



**EMPOWER CHARTER SCHOOL
UNIFORM COMPLAINT PROCEDURE
Policy #1002-2**

The Board of Trustees (“Board”) of Empower Charter School (“Charter”) is committed to compliance with applicable state and federal laws and regulations governing educational programs. Most issues are best handled informally, and the Board encourages the early resolution of complaints at the site level whenever possible. If you have a concern, you can always come and talk to the Executive Director or his/her designee. If you find that for some reason this informal resolution is not adequate, you can follow our formal complaint policy and procedure set out herein.

The Charter will investigate any complaints alleging failure to comply with applicable laws, and will seek to resolve those complaints in accordance with the Charter’s uniform complaint procedures set out herein. The Charter will use the formal complaint procedure to provide a uniform system of complaint processing for the following types of complaints:

(1) Any complaints alleging unlawful discrimination, harassment, intimidation or bullying in the Charter’s programs and activities based on actual or perceived race or ethnicity, color, ancestry, national origin, nationality, ethnic group identification, age, religion, marital or parental status, mental or physical disability, sex or sexual orientation, gender, gender identity, or gender expression; the perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics.

(2) Any complaints regarding the Charter’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 or federal laws in adult educational programs, consolidated categorical aid programs, migrant education, career technical and technical education training programs, child and development programs, child nutrition programs and special education programs.

The Board prohibits any form of retaliation against any complainant in the complaint process. Participation in the complaint process shall not in any way affect the status, grades or work assignments of any student.

In investigating complaints, the confidentiality of the parties involved and the integrity of the process shall be protected. As appropriate, the Executive Director or designee may keep the identity of a complainant confidential to the extent that the investigation of the complaint is not obstructed, or as otherwise permitted by law.



PROCEDURAL REQUIREMENTS

Compliance Officer(s)

The following compliance officer(s) shall receive and investigate complaints and shall ensure the Charter's compliance with law:

Demi Brown
Empower Charter School
2230 East Jewett Street
San Diego, CA 92111
(858) 292-1304

The Compliance Officer or designee shall ensure that employees designated to investigate complaints are knowledgeable about the laws and programs for which they are responsible. Such employees may have access to legal counsel as determined by the Compliance Officer or designee.

Notifications

The Compliance Officer or designee shall annually provide written notification of the Charter's uniform complaint procedures to students, employees, parents/guardians, any applicable advisory committees, and other interested parties. If 15 percent or more of the students enrolled at the Charter speak a single primary language other than English, this policy and the notice shall be translated into that language.

The notice shall:

1. Identify the person(s), position(s), or unit(s) responsible for receiving complaints;
2. Include information about complaints that may be related to pupil fees, pursuant to the requirements of Section 1, Article 5.5 of Title 2 of the Education Code;
3. Advise the complainant of any civil law remedies that may be available to him/her under state or federal discrimination laws, if applicable;
4. Advise the complainant of the appeal process, including the complainant's right to take a complaint directly to the California Department of Education (CDE) or to pursue remedies before civil courts or other public agencies; and
5. Include statements that:



- a. The Charter is primarily responsible to ensure compliance with applicable state and federal laws and regulations governing education programs;
- b. The complaint review shall be completed within 60 calendar days from the date of receipt of the complaint unless the complainant agrees in writing to an extension of the timeline;
- c. A complaint alleging unlawful discrimination, harassment, intimidation or bullying must be filed not later than six months from the date it occurred or six months from the date the complainant first obtains knowledge of the facts of the alleged discrimination, harassment, intimidation or bullying;
- d. The complainant has a right to appeal the Charter's decision to the CDE by filing a written appeal within 15 calendar days of receiving the Charter's decision;
- e. The appeal to the CDE must include a copy of the complaint filed with the Charter and a copy of the Charter's decision; and
- f. Copies of the Charter's uniform complaint procedures are available free of charge.

Procedures

All complaints shall be investigated and resolved within 60 calendar days of the Charter's receipt of the complaint.

The Compliance Officer or designee shall maintain a record of each complaint and subsequent related actions, including all information required for compliance with 5 CCR 4631 and 4633.

All parties involved in the 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.

1. Step 1: Filing of Complaint

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

A complaint alleging unlawful discrimination, harassment, intimidation or bullying 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. The complaint shall be initiated no later than six (6) months from the date when the alleged discrimination, harassment, intimidation or bullying occurred, or six months from the date when the complainant first obtained knowledge of



the facts of the alleged discrimination, harassment, intimidation or bullying. Upon written request by the complainant, the Compliance Officer or designee may choose to extend the filing period for up to 90 calendar days.

The complaint shall be presented to the Compliance Officer who shall maintain a log of complaints received, providing each with a date stamp. Complaints related to pupil fees for participation in educational activities may also be presented to the school's Executive Director, if that person is not the Compliance Officer. Complaints related to pupil fees for participation in educational activities may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance with the requirements of Education Code sections 49010 *et seq.* (Pupil Fees).

If a complainant is unable to put a complaint in writing due to conditions such as illiteracy or other disabilities, Charter staff shall assist him/her to file the complaint.

2. **Step 2: Mediation**

Within 10 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 does not extend the Charter's 60-day timeline for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time.

3. **Step 3: Investigation of Complaint**

Within 15 business days of receiving the complaint, the compliance officer shall provide the complainant and/or his/her representative an opportunity to present the complaint and any evidence, or information leading to evidence, orally, to support the allegations in the complaint. The compliance officer also shall collect all documents and interview all witnesses with information pertinent to the complaint.

A complainant's refusal to provide the Charter's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation or engaging in any other obstruction of the investigation may result in the dismissal of the complaint because of lack of evidence to support the allegation; provided,



however, that complaints permissibly made anonymously shall be investigated by the Charter to the extent possible without participation by the complainant.

In accordance with law, the Charter shall provide the investigator with access to records and other information related to the allegation in the complaint and shall not in any way obstruct the investigation. Failure or refusal to cooperate in 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.

4. **Step 4: Response**

Within 30 days of receiving the complaint, the compliance officer shall prepare and send to the complainant a written response of the Charter's investigation and decision, as described in Step #5 below. If the complainant is dissatisfied with the compliance officer's decision, he/she may, within five days, file his/her complaint in writing with the Board.

The Board may consider the matter at its next regular Board meeting or at a special Board meeting convened in order to meet the 60 calendar day total time limit within which the complaint must be answered. The Board may also decide not to hear the complaint, in which case the compliance officer's decision shall be final.

If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 60 calendar day of the Charter initially receiving the complaint or within the time period that has been specified in a written agreement with the complainant.

5. **Step 5: Final Written Decision**

The Charter's decision shall be in writing and sent to the complainant.

The Charter's decision shall be written in English and in the primary language of the complainant whenever required by law.

For all complaints, the decision shall include:

1. The findings of fact based on the 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; and
6. Notice of the complainant's right to appeal the Charter's decision within 15 calendar days to the CDE, and procedures to be followed for initiating such an appeal.



In addition, any decision on a complaint of discrimination, harassment, intimidation or bullying 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.

If the investigation of a complaint results in discipline to a student or an employee, the decision shall simply state that effective action was taken and that the student or employee was informed of appropriate 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 Charter shall provide a remedy to all affected students and parents/guardians, which, where applicable, shall include reasonable efforts to ensure full reimbursement to them.

6. Appeals to the California Department of Education

If dissatisfied with the Charter's decision, the complainant may appeal in writing to the CDE. The complainant shall file his/her appeal within 15 calendar days of receiving the Charter's decision and the appeal shall specify the basis for the appeal of the Charter's 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 the Charter's decision.

Upon notification by the CDE that the complainant has appealed the Charter's decision, the Compliance 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 the Charter, 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 the parties and gathered by the investigator;
5. A report of any action taken to resolve the complaint;
6. A copy of the Charter's complaint procedures; and
7. Other relevant information requested by CDE.

The CDE may directly intervene in the complaint without waiting for action by the Charter when one of the conditions listed in 5 CCR 4650 exists, including when the Charter has not taken action within 60 calendar days of the date the complaint was filed with the Charter. A direct complaint to the CDE must identify the basis for direct filing of the complaint, which must include clear and convincing evidence that supports such a basis.



7. **Civil Law Remedies**

A complainant may pursue available civil law remedies outside the Charter'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 complaints alleging unlawful discrimination, harassment, intimidation or bullying based on state law, a complainant shall wait until 60 calendar days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies, provided the Charter has appropriately and in a timely manner apprised the complainant of his/her right to file a complaint in accordance with 5 CCR 4622. The moratorium does not apply to injunctive relief and to discrimination based on federal law.