

**AIMS K-12 COLLEGE PREP CHARTER DISTRICT
BOARD OF DIRECTORS POLICY**

**BOARD POLICY #1007
REVISED [INSERT DATE]**

**POLICY TITLE: Uniform Complaint
Policy and Procedures**

The Board of Directors ("Board") of AIMS K-12 College Prep Charter District, a California Non-profit Public Benefit Corporation ("AIMS") hereby adopts the revision of Policy #1007 establishing its Uniform Complaint Policy and Procedures for AIMS College Prep Elementary School, AIMS College Prep Middle School and AIMS College Prep High School, 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. The Schools are the local agency primarily responsible for compliance with federal and state laws and regulations governing their educational programs. Pursuant to this policy, the Schools Ombudsperson shall ensure persons responsible for compliance and/or conducting investigations shall be knowledgeable about the laws, and programs which they are assigned to investigate. Designated employees may have access to legal counsel as determined by the Ombudsperson.

Scope

This complaint procedure is adopted to provide a uniform system of complaint processing ("UCP") for the following types of complaints:

- (1) Complaints alleging unlawful discrimination, harassment, intimidation or bullying against any protected group on the basis of the actual or perceived characteristics of age, ancestry, color, mental disability, physical disability, ethnic group identification, immigration status/citizenship, gender, expression, gender identity, gender, genetic information, nationality, national origin, race or ethnicity, religion, medical condition, marital status, 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. Unlawful discrimination includes, but is not limited to, noncompliance with Education Code section 243(a).
- (2) Complaints alleging a of violation of state or federal law and regulation governing the following programs:

- Accommodations for Pregnant and Parenting Pupils
- Adult Education Programs
- Child Care and Development
- Consolidated Application

Course Periods without Education Content

Education and graduation of Pupils in Foster Care, Pupils who are Homeless, Former Juvenile Court Pupils Now Enrolled in a School District, Migratory Pupils 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

- (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 the Schools 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 with the Head of School, or Ombudsperson, or his/her designee.
 - d. A pupil fees complaint and complaints regarding local control and accountability plans ("LCAP") only, may be filed anonymously (without an identifying signature), if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance with Education Code sections 52060 - 52077, including an allegation of a violation of Education Code sections 47606.5 or 47607.3, as referenced in Education Code section 52075, regarding local control and accountability

plans.

- 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 or the California Department of Education (“CDE”) finds merit in an appeal, the School shall provide a remedy to all affected pupils, parents, and guardians that, where applicable, includes reasonable efforts by the School 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 policy shall be interpreted to prohibit solicitation of voluntary donations of funds or property, voluntary participation in fundraising activities, or the Schools from providing pupils prizes or other recognition for voluntarily participating in fundraising activities.
- (4) Complaints alleging noncompliance with the requirements governing the Local Control Funding Formula (“LCFF”) or LCAP under Education Code sections 47606.5 and 47607.3, as applicable.

Complaints alleging noncompliance regarding child nutrition programs established pursuant to Education Code sections 49490-49590 do not fall under the UCP. Instead, they are governed by Title 7, Code of Federal Regulations (“C.F.R.”) sections 210.19(a)(4), 215.1(a), 220.13(c), 225.11(b), 226.6(n), and 250.15(d) and Title 5, California Code of Regulations (“C.C.R.”) sections 15580 - 15584.

Complaints alleging noncompliance regarding special education programs established pursuant to Education Code sections 56000-56865 and 59000-59300 do not fall under the UCP. Instead, they are governed by the procedures set forth in 5 C.C.R. sections 3200-3205 and 34 C.F.R. sections 300.151-300.153.

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 as permitted by law] the confidentiality of the parties, including but not limited to the identity of the complainant, and maintains the integrity of the process. The Schools cannot guarantee anonymity of the complainant. 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 required by law or necessary to carry out the investigation or proceedings, as determined by the Ombudsperson on a case- by-case basis.

The Schools prohibit 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 Officer

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

Eric Haar
Ombudsperson
171 12th Street, Oakland, CA 94607
ombudsman@aimsk12.org
(510) 496-9949

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

The UCP Annual Notification

The Ombudsperson, or designee, shall annually provide written notification of the AIMS UCP to employees, students, parents and/or guardians, advisory committees, appropriate private school officials or representatives, and other interested parties as applicable.

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 Ombudsperson, or designee, shall make available copies of the UCP free of charge. The annual notice of this policy may be made available on the AIMS website.

The annual notice shall include the following:

- (a) A list of the types of complaints that fall under the scope of the UCP and the state and federal provisions that govern complaints regarding child nutrition programs and special education programs.
- (b) A statement clearly identifying any California State preschool programs that any of the Schools are operating as exempt from licensing pursuant to Health and Safety Code section 1596.792(o) and corresponding Title 5 health and safety regulations, and any California State preschool programs that any of the Schools are operating pursuant to Title 22 licensing requirements.
- (c) A statement that the Schools are primarily responsible for compliance with federal and state laws and regulations.
- (d) 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.
- (e) A statement identifying title of the compliance officer, and the identity(ies) of the person(s) currently occupying that position, if known.
- (f) A statement that if a UCP complaint is filed directly with the CDE and the CDE determines that it merits direct intervention, the CDE shall complete an investigation and provide a written decision to the complainant within sixty (60) calendar days of receipt of the complaint, unless the parties have agreed to extend the timeline or the CDE documents exceptional circumstances and informs the complainant.
- (g) A statement that the complainant has a right to appeal the School's decision to the CDE by filing a written appeal within thirty (30) calendar days of the date of the School's Decision, except if the School has used its UCP to address a complaint that is not subject to the UCP requirements.
- (h) A statement that a complainant who appeals the School's decision on a UCP complaint to the CDE shall receive a written appeal decision within sixty (60) calendar days of the CDE's receipt of the appeal, unless extended by written agreement with the complainant or the CDE documents exceptional circumstances and informs the complainant.
- (i) A statement that if the School finds merit in a UCP complaint, or the CDE finds merit in an appeal, the School shall take corrective actions consistent with the requirements of existing law that will provide a remedy to the affected student and/or parent/guardian as applicable.
- (j) 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.

- (k) A statement that copies of the AIMS UCP shall be available free of charge.

Procedures

The following procedures shall be used to address all complaints which allege that any of the Schools have violated federal or state laws, or regulations enumerated in the "Scope" section above. Compliance officers shall maintain a record of each complaint and subsequent related actions for at least three (3) calendar years.

All parties named 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, including a person's duly authorized representative or an interested third party, public agency, or organization may file a written complaint of alleged noncompliance or a complaint alleging unlawful discrimination, harassment, intimidation or bullying pursuant to this policy.

A complaint alleging unlawful discrimination, harassment, intimidation or bullying may be filed by a person who alleges that they have personally suffered unlawful discrimination, harassment, intimidation or bullying or by a person who believes that any specific class of individuals has been subjected to unlawful discrimination, harassment, intimidation or bullying, or by a duly authorized representative who alleges that an individual student has been subjected to discrimination, harassment, intimidation, or bullying. An investigation of alleged unlawful discrimination, harassment, intimidation or bullying shall be initiated by filing a complaint no later than six (6) months from the date the alleged discrimination, harassment, intimidation or bullying occurred, or the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation or bullying unless the time for filing is extended by the Compliance Officer or designee, upon written request by the complainant setting forth the reasons for the extension. Such extension by the Compliance Officer or designee shall be made in writing. The period for filing may be extended by the Compliance Officer or designee for good cause for a period not to exceed ninety (90) calendar days following the expiration of the six-month time period. The Compliance Officer or designee shall respond immediately upon a receipt of a request for extension.

All other complaints under this policy shall be filed not later than one (1) year from the date the alleged violation occurred. For complaints relating to the LCAP, the date of the alleged violation is the date on which the AIMS Board of Directors approved the LCAP or the annual update.

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.

Complaints filed pursuant to this policy must be in writing and signed. A signature may be handwritten, typed (including in an email) or electronically generated. Only complaints regarding pupil fees or LCAP compliance may be filed anonymously as set forth in this policy. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, the School's staff shall assist the complainant in the filing of the complaint.

Complainants are protected from retaliation.

Step 2: Mediation

Within three (3) business 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 complaint to the satisfaction of the complainant, the Compliance Officer shall proceed with the 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) business 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 the complainant's representative shall have an opportunity to present 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 School 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: Final Written Decision

The School shall issue an investigation report (the "Decision") based on the evidence. The School's Decision shall be in writing and sent to the complainant within sixty (60) calendar days of the School's receipt of the complaint unless the timeframe is extended with the written agreement of 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 providing a clear determination for each allegation as to whether the School is in compliance with the relevant law.
3. Corrective actions, if the School finds merit in the complaint and any are warranted or required by law.
4. Notice of the complainant's right to appeal the School's Decision within thirty (30) calendar days to the CDE, except when the School has used its UCP to address complaints that are not subject to the UCP requirements.
5. Procedures to be followed for initiating such an appeal.

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 Decision shall not give any further information as to the nature of the disciplinary action except as required by applicable law.

Appeals to the California Department of Education ("CDE")

If dissatisfied with the School's Decision, the complainant may appeal in writing to the CDE within thirty (30) calendar days of receiving the School's Decision. The appeal shall be accompanied by a copy of the locally filed complaint and a copy of the School's Decision. When appealing to the CDE, the complainant must specify and explain the basis for the appeal, including at least one of the following:

1. The School failed to follow its complaint procedures.

2. Relative to the allegations of the complaint, the School's Decision lacks material findings of fact necessary to reach a conclusion of law.
3. The material findings of fact in the School's Decision are not supported by substantial evidence.
4. The legal conclusion in the School's Decision is inconsistent with the law.
5. In a case in which the School's Decision found noncompliance; the corrective actions fail to provide a proper remedy.

Upon notification by the CDE that the complainant has appealed the School's decision, the Ombudsperson, or designee, shall forward the following documents to the CDE within ten (10) calendar days of the date of notification:

1. A copy of the original complaint.
2. A copy of the Decision.
3. A copy of the investigation file, including, but not limited to all notes, interviews, and documents submitted by the parties or gathered by the investigator.
4. A report of any action taken to resolve the complaint.
5. A copy of the Schools' complaint procedures.
6. Other relevant information requested by the CDE

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 as a new complaint. If the CDE notifies the School that its Decision failed to address an allegation raised by the complaint and subject to the UCP process, the School will investigate and address such allegation(s) in accordance with the UCP requirements and provide the CDE and the appellant with an amended Decision addressing such allegation(s) within twenty (20) calendar days of the CDE's notification. The amended Decision will inform the appellant of the right to separately appeal the amended Decision with respect to the complaint allegation(s) not addressed in the original Decision.

Within thirty (30) calendar days of the date of the CDE's appeal Decision pursuant to 5 C.C.R. section 4633(f)(2) or (3), either party may request reconsideration by the State Superintendent of Public Instruction ("SSPI") or the SSPI's designee. The request for reconsideration shall specify and explain the reason(s) for contesting the findings of fact, conclusions of law, or corrective actions in the CDE's appeal Decision. The SSPI will not consider any information not previously submitted to the CDE by a party during the appeal unless such information was unknown to the party at the time of the appeal and, with due diligence, could not have become known to the party. Pending the SSPI's response to a request for reconsideration, the CDE appeal Decision remains in effect and enforceable, unless stayed by a court.

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 but not limited to cases in which through no fault of the complainant, the School has not taken action within sixty (60) calendar 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 Schools' 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 complaints arising under state law, however, a complainant must wait until sixty (60) calendar 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 their right to file a complaint.

AIMS K-12 COLLEGE PREP CHARTER DISTRICT UNIFORM COMPLAINT PROCEDURE FORM

Last Name _____ First Name/MI _____

Student Name (if applicable) _____ Grade _____ Date of Birth _____

Street Address/Apt. # _____

City _____ State _____ Zip Code _____

Home Phone (____) _____ Cell Phone (____) _____ Work Phone (____) _____

AIMS School/Office of Alleged Violation _____

For allegation(s) of noncompliance, please check the program or activity referred to in your complaint, if applicable.

- Consolidated Application Course Periods without Education Content
- Education and graduation of pupils in Foster Care, Pupils who are homeless, Former Juvenile Court Pupils Enrolled in a School District and Pupils of Military Families Every Student Success Act Local Control & Accountability Plans (LCAP)
- Consolidated Categorical Aid Programs Migrant Education Physical Education Instructional Minutes
- Pupil Fees School Plans for Student Achievement School Safety Plans
- Adult Education Programs Reasonable Accommodations for a Lactating Pupil [
-] Accommodations for Pregnant and Parenting Pupils Child Care and Development

For allegation(s) of unlawful discrimination, harassment, intimidation or bullying, please check the basis of the unlawful discrimination, harassment, intimidation or bullying described in your complaint, if applicable:

- Age Gender/Gender Expression/Gender Identify Sex (actual or perceived) Ancestry
- Genetic Information Sexual Orientation (actual or perceived) Ethnic Group Identification
- National Origin Race or Ethnicity Religion Disability (Mental or Physical) Color
- Immigration status/citizenship Marital Status Medical Condition
- Based on association with a person or group with one or more of these actual or perceived characteristics

1. Please give facts about the complaint. Provide details such as the names of those involved, dates, whether witnesses were present, etc., that may be helpful to the complaint investigator

2. Have you discussed your complaint or brought your complaint to any AIMS personnel? If you have, to whom did you take the complaint, and what was the result?

3. Please provide copies of any written documents that may be relevant or supportive of your complaint.

I have attached supportive documents. YES NO

Signature _____ Date _____

_____ E-mail complaint and any relevant documents to:

Ombudsperson
ombudsman@aimsk12.org