

**AMERICAN INDIAN MODEL SCHOOLS
BOARD OF DIRECTORS POLICY**

**BOARD POLICY #1007
REVISED SUMMER 2020**

POLICY TITLE: Uniform Complaint Policy and Procedures

The Board of Directors (“Board”) of American Indian Model Schools, a California Non-profit Public Benefit Corporation (“AIMS”) hereby adopts the revision of Policy #1007 establishing its Uniform Complaint Policy and Procedures for American Indian Public Charter School (“AIPCS”), American Indian Public Charter School II (“AIPCS II”) and American Indian Public High School (“AIPHS”), each individually referred to as the “School” or collectively as the “Schools.”

AIMS is committed to compliance with applicable state and federal laws and regulations governing educational programs in the operation of the Schools.

Scope

The Schools policy is to comply with applicable federal and state laws and regulations. The Schools 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 Schools program or activity, and
- (2) Complaints of violations of state or federal law and regulations governing the following programs including, but not limited to:

- Accommodations for Pregnant and Parenting Pupils
- Adult Education Programs
- After School Education and Safety
- Child Care and Development
- Compensatory Education
- Consolidated Application
- Course Periods without Education Content
- Education of Pupils in Foster Care, Pupils who are Homeless, Former Juvenile Court Pupils Now Enrolled in a School District and Pupils of Military Families

Every Student Succeeds Act
Local Control and Accountability Plans (LCAP)
Consolidated Categorical Aid Programs
Migrant Education
Physical Education Instructional Minutes
Pupil Fees
Reasonable Accommodations to a Lactating Pupil
School Plans for Student Achievement
School Safety Plans
School-site Councils
Special Education Programs

- (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 second 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 requires educational activities to be provided free of charge to all pupils without regard to their families/ ability or willingness to pay fees or requested 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 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 with the Head of School, or Superintendent, or his/her designee.
 - d. 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. A pupil fees complaint shall be filed no later than one (1) year from the date the alleged violation occurred.
- e. If the Schools find merit in a pupil fees complaint the School” shall provide a remedy to all affected pupils, parents, and guardians that, where applicable, includes reasonable efforts by the “Schools” to ensure full reimbursement to all affected pupils, parents, and guardians, subject to procedures established through regulations adopted by the state board.
- f. 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 and other entities from providing pupils prizes or other recognition for voluntarily participating in fundraising activities

The following complaints shall be referred to other agencies for appropriate resolution and are not subject to Schools UCP process set forth in this document unless these procedures are made applicable by separate interagency agreements.

Allegations of child abuse shall be referred to Alameda County Department of social Services, Protective Services Division or appropriate law enforcement agency.

Employment discrimination, harassment, intimidation or bullying complaints shall be sent to the Statement Department of Fair Employment and Housing (DFEH)/

Allegations of fraud shall be referred to the Legal, Audits and Compliance Branch in the California Department of Education (CDE)

- (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.

The Local Control Accountability Plan (LCAP) is an important component of the Local Control Funding Formula (LCFF), the revised school finance system that overhauled how California funds its K-12 schools. Under the LCFF Schools are required to prepare an LCAP, which describes how Schools intend to meet annual goals for pupils, with specific activities to address state and local priorities identified pursuant to California Education Code (EC) Section 52060(d).

The Schools acknowledges and respects every individual’s right to privacy. Unlawful discrimination, harassment, intimidation or bullying complaints shall be investigated in a manner that protects [to the greatest extent reasonably possible] the confidentiality of the parties and the integrity of the process. The Schools cannot guarantee anonymity of the complaint. This includes keeping the identity of the complainant confidential. However, the Schools will attempt to do so as appropriate. The Schools 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 Superintendent on a case-by-case basis.

The Schools 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 Investigation and Officers

Schools will investigate all allegations of unlawful discrimination, harassment, intimidation or bullying against any protected group as identified in EC Section 200 and 220 and Government Code (GC) Section 11135, including any actual or perceived characteristics as set forth in Penal Code (PC) Section 422.55 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 Schools conducts, which is funded directly by, or that receives or benefits from any state financial assistance.

The Board of Directors designates the following compliance officer(s) to receive and investigate complaints and to ensure the Schools compliance with law is Maya Woods-Cadiz, Superintendent, AIMS Charter Schools, 171 12th Street, Oakland, CA 94607, or call the office at 510-893-8701.

The Schools 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 Superintendent.

Should a complaint be filed against the Superintendent, the compliance officer for that case shall be the President of the AIMS Charter Schools Board of Directors.

The UCP Annual Notification

The Superintendent, or designee, shall annually provide written notification of the AIMS Schools Uniform Complaint procedures to employees, students, parents and/or guardians, advisory Committee members, appropriate private school officials or representatives, and other interested parties that includes information regarding allegations about discrimination, harassment, intimidation, or bullying.

The UCP Annual Notice shall include information regarding the requirements of EC Section 49010 through 49013 relating to pupil fees and information regarding the requirements of EC Section 2075 relating to the LCAP.

The annual notification 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 Schools speak a single primary language other than English; or mode of communication of the recipient of the notice.

The Superintendent, or designee, shall make available copies of the Schools uniform complaint procedures free of charge.

The annual notice shall include the following:

- (a) A statement that the Schools 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 designed to receive complaints.
- (d) A statement that the complainant has a right to appeal the Schools decision to the California Department of Education (CDE) by filing a written appeal within 15 days of receiving the Schools 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 Schools 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 Schools.

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.

A pupil fees complaint and/or an LCAP complaint may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance.

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

The complainants are protected from retaliation.

- 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 office 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 Schools 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 representative shall have an opportunity present the complaint and evidence or information leading to evidence to support the allegations in the complaint.

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 a lack of evidence to support the allegations.

Refusal by the Schools 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.

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 Schools' investigation and decision, as described in Step #5 below, within sixty (60) calendar days of the Schools receipt of the complaint.

Step 5: Final Written Decision

Schools decision shall be in writing and send to the complainant. Schools decision shall be written in English and in the language of the complainant whenever feasible or as required by law.

The report will contain the following elements:

- i. The findings of fact based on the evidence gathered
- ii. Conclusion of law
- iii. Disposition of the complaint
- iv. The rationale for such a disposition
- v. Correction actions, if any are warranted
- vi. Notice of the complainant's right to appeal Schools Decision within fifteen (15) days to the California Department of Education (CDE) and procedures to be followed for initiating such an appeal.
- vii. 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.
- viii. 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 of Civil Rights

If an employee is disciplined as a result of the complaint, the decision shall simply state that effective action was taken and the employee was informed of the Schools' expectations. The report shall not give any further information as to the nature of the disciplinary action.

Complaint Resolution

If Schools finds merit in a complaint regarding Pupil Fees; Local Control and Accountability Plan (LCAP); and/or Physical Education Instructional Minutes (grades one through eight), Schools shall provide a remedy to the affected pupils and parents/guardians.

If Schools find merit in a complaint regarding Reasonable Accommodations to a Lactating Pupil, Course Periods without Educational Content (grades none through twelve), and/or Education of Pupils in Foster Care, Pupils who are Homeless, former Juvenile Court Pupils now enrolled in American Indian Public Charter School (“AIPCS”), American Indian Public Charter School II (“AIPCS II”) and American Indian Public High School (“AIPHS”), and pupils in military families, Schools shall provide a remedy to the affected pupil.

Schools ensure that an attempt shall be made in good faith to engage in reasonable efforts to identify and fully reimburse all pupils, parents and guardians who paid a pupil fee within one (1) year prior to the filing of the complaint.

Appeals to the California Department of Education

If dissatisfied with the Schools decision, the complainant may appeal in writing to the CDE within fifteen (15) calendar days of receiving the Schools 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 Schools’ decision.

Upon notification by the CDE that the complainant has appealed the Schools decision, the Superintendent, 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 Schools, 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 Schools’ complaint procedures.
7. Other relevant information requested by the CDE

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