

August 2018

## UNIFORM COMPLAINT POLICY AND PROCEDURES

A Uniform Complaint Procedures or UCP complaint is a written statement alleging discrimination, harassment, or a violation of a federal or state law or regulation. A UCP complaint must be filed by way of the Uniform Complaint Procedures as written in the California Code of Regulations, Title 5, sections 4600-4687. Issues that may involve filing a complaint using the UCP are under various state and federal programs that use categorical funds such as Adult Education, Career Technical and Technical Education and Training Programs, Child Care and Development Programs, Child Nutrition Programs, Consolidated Categorical Aid Programs, Federal Safety Planning Requirements, Migrant Education, and Special Education Programs.

*Not all complaints fall under the scope of the UCP. Many concerns are the responsibilities of the LEAs (Local Educational Agencies, such as school districts, county offices of education, and charter schools). These include: the hiring and evaluation of staff, classroom assignments, student advancement and retention, selection/provision of textbooks and materials, student discipline, provision of core curricula subjects, facilities, graduation requirements, homework policies and practices, use of general education funds and dress codes and school uniforms.*

### **Scope**

Adelante Charter School's ("Adelante") policy is to comply with applicable federal and state laws and regulations. Adelante is the local agency primarily responsible for compliance with federal and state 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 of unlawful discrimination, harassment, intimidation or bullying against any protected group, including actual or perceived discrimination on the basis of the actual or perceived characteristics of age, ancestry, color, disability, ethnic group identification, gender expression, gender identity, gender, genetic information, nationality, national origin, race or ethnicity, religion, sex, or sexual orientation, 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 Charter School program or activity; and

- (2) Complaints of violations of state or federal law and regulations governing the following programs including but not limited to: Adult Education Programs, After School Education and Safety Programs, Agricultural Vocational Education Programs, American Indian Education Centers and Early Child Education Program Assessments, Consolidated Categorical Aid Programs, Career Technical and Technical Education and Career Technical and Technical Training Programs, Child Care and Development Programs, Child Nutrition Programs, Foster and Homeless Youth Services, Migrant Education Programs, No Child Left Behind Act (2001) Programs (Titles I-Vil), including improving academic achievement, compensatory education, limited English proficiency, and migrant education, Regional Occupational Centers and Programs, Special Education Programs, State Preschool, and Tobacco-Use Prevention Education.
- (3) A Complaint may also be filed alleging that a pupil enrolled in a public school was required to pay a pupil fee for participation in an educational activity as those terms are defined below.
- a. "Educational activity" means an activity offered by a school, school district, charter school or county office of education that constitutes an integral fundamental part of elementary and secondary education, including, but not limited to, curricular and extracurricular activities.
  - b. "Pupil fee" means a fee, deposit or other charge imposed on pupils, or a pupil's parents or guardians, in violation of Section 49011 of the Education Code and Section 5 of Article IX of the California Constitution, which require educational activities to be provided free of charge to all pupils without regard to their families' ability or willingness to pay fees or request special waivers, as provided for in *Hartzell v. Connell* (1984) 35 Cal.3d 899. A pupil fee includes, but is not limited to, all of the following:
    - i. A fee charged to a pupil as a condition for registering for school or classes, or as a condition for participation in a class or an extracurricular activity, regardless of whether the class or activity is elective or compulsory, or is for credit.
    - ii. A security deposit, or other payment, that a pupil is required to make to obtain a lock, locker, book, class apparatus, musical instrument, uniform or other materials or equipment.
    - iii. A purchase that a pupil is required to make to obtain materials, supplies, equipment or uniforms associated with an educational activity.
  - c. A pupil fees complaint may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance with laws relating to pupil fees.
  - d. If Adelante finds merit in a pupil fee complaint Adelante shall provide a remedy to all affected pupils, parents, and guardians that, where applicable, includes

reasonable efforts by Adelante to ensure full reimbursement to all affected pupils, parents, and guardians, subject to procedures established through regulations adopted by the state board.

- e. Nothing in this section shall be interpreted to prohibit solicitation of voluntary donations of funds or property, voluntary participation in fundraising activities, or school districts, school, or other entities from providing pupils prizes or other recognition for voluntarily participating in fundraising activities.

(4) Complaints of noncompliance with the requirements governing the Local Control Funding Formula or Sections 47606.5 and 47607.3 of the Education Code, as applicable.

(5) Complaints of noncompliance with the requirements of Education Code Section 222 regarding the rights of lactating pupils on a school campus. If Adelante finds merit in a complaint, or if the Superintendent finds merit in an appeal, Adelante shall provide a remedy to the affected pupil.

Adelante Charter School acknowledges and respects every individual's rights to privacy. Unlawful discrimination, harassment, intimidation or bullying complaints shall be investigated in a manner that protects [to the greatest extent possible] the confidentiality of the parties and the integrity of the process. Adelante cannot guarantee anonymity of the complainant. This includes keeping the identity of the complainant confidential. However, Adelante will attempt to do so as appropriate. Adelante may find it necessary to disclose information regarding the complaint/complainant to the extent necessary to carry out the investigation or proceedings, as determined by the Board President or Executive Director/Principal on a case-by-case basis.

Adelante prohibits any form of retaliation against any complainant in the complaint process, including but not limited to a complainant's filing of a complaint or the reporting of instances of unlawful discrimination, harassment, intimidation or bullying. Such participation shall not in any way affect the status, grades or work assignments of the complainant.

### **Compliance Officers**

The Board of Directors designates the following compliance officer(s) to receive and investigate complaints and to ensure Adelante Charter School's compliance with the law:

Dominic Paszkeicz  
Board President

OR

David Bautista  
Executive Director/Principal

The Board President 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 Board President or Designee.

Should a complaint be filed against the Board President, the compliance officer for that case shall be the Adelante's Executive Director.

### **Notifications**

The Board President or designee shall annually provide written notification of the School's uniform complaint procedures to employees, students, parents and/or guardians, advisory committees, private school officials and other interested parties (e.g., Adult Education).

The annual notice shall be in English, and when necessary, in the primary language, pursuant to section 48985 of the Education Code if fifteen (15) percent or more of the pupils enrolled in the School speak a single primary language other than English.

The Board President or designee shall make available copies of the School's uniform complaint procedures free of charge.

The annual notice shall include the following:

- (a) A statement that the Adelante Charter School is primarily responsible for compliance with federal and state laws and regulations.
- (b) A statement that a pupil enrolled in a public school shall not be required to pay a pupil fee for participation in an educational activity.
- (c) A statement identifying the responsible staff member, position, or unit designated to receive complaints.
- (d) A statement that the complainant has a right to appeal the School's decision to the CDE by filing a written appeal within 15 days of receiving the School's decision.
- (e) A statement advising the complainant of any civil law remedies that may be available under state or federal discrimination, harassment, intimidation or bullying laws, if applicable, and of the appeal pursuant to Education Code § 262.3.
- (f) A statement that copies of the local educational agency complaint procedures shall be available free of charge.

### **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.

A complaint alleging unlawful discrimination, harassment, intimidation or bullying shall be initiated no later than six (6) months from the date when the alleged unlawful discrimination, harassment, intimidation or bullying occurred, or six (6) months from the date when the complainant first obtained knowledge of the facts of the alleged unlawful discrimination, harassment, intimidation or bullying. A complaint may be filed by a person who alleges that he/she personally suffered unlawful discrimination, harassment, intimidation or bullying or by a person who believes that an individual or any specific class of individuals has been subjected to unlawful discrimination, harassment, intimidation or bullying.

Pupil fee complaints shall be filed not later than one (1) year from the date the alleged violation occurred.

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, the Charter School staff shall assist him/her in the filing of the complaint.

### *Step 2: Mediation*

Within three (3) 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 an unlawful discrimination, harassment, intimidation or bullying 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 is encouraged to 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 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 the School'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.

The School'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*

Unless extended by written agreement with the complainant, 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, within sixty (60) days of the School's receipt of the complaint.

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

The School's decision shall be in writing and sent to the complainant. The School'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 the Charter School's decision within fifteen (15) days to the CDE and procedures to be followed for initiating such an appeal.

7. For unlawful discrimination, harassment, intimidation or bullying complaints arising under state law, notice that the complainant must wait until sixty (60) days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies.

8. For unlawful discrimination, harassment, intimidation or bullying 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 the Charter School'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 the School's decision, the complainant may appeal in writing to the CDE within fifteen (15) days of receiving the School'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 School's decision.

Upon notification by the CDE that the complainant has appealed the School's decision, the Board President 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 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 CD E.

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

## **Civil Law Remedies**

A complainant may pursue available civil law remedies outside of the 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 unlawful discrimination, harassment, intimidation or bullying complaints arising under state law, however, a complainant must wait until sixty (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 School has appropriately, and in a timely manner, apprised the complainant of his/her right to file a complaint in accordance with 5 CCR4622.