

## UNIFORM COMPLAINT POLICY AND PROCEDURES

Community School for Creative Education (“CSCE” or the “Charter School”) complies with applicable federal and state laws and regulations. CSCE 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 compliance and/or conducting investigations shall be knowledgeable about the laws and programs which they are assigned to investigate.

### 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, including actual or perceived discrimination, 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 CSCE program or activity.
- (2) Complaints of violations of state or federal law and regulations governing the following programs:
  - National School Lunch Program (NSLP);
  - Accommodations for Pregnant, Parenting or Lactating Students;
  - Education of Students in Foster Care, Students who are Homeless, former Juvenile Court Students now enrolled in a public school, and Migratory Children and Children of Military Families;
  - Every Student Succeeds Act Programs (Titles I-VII), including improving academic achievement, limited English proficiency, and migrant education;
  - School Safety Plans;
  - Special Education Programs, and
  - Tobacco-Use Prevention Education.
- (3) Complaints 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 Charter School 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 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. If CSCE finds merit in a pupil fees complaint, or the California Department of Education ("CDE") finds merit in an appeal, CSCE shall provide a remedy to all affected pupils, and parents and guardians that, where applicable, includes reasonable efforts by CSCE to ensure full reimbursement to all affected pupils and parents and guardians, subject to procedures established through regulations adopted by the state board.
  - e. Nothing in this Policy shall be interpreted to prohibit solicitation of voluntary donations of funds or property, voluntary participation in fundraising activities, or CSCE and other entities 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 Sections 47606.5 and 47607.3 of the Education Code, as applicable. If CSCE adopts a School Plan for Student Achievement in addition to its LCAP, complaints of noncompliance with the requirements of the School Plan for Student Achievement under Education Code sections 64000, 64001, 65000, and 65001 shall also fall under this Policy.
- (5) Complaints alleging noncompliance regarding child nutrition programs established pursuant to Education Code sections 49490-49590 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.

- (6) Complaints alleging noncompliance regarding special education programs established pursuant to Education Code sections 56000-56865 and 59000-59300 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.

CSCE 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 reasonably possible and 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. CSCE cannot guarantee anonymity of the complainant. This includes keeping the identity of the complainant confidential. However, CSCE will attempt to do so as appropriate. CSCE 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 Executive Director or designee on a case-by-case basis.

CSCE 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 Officer

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

Dr. Ida Oberman  
Executive Director & Founder  
2111 International Boulevard  
Oakland, California 94606  
(510) 686-4131

The Executive Director or designee shall ensure that the compliance officer(s) 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 Executive Director or designee.

Should a complaint be filed against the Executive Director, the compliance officer for that case shall be the President of the CSCE Board of Directors.

#### Notifications

The Executive Director or designee shall annually provide written notification of the Charter School’s UCP to employees, students, parents and/or guardians, advisory committees, private school officials and other interested parties as applicable.

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

The Executive Director or designee shall make available copies of the Charter School's UCP free of charge.

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 CSCE is 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 CSCE is operating pursuant to Title 22 licensing requirements.
- (c) A statement that CSCE is 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 the 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 CSCE's decision to the CDE by filing a written appeal within thirty (30) calendar days of the date of CSCE's decision, except if CSCE has used its UCP to address a complaint that is not subject to the UCP requirements.
- (h) A statement that a complainant who appeals CSCE'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 CSCE finds merit in a UCP complaint, or the CDE finds merit in an appeal, CSCE 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 Section 262.3.

(k) A statement that copies of the CSCE's UCP shall be available free of charge.

### Procedures

The following procedures shall be used to address all complaints which allege that CSCE has 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 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, including a person's duly authorized representative or an interested third party, public agency, or organization may file a written complaint of alleged noncompliance by the Charter School or unlawful discrimination, harassment, intimidation or bullying pursuant to this Policy.

A complaint of unlawful discrimination, harassment, intimidation or bullying may be filed by an individual who alleges that that individual has personally suffered unlawful discrimination, harassment, intimidation or bullying or by one who believes 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 Executive Director or designee, upon written request by the complainant setting forth the reasons for the extension. Such extension by the Executive Director or designee shall be made in writing. The period for filing may be extended by the Executive Director 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 Executive Director 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 CSCE Board of Directors approved the LCAP

or the annual update was adopted by CSCE.

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, CSCE staff shall assist the complainant in the filing of the complaint.

- **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 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 Charter 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) 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 the complainant's representative to repeat the complaint orally.

The complainant and/or the complainant's 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 compliance officer with documents or other evidence related to the allegations in the complaint, or a complainant's failure or refusal to cooperate in the investigation or a complainant's 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.

CSCE's refusal to provide the compliance officer 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: Final Written Decision**

The Charter School shall issue an investigation report (the "Decision") based on the evidence. CSCE's Decision shall be in writing and sent to the complainant within sixty (60) calendar days of CSCE's receipt unless the timeframe is extended with the written agreement of the complainant. CSCE'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) providing a clear determination for each allegation as to whether CSCE is in compliance with the relevant law.
3. Disposition of the complaint.
4. Rationale for such disposition.
5. Corrective actions, if CSCE finds merit in the complaint and any are warranted or required by law.
6. Notice of the complainant's right to appeal CSCE's Decision within thirty (30) calendar days to the CDE and procedures to be followed for initiating such an appeal, except when CSCE has used its UCP to address complaints that are not subject to the UCP.
7. For unlawful discrimination, harassment, intimidation or bullying complaints arising under state law, notice that the complainant must wait until sixty (60) calendar 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 CSCE's 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 CDE

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

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

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

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 compliance officer.
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 CDE.

If the CDE determines the appeal raises issues not contained in the local complaint, the CDE will refer those new issues back to CSCE for resolution as a new complaint. If the CDE notifies CSCE that its Decision failed to address an allegation raised by the complaint and subject to the



UCP process, CSCE 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 CSCE 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, CSCE has not taken action within sixty (60) calendar days of the date the complaint was filed with the Charter School.

### Civil Law Remedies

A complainant may pursue available civil law remedies outside of CSCE'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) 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 Charter School has appropriately, and in a timely manner, apprised the complainant of their right to file a complaint.

Adopted/Ratified: September 24, 2020

Revision Date: