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## Universal Complaint Policy

Cabrillo Point Academy recognizes that the Charter School has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs. The Board encourages early resolution of complaints whenever possible. To resolve complaints which may require a more formal process, the Board adopts the uniform system of complaint processes specified in 5 CCR 4600-4670 and the accompanying administrative regulation.

The purpose of the Cabrillo Point Academy Governing Board approving this Universal Complaint Policy is to accomplish the following:

1. Identify the Complaints Subject to the Universal Complaint Policy
2. Establish the Alternative Dispute Resolution Process
3. Establish the Prohibition of Retaliation
4. Identify the Maintenance of Universal Complaints
5. Identify how Complaints not Subject to Universal Complaint Policy are Handled
6. Identify the Compliance Officers
7. Outline the Notification Process of the Universal Complaint Process
8. Outline the Cost for Copies of the Charter School's UCP
9. Outline the Charter School's Responsibilities
10. Outline the Procedures for Filing of Complaints
11. Outline the Procedures for Mediation
12. Outline the Procedures for Investigating a Complaint
13. Outline the Procedures for the Report of Findings
14. Outline the Procedures for Notice of the Final Written Investigation Report
15. Outline the Corrective Actions
16. Outline the Process for Appeals to the California Department of Education

**1. Complaints Subject to the Universal Complaint Policy:** The Charter School's uniform complaint procedures (UCP) shall be used to investigate and resolve the following complaints:

- Any complaint alleging the Charter School violation of applicable state or federal law or regulations governing adult education programs, After School Education and Safety programs, agricultural career technical education, career technical and technical education and technical training programs, child care and development programs, compensatory education, consolidated categorical aid programs, English learner programs, federal education programs in Title I-VII, migrant education, Regional Occupational Centers and Programs, school safety plans, special education programs, State Preschool Programs, Tobacco-Use Prevention Education programs, and any other Charter School-implemented program which is listed in Education Code section 33315(a)(1).

- Any complaint alleging the occurrence of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) against any student, employee, or other person participating in the Charter School programs and activities, including, but not limited to, those programs or activities funded directly by or that receive or benefit from any state financial assistance, based on the person's actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, immigration status, ethnic group identification, age, religion, marital status, pregnancy, 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, Government Code 11135, or Penal Code 422.55, or based on his/her association with a person or group with one or more of these actual or perceived characteristics (5 CCR 4610)
- Any complaint alleging the Charter School noncompliance with the requirement to provide reasonable accommodation to a lactating student at a school event or location to express breast milk, breastfeed an infant child, or address other breastfeeding-related needs of the student (Education Code 222)
- Any complaint alleging the Charter School noncompliance with the prohibition against requiring students to pay fees, deposits, or other charges for participation in educational activities (5 CCR 4610)
- Any complaint alleging the Charter School noncompliance with legal requirements related to the implementation of the local control and accountability plan (Education Code 52075)
- Any complaint, by or on behalf of any student who is a foster youth, alleging noncompliance with any legal requirement applicable to the student regarding placement decisions, the responsibilities of the Charter School's educational liaison to the student, the award of credit for coursework satisfactorily completed in another school or district, school transfer, or the grant of an exemption from Board-imposed graduation requirements (Education Code 48853, 48853.5, 49069.5, 51225.1, 51225.2)
- Any complaint, by or on behalf of a homeless student as defined in 42 USC 11434a, a former juvenile court school student, or a child of a military family as defined in Education Code 49701 who transfers into the Charter School after his/her second year of high school, alleging the Charter School noncompliance with any requirement applicable to the student regarding the award of credit for coursework satisfactorily completed in another school or the Charter School or the grant of an exemption from Board-imposed graduation requirements (Education Code 51225.1, 51225.2)
- Any complaint alleging the Charter School noncompliance with the requirements of Education Code 51228.1 and 51228.2 that prohibit the assignment of a student in grades 9-12 to a course without educational content for more than one week in any semester or to a course the student has previously satisfactorily completed, without meeting specified conditions (Education Code 51228.3)
- Any complaint alleging retaliation against a complainant or other participant in the complaint process or anyone who has acted to uncover or report a violation subject to this policy
- Any complaint about the Charter School's safety plan (Education Code 32289)

- Any complaint of a failure to provide Lesbian, Gay, Bisexual, Transgender and Questioning resources (Education Code 234.1)

**Retaliation:** The Charter School shall protect all complainants from retaliation. In investigating complaints, the confidentiality of the parties involved shall be protected as required by law. For any complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the Executive Director or designee shall keep the identity of the complainant, and/or the subject of the complaint if he/she is different from the complainant, confidential when appropriate and as long as the integrity of the complaint process is maintained.

- 2. Maintenance of Universal Complaints:** The Executive Director or designee shall maintain records of all UCP complaints and the investigations of those complaints in accordance with applicable law and the Charter School policy.

The Executive Director or designee shall provide training to the Charter School staff to ensure awareness and knowledge of current law and related requirements, including the steps and timelines specified in this policy and the accompanying administrative regulation.

- 3. Complaints not Subject to Universal Complaint Policy:** There are many complaints that are not subject to the UCP. In those cases, the Charter School shall refer the non-UCP allegation to the appropriate staff or agency and shall investigate and, if appropriate, resolve the UCP-related allegation(s) through the Charter School's UCP. Non-Universal Complaint Policy Complaints:

- 4. Compliance Officers:** The Charter School designates the individual(s) identified below as the employee(s) responsible for coordinating the Charter School's response to complaints and for complying with state and federal civil rights laws. The individual(s) are also listed in the Whistleblower Policy as the responsible employee(s) to handle complaints regarding unlawful discrimination (such as discriminatory harassment, intimidation, or bullying). The individual(s) shall receive and coordinate the investigation of complaints and shall ensure compliance with law.

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Phone: (619) 749-1928  
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The compliance officer who receives a complaint may assign another compliance officer to investigate and resolve the complaint. The compliance officer shall promptly notify the complainant and respondent, if applicable, if another compliance officer is assigned to the complaint.

In no instance shall a compliance officer be assigned to a complaint in which he/she has a bias or conflict of interest that would prohibit him/her from fairly investigating or resolving the complaint. Any complaint against a compliance officer or that raises a concern about the compliance officer's ability to investigate the complaint fairly and without bias shall be filed with the Executive Director or designee who shall determine how the complaint will be investigated.

The Executive Director or designee shall ensure that employees assigned to investigate and resolve complaints receive training and are knowledgeable about the laws and programs at issue in the complaints to which they are assigned. Training provided to such employees shall cover current state and federal laws and regulations governing the program, applicable processes for investigating and resolving complaints, including those alleging unlawful discrimination (such as discriminatory

harassment, intimidation, or bullying), applicable standards for reaching decisions on complaints, and appropriate corrective measures. Assigned employees may have access to legal counsel as determined by the Executive Director or designee.

The compliance officer or, if necessary, any appropriate administrator shall determine whether interim measures are necessary during and pending the result of an investigation. If interim measures are determined to be necessary, the compliance officer or the administrator shall consult with the Executive Director, the Executive Director's designee, or, if appropriate, the regional or department director to implement one or more interim measures. The interim measures shall remain in place until the compliance officer determines that they are no longer necessary or until the Charter School issues its final written decision, whichever occurs first.

- 5. Notifications:** The Charter School's UCP policy and administrative regulation shall be posted in all school offices, including staff lounges. (Education Code 234.1)

The Executive Director or designee shall annually provide written notification of the Charter School's UCP to students, employees, parents/guardians of students, advisory committee members, appropriate school officials or representatives, and other interested parties. The notification shall include information regarding the prohibition of discrimination, harassment, intimidation, and bullying; unlawful student fees; local control and accountability plan (LCAP) requirements; and requirements related to the educational rights of foster youth, homeless students, former juvenile court school students, and children of military families. (Education Code 262.3, 48853, 48853.5, 49010-49013, 49069.5, 51225.1, 51225.2, 52075; 5 CCR 4622)

- 6. Cost for Copies of the Charter School's UCP:** Copies of the Charter School's UCP are available free of charge.

The annual notification, complete contact information of the compliance officer(s), and information related to Title IX as required pursuant to Education Code 221.61 shall be posted on the Charter School website and may be provided through the Charter School-supported social media, if available.

The Executive Director or designee shall ensure that all students and parents/guardians, including students and parents/guardians with limited English proficiency, have access to the relevant information provided in the Charter School's policy, regulation, forms, and notices concerning the UCP.

If 15 percent or more of students enrolled in the Charter School speak a single primary language other than English, the Charter School's policy, regulation, forms, and notices concerning the UCP shall be translated into that language, in accordance with Education Code 234.1 and 48985. In all other instances, the Charter School shall ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

- 7. The Charter School's Responsibilities:** All UCP-related complaints shall be investigated and resolved within 60 calendar days of the Charter School's receipt of the complaint unless the complainant agrees in writing to an extension of the timeline. (5 CCR 4631) For complaints alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the Charter School shall inform the respondent when the complainant agrees to an extension of the timeline for investigating and resolving the complaint.

The compliance officer shall maintain a record of each complaint and subsequent related actions, including steps taken during the investigation and 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 and when a decision or ruling is made. However, the compliance officer shall keep all complaints or allegations of retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) confidential except when disclosure is necessary to carry out the investigation, take subsequent corrective action, conduct ongoing monitoring, or maintain the integrity of the process. (5 CCR 4630, 4964)

All complainants shall be protected from retaliation.

- 8. Filing of Complaints:** 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.

All complaints shall be filed in writing and signed by the complainant. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, the Charter School staff shall assist him/her in the filing of the complaint. (5 CCR 4600)

Complaints shall also be filed in accordance with the following rules, as applicable:

- A complaint alleging violation of applicable state or federal law or regulations governing the programs specified in the accompanying Board policy (item #1 of the section "Complaints Subject to the UCP") may be filed by any individual, public agency, or organization. (5 CCR 4630)
- Any complaint alleging noncompliance with law regarding the prohibition against requiring students to pay student fees, deposits, and charges or any requirement related to the LCAP may be filed anonymously if the complaint provides evidence, or information leading to evidence, to support an allegation of noncompliance. A complaint about a violation of the prohibition against the charging of unlawful student fees may be filed with the principal of the school or with the Executive Director or designee. However, any such complaint shall be filed no later than one year from the date the alleged violation occurred. (Education Code 49013, 52075; 5 CCR 4630)
- A complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) may be filed only by a person who alleges that he/she personally suffered the unlawful discrimination or by a person who believes that an individual or any specific class of individuals has been subjected to it. The complaint shall be initiated no later than six months from the date when the alleged unlawful discrimination occurred, or six months from the date when the complainant first obtained knowledge of the facts of the alleged unlawful discrimination. The time for filing may be extended for up to 90 days by the Executive Director or designee for good cause upon written request by the complainant setting forth the reasons for the extension. (5 CCR 4630)

When a complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) is filed anonymously, the compliance officer shall pursue an investigation or other response as appropriate, depending on the specificity and reliability of the information provided and the seriousness of the allegation.

- When the complainant of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) or the alleged victim, when he/she is not the complainant, requests confidentiality, the compliance officer shall inform him/her that the request may limit the Charter School's ability to investigate the conduct or take other necessary action. When honoring a request for confidentiality, the Charter School shall nevertheless take all reasonable steps to investigate and resolve/respond to the complaint consistent with the request.

**9. Mediation:** Within three business days after the compliance officer receives the complaint, he/she may informally discuss with all the parties the possibility of using mediation. Mediation shall be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint involving an allegation of sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. If the parties agree to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the compliance officer shall ensure that all parties agree to make the mediator a party to relevant confidential information. The compliance officer shall also notify all parties of the right to end the informal process at any time.

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. If mediation is successful and the complaint is withdrawn, then the Charter School shall take only the actions agreed upon through the mediation. If mediation is unsuccessful, the Charter School shall then continue with subsequent steps specified in this administrative regulation.

**10. Investigation of Complaint:** Within ten business days after the compliance officer receives the complaint, the compliance officer shall begin an investigation into the complaint.

Within one business day of initiating the investigation, the compliance officer shall provide the complainant and/or his/her representative with the opportunity to present the information contained in the complaint to the compliance officer and shall notify the complainant and/or his/her representative of the opportunity to present the compliance officer with any evidence, or information leading to evidence, to support the allegations in the complaint. Such evidence or information may be presented at any time during the investigation.

In conducting the investigation, the compliance officer shall collect all available documents and review all available records, notes, or statements related to the complaint, including any additional evidence or information received from the parties during the course of the investigation. He/she shall individually interview all available witnesses with information pertinent to the complaint, and may visit any reasonably accessible location where the relevant actions are alleged to have taken place. At appropriate intervals, the compliance officer shall inform both parties of the status of the investigation. To investigate a complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the compliance officer shall interview the alleged victim(s), any alleged offenders, and other relevant witnesses privately, separately, and in a confidential manner. As necessary, additional staff or legal counsel may conduct or support the investigation.

A complainant's refusal to provide the Charter School's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or 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. Similarly, a respondent's refusal to provide the Charter School's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or engagement in any other obstruction of the investigation may result in a finding, based on evidence collected, that a violation has occurred and in the imposition of a remedy in favor of the complainant. (5 CCR 4631)

In accordance with law, the Charter School 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 of the Charter School to cooperate in the investigation may result in a finding based on evidence collected that a violation has occurred and in the imposition of a remedy in favor of the complainant. (5 CCR 4631)

The compliance officer shall apply a "preponderance of the evidence" standard in determining the veracity of the factual allegations in a complaint. This standard is met if the allegation is more likely to be true than not.

## **11. Report of Findings:**

- **OPTION 1:** Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant, and respondent if there is one, a written Investigation Report, as described in the section "Investigation Report" below, within 60 calendar days of the Charter School's receipt of the complaint. (5 CCR 4631)
- **OPTION 2:** Unless extended by written agreement with the complainant, a final decision shall be sent to the complainant within 60 calendar days of the Charter School's receipt of the complaint. Within 30 calendar days of receiving the complaint, the compliance officer shall prepare and send to the complainant a written Investigation Report, as described in the section "Investigation Report" below. If the complainant is dissatisfied with the compliance officer's decision, he/she may, within five business 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-day time limit within which the complaint must be answered. When required by law, the matter shall be considered in closed session. The Board may 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 days of the Charter School's initial receipt of the complaint or within the time period that has been specified in a written agreement with the complainant. (5 CCR 4631) In resolving any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying), the respondent also shall be sent the Charter School's decision and, in the same manner as the complainant, may file a complaint with the Board if dissatisfied with the decision.

**12. Investigation Report:** The Charter School's decision on how it will resolve the complaint shall be in writing and shall be sent to the complainant and respondent. (5 CCR 4631)

In consultation with the Charter School's legal counsel, information about the relevant part of a decision may be communicated to a victim who is not the complainant and to other parties who may be involved in implementing the decision or are affected by the complaint, as long as the privacy of the parties is protected. In a complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying), notice of the Charter School's decision to the alleged victim shall include information about any sanction to be imposed upon the respondent that relates directly to the alleged victim.

If the complaint involves a limited-English-proficient student or parent/guardian and the student involved attends a school at which 15 percent or more of the students speak a single primary language other than English, then the decision shall also be translated into that language. In all other instances, the Charter School shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

For all complaints, the Investigation Report shall include: (5 CCR 4631)

- The findings of fact based on the evidence gathered. In reaching a factual determination, the following factors may be taken into account:
  - Statements made by any witnesses
  - The relative credibility of the individuals involved
  - How the complaining individual reacted to the incident
  - Any documentary or other evidence relating to the alleged conduct
  - Past instances of similar conduct by any alleged offenders
  - Past false allegations made by the complainant
- The conclusion(s) providing a clear determination as to each allegation as to whether the charter school is in compliance with the relevant law
- If the school finds merit in the complaint, corrective actions including in the case of complaints related to Education Code section 33315 subsections (a)(1)(I), (J), (K) and (L), or as otherwise required by law, a remedy to all affected pupils, parents and guardians. With respect to complaints relating to pupil fees, corrective actions shall include a remedy that comports with Education Code section 49013 and 5 C.C.R. section 4600(t).
- Notice of the complainant's right to appeal the School's Investigative Report to the California Department of Education, except when the School has used its local uniform complaint procedures to address a complaint not described in 5 C.C.R. section 4610(b)
- The procedures to be followed for initiating an appeal to the Department of Education

The decision may also include follow-up procedures to prevent recurrence or retaliation and for reporting any subsequent problems.

**Corrective Actions:** When a complaint is found to have merit, the compliance officer shall adopt any appropriate corrective action permitted by law. Appropriate corrective actions that focus on the Charter



School's environment may include, but are not limited to, actions to reinforce the Charter School's policies; training for faculty, staff, and students; updates to school policies; or school climate surveys.

**13. Appeals to the California Department of Education:** Except for complaints that are not described in 5 C.C.R. section 4610(b), any complainant who is dissatisfied with the Charter School's final written Investigation Report of a complaint regarding any specified federal or state educational program subject to the UCP may file an appeal in writing with CDE within 30 calendar days of receiving the Charter School's decision. (Education Code 222, 48853, 48853.5, 49013, 49069.5, 51223, 51225.1, 51225.2, 51228.3, 52075; 5 CCR 4632)

The complainant or respondent shall specify the basis for the appeal of the Investigation Report, including at least one of the following: 1) the School failed to follow its complaint procedures; and/or 2) relative to the allegations of the complaint, the Investigation Report lacks material findings of fact necessary to reach a conclusion of law; and/or 3) the material findings of fact in the Investigation Report are not supported by substantial evidence; and/or 4) the legal conclusions in the Investigation Report is inconsistent with the law and/or 5) in a case where the School found noncompliance, the corrective actions fail to provide a proper remedy. The appeal shall be sent to CDE with a copy of the original locally filed complaint and a copy of the Charter School's decision in that complaint. (5 CCR 4632)

Upon notification by CDE that the complainant or respondent has appealed the Charter School's decision, the Executive Director or designee shall forward the following documents to CDE: (5 CCR 4633)

- A copy of the original complaint
- A copy of the written Investigation Report
- 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
- A report of any action taken to resolve the complaint
- A copy of the Charter School's uniform complaint procedures
- Other relevant information requested by CDE