

INTERNAL PROCEDURES FOR COMPLAINTS RELATING TO PUPIL NUTRITION

The California Code of Regulations outline a Complaint Procedure that must be followed for the following categories of complaints relating to pupil nutrition: 1) violations of law or regulation relating to Child Nutrition Programs (CNP) established pursuant to Education Code sections 49490 through 49570 and the National School Lunch Program, 42 U.S.C. sections 1751 through 1769, Summer Food Service Program, 42 U.S.C. 1761, Child and Adult Care Food Program, 42 U.S.C. 1766, Special Milk Program, 42 U.S.C. 1772, School Breakfast Program, 42 U.S.C. 1773, and Food Distribution Program, 42 U.S.C. 1791. 5 CCR 15580. The regulations align with the federal regulations and provide that an organization or individual may file a signed written complaint with the Local Education Agency.

Scope of the Policy

This policy relates to complaints of violations of law or regulations relating to the following pupil nutrition programs:

- National School Lunch Program, 42 U.S.C. sections 1751 through 1769
- Summer Food Service Program, 42 U.S.C. 1761
- School Breakfast Program, 42 U.S.C. 1773

Filing a Complaint

The parent/guardian/student may make a complaint with regard to any of the above items to the **Union Street Charter’s Principal/Director**. A complaint filed on behalf of an individual student may only be filed by the student or the student’s duly authorized representative. The complaint must be submitted within one year from the date the alleged violation occurred.

The complaint must include the following:

- (1) A statement that the School has violated a law or regulation relating to the CNP;
- (2) The facts on which the statement is based;
- (3) The name of the School and/or specific site the allegations are made against;
- (4) The contact information of the complainant; and
- (5) If alleging violations regarding a specific child, the name of the student.

Any complaints alleging discrimination based on race, color, national origin, sex, age, or disability will be referred to the U.S. Department of Agriculture (“USDA”) per the USDA Food and Nutrition Service Instruction 113-1.

Investigating a Complaint

The School shall investigate and prepare a written report as follows:

- (a) Upon receipt of a complaint, the Principal/Director or that person's designee shall conduct and complete an investigation of the complaint within 60 days and prepare a written Investigation Report. This 60-day time period may be extended with the written agreement of the complainant.
- (b) The investigation shall include an opportunity for the complainant, or the complainant's representative, or both, to present evidence or information leading to evidence to support the allegations of non-compliance with state and federal laws and/or regulations.
- (c) 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.
- (d) 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.
- (e) The School shall issue a School Investigation Report based on the evidence. The School Investigation Report shall be in writing and sent to the complainant within 60 days from receipt of the complaint by the School, subject to any extension under subsection (a) above. The School Investigation Report shall include:
 - (1) the findings of fact based on the evidence gathered;
 - (2) conclusion providing a clear determination as to each allegation as to whether the LEA is in compliance with the relevant law; and
 - (3) if the School finds merit in the complaint, corrective actions; and
 - (4) notice of the complainant's right to appeal the School's Investigation Report to the CDE; and
 - (5) procedures to be followed for initiating an appeal to the CDE.

Appeal of CDE's Investigation Report

Within 30 days of the date of the School's Investigation Report, the complainant may appeal to the CDE by filing a written appeal with the CDE.

In order to request an appeal, 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, and/or
- (2) Relative to the allegations of the complaint, the School Investigation Report lacks material findings of fact necessary to reach a conclusion of law, and/or

- (3) The material findings of fact in the School Investigation Report are not supported by substantial evidence, and/or
- (4) The legal conclusion in the School Investigation Report is inconsistent with the law, and/or
- (5) In a case in which the School found noncompliance, the corrective actions fail to provide a proper remedy.

The appeal shall be accompanied by:

- (1) a copy of the locally filed complaint; and
- (2) a copy of the School Investigation Report.

Appeals that do not comply with these requirements will not be processed. The CDE will notify the appellant of the deficiencies.

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 under this policy.

If the CDE determines that the School Investigation Report failed to address an allegation raised by the complaint and subject to this process, the CDE shall notify the School of such failure and direct the School to investigate and address such allegation(s) in accordance with this chapter. The School must provide both the CDE and the appellant with an amended investigation report that addresses the complaint allegation(s) that was not addressed in the original Investigation Report within 20 days of such notification. The amended report must also inform the appellant of the right to separately appeal, in accordance with this policy, the amended investigation report with respect to the complaint allegation(s) that was not addressed in the original report. The CDE will proceed with its resolution of the appeal of the School Investigation Report as to allegations that have been addressed even while, at the same time, the School is preparing an amended investigation report as to any allegation(s) that the CDE identified as not having been addressed.

Adopted:

Amended: