Adopted/Ratified: 09/08/2022
Revision Date: 10/2/2026

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UNIFORM COMPLAINT POLICY AND PROCEDURES

Making Waves Academy ("MWA") complies with applicable federal and state laws and regulations. MWA 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 compliance and/or conducting investigations shall be knowledgeable about the laws and programs, which they are assigned to investigate.

Scope

This complaint procedure is adopted to provide a uniform system of complaint processing ("UCP") for the following types of complaints:

1. Complaints alleging unlawful discrimination, harassment, intimidation or bullying against any protected group on the basis of the actual or perceived characteristics of age, ancestry, color, mental disability, physical disability, ethnic group identification, immigration status, citizenship, gender expression, gender identity, gender, genetic information, nationality, national origin, race or ethnicity, religion, medical condition, marital status, sex, sexual orientation, or any combination of those characteristics, or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics or any combination of those characteristics in any MWA program or activity. Unlawful discrimination includes, but is not limited to, noncompliance with Education Code sections 243(a) or 244.

2. Complaints alleging a violation of state or federal law or regulation governing the following programs:

   - Accommodations for Pregnant, Parenting or Lactating Students;
   - Career Technical and Technical Education;
   - Career Technical and Technical Training Programs
   - Child Care and Development Programs;
   - Consolidated Categorical Aid Programs;
   - Education or graduation of Students in Foster Care, Students who are Homeless, former Juvenile Court Students now enrolled in a public school, Migratory Children and Children of Military Families;
   - Every Student Succeeds Act;
   - Migrant Child Education Programs;
   - and/or School Safety Plans.

3. Complaints alleging that a student 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 the charter school 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 students, or a student's parents/guardians, in violation of Education Code section 49011 and Section 5 of Article IX of the California Constitution, which require educational activities to be provided free of charge to all students without regard to their families' ability or willingness to pay fees or request special waivers. Pupil fees include:

i. A fee charged to a student 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 student 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 student is required to make to obtain materials, supplies, equipment or uniforms associated with an educational activity.

c. Complaints regarding pupil fees, local control and accountability plans ("LCAP"), or noncompliance with Education Code sections 243 or 244 only, may be filed anonymously (without an identifying signature) if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance with the respective applicable laws.

d. If MWA finds merit in a pupil fees complaint, or the California Department of Education ("CDE") finds merit in an appeal, MWA shall provide a remedy to all affected students, parents/guardians that, where applicable, includes reasonable efforts by MWA to ensure full reimbursement to all affected students and parents/guardians, subject to procedures established through regulations adopted by the state board.

e. Nothing in this Policy shall be interpreted to prohibit solicitation of voluntary donations of funds or property, voluntary participation in fundraising activities, or MWA and other entities from providing student prizes or other recognition for voluntarily participating in fundraising activities.

4. Complaints alleging noncompliance with the requirements governing the Local Control Funding Formula ("LCFF") or LCAP under Education Code sections 47606.5 and 47607.3, as applicable are subject to the UCP. If MWA adopts a School Plan for Student Achievement in addition to its LCAP, complaints of noncompliance with the requirements of the School Plan for Student Achievement under Education Code sections 64000, 64001, 65000, and 65001 shall also fall under this Policy.

Complaints alleging noncompliance regarding child nutrition programs established pursuant to Education Code sections 49490-49590 no longer fall under the UCP. Instead, they are governed by Title 7, Code of Federal Regulations ("C.F.R.") sections 210.19(a)(4), 215.1(a), 220.13(c), 225.11(b), 226.6(n), and 250.15(d) and Title 5, California Code of Regulations ("C.C.R.") sections 15580 - 15584.

Complaints alleging noncompliance regarding special education programs established pursuant to Education Code sections 56000-56865 and 59000-59300 no longer fall under the UCP. Instead, they are governed by the procedures set forth in 5 C.C.R. sections 3200-3205 and 34 C.F.R. sections 300.151-300.153.

MWA 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 practicable and as permitted by law) confidentiality of the parties, including but not limited to the identity of the complainant, and maintains the integrity of the process. MWA cannot assure anonymity or confidentiality of the complainant's identity. MWA may find it necessary to disclose information regarding the complaint/complainant to the extent required by law or necessary to carry out the investigation or proceedings, as determined by the Director of Data and Accountability or designee on a case-by-case basis. MWA shall take reasonable steps to protect complainants from retaliation.

Compliance Officer

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

Carmen Velarde, Director of Data and Accountability
4123 Lakeside Drive, Richmond, CA 94806
(510) 262-1511, compliance@mwacademy.org

The Director of Data and Accountability or designee shall ensure that the compliance officer(s) designated to investigate complaints are knowledgeable about the laws and programs for which they are responsible. The compliance officer may have access to legal counsel as determined by the Director of Data and Accountability or designee.

Should a complaint be filed against the Director of Data and Accountability, the compliance officer for that case shall be the President of the MWA Board of Directors.

Notifications

The Director of Data and Accountability or designee shall make available copies of this Policy free of charge. The annual notice of this Policy may be made available on MWA's website.

MWA shall annually provide written notification of MWA's UCP to employees, students, parents/guardians, advisory committees, school officials or representatives, and other interested parties as applicable.

The annual notice shall be in English. When necessary, under Education Code section 48985, if fifteen percent (15%) or more of the students enrolled in MWA speak a single primary language other than English, this annual notice will also be provided to the parent/guardian of any such students in that primary language.

The annual notice shall include the following:

1. A list of the types of complaints that fall under the scope of the UCP and the state and federal provisions that govern complaints regarding child nutrition programs and special education programs.
2. A statement clearly identifying any California State preschool programs that MWA is operating as exempt from licensing pursuant to Health and Safety Code section 1596.792(o) and corresponding Title 5 health and safety regulations, and any California State preschool programs that MWA is operating pursuant to Title 22 licensing requirements.
3. A statement that MWA is primarily responsible for compliance with federal and state laws and regulations.
4. A statement that a student enrolled in a public school shall not be required to pay a pupil fee for participation in an educational activity.
5. A statement identifying the title of the compliance officer, and the identity(ies) of the person(s) currently occupying that position, if known.
6. A statement that if a UCP complaint is filed directly with the CDE and the CDE determines that it merits direct intervention, the CDE shall complete an investigation and provide a written decision to the complainant within sixty (60) calendar days of receipt of the complaint, unless the parties have agreed to extend the timeline or the CDE documents exceptional circumstances and informs the complainant.
7. A statement that the complainant has a right to appeal MWA's decision to the CDE by filing a written appeal within thirty (30) calendar days of the date of MWA's Decision, except if MWA has used its UCP to address a complaint that is not subject to the UCP requirements.
8. A statement that a complainant who appeals MWA's decision on a UCP complaint to the CDE shall receive a written appeal decision within sixty (60) calendar days of the CDE's receipt of the appeal, unless extended by written agreement with the complainant or the CDE documents exceptional circumstances and informs the complainant.

9. A statement that if MWA finds merit in a UCP complaint, or the CDE finds merit in an appeal, MWA shall take corrective actions consistent with the requirements of existing law that will provide a remedy to the affected student and/or parent/guardian as applicable.
10. 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.
11. A statement that copies of MWA's UCP shall be available free of charge.

Procedures

The following procedures shall be used to address all complaints which allege that MWA has violated federal or state laws or regulations enumerated in the section "Scope," above. The compliance officer shall maintain a record of each complaint and subsequent related actions for at least three (3) calendar years.

All parties named 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, including a person's duly authorized representative or an interested third party, public agency, or organization may file a written complaint of alleged noncompliance or unlawful discrimination, harassment, intimidation or bullying pursuant to this Policy.

A complaint of discrimination, harassment, intimidation or bullying may be filed by an individual who alleges that that individual has personally suffered unlawful discrimination, harassment, intimidation or bullying or by one who believes any specific class of individuals has been subjected to unlawful discrimination, harassment, intimidation or bullying, or by a duly authorized representative who alleges that an individual student has been subjected to discrimination, harassment, intimidation, or bullying. An investigation of alleged discrimination, harassment, intimidation or bullying shall be initiated by filing a complaint no later than six (6) months from the date the alleged discrimination, harassment, intimidation or bullying occurred, or the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation or bullying unless the time for filing is extended by the Director of Data and Accountability or designee, upon written request by the complainant setting forth the reasons for the extension. Such extension by the Director of Data and Accountability or designee shall be made in writing. The period for filing may be extended by the Director of Data and Accountability or designee for good cause for a period not to exceed ninety (90) calendar days following the expiration of the six-month time period. The Director of Data and Accountability shall respond immediately upon a receipt of a request for extension.

All other complaints under this Policy shall be filed not later than one (1) year from the date the alleged violation occurred. For complaints relating to the LCAP, the date of the alleged violation is the date on which the MWA Board of Directors approved the LCAP or the annual update was adopted by MWA.

The complaint shall be presented to the compliance officer who shall maintain a log of complaints received, providing each with a code number and notation of date received.

Complaints filed pursuant to this Policy must be in writing and signed. A signature may be handwritten, typed (including in an email) or electronically generated. Only complaints regarding pupil fees or LCAP, or noncompliance with Education Code section 243 or 244 may be filed anonymously as set forth in this Policy. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, MWA staff shall assist the complainant in the filing of the complaint.

- **Step 2: Mediation**

Within three (3) business days of receiving the complaint, the compliance officer may informally discuss with the complainant the possibility of engaging in mediation with a neutral third-party. If the complainant agrees to mediation, the compliance officer shall make arrangements for this process.

Before initiating the mediation of a discrimination, harassment, intimidation or bullying complaint, the compliance officer shall ensure that all parties agree that the mediator must maintain confidentiality.

If the mediation process does not resolve the complaint to the satisfaction of the complainant, the compliance officer shall proceed with the investigation of the complaint.

The use of mediation shall not extend MWA'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 the complainant's representative to repeat the complaint orally.

The complainant and/or the complainant's representative shall have an opportunity to present 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 a complainant's failure or refusal to cooperate in the investigation or the complainant's 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.

MWA'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: Final Written Decision**

MWA shall issue an investigation report (the "Decision") based on the evidence. MWA's Decision shall be in writing and sent to the complainant within sixty (60) calendar days of MWA's receipt of the complaint unless the timeframe is extended with the written agreement of the complainant. MWA'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 providing a clear determination for each allegation as to whether MWA is in compliance with the relevant law.
3. Corrective actions, if MWA finds merit in the complaint and any are warranted or required by law.
4. Notice of the complainant's right to appeal MWA's Decision within thirty (30) calendar days to the CDE, except when MWA has used its UCP to address complaints that are not subject to the UCP requirements.
5. Procedures to be followed for initiating such an appeal.

If an employee is disciplined as a result of the complaint, the Decision shall simply state that effective action was taken and the employee was informed of MWA's expectations. The Decision shall not give any further information as to the nature of the disciplinary action except as required by applicable law.

Appeals to the CDE

If dissatisfied with the Decision, the complainant may appeal in writing to the CDE within thirty (30) calendar days of receiving the Decision. The appeal shall be accompanied by a copy of the complaint filed with MWA and a copy of the Decision. When appealing to the CDE, the complainant must specify and explain the basis for the appeal, including at least one of the following:

1. MWA failed to follow its complaint procedures.
2. Relative to the allegations of the complaint, MWA's Decision lacks material findings of fact necessary to reach a conclusion of law.
3. The material findings of fact in MWA's Decision are not supported by substantial evidence.
4. The legal conclusion in MWA's Decision is inconsistent with the law.
5. In a case in which MWA's Decision found noncompliance, the corrective actions fail to provide a proper remedy.

Upon notification by the CDE that the complainant has appealed the Decision, the Director of Data and Accountability or designee shall forward the following documents to the CDE within ten (10) calendar days of the date of notification:

1. A copy of the original complaint.
2. A copy of the Decision.
3. A copy of the investigation file, including but not limited to all notes, interviews, and documents submitted by the parties or gathered by the investigator.
4. A report of any action taken to resolve the complaint.
5. A copy of MWA's complaint procedures.
6. Other relevant information requested by the CDE.

If the CDE determines the appeal raises issues not contained in the local complaint, the CDE will refer those new issues back to MWA for resolution as a new complaint. If the CDE notifies MWA that its Decision failed to address an allegation raised by the complaint and subject to the UCP process, MWA will investigate and address such allegation(s) in accordance with the UCP requirements and provide the CDE and the appellant with an amended Decision addressing such allegation(s) within twenty (20) calendar days of the CDE's notification. The amended Decision will inform the appellant of the right to separately appeal the amended Decision with respect to the complaint allegation(s) not addressed in the original Decision.

Within thirty (30) calendar days of the date of the CDE's appeal Decision pursuant to 5 C.C.R. section 4633(f)(2) or (3), either party may request reconsideration by the State Superintendent of Public Instruction ("SSPI") or the SSPI's designee. The request for reconsideration shall specify and explain the reason(s) for contesting the findings of fact, conclusions of law, or corrective actions in the CDE's appeal Decision. The SSPI will not consider any information not previously submitted to the CDE by a party during the appeal unless such information was unknown to the party at the time of the appeal and, with due diligence, could not have become known to the party. Pending the SSPI's response to a request for reconsideration, the CDE appeal Decision remains in effect and enforceable, unless stayed by a court.

The CDE may directly intervene in the complaint without waiting for action by MWA when one of the

conditions listed in 5 C.C.R. section 4650 exists, including but not limited to cases in which through no fault of the complainant, MWA has not taken action within sixty (60) calendar days of the date the complaint was filed with MWA.

If Charter School fails to issue an investigation report within the required sixty (60) calendar day timeline, a party to a written complaint of prohibited discrimination may appeal directly to the SSPI. The complaint must provide evidence supporting the basis for direct filing and explain why immediate action is necessary.

Complaints alleging noncompliance with Education Code section 243 or 244 may be filed with the SSPI directly, and the SSPI may directly intervene without waiting for an investigation by MWA The complainant shall present the SSPI with evidence that supports the basis for the direct filing and why immediate action is necessary.

Civil Law Remedies

A complainant may pursue available civil law remedies outside of MWA'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.

Complainants alleging a violation of Education Code section 220, 243, 244, 51500, 51501, or 60044, may seek civil remedies after sixty (60) calendar days have elapsed from the filing of an appeal with the CDE. before pursuing civil law remedies. The waiting period does not apply to injunctive relief and is applicable only if MWA has appropriately, and in a timely manner, apprised the complainant of their right to file a complaint.

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UNIFORM COMPLAINT PROCEDURE FORM

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: _____

School/Office of Alleged Violation:

_____

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

- ☐ Career Technical and Technical Education/Career Technical and Technical Training
- ☐ Consolidated Categorical Aid Programs
- ☐ Child Care and Development Programs
- ☐ Education or graduation of Students in Foster Care, Students who are Homeless, former Juvenile Court Students now enrolled in a Public School, Migratory Children and Children of Military Families
- ☐ Every Student Succeeds Act
- ☐ Local Control Funding Formula/ Local Control and Accountability Plan
- ☐ Migrant Child Education Programs
- ☐ School Safety Plan
- ☐ Pupil Fees
- ☐ Pregnant, Parenting or Lactating Students

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
- ☐ Gender / Gender Expression / Gender Identity
- ☐ Genetic Information
- ☐ Immigration Status/Citizenship
- ☐ Marital Status
- ☐ Medical Condition
- ☐ Nationality / National Origin
- ☐ Race or Ethnicity
- ☐ Religion
- ☐ Sex (Actual or Perceived)
- ☐ Sexual Orientation (Actual or Perceived)
- ☐ Based on association with a person or group with one or more of these actual or perceived characteristics

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.

2. Have you discussed your complaint or brought your complaint to any MWA personnel? If you have, to whom did you take the complaint, and what was the result?

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 the Compliance Officer:

Carmen Velarde, Director of Data and Accountability
4123 Lakeside Drive, Richmond, CA 94806
(510) 262-1511