire to suppress information or deny students access to ideas with which the Board disagrees.(cf 6144 - Controversial Issues) AR 1312.2(a)

1. Complaints concerning instructional materials and textbooks will be accepted only from staff, ACUSD/ACOE residents, or the parents/guardians of children enrolled in an ACUSD/ACOE school.
2. Complaints must be presented in writing to the principal. Complaints regarding printed material must name the author, title and publisher, and identify the objection by page and item numbers. In the case of non-printed material, written information specifying the precise nature of the objection shall be given. The statement must be signed and identified in such a way that a proper reply will be possible. *Complaint form may be obtained from Assistant Superintendent of Curriculum and Instruction.
3. Individual students may be excused from using challenged materials after the parent/guardian has presented a written complaint. The teacher will then assign the student alternate materials of equal merit. Use of the materials by a class, school or ACUSD/ACOE, however, shall not be restricted until so directed by the Superintendent or designee.

4. Upon receiving a complaint, the principal will acknowledge its receipt and answer any question regarding procedure. The principal will then notify the Superintendent or designee and the teacher(s) involved of the complaint. The Superintendent or designee will determine whether the complaint should be considered on an individual basis or whether a review committee should be convened.
5. The use of challenged materials by class, school or ACUSD/ACOE shall not be restricted until final disposition has been made by the appropriate review committee.
6. A review committee may be formed under the direction of the Superintendent or designee. It shall be composed of the principal and five or more staff members selected by the Superintendent or designee from relevant administrative and instructional areas.
7. The review committee shall determine the extent to which the challenged material supports the curriculum, the educational appropriateness of the material, and its suitability for the age level of the student
8. Within 30 days of being convened the review committee shall summarize its findings in a written report and submit it to the Superintendent or designee for final action. The Superintendent or designee shall notify the complainant of his/her decision no later than 60 days after the complaint was filed.
9. The report of the review committee together with the Superintendent or designee's recommendation may be brought to the Governing Board for consideration and final decision.
10. When any challenged instructional material is reviewed by ACUSD/ACOE, it shall not be subject to any additional reconsideration for 12 months.

COUNTY OR STATE-ADOPTED MATERIAL: If the challenged material has been adopted by the County Board of Education, the Superintendent or designee may forward the complaint, without action, to the Office of the County Superintendent of Schools for re-evaluation and decision. If the questioned material has been adopted by the State of California, the Superintendent or designee may forward the complaint, without action, to the California Department of Education for re-evaluation and decision.

The Governing Board recognizes that ACUSD/ACOE has primary responsibility for insuring that it complies with State and Federal laws and regulations governing educational programs.

Discrimination: ACUSD/ACOE shall follow uniform complaint procedures to investigate complaints alleging unlawful discrimination based on actual or perceived sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, mental or physical disability, age or on the basis or a person's association with a person or group with one or more of these actual or perceived characteristics in any program or activity that receives or benefits from State financial assistance and seek to resolve those complaints in accordance with the procedures set out in section 4600-4687 of the Title 5 Regulations and in accordance with the policies and procedures of the governing board [T5CCR 4620].

ACUSD/ACOE shall investigate complaints alleging failure to comply with applicable state and federal laws and regulations and/or alleging discrimination, and seek to resolve those complaints in accordance with the procedures set out in sections 4600-4687. This process is free of charge.

ACUSD/ACOE shall also follow uniform complaint procedures when investigating complaints alleging failure to comply with State or Federal law in adult basic education, consolidated categorical aid programs, vocational education, child care and, child nutrition programs and special education programs. ACUSD/ACOE shall have the primary responsibility to insure compliance with applicable state and federal laws and regulations (T5CCR 4620). **The Board encourages the early, informal resolution of complaints at the site level whenever possible.**

Individuals can contact the Superintendent at 257-5353 to receive information about complaint procedures and/or the name of the Non-Discrimination Coordinator. The Non-Discrimination Coordinator is available to assist complainants who wish to file racial discrimination/harassment complaints using the Uniform Complaint Procedure. Upon receipt of a written complaint from an individual, public agency or organization, uniform complaint procedures shall be initiated. The Superintendent or designee shall distribute full information about these procedures free of charge and assign a compliance officer to receive and investigate complaints.

The Board recognizes that a neutral mediator can often suggest an early compromise that is agreeable to all parties in a dispute. Whenever all parties to a complaint agree to 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.**

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

Compliance Officer

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

Director of Personnel
217 Rex Avenue
Jackson, CA 95642
(209) 257-5331 or (209) 257-5334

The aforementioned compliance officer is available to assist complainants who wish to file complaints using the following Uniform Complaint Procedure. 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. ACUSD/ACOE shall ensure that annual dissemination of a written notice of the ACUSD/ACOE's complaint procedures to students, employees, parents or guardians of ACUSD/ACOE's students, school and district/county advisory committees, appropriate private school officials or representatives, and other interested parties. (T5CCR 4622) Investigation of complaints against personnel shall be investigated by the Director of Personnel. Investigation of complaints against instructional materials and state and federal programs shall be investigated by Assistant Superintendent of Curriculum and Instruction. The aforementioned ACUSD/ACOE administrators responsible for compliance and investigations shall be knowledgeable about the laws and or programs each is assigned to investigate [T5CCR 4621].

Procedures: The following procedures shall be used to address all complaints which allege that ACUSD/ACOE has violated Federal or State laws or regulations governing educational programs. The Compliance Officer shall maintain a record of each complaint and subsequent related actions, including all information required for compliance with the Code of Regulations, Title 5, Section 4631 and 4603.

- ACUSD/ACOE will use its uniform complaint procedures when addressing all complaints regarding gender equity.
- Investigations of discrimination complaints shall be conducted in a manner that protects confidentiality of the parties and the facts. (Title 5, Section 4630)
- Unlawful discrimination complaints shall be filed no later than six months from the date the alleged discrimination occurred, or six months from the date the complainant first obtained knowledge of the facts of the alleged discrimination. [T5CCR 4630]
- All parties involved in allegations shall be notified when a complaint is filed, when a 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. 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 (6) months from the date when the alleged discrimination occurred or when the complainant first obtained knowledge of the facts of the alleged discrimination. (Title 5, Section 4630) The complaint shall be presented to the Director of Personnel who will then give it to the compliance officer.

The Director of Personnel 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 illiteracy or other handicaps, district staff shall help him/her to file the complaint. (Title 5, Section 4600)

Step 2: Mediation: Within three (3) days of receiving the complaint, the compliance officer shall 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 time lines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time. (Title 5, Section 4631)

Step 3: Investigation of Complaint: The compliance officer shall hold an investigative meeting within five (5) 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 district's representative 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. (Title 5, Section 4631)

The 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 lack of evidence to support the allegations. [T5CCR 4631].

The refusal by ACUSD/ACOE 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 or engage 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 [T5CCR 4631].

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.

Step 4: Response: Within thirty (30) days of receiving the complaint, the compliance officer shall prepare and send to the complainant a written report of the ACUSD/ACOE'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 (5) days, file his/her complaint in writing with the Governing 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 sixty (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 shall send the Board's decision to the complainant within sixty (60) days of the ACUSD/ACOE's initially receiving the complaint or within the time period that has been specified in a written agreement with the complainant. (Title 5, Section 4631)

Step 5: Final Written Decision: The report of the district'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 district will arrange a meeting at which a community member will interpret it for the complainant. (cf: 5145.6 – Parental Notifications)

This report shall include:

1. The findings of fact based on evidence gathered, disposition of the complaint, including corrective actions, if any and conclusion of the law. (Title 5, Section 4631)
2. The rationale for the above disposition. (Title 5, Section 4631)
3. 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. (Title 5, Section 4631)
4. 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 ACUSD/ACOE's expectations. The report shall not give any further information as to the nature of the disciplinary action.

Step 6: Appeals: If dissatisfied with the district/county's decision, the complainant may appeal in writing to the California Department of Education within 15 days of receiving the district's decision. (Title 5, Section 4622). The complaint must specify the basis for the appeal of the decision, whether the facts are incorrect and/or the law was misapplied. The appeal packet must include a copy of the original complaint and a copy of the ACUSD/ACOE decision. 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 T5CCR 4622.

Regulation
Reviewed: June 2008
Amador County Unified School District/Amador County Office of Education
Jackson, CA

THIS POLICY REPLACES/ELIMINATES BP 1312.3 adopted 12/96: A description of the Amador Public Schools' UCP shall be disseminated annually to students, employees, parents or guardians, school and district advisory committees and appropriate private school officials or representations and other interested parties. The entire packet is available free of charge for pick up at each school site, the district and count offices – at 217 Rex Avenue, Jackson, California 95642, and can be mailed by calling 209-257-5334.

Amador County Unified School District and Amador County Office of Education Williams' Notice

Parents, Guardians, Pupils and Teachers:

Pursuant to California *Education Code* Section 35186, you are hereby notified that:

1. There should be sufficient textbooks and instructional materials. That means each pupil, including English learners, must have a textbook or instructional materials, or both, to use in class and to take home.
2. School facilities must be clean, safe, and maintained in good repair.
3. There should be no teacher vacancies or misassignments. There should be a teacher assigned to each class and not a series of substitutes or other temporary teachers. The teacher should have the proper credential to teach the class, including the certification required to teach English learners if present.
Teacher vacancy means a position to which a single designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.
Misassignment means the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold.
4. Pupils, including English Learners, who have not passed one or both parts of the high school exit examination by the end of the 12th grade are to be provided the opportunities to receive intensive instruction and services for up to two consecutive academic years after the completion of grade 12.
5. A complaint form is attached herein and also may be obtained at the school office, district office, or by calling 208-257-5353. You may also download a copy of the California Department of Education complaint form from the following Web site: <http://www.cde.ca.gov/re/cp/uc/>.

**Amador County Unified School District and Amador County Office of Education
For Education Code Section 35186 Complaints**

Education Code (EC) Section 35186 created a procedure for the filing of complaints concerning deficiencies related to instructional materials, conditions of facilities that are not maintained in a clean or safe manner or in good repair, and teacher vacancy or misassignment. The complaint and response are public documents as provided by statute. Complaints may be filed anonymously. However, if you wish to receive a response to your complaint, you must provide the following contact information.
Response requested: Yes No

Name (Optional): _____ Mailing Address (Optional): _____

Phone Number Day (Optional): _____ Evening (Optional): _____

Issue of complaint (please check all that apply):

1. Textbooks and Instructional Materials

- A pupil, including an English learner, does not have standards-aligned textbooks or instructional materials or state-adopted or district-adopted textbooks or other required instructional materials to use in class.
- A pupil does not have access to textbooks or instructional materials to use at home or after school. This does not require two sets of textbooks or instructional materials for each pupil.
- Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.
- A pupil was provided photocopied sheets from only a portion of a textbook or instructional materials to address a shortage of textbooks or instructional materials.

2. Facility Conditions

- A condition poses an urgent or emergency threat to the health or safety of students or staff, including: gas leaks, nonfunctioning heating, ventilation, fire sprinklers or air-conditioning systems, electrical power failure, major sewer line stoppage, major pest or vermin infestation, broken windows or exterior doors or gates that will not lock and that pose a security risk, abatement of hazardous materials previously undiscovered that pose an immediate threat to pupils or staff, structural damage creating a hazardous or uninhabitable condition, and any other emergency conditions the school district determines appropriate.
- A school restroom has not been maintained or cleaned regularly, is not fully operational, or has not been stocked at all times with toilet paper, soap, and paper towels or functional hand dryers.
- The school has not kept all restrooms open during school hours when pupils are not in classes, and has not kept a sufficient number of restrooms open during school hours when pupils are in classes.

3. Teacher Vacancy or Misassignment

- Teacher vacancy - A semester begins and a teacher vacancy exists. (A teacher vacancy is a position to which a single designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.)
- Teacher misassignment - A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20 percent English learner pupils in the class.
- Teacher misassignment - A teacher is assigned to teach a class for which the teacher lacks subject matter competency.

4. High School Exit Examination (For school districts who receive intensive instruction funds)

- Pupils who have not passed the high school exit exam by the end of 12th grade were not provided the opportunity to receive intensive instruction and services pursuant to Education Code 37254 (d) (4) and (5) after the completion of grade 12.

Date of Problem: _____ Location of Problem (School Name, Address, and Room Number or Location): _____

Course or Grade Level and Teacher Name: _____ Please describe the issue of your complaint in detail. You may attach additional pages if necessary to fully describe the situation. _____

ACUSD/ACOE Complaint Form

Complaint against a District Employee

If you are unable to complete this form and would like assistance, contact the Assistant Superintendent of Curriculum and Instruction at (209) 257-5334.

Name of Employee Involved: _____

Brief but specific summary of the complaint and facts surrounding it: _____

Specific description of any prior attempts to discuss the complaint with the employee and failure to resolve the matter: _____

Signature of Person Filing Complaint

Date: _____

Signature of Person Receiving This Form

Date: _____

This form is to be forwarded to the immediate supervisor of the individual against whom the complaint has been filed. This complaint will be investigated and/or resolved using Amador County COE/USD Board Policy and Procedures 1312.1