

		SUBJECT	
		<b>UNIFORM COMPLAINT POLICY</b>	
DATE ISSUED 05/17/13	DATE REVISED 04/20/2016 06/13/2017 07/19/2018		NOVA POLICY #
ISSUED BY	REVIEWED BY	APPROVED BY <b>NOVA BOARD</b>	COA POLICY #

**SUBJECT**

**UNIFORM COMPLAINT POLICY AND PROCEDURES**

**POLICY STATEMENT**

NOVA Academy policy is to comply with applicable federal and state laws and regulations. NOVA Academy is the local agency primarily responsible for compliance with federal and state laws and regulations governing educational programs. Pursuant to this policy, persons responsible for conducting investigations shall be knowledgeable about the laws and programs which they are assigned to investigate. This complaint procedure is adopted to provide a uniform system of complaint processing for the following types of complaints:

- (1) Complaints of unlawful discrimination, harassment, intimidation or bullying against any protected group, including actual or perceived discrimination, on the basis of the actual or perceived characteristics of age, ancestry, color, physical disability, mental disability, ethnic group identification, immigration status, 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 NOVA Academy program or activity; and
- (2) Complaints of violations of state or federal law and regulations governing the following programs including but not limited to: Adult Education Programs, Career Technical and Technical Education and Career Technical and Technical Training Programs, Child Care and Development Programs, Child Nutrition Programs, Consolidated Categorical Aid Programs, Foster and Homeless Youth Services, Migrant Education Programs, No Child Left Behind Act (2001) Programs (Titles I-VII; including improving academic achievement, compensatory education limited English proficiency, and migrant education, Every Student Succeeds Act, and Special Education Programs.
- (3) A complaint may also be filed alleging that a pupil enrolled in a public school was required to pay a pupil fee for participation in an educational activity as those terms are defined below.
  - a. "Educational activity" means an activity offered by a school, school district, charter school or county office of education that constitutes an integral fundamental part of elementary and 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 anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance with laws relating to pupil fees.
  - d. If NOVA Academy finds merit in a pupil fees complaint, NOVA Academy shall provide a remedy to all affected pupils, parents and guardians that, where applicable, includes reasonable efforts by NOVA Academy to ensure full reimbursement to all affected pupils, parents and guardians, subject to procedures established through regulations adopted by the state board.
  - e. Nothing in this section shall be interpreted to prohibit solicitation of voluntary donations of funds or property, voluntary participation in fundraising activities, or school districts, school, and other entities from providing pupils prizes or other recognition for voluntarily participating in fundraising activities.
- (4) Complaints of noncompliance with the requirements governing the Local Control Funding Formula, Local Control and Accountability Plans or Sections 47606.5 and 47607.3 of the Education Code, as applicable.
  - (5) Complaints of noncompliance with the requirements of Education Code Section 222 regarding the rights of lactating pupils on a school campus. If NOVA Academy finds merit in a complaint, or if the Chief Executive Officer finds merit in an appeal, NOVA Academy shall provide a remedy to the affected pupil.
  - (6) Complaints of noncompliance with the requirements of Education Code Section 48645.7 regarding the rights of juvenile court school pupils when they become entitled to a diploma. If the Charter School finds merit in a complaint, or if the Superintendent finds merit in an appeal, the Charter School shall provide a remedy to the affected pupil.

NOVA Academy 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] the confidentiality of the parties and the integrity of the process. NOVA Academy cannot guarantee anonymity of the complainant. This includes keeping the identity of the complainant confidential. However, NOVA Academy will attempt to do so as appropriate. NOVA Academy may find it

necessary to disclose information regarding the complaint/complainant to the extent necessary to carry out the investigation or proceedings, as determined by the Chief Executive Officer or designee on a case-by-case basis.

NOVA Academy 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.

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

Renee Lancaster  
Chief Executive Officer, NOVA Academy  
500 W. Santa Ana Blvd  
Santa Ana, CA 92701

The Chief Executive Officer 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 Chief Executive Officer or designee.

Should a complaint be filed against the Chief Executive Officer, the compliance officer for that case shall be the President of NOVA Academy Board of Directors.

#### Notifications

The Chief Executive Officer or designee shall annually provide written notification of NOVA Academy's uniform complaint procedures to employees, students, parents and/or guardians, advisory committees, private school officials and other interested parties (e.g., Adult Education).

The annual notice 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 NOVA Academy speak a single primary language other than English.

The Chief Executive Officer or designee shall make available copies of NOVA Academy's uniform complaint procedures free of charge.

#### The annual notice shall include the following:

- (a) A statement that NOVA Academy is primarily responsible for compliance with federal and state laws and regulations.
- (b) A statement that a pupil enrolled in a public school shall not be required to pay a pupil fee for participation in an educational activity.
- (c) A statement identifying the responsible staff member, position, or unit designated to receive complaints.
- (d) A statement that the complainant has a right to appeal NOVA Academy's decision to the California Department of Education by filing a written appeal within 15 days of receiving NOVA Academy's decision.

- (e) A statement advising the complainant of any civil law remedies that may be available under state or federal discrimination, harassment, intimidation or bullying laws, if applicable, and of the appeal pursuant to Education Code § 262.3.
- (f) A statement that copies of the local educational agency complaint procedures shall be available free of charge.

### Procedures

The following procedures shall be used to address all complaints which allege that NOVA Academy has violated federal or state laws or regulations governing educational programs. Compliance officers shall maintain a record of each complaint and subsequent related actions.

All parties involved in allegations shall be notified when a complaint is filed, when a complaint meeting or hearing is scheduled, and when a decision or ruling is made.

#### Step 1: Filing of Complaint

Any individual, public agency, or organization may file a written complaint of alleged noncompliance by NOVA Academy.

A complaint alleging unlawful discrimination, harassment, intimidation or bullying shall be initiated no later than six (6) months from the date when the alleged unlawful discrimination, harassment, intimidation or bullying occurred, or six (6) months from the date when the complainant first obtained knowledge of the facts of the alleged unlawful discrimination, harassment, intimidation or bullying. A complaint may be filed by a person who alleges that he/she personally suffered unlawful discrimination, harassment, intimidation or bullying or by a person who believes that an individual or any specific class of individuals has been subjected to unlawful discrimination, harassment, intimidation or bullying.

Pupil fee complaints shall be filed not later than one (1) year from the date the alleged violation occurred.

The complaint shall be presented to the compliance officer who shall maintain a log of complaints received, providing each with a code number and date stamp.

If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, NOVA Academy staff shall assist him/her in the filing of the complaint.

#### Step 2: Mediation

Within three (3) days of receiving the complaint, the compliance officer may informally discuss with the complainant the possibility of using mediation. If the complainant agrees to mediation, the compliance 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 NOVA Academy'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) days of receiving the complaint or an unsuccessful attempt to mediate the complaint. This meeting shall provide an opportunity for the complainant and/or his/her representative to repeat the complaint orally.

The complainant and/or his/her 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 NOVA Academy'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 or 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.

NOVA Academy'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.

### Step 4: Response

Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant a written report of NOVA Academy's investigation and decision, as described in Step #5 below, within sixty (60) days of NOVA Academy's receipt of the complaint.

### Step 5: Final Written Decision

NOVA Academy's decision shall be in writing and sent to the complainant. NOVA Academy'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) of law.
3. Disposition of the complaint.
4. Rationale for such disposition.
5. Corrective actions, if any are warranted.
6. Notice of the complainant's right to appeal NOVA Academy's decision within fifteen (15) days to the California Department of Education and procedures to be followed for initiating such an appeal.
7. For unlawful discrimination, harassment, intimidation or bullying complaints arising under state law, notice that the complainant must wait until sixty (60) days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies.

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 NOVA Academy's expectations. The report shall not give any further information as to the nature of the disciplinary action.

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

If dissatisfied with NOVA Academy's decision, the complainant may appeal in writing to the CDE within fifteen (15) days of receiving NOVA Academy'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 NOVA Academy's decision.

Upon notification by the CDE that the complainant has appealed NOVA Academy's decision, the Chief Executive Officer or designee shall forward the following documents to the CDE:

1. A copy of the original complaint.
2. A copy of the decision.
3. A summary of the nature and extent of the investigation conducted by NOVA Academy, if not covered by the decision.
4. A copy of the investigation file, including but not limited to all notes, interviews, and documents submitted by all parties and gathered by the investigator.
5. A report of any action taken to resolve the complaint.
6. A copy of NOVA Academy's complaint procedures.
7. Other relevant information requested by the CDE.

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

#### Civil Law Remedies

A complainant may pursue available civil law remedies outside of NOVA Academy'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) 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 NOVA Academy has appropriately, and in a timely manner, apprised the complainant of his/her right to file a complaint in accordance with 5 CCR § 4622.

**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: \_\_\_\_\_

School/Office of Alleged Violation: \_\_\_\_\_

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

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> Adult Education            | <input type="checkbox"/> Consolidated Categorical Program | <input type="checkbox"/> NCLB/ESSA Programs   |
| <input type="checkbox"/> Career/Technical Education | <input type="checkbox"/> Foster/Homeless Youth Services   | <input type="checkbox"/> Special Education  |
| <input type="checkbox"/> Child Development Programs | <input type="checkbox"/> Lactating Pupils                 | <input type="checkbox"/> Local Control Funding Formula/<br>Local Control and Accountability<br>Plan |
| <input type="checkbox"/> Child Nutrition Programs   | <input type="checkbox"/> Migrant Education                | <input type="checkbox"/> Pupil Fees   |
|   | <input type="checkbox"/> Juvenile Court School Pupils     |   |

**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:**

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> Age                                | <input type="checkbox"/> Gender / Gender<br>Expression / Gender<br>Identity | <input type="checkbox"/> Sex (Actual or Perceived)  |
| <input type="checkbox"/> Ancestry                           | <input type="checkbox"/> Genetic Information                                | <input type="checkbox"/> Sexual Orientation (Actual or<br>Perceived)  |
| <input type="checkbox"/> Color                              | <input type="checkbox"/> National Origin                                    | <input type="checkbox"/> Marital Status   |
| <input type="checkbox"/> Disability (Mental or<br>Physical) | <input type="checkbox"/> Race or Ethnicity                                  | <input type="checkbox"/> Based on association with a<br>person or group with one or<br>more of these actual or<br>perceived characteristics |
| <input type="checkbox"/> Ethnic Group Identification        | <input type="checkbox"/> Religion   |   |
| <input type="checkbox"/> Immigration status                 | <input type="checkbox"/> Medical Condition                                  |   |

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.

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

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

I have attached supporting documents.

Yes

No

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Mail complaint and any relevant documents to:

NOVA Academy  
500 W Santa Ana Blvd  
Santa Ana, CA 92701