

INTERNAL COMPLAINT PROCEDURES FOR COMPLAINTS RELATING TO SPECIAL EDUCATION

It is the policy of the **Barona Indian Charter School** (School) to maintain a positive and productive educational environment. The School is primarily responsible to ensure that it is compliant with all applicable federal and state special education laws and regulations. There are some circumstances, however, when parents/guardians or students over the age of 18 believe that a violation of federal or state special education law is occurring in the following areas: 1) violations of Part B of the IDEA, and regulations implementing Part B; or 2) violations of Part 30 of the Education Code and the related regulations; or 3) complaints that an LEA or other public agency has violated the terms of a settlement agreement relating to the provision of a free, appropriate public education (an allegation relating to an attorney fees provision in a settlement agreement is expressly excluded); 2) complaints that the LEA or other public agency has failed or refused to implement a due process hearing order to which that LEA or other public agency is subject; 3) complaints that a public agency, other than an LEA, fails or refuses to comply with a law or regulation applicable to that public agency as it pertains or relates to the provision of a free appropriate public education to individuals with disabilities; or 4) complaints that allege facts that indicate that physical safety concerns interfere with the provision of a free appropriate public education.

Additionally, the School shall not directly or indirectly use or attempt to use the official authority or influence of the School employee for the purpose of intimidating, threatening, coercing, or attempting to intimidate, threaten, or coerce, any person, including, but not limited to, a teacher, a provider of designated instruction and services, a paraprofessional, an instructional aide, a behavioral aid, a health aid, other educators or staff of the School, a private individual or entity under contract with the School, or a subordinate of the employee, for the purpose of interfering with the action of that person at any time, to assist a parent or guardian of a pupil with exceptional needs to obtain services or accommodations for that pupil.

If the parent/guardian/student has a complaint relating to an evaluation or plan under section 504 of the Rehabilitation Act of 1973 (“section 504 plan”), the parent/guardian/student may complain to the School’s Special Education Director. If that does not resolve the issue, the parent/guardian/student may make a formal complaint to the School’s section 504 designee the **Principal/Director**.

Filing a Complaint:

If the parent/guardian/student/organization believes that a violation of state or federal special education laws or regulations is occurring, and the issue is not resolved informally, the parent/guardian/student/organization may file a signed written complaint with the California Department of Education (CDE). All parties involved in the allegations will be notified when a complaint is filed, when a complaint meeting or hearing is scheduled and when a decision is made. If a complainant is unable to put a complaint in writing due to conditions such as illiteracy or a disability, the school staff will assist the person with filing the complaint.

The complaint filed must include the following: 1) a statement that a Local Education Agency (“LEA”) or other public agency has violated or failed to comply with any provision set forth above; 2) the facts on which the statement is based; 3) the signature and contact information for the complainant; and 4) if alleging violations with respect to a specific child: A) the name and address of the residence of the child; B) the name of the school the child is attending; C) in the case of a homeless child or youth, available contact information for the child, and the name of the school the child is attending; D) a description of the nature of the problem of the child, including facts relating to the problem; and E) a proposed resolution for the problem to the extent known and available to the party at the time the complaint is filed.

The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received in accordance with federal regulations. The party filing the complaint must forward a copy of the complaint to the LEA or public agency serving the child at the same time the party files the complaint with the CDE.

The state complaint procedures, investigations, and reports include those provisions set forth in 34 C.F.R. sections 300.151 through 300.153.

Refusal by the complainant to provide the investigator, at any level of the investigation, 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 lack of evidence to support the allegations.

Appeal of CDE’s Investigation Report

Within 30 days of the date of the CDE Investigation Report, either party may request reconsideration by the Superintendent of Public Instruction (SPI) or the SPI’s designee. The request for reconsideration shall specify and explain why: 1) relative to the allegation(s) of the complaint, the CDE Investigation Report lacks material findings of fact necessary to reach a conclusion of law; and/or 2) the material findings of fact in the CDE Investigation Report are not supported by substantial evidence; and/or 3) the legal conclusion in the CDE Investigation Report is inconsistent with the law; and/or 4) in a case in which the CDE found noncompliance, the required corrective actions fail to provide a proper remedy.

The CDE shall respond in writing to the request for consideration within 60 days of the receipt of the request.

Dissemination

The School will send to students, employees, parents or guardians of its students, school advisory committees, and other interested parties a notice of rights under this policy on an annual basis. Upon request, a copy of this policy will be made available free of charge and is also available on the School's website.

Adopted: February 14, 2022