



## **UNIFORM COMPLAINT PROCEDURES POLICY**

The Academia Avance charter school ("Avance") has a responsibility to insure compliance with applicable state and federal laws and regulations, and shall investigate complaints alleging failure to comply with applicable state and federal laws and regulations and/or alleging discrimination. Avance shall seek to resolve those complaints in accordance with the procedures set out in Sections 4600-4687 of the Title 5 Regulations and in accordance with the policies and procedures of the Academia Avance charter, and or its policies as established by the Avance Executive Board.

This memorandum clarifies that uniform complaints may be used to file noncompliance or unlawful discrimination complaints and/or to appeal decisions by Avance regarding such complaints. Uniform complaint forms are available at all school sites in the primary languages of that school community. Complainants are encouraged, where possible to try to resolve their complaints directly at the school. A written notice regarding uniform complaint procedures must be disseminated annually to staff, students, parents or guardians, school and advisory committees, appropriate school officials or representatives, and other interested parties. Distribution may be in any form (newsletter, bulletin, staff/student/parent handbook, etc.) that will reach the school community.

### ***Background***

The Uniform Complaint Procedures were developed pursuant to Title 5, California Code of Regulations, Sections 4600-4687, during the 1992-1993 school year. These same uniform complaint procedures may be used to file complaints with Avance or to appeal decisions which concern unlawful discrimination under the following federal/state laws:

- Section 504 of the Rehabilitation Act of 1973 or Title II of the Americans with Disabilities Act of 1990 (ADA) for the charges of discrimination based on mental or physical disability
- Title IX of the Education Amendments of 1972 charges of discrimination/ harassment based on sex including charges of sexual harassment
- and Title VI of the Education Amendments of 1964 for charges of discrimination based on race, color or national origin
- Section 4900, et, seq. includes sexual identification, gender identity, ethnic identification and ancestry

### ***General Information***

The Uniform Complaint Procedures may be used for complaints or noncompliance involving the following educational programs and complaints alleging violations of the following nondiscrimination protections:

- Allegations of unlawful discrimination/harassment including actual or perceived sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, mental or physical disability, age, 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 program or activity conducted by a local agency that is funded directly or receives any state funds.
- Nutrition Services
- Consolidated Aid Categorical Programs
- Special Education Programs

Complaints pertaining to the following may be referred for resolution to the listed state or federal agency, as appropriate:

- Allegations of child abuse shall be referred to the applicable Los Angeles County Department of Social Services or the appropriate law enforcement agency.
- Health and safety complaints regarding a Child Development Program shall be referred to Department of Social Services, for licensed facilities.
- Allegations of fraud shall be referred to the responsible Department Division
- Director or the Office of the General Counsel.
- Allegations of unlawful employment discrimination may be filed with the state
- Department of Fair Employment and Housing. Allegations of unlawful discrimination pertaining to students may be filed with the U.S. Department of Education, Office for Civil Rights.

## ***Related Definitions***

This policy follows these definitions as provided by Title 5, California Code of Regulations:

- A) Appeal means a request made in writing to a level higher than the original reviewing level by an aggrieved party requesting reconsideration or a reinvestigation.
- B) Complainant means any individual, including a person's duly authorized representative or an interested third party, public agency, or organization who files a written complaint alleging violation of federal or state laws or regulations, including allegations of unlawful discrimination in programs and activities funded directly by the state or receiving any financial assistance from the state.
- C) Complaint means a written and signed statement alleging a violation of a federal or state law or regulations, which may include an allegation of unlawful discrimination. If the complainant is unable to put the complaint in writing, due to conditions such as a disability or illiteracy, Avance shall assist the complainant in the filing of the complaint.

- D) Complaint Investigation means an administrative process used by the California or U. S. Department of Education or the local educational agency for the purpose of gathering data regarding the complaint.
- E) Local Educational Agency means a school Charter governing board or a local public or private agency which receives direct or indirect funding or any other financial assistance from the state to provide any school programs or activities or special education or related services.
- F) Complaint Procedure means an internal process used by Avance to process and resolve complaints.
- G) Compliance Agreement means an agreement or plan, following a finding or Charter noncompliance with state laws and regulations, which has been developed by Avance and approved by the California Department of Education to resolve a noncompliance issue.
- H) Days mean calendar days unless otherwise designated.
- I) Direct State Intervention means the steps taken by the California Department of Education to initially investigate complaints or effect compliance.
- J) Mediation means a problem-solving activity whereby a third party assists the parties in resolving the complaint. Participation in mediation by complainants filing complaints pursuant to federal law is voluntary, not mandatory.
- K) State Mediation Agreement means a written, voluntary agreement, approved by the California Department of Education, which is developed by the local agency and the complainant to the dispute, which resolves the allegations of the complaint.

## **Formal Complaint Procedures**

Any individual, public agency or organization may file a written complaint, alleging a matter which, if true, would constitute a violation by Avance of federal or state laws or regulations governing the programs as well as allegations of unlawful discrimination identified in the General Information section of this document. The complaint will be processed in the following manner:

### A. Submission

The complainant will submit a written complaint to:

Guillermo Gutierrez, Principal  
Academia Avance  
115 N Avenue 53, Los Angeles, CA 90042  
Telephone: (323)230-7270

This person/office shall be considered the representative of Avance for purposes of receiving and coordinating responses to complaints and correspondence related to this policy. Avance ensures the representative assigned to investigate complaints is knowledgeable about the laws/programs that he/she is assigned to investigate and ensures compliance. A complainant who makes a verbal complaint shall be referred to the administrator's designee who will assist any person with a disability or who is illiterate in the preparation of a written complaint. Only a complaint with the original signature will be processed. A complaint received by facsimile or electronic mail will not be accepted.

Avance will provide an opportunity for complainants and/or representatives to present relevant information. 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.

Avance will provide the investigator with access to records and/or other information related to the allegation in the complaint, or to otherwise fail to refuse or 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.

The complaint procedures shall be disseminated on an annual basis to students, employees, parent/guardians, advisory committees, and other interested parties.

### B. Receipt and Referral

The administrator/designee will acknowledge receipt of the complaint within five calendar days and will review the complaint to determine whether it meets the criteria for filing under the procedures or falls within the exceptions listed in the General Information section.

After the complaint is referred to the appropriate office, the designee who is knowledgeable about the laws/programs shall:

1. Provide the complainant with a copy of Avance policy and appeal procedures advising complainant of those instances when a complaint may be filed directly with the state superintendent of public instruction or an appropriate civil agency.
2. Determine whether the complainant and Avance representative will participate in mediation to resolve the complaint prior to formal investigation.
3. If the complainant agrees to the mediation, he/she must be informed that he/she may at any time terminate the mediation process and proceed directly to an investigation. Mediation may not extend the time line for investigation and resolution to the complaint unless the complainant agrees, in writing to the extension.
4. Obtain an extension of time, if appropriate, in order to conduct the mediation.
5. Determine whether a discrimination complaint has been filed within six months of the last occurrence or when knowledge of the complaint was first obtained.
6. Confidentiality of complaints alleging discrimination will be observed to the maximum extent possible.
7. Deny the discrimination complaint if it has not been filed in a timely manner, and notify the complainant of his/her right to appeal to the state superintendent of public instruction for an extension of time in which to file the complaint.

## ***Resolution of the Complaint***

Each complaint shall be investigated by the Avance office and shall be resolved within sixty calendar days of the receipt of the written complaint unless the complainant agrees in writing to an extension of time. Avance shall:

1. Adhere to a thirty-day timeline to prepare the final report and to request additional information if necessary.
2. Provide an opportunity for the complainant and/or the complainant's representative and Avance's representative to present information that is relevant to the complaint during the meditative or investigative process.
3. Obtain statements from other individuals who were witnesses to the alleged violation or who can provide relevant information concerning the alleged violation.
4. Review documents that may provide information relevant to the alleged violation. When necessary, request clarification on specific issues of the complaint from other Avance offices.
5. Prepare a written report of the investigative findings. This report should be based on evidence gathered and should include corrective action(s), if any, suggested resolution(s), the rationale for the findings along with supporting documentation and conclusion of law.
6. Write the report in English and in the language of the complainant shall be sent to the complainant within 60 calendar days of receipt of the complaint. Once again, provide the assurance that Avance will not tolerate retaliation against the complainant for opposing Avance's actions, reporting, or threatening to report such actions or for the complainant's participation in an investigation of Avance's actions.
7. Forward draft of written report and provide copies to the complainant and to the appropriate administrator/designee, no later than ten days following the disposition of the complaint. This report provided to the complainant should include the complainant's right to appeal Avance's decision. Avance's decisions regarding programs listed in the General Information Section may be appealed within fifteen (15) days to the Educational Equity Compliance Office and/or to the California Department of Education.

## ***Appeals—Academia Avance***

Appeals to Avance decisions involving allegations of discrimination/harassment may be appealed within fifteen (15) days. The complainant shall specify the reason(s) for appealing the decision and include a copy of the Avance decision. Avance will provide the investigator with access to records and/or other information related to the allegation in the complaint. A final written letter of findings will be provided to the complainant of the disposition of the complainant and rationale for the disposition.

## ***Appeals—California Department of Education***

Appeals of decisions regarding programs and allegations of alleged discrimination/harassment listed in this document (found in the General Information section) may be appealed to the California Department of Education by filing a signed written appeal within fifteen days after receiving the Avance decision. A person who alleges that he or she is a victim of discrimination may not seek civil remedies until at least sixty days after the filing of an appeal with California Department of Education.

The sixty-day moratorium imposed by Section 262.3 (d) of the Education Code does not apply to injunctive relief and is applicable only if Avance has appropriately, and in a timely manner, apprised the complainant of his or her right to file a complaint. (Extensions for filing such appeals may be granted, in writing, by the California Department of Education for good cause). These appeals should be sent to:

California Department of Education  
State Superintendent of Public Instruction  
1430 N Street, Sacramento, CA 95814

## ***Civil Remedies***

Pursuant to California Education Code (Section 262.3), persons who have filed a complaint with an educational institution are advised and civil law remedies may be pursued through local, state, or federal agencies, offices, or private/public attorney. The U.S. Department of Education, Office of Civil Rights, enforces compliance with Section 504, Title II of the ADA, Title VI, and Title IX and may be contacted for assistance with complaints relating to these laws and their regulations.