

June 16, 2017



Re: Response to Uniform Complaint

Dear Ms. Gumb:

On or about January 3, 2017, you submitted a written complaint ("Complaint") to the San Dieguito Union High School District ("District"), alleging that Torrey Pines High School ("TPHS") athletics programs engaged in various violations of District policy and state laws. These allegations included that:

- There is a "pay-to-play" culture in the TPHS baseball program, in violation of the California Constitution's "Free School Guarantee" and Education Code. This allegation included that the TPHS Foundation ("Foundation") has requested donations from parents and students to participate in the program, and that students who participate in fee-based clubs receive special or preferential treatment.
- TPHS baseball coaches are not hired, evaluated or compensated pursuant to District policies.
- The TPHS baseball program violated California Interscholastic Federation ("CIF") bylaws.
- The District provided a gift of public funds and violated the Civic Center Act by permitting outside entities and persons to use District facilities and equipment without charge.
- A non-District employee and former Foundation member, Andrew Singer, retains authority over the use of TPHS batting cages because he donated the funds to construct them, and the District violated its Board Policy for accepting gifts by accepting the TPHS batting cages as a donation.
- The TPHS batting cages were not approved by the Division of State Architect.

Under Title 5, section 4600, *et seq.* of the California Code of Regulations, and District Board Policy ("BP") and Administrative Regulation ("AR") 1312.3, which are attached to this response for your reference, the District is required to process certain complaints pursuant to its District's Uniform Complaint Procedure. These include the following:

- Any complaint alleging the District's failure to comply with the prohibition against requiring students to pay fees, deposits, or other charges for participation in educational activities, the requirements for the development and adoption of a school safety plan, and state and/or federal laws in adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and training programs, child care and development programs, child nutrition programs, Local Control Funding Formula programs and the LCAP implementation process, and special education programs.
- Any complaint alleging unlawful discrimination, harassment, intimidation, or bullying in District programs and activities based on actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code section 200 or 220, Penal Code section 422.55, or Government Code section 11135, or based on association with a person or group with one or more of these actual or perceived characteristics.
- Complaints related to sufficiency of textbooks or instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff, and teacher vacancies and misassignments, or the lack of opportunity to receive intensive instruction and services to pupils who did not pass one or both parts of the high school exit examination by the end of grade 12.

As you are aware, the District retained an outside investigator to thoroughly review all of the above allegations. Based on your complaint and the investigator's interview with you, the District has determined that the only allegation subject to the Uniform Complaint Procedure is that the District failed to comply with the prohibition against requiring students to pay fees, deposits, or other charges for their participation in TPHS athletics.¹ This letter constitutes the District's response to that allegation.²

¹ The District will be separately responding to your other allegations. Your complaint also cited Education Code section 201, which states that students have a right to participate in educational activities free from unlawful discrimination or harassment. Based on the specific allegations and information obtained from the investigation, there is no indication that you are alleging that students have been subjected to unlawful discrimination, harassment, intimidation, or bullying in District programs and activities based on any of the characteristics identified in BP 1312.3. Instead, it appears you are alleging that students are being discriminated against based on their ability to pay. Therefore this response does not address allegations of unlawful discrimination/harassment.

² The District's Uniform Complaint procedure requires complaints to be addressed within 30 days, unless the complainant agrees to an extension. Pursuant to your communications with the investigator, you agreed to extend the District's response until June 16, 2017.

The District takes seriously its obligation to ensure compliance with all state and federal laws, including that public education be provided to students free of charge, unless a charge is specifically authorized by law. This response is being provided after carefully reviewing your Complaint and the evidence cited therein, and after thoroughly investigating this matter in light of the applicable legal authorities.

FINDINGS OF FACT

In accordance with the California Code of Regulations, I have investigated the allegations and made the following findings of fact.

1. Summary of Complaint

Your Complaint alleged that the District improperly charged students to participate in TPHS athletics, particularly its baseball program. Specifically, you alleged that the Foundation sends parents requests for donations in an effort to "pressure" them to pay if they want their children to participate in high school athletics.

In support of this allegation, you presented a February 21, 2017 email from Foundation Baseball Liaison Rex McGuire, entitled, "WELCOME TO TORREY PINES HIGH SCHOOL BASEBALL." In relevant part, the email included the following statements:

- "On Saturday [at the mandatory parent/player meeting and field day], please bring your checkbooks."
- "Each year it costs over \$85,000 to run the Torrey Pines baseball program. Our expenses include, but are not limited to, field equipment and maintenance, facility maintenance, baseballs and other practice equipment, tournament fees, umpire fees, transportation fees, modest compensation for the coaches, uniforms/team apparel and year-end awards/banquets."
- "We are asking again for a MINIMUM donation of \$695 from each player's family to help cover these expenses."

The email also included examples of fundraising activities the Foundation conducts throughout the year to "help fund our baseball program," including "fall ball" and "winter ball."

You also presented a March 3, 2017 email from Mr. McGuire, entitled, "TPHS BASEBALL DONATION." The email stated, "We are currently below our budget for the season and looking for 100% participation from our team families. Our minimum donation level per player in order to meet our costs for the year is \$695."

Also in support of this allegation, you presented a March 9, 2017 email from Foundation Boys Volleyball Liaison Melanie Ham, entitled, "VB Donations." The email stated in relevant part:

Thank you for those who have already sent in their donations :))))). If you have not, the amount for Fresh/Soph and JV is \$395 and Varsity is \$495. The foundation has already taken the bus transportation fee of \$4500 from our account. The foundation has asked that

everyone get the bus fee in ASAP, or your son may not be allowed to ride the bus to and from games..... IF they do not ride the bus, they cannot play :((.

In addition to these allegations regarding Foundation donations, you alleged that students who participate in non-District, fee-based baseball clubs receive special or preferential treatment in the TPHS baseball program.

2. Investigation Findings

After investigating each of the foregoing allegations and supporting documents, I make the following findings of fact.

The Foundation is a non-profit organization that, while serving to benefit TPHS programs, is operated separately and apart from the District. The Foundation does not directly administer TPHS programs, including baseball. Those programs have been and continue to be administered by the District. The Foundation does, however, provide significant financial support to TPHS programs. For example, it raises funds to purchase the uniforms and equipment necessary for students to participate in the TPHS baseball program. It also reimburses the District for the cost of transportation to and from baseball games, as well as stipends the District provides to coaches.

As part of its fundraising efforts, the Foundation seeks voluntary donations and participation in fundraising activities. In the 2016-17 school year, this included Mr. McGuire sending emails to parents requesting a "minimum donation" of \$695 per student. The Foundation tracks these donations as part of its accounting practices. There is evidence that the Foundation also communicates with coaches regarding uniform and equipment needs for the upcoming season. There is no evidence, however, that the Foundation informs coaches which students donated and in what amounts, nor is there evidence that the Foundation otherwise coordinates its donation requests with the District and/or TPHS administration.

Although the evidence indicates that most students provide donations each year to the Foundation, at least three-to-seven students per year do not donate. There is no evidence that failing to donate to the Foundation has had any effect on any of these student's participation in the TPHS baseball program. For example, students who do not donate receive uniforms, equipment and transportation free-of-charge. The evidence also supports that students who have not donated have received equal opportunity to make and participate in TPHS baseball teams.

In addition to requesting donations, the Foundation also conducts various "fundraising activities" to help fund the TPHS baseball program. In the 2016-17 school year, this included the TPHS Baseball Speaker Series, "spirit wear" sales, summer camps, "fall ball" and "winter ball." For example, in 2016-17, the Foundation partnered with Al's Sports Shop for players to purchase extra uniform pants and helmets, as well as sweatshirts, t-shirts, bags and other equipment. Although students could wear some of these items while participating in the baseball program (e.g., their own helmet), the evidence does not support that students must purchase these items to effectively participate, or that students who did not purchase these items did not otherwise receive them.

The Foundation also directly runs a club baseball team, named the Falcons, that plays in the Amateur Athletic Union ("AAU") in the fall and winter. They play their games on TPHS fields on Saturdays. In the 2016-17 school year, the Foundation charged players \$395 for each season of club baseball, which it used to pay for coaches, umpires, facilities use, and a hat and shirt for each player.

It is common for TPHS baseball players to play for the Falcons club team in the fall and winter. They often use the same hats and club shirts as "practice shirts" when playing for TPHS. There is no evidence, however, that the District requires students to play on the Falcons, or any other club team, to effectively participate in TPHS baseball. Nor is there any evidence that the District provides preferential treatment to students who play club baseball. In the 2016-17 school year, for example, several players made the TPHS team even though they did not participate in club baseball. Likewise, TPHS cut players who had participated in club baseball.

TPHS also provides a sixth period baseball physical education class in the fall and winter that is available to students who intend to play on a TPHS team in the spring. The class is supervised by a certificated employee who is employed by the District, although District coaches are present and provide baseball instruction. The class provides the opportunity for students to develop their skills before the spring season begins. Although most students in the sixth period baseball physical education class also play on the Falcons club team, the evidence does not support that the District requires students to be on the Falcons club team as a prerequisite for participating in this class. Instead, the District has made the class available to any TPHS student who intends to play TPHS baseball in the spring.

Finally, although the Complaint primarily concerned the actions of the District and Foundation with regard to TPHS baseball, there is evidence that, in May 2017, the Foundation communicated to boys volleyball players that if they did not pay the "bus fee," they "may not be allowed to ride the bus to and from games," which would mean "they cannot play." There is no evidence that the District denied any student the right to participate in the TPHS boys' volleyball program due to his inability to pay this "bus fee," including the right to transportation to away games.

CONCLUSIONS OF LAW, DISPOSITION & CORRECTIVE ACTION

Based on careful consideration of your Complaint, and after a thorough investigation into the facts and allegations of your Complaint, I make the following conclusions of law, disposition, and corrective actions.

1. Conclusions of Law

California law mandates that public education shall be provided to students free of charge, unless a charge is specifically authorized by law for a particular program or activity. (See Cal. Const., Art. IX, § 5; see also Title 5, California Code of Regulations, § 350 ["[a] pupil enrolled in a school shall not be required to pay any fee, deposit, or other charge not specifically authorized by law"].) The California Supreme Court has interpreted the "Free School Guarantee" as prohibiting school districts from charging fees for any material or activity that constitutes an integral component of public education. (See *Hartzell v. Connell* (1984) 35 Cal.3d 899.)

In Assembly Bill (AB) 1575, the Legislature amended the Education Code³ to codify the Free School Guarantee. Section 49011 provides that, "[a] pupil enrolled in a public school shall not be required to pay a pupil fee for participation in an educational activity." That section applies to "all public schools." Section 49010(a) defines an "educational activity" as 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.

"Pupil fee" is defined to include "[a] fee charged to a pupil ... 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." (Cal. Educ. Code § 49011.) They specifically include, among other things, "a purchase a student is required to make to obtain materials, supplies, equipment, or uniforms associated with an educational activity." (Cal. Educ. Code § 49010(b)(3).) AB 1575 further specifies that "all supplies, materials and equipment needed to participate in educational activities shall be provided to pupils free of charge." (Cal. Educ. Code § 49011(b)(1).)

AB 1575 further states that a school district may not offer or remove course credit or privileges related to educational activities in exchange for money or donations. School districts may, on the other hand, solicit voluntary donations or voluntary participation in fundraising activities. (Cal. Educ. Code § 49011(b)(4).)

2. Disposition and Corrective Action

Based on the findings of fact and legal conclusions set forth above, the evidence does not support that the District violated the Free School Guarantee. As noted above, the Foundation requested donations from parents/students separately and apart from the District's administration over the TPHS baseball program. The District did not deny students participation in the TPHS baseball program, nor did it provide them with different treatment, on account of whether they provided donations to the Foundation, engaged in fundraising activities held by the Foundation, or participated in fee-based club programs run by the Foundation (or any other outside entity). The evidence further supports that all students received free uniforms, equipment and transportation needed for them to effectively participate in the TPHS baseball program.

Notwithstanding the foregoing conclusion, I also conclude that the Foundation's requests for donations could have more clearly informed parents and students that their decision to donate (or not donate) would not affect their ability to effectively participate in the District's program. Although the District does not operate or control the Foundation, including its fundraising practices, it will make reasonable efforts to ensure that parents and students are aware that their donations to the Foundation are voluntary and that their decision to donate (or not donate) has no effect on their effective participation in the District's program. The District will also take reasonable steps to ensure that the TPHS sixth period baseball physical education class is offered solely to provide baseball instruction to TPHS students and that parents/student

³ Unless otherwise specified, all statutory references are to the Education Code.

understand that their membership in a fee-based club is not a prerequisite to effectively participate in that class.

I also conclude that the Foundation's request for a "bus fee" for boys volleyball players could lead a reasonable person to believe that the fee was mandatory. Although there is no evidence that the District coordinated this request, or otherwise denied any student participation in boys' volleyball for failing to pay this "bus fee" to the Foundation, the District will contact all parents/students who participated in TPHS boys' volleyball in 2016-17 to inquire whether they paid the "bus fee" to the Foundation under the reasonable belief that it was required to participate in the program. Refunds will be offered to anyone who paid the fee under that belief.

RIGHT TO APPEAL

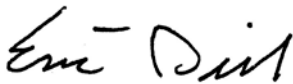
In conclusion, I want to emphasize that the District takes seriously its obligation to ensure compliance with all state and federal laws, including that public education be provided to students free of charge, unless a charge is specifically authorized by law for a particular program or activity. The District appreciates that you have brought these concerns to its attention.

Under Title 5, section 4631 of the California Code of Regulations, you may appeal this decision in writing to the California Department of Education ("CDE") within fifteen (15) days of receiving this decision. When appealing to the CDE, the complainant must specify the reason(s) for appealing the District's decision and must include a copy of the complaint and the District's decision. The CDE must submit its response within 60 days of its receipt of the appeal.

Please also note, pursuant to District AR 1312.3, you may additionally appeal this decision to the District's Board of Trustees.

If you have questions regarding this response, please feel free to contact me.

Respectfully,

A handwritten signature in black ink, appearing to read "Eric Dill".

Eric R. Dill
Superintendent

Encl. BP/AR 1312.3

UNIFORM COMPLAINT PROCEDURES

UNIFORM COMPLAINT PROCEDURES

The Board of Trustees recognizes that the District is primarily responsible for complying with applicable state and federal laws and regulations governing educational programs. The district shall investigate complaints alleging failure to comply with such laws and/or alleging discrimination and shall seek to resolve those complaints in accordance with the district's uniform complaint procedures.

The district shall use the uniform complaint procedures to resolve any complaint alleging unlawful discrimination, harassment, intimidation, or bullying in district programs and activities based on actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code 200 or 220, Penal Code 422.55, or Government Code 11135, or based on association with a person or group with one or more of these actual or perceived characteristics.

Uniform complaint procedures shall also be used to address any complaint alleging the district's failure to comply with the prohibition against requiring students to pay fees, deposits, or other charges for participation in educational activities, the requirements for the development and adoption of a school safety plan, and state and/or federal laws in adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and training programs, child care and development programs, child nutrition programs, Local Control Funding Formula programs and the LCAP implementation process, and special education programs.

Complaints related to sufficiency of textbooks or instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff, and teacher vacancies and misassignments, or the lack of opportunity to receive intensive instruction and services to pupils who did not pass one or both parts of the high school exit examination by the end of grade 12, shall be investigated pursuant to the District's Uniform Complaint Procedure.

The Board of Trustees encourages the early, informal resolution of complaints at the site level whenever possible.

The Board of Trustees acknowledges and respects every individual's right to privacy. Discrimination complaints shall be investigated in a manner that protects the confidentiality of the parties and the integrity of the process. This may include keeping the identity of the complainant confidential, as appropriate and 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 of Trustees 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 discrimination. Such participation shall not in any way affect the status, grades, or work assignments of the complainant.

The Board of Trustees recognizes that a neutral mediator can often suggest a compromise that is agreeable to all parties in a dispute. In accordance with uniform complaint procedures, whenever all parties to a complaint agree to try resolving their problem through mediation, the Superintendent or designee shall initiate that process. The Superintendent or designee shall ensure that the results are consistent with state and federal laws and regulations.

LEGAL REFERENCE**EDUCATION CODE**

Prohibition of discrimination

Child care and development programs

Adult basic education

200-262.4	Prohibition of Discrimination
8200-8498	Child care and development programs
8500-8538	Adult basic education
18100-18203	School libraries
32289	School safety plan, uniform complaint procedures
35160.5	Requirement of school district policies: parental complaints re: employees
35186	Williams Uniform Complaint Procedures
37254	Intensive Instruction and services for students who have not passed exit exam
41500-41513	Categorical education block grants
48985	Notices in language other than English
49010-49013	Student Fees
49060-49079	Student Records
49490-49590	Child nutrition programs
52160-52178	Bilingual education programs
52300-52499.6	Career-technical education
52500-52616.24	Adult schools
52800-52870	School-based coordinated programs
54000-54041	Economic impact aid programs
54100-54145	Miller-Unruh Basic Reading Act
54400-54425	Compensatory education programs
54440-54445	Migrant education
54460-54529	Compensatory education programs
56000-56885	Special education programs
59000-59300	Special schools and centers
64000-64001	Consolidated application process

CODE OF REGULATIONS, TITLE 5

3080	Application of section
4600–4687	Uniform Complaint Procedures
4900-4965	Nondiscrimination in elementary and secondary education programs

PENAL CODE

- 422.55 Hate crime; definition
422.6 Interference with constitutional right or privilege

GOVERNMENT CODE

CIVIL RIGHTS ACT OF 1964
42 U.S.C.A. Section 2000c et seq.

TITLE IX, EDUCATION AMENDMENTS OF 1972
20 U.S.C.A. Section 1231g, 1681 et seq.

SECTION 504, REHABILITATION ACT OF 1973
29 U.S.C.A. Section 721, 761

EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981
20 U.S.C.A. Section 3801 et seq.

GENERAL EDUCATION PROVISIONS ACT
20 U.S.C.A. 1221 et seq., especially:

FAMILY EDUCATION AND PRIVACY RIGHTS ACT OF 1974
20 U.S.C.A. Section 1221, 1232 g

34 CODE OF FEDERAL REGULATIONS, Section 100.7(e)

SENATE BILL 6

SENATE BILL 550

ASSEMBLY BILL 1550

ASSEMBLY BILL 2727

ASSEMBLY BILL 3001

UNITED STATES CODE, TITLE 20

- 6301-6577 Title I basic programs
6601-6777 Title II preparing and recruiting high quality teachers and principals
6801-6871 Title III language instruction for limited English proficient and immigrant students

SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES ACT

- 7101-7184 Safe and Drug-Free Schools and Communities Act
7201-7283g Title V promoting informed parental choice and innovative programs
7301-7372 Title V rural and low-income school programs

MANAGEMENT RESOURCES

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/offices/OCR>

UNIFORM COMPLAINT PROCEDURES

DESIGNATION OF PERSON TO RECEIVE COMPLAINT

The Board of Trustees designates the following compliance officer(s) to receive and investigate complaints and ensure district compliance with law:

Dr. Michael Grove , Associate Superintendent, Educational Services	(760) 753-6491 ext 5569
Eric Dill , Associate Superintendent, Business	(760) 753-6491 ext 5541
Torrie Norton , Associate Superintendent, Human Resources	(760) 753-6491 ext 5506

710 Encinitas Boulevard, Encinitas, CA 92024

The Superintendent 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 Superintendent or designee.

For complaints concerning insufficiency of instructional materials, emergency or urgent facility conditions, and/or teacher vacancy or misassignment issues, the complaint shall be filed with the school principal or his or her designee at the school site where the complaint arises.

Uniform complaint procedures shall also be used to address any complaint alleging the district's failure to comply with the prohibition against requiring students to pay fees, deposits, or other charges for participation in educational activities, the requirements for the development and adoption of a school safety plan, and state and/or federal laws in adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and training programs, child care and development programs, child nutrition programs, Local Control Funding Formula programs and the LCAP implementation process, and special education programs.

NOTIFICATIONS

The compliance officers shall meet the notification requirements of California Code of Regulations Title 5, Section 4622, and all other applicable law, including the annual dissemination of District complaint procedures and information about available appeals, civil law remedies and conditions under which a complaint may be taken directly to the State Department of Education.

Additionally, the school principal is responsible for ensuring that each classroom has the required standardized notice posted to notify parents and guardians of the opportunity to complain about instructional materials and facility issues. The notice shall be conspicuously posted in each classroom.

PROCEDURES

The following procedures shall be used to address all complaints which allege that the district has violated federal or state laws or regulations governing educational programs. Compliance officers shall maintain a record of each complaint and subsequent related action, including all information required for compliance with 5 CCR 4631 and 4633.

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.

FILING OF COMPLAINT:

1. Any individual, public agency or organization may file a written complaint of alleged noncompliance by the district on the Uniform Complaint Form attached.
2. A complaint alleging unlawful discrimination shall be initiated no later than six months from the date when the alleged discrimination occurred, or six months from the date when the complainant acquired knowledge of the facts of the alleged discrimination. A complaint 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 subject to unlawful discrimination.
3. A complaint alleging noncompliance with the law regarding the prohibition against requiring students to pay student fees, deposits, and charges may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance.
4. The complaint shall be presented to the compliance officer who shall maintain a log of complaints received, providing each with a code number and a date stamp.
5. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, district staff shall assist him/her in the filing of the complaint.

MEDIATION:

Within three business days of receiving the complaint, the compliance officer may informally discuss with all the parties the possibility of using mediation. If the parties agree to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a complaint alleging discrimination, harassment, intimidation, or bullying, 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 timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time.

INVESTIGATION OF COMPLAINT:

The principal/designee or compliance officers shall make all reasonable efforts to investigate any problem within his or her authority. The investigation shall provide an opportunity for the complainant, or the complainant's representative, to present information relevant to the complaint. The investigation may include an opportunity for the parties to meet to discuss the complaint or to

question each other or each other's witnesses.

A complainant's refusal to provide the district'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 of 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 district'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.

RESPONSE:

1. For complaints processed by the compliance officers, a written decision shall be issued to the complainant within thirty (30) calendar days of receiving the complaint. This decision shall contain the findings and disposition of the complaint, including corrective actions if any, the rationale for such disposition, notice of the complainant's right to appeal to the Board of Trustees and the right to further appeal to the Department of Education, and the procedures to be followed for initiating an appeal to the Department. If an employee is disciplined according to established District policy as a result of the complaint, this report shall simply state that effective action was taken and that the employee was informed of District expectations. The report shall not give any additional information as to the nature of the disciplinary action. This time period may be extended by written agreement between the complainant and the District.
2. For complaints processed by the principal or designee, valid complaints must be remedied within a reasonable time period but not to exceed thirty (30) working days from the date the complaint was received. If a response was requested in the complaint, the principal/designee shall prepare and send to the complainant a written report within forty-five (45) working days of the initial filing of the complaint. This time period may be extended by written agreement between the complainant and the District.

FINAL WRITTEN DECISION

1. The district's decision shall be in writing and sent to the complainant.
2. The district's decision shall be written in English and in the language of the complainant whenever feasible or as required by law.
3. The decision shall include:
 - a. The findings of fact based on the evidence gathered.
 - b. The conclusion(s) of law.
 - c. Disposition of the complaint.
 - d. Rationale for such disposition.
 - e. Corrective actions, if any are warranted.

- f. Notice of the complainant's right to appeal the district's decision with 15 days to the CDE and procedures to be followed for initiating such an appeal.
 - g. In addition, any decision concerning a discrimination, harassment, intimidation, or bullying complaint based on state law shall include a notice that the complainant must wait until 60 calendar days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies.
4. 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 district expectations. The report shall not give any further information as to the nature of the disciplinary action. If a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges is found to have merit, the district shall provide a remedy to all affected students and parents/guardians, which, where applicable, shall include reasonable efforts to ensure full reimbursement to them.
5. If dissatisfied with the district's decision, the complainant may appeal in writing to the CDE within 15 days of receiving the district'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 district's decision.
6. Upon notification by the CDE that the complainant has appealed the district's decision, the Superintendent or designee shall forward the following documents to the CDE.
 - a. A copy of the original complaint.
 - b. A copy of the decision.
 - c. A summary of the nature and extent of the investigation conducted by the district, if not covered by the decision.
 - d. A copy of the investigation files, including but not limited to all notes, interviews, and documents submitted by the parties and gathered by the investigator.
 - e. A report of any action taken to resolve the complaint.
 - f. A copy of the district's complaint procedures.
 - g. Other relevant information requested by the CDE.
7. The CDE may directly intervene in the complaint without waiting for action by the district when one of the conditions listed in 5 CCR 4650 exists; including cases in which the district has not taken action within 60 days of the date the complaint was filed with the district.

CIVIL LAW REMEDIES

A complainant may pursue available civil law remedies outside of the district's complaint procedures as provided by law. 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. Except as provided by law, for discrimination complaints, a complainant must wait until sixty (60) days have elapsed from the filing of an appeal with the California Department of Education 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 5 CCR 4622.

DIRECT STATE INTERVENTION

The California Department of Education may directly intervene in the complaint without waiting for action by the District when one of the conditions listed in 5 CCR 4650 and other applicable law exists. In addition, the California Department of Education may also intervene in those cases where the District has not taken action with sixty (60) calendar days of the date the complaint was first filed with the District.