

# Holly Drive Leadership Academy

## Uniform Complaint Policy



Adopted October 12, 2018  
Revised March 9, 2023



**Holly Drive Leadership Academy** *Serving Grades K-8*

4801 Elm Street - San Diego, CA 92102 - Tel: (619) 266-7333 - Fax: (619) 266-2540

## Scope

Holly Drive Leadership Academy (“HDLA”) policy is to comply with applicable federal and state laws and regulations. HDLA 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. HDLA adopts the following complaint procedure 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, mental disability, physical 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 HDLA program or activity.
- (2) Complaints of violations of state or federal law and regulations governing programs including but not limited to: Adult Education Programs, After School Education and Safety Programs, Agricultural Vocational Education Programs, American Indian Education Centers and Early Child Education Program Assessments, Consolidated Categorical Aid Programs; Career Technical and Technical Education and Career Technical and Technical Training Programs, Child Care and Development Programs, Child Nutrition Programs; Special Education Programs; Foster and Homeless Youth Services; Migrant Education Programs, Every Student Succeeds Act / No Child Left Behind Act (2001) Programs (Titles I-VII) including improving academic achievement, compensatory education, limited English proficiency, and migrant education, Regional Occupational Centers and Programs, State Preschool, Bilingual Education, Economic Impact Aid, and Tobacco-Use Prevention Education.
- (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 the Charter School finds merit in a pupil fees complaint the Charter School shall provide a remedy to all affected pupils, parents, and guardians that, where applicable, includes reasonable efforts by the Charter School 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 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.

(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

HDLA acknowledges and respects every individual's right 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. HDLA cannot guarantee anonymity of the complainant. This includes keeping the identity of the complainant confidential. However, HDLA will attempt to do so as appropriate. HDLA 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 Principal or designee on a case-by-case basis.

HDLA 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 Officers

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

Alysia Smith  
Principal  
Holly Drive Leadership Academy  
4801 Elm Street  
San Diego, CA 92102  
619-266-7333

The Board of Directors shall ensure that individuals designated to investigate complaints are knowledgeable about the laws and programs for which they are responsible. Designated individuals may have access to legal counsel as determined by the Board.

#### Notifications

The Principal or his/her designee shall annually provide notification of HDLA's Uniform Complaint Procedures to employees, students, parents and/or guardians, advisory committees, school officials and other interested parties. The notice shall be in English, and when necessary, in the primary language, pursuant to Education Code Section 48985, if fifteen (15) percent or more of the pupils enrolled in the Charter School speak a single primary language other than English. The Principal or his/her designee shall make available copies of HDLA's Uniform Complaint Procedures free of charge. The annual notice shall include the following:

- (a) A statement that HDLA 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 HDLA's decision to the CDE by filing a written appeal within 15 days of receiving HDLA'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 Section 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 that allege that HDLA has violated federal or state laws or regulations governing educational programs. The Compliance Officer 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 with the Compliance Officer using the form attached hereto as Exhibit A, or in the case of an alleged violation of the Student Fees Policy, the form attached hereto as Exhibit B. 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 or Principal, 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, HDLA staff shall assist him/her in the filing of the complaint.

- Step 2: Resolution Meeting

Within five (5) business days of receiving the complaint, the Compliance Officer may informally discuss with the complainant the possibility of engaging in a Resolution Meeting. If the complainant agrees to a Resolution Meeting, the member of the Board of Directors shall make arrangements for the same.

Before initiating the Resolution Meeting of an unlawful discrimination, harassment, intimidation or bullying complaint, the Compliance Officer shall ensure that all parties agree to make the Principal a party to related confidential information. If the Resolution Meeting does not resolve the problem, the Compliance Officer shall proceed with his/her investigation of the complaint.

The use of a Resolution Meeting shall not extend HDLA'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 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 the Compliance Officer 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.

HDLA'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: Response

Unless extended by written agreement with the complainant, the Compliance Officer shall prepare and send to the complainant a written report of HDLA's investigation and decision, as described in step 5, below, within sixty (60) days of HDLA's receipt of the complaint. HDLA's decision shall be in writing and sent to the complainant.

- Step 5: Final Written Decision

HDLA'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 HDLA's decision within fifteen (15) days to the CDE 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; and,
- (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 HDLA'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

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

Upon notification by the CDE that the complainant has appealed HDLA'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 HTH, 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 HDLA's complaint procedures.
7. Other relevant information requested by the CDE.

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

Civil Law Remedies

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

Exhibit A

UNIFORM COMPLAINT PROCEDURE FORM – GENERAL USE

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: \_\_\_\_\_

Department of Alleged Violation: \_\_\_\_\_

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

\_\_\_\_\_ Child Nutrition Services

\_\_\_\_\_ Consolidated Categorical Programs

\_\_\_\_\_ Every Student Succeeds Act / No Child Left Behind Programs\_ Foster/Homeless Youth Services

\_\_\_\_\_ Local Control Funding Formula/Local Control and Accountability Plan

\_\_\_\_\_ Juvenile Court School Pupils \_\_\_\_\_ Pupil Fees \_\_\_\_\_ Special Education

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: \_\_\_\_\_ Age

\_\_\_\_\_ Ancestry

\_\_\_\_\_ Color

\_\_\_\_\_ Disability (Mental or Physical)

\_\_\_\_\_ Ethnic Group Identification

\_\_\_\_\_ Immigration Status

\_\_\_\_\_ Gender / Gender Expression /Gender Identity

\_\_\_\_\_ Genetic Information

\_\_\_\_\_ Marital Status

\_\_\_\_\_ Medical Condition

\_\_\_\_\_ Nationality

\_\_\_\_\_ National Origin

\_\_\_\_\_ Race or Ethnicity

\_\_\_\_\_ Religion

\_\_\_\_\_ Sex

\_\_\_\_\_ Sexual Orientation

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 HDLA 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:

Alysia Smith  
Principal  
Holly Drive Leadership Academy  
4801 Elm Street  
San Diego, CA 92102  
619-266-7333