

Alma Fuerte Public School

Uniform Complaint Policy & Procedures (UCP)

Scope

Alma Fuerte Public School (“Charter School”) policy is to comply with applicable federal and state laws and regulations. The Charter School has been authorized by the Los Angeles County Board of Education. The Charter School 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. This complaint procedure is adopted 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, disability, ethnic group identification, gender expression, gender identity, gender, genetic information, nationality, national origin, race or ethnicity, religion, 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 Charter School program or activity; and
- (2) Complaints of violations of state or federal law and regulations governing the following programs including but not limited to: Foster and homeless youth services, No Child Left Behind Act (2001) Programs (Titles I-VII), Tobacco Use Prevention Education, American Indian Education Centers, After School Education and Safety Programs, Agricultural Vocational Education Programs, Migrant Education Programs, Adult Education Programs, Consolidated Categorical Aid Programs, Migrant Education, Career Technical and Technical Education and Career Technical and Technical Training Programs, Child Care and Development Programs, Child Nutrition Programs, and Special Education Programs.
- (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 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.

The Charter School acknowledges and respects every individual's rights 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. The Charter School cannot guarantee anonymity of the complainant. This includes keeping the identity of the complainant confidential. However, the Charter School will attempt to do so as appropriate. The Charter School 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 Director of Student Support Services or

designee on a case-by-case basis.

The Charter School 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 the Charter School's compliance with law:

Adriani Leon
Community Schools Director
Alma Fuerte Public School
524 Palisade Street
Pasadena, CA 91103

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

Should a complaint be filed against the Community Schools Director, the compliance officer for that case shall be the Chair of the Charter School Board of Directors.

Notifications

The Community Schools Director or designee shall annually provide written notification of the Charter School's uniform complaint procedures to employees, students, parents and/or guardians, advisory committees, private school officials and other interested parties (e.g., Adult Education).

The annual notice shall be in English, and when necessary, in the primary language, pursuant to section 48985 of the Education Code if fifteen (15) percent or more of the pupils enrolled in the Charter School speak a single primary language other than English.

The Community Schools Director or designee shall make available copies of the Charter School's uniform complaint procedures free of charge.

The annual notice shall include the following:

- (a) A statement that the Charter School 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 the Charter School's decision to the CDE by filing a written appeal within 15 days of receiving the Charter School'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 § 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, which allege that the Charter School has violated federal or state laws or regulations governing educational programs. Compliance officers 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 of alleged noncompliance by the Charter School.

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 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, the Charter School staff shall assist him/her in the filing of the complaint.

- Step 2: Mediation

Within three (3) days of receiving the complaint, the compliance officer may informally discuss with the complainant the possibility of using mediation. If the complainant agrees to mediation, the compliance officer shall make arrangements for this process.

Before initiating the mediation of an unlawful discrimination, harassment, intimidation or bullying complaint, 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 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.

- Step 3: Investigation of Complaint

The compliance officer is encouraged to hold an investigative meeting within five (5) 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 Charter School's investigator 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.

The Charter School's refusal to provide the investigator 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 the Charter School's investigation and

decision, as described in Step #5 below, within sixty (60) days of the Charter School's receipt of the complaint.

- Step 5: Final Written Decision

The Charter School's decision shall be in writing and sent to the complainant. The Charter School'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 the Charter School'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.
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 the Charter School'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 the Charter School's decision, the complainant may appeal in writing to the CDE within fifteen (15) days of receiving the Charter School'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 the Charter School's decision.

Upon notification by the CDE that the complainant has appealed the Charter School's decision, the Director of Student Support Services 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 School, 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 the Charter School's complaint procedures.
7. Other relevant information requested by the CDE.

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

Civil Law Remedies

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

Pupil Records, including Challenges and Directory Information

"The Family Educational Rights and Privacy Act ("FERPA") affords parents and students who are 18 years of age or older ("eligible students") certain rights with respect to the student's education records. These rights are:

1. The right to inspect and review the student's education records within 5 days after the day the School receives a request for access. Parents or eligible students should submit to the School principal or designee a written request that identifies the records they wish to inspect.

The School official will make arrangements for access and notify the parent or eligible student of the time and place where the records may be inspected.

2. The right to request the amendment of the student's education records that the parent or eligible student believes are inaccurate, misleading, or otherwise in violation of the student's privacy rights under FERPA.

Parents or eligible students who wish to ask the School to amend a record should write the Community Schools Director or designee, clearly identify the part of the record they want changed, and specify why it should be changed. If the School decides not to amend the record as requested by the parent or eligible student, the School will notify the parent or eligible student of the decision and of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent or eligible student when notified of the right to a hearing.

3. The right to provide written consent before the School discloses personally identifiable information ("PII") from the student's education records, except to the extent that FERPA authorizes disclosure without consent.

One exception, which permits disclosure without consent, is disclosure to School officials with legitimate educational interests. A School official is a person employed by the School as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel) or a person serving on the School board. A School official also may include a volunteer or contractor outside of the School who performs an institutional service of function for which the School would otherwise use its own employees and who is under the direct control of the school with respect to the use and maintenance of PII from education records, such as an attorney, auditor, medical consultant, or therapist; a parent or student volunteering to serve on an official committee, such as a disciplinary or grievance committee; or a parent, student, or other volunteer assisting another School official in performing his or her tasks. A School official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

Upon request, the School discloses education records without consent to officials of another school district in which a student seeks or intends to enroll, or is already enrolled if the disclosure is for purposes of the student's enrollment or transfer.

4. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the School to comply with the requirements of FERPA. The name and address of the Office that administers FERPA are:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW Washington, DC 20202

FERPA permits the disclosure of PII from student's education records, without consent of the parent or eligible student, if the disclosure meets certain conditions found in §99.31 of the FERPA regulations. Except for disclosures to School officials, disclosures related to some judicial orders or lawfully issued subpoenas, disclosures of directory information, and disclosures to the parent or eligible student, §99.32 of the FERPA regulations requires the School to record the disclosure. Parents and eligible students have a right to inspect and review the record of disclosures. A School may disclose PII from the education records of a student without obtaining prior written consent of the parents or the eligible student —

1. To other School officials, including teachers, within the educational agency or institution whom the School has determined to have legitimate educational interests. This includes contractors, consultants, volunteers, or other parties to whom the school has outsourced institutional services or functions, provided that the conditions listed in §99.31(a)(1)(i)(B)(1) - (a)(1)(i)(B)(2) are met. (§99.31(a)(1)).
2. To officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled if the disclosure is for purposes related to the student's enrollment or transfer, subject to the requirements of §99.34. (§99.31(a)(2)).
3. To authorize representatives of the U. S. Comptroller General, the U. S. Attorney General, the U.S. Secretary of Education, or State and local educational authorities, such as the State educational agency in the parent or eligible student's State (SEA). Disclosures under this provision may be made, subject to the requirements of §99.35, in connection with an audit or evaluation of Federal- or State-supported education programs, or for the enforcement of or compliance with Federal legal requirements that relate to those programs. These entities may make further disclosures of PII to outside entities that are designated by them as their authorized representatives to conduct any audit, evaluation, or enforcement or compliance activity on their behalf. (§§99.31(a)(3) and 99.35).
4. In connection with financial aid for which the student has applied or which the student has received, if the information is necessary to determine eligibility for the aid, determine the amount of the aid, determine the conditions of the aid, or enforce the terms and conditions of the aid. (§99.31(a)(4)).
5. To accrediting organizations to carry out their accrediting functions. (§99.31(a)(7)).
6. To parents of an eligible student if the student is a dependent for IRS tax purposes. (§99.31(a)(8)).
7. To comply with a judicial order or lawfully issued subpoena. (§99.31(a)(9)).
8. To appropriate officials in connection with a health or safety emergency, subject to §99.36. (§99.31(a)(10)).
9. Information the School has designated as "directory information" under §99.37. (§99.31(a)(11)).

'Directory Information' is information that is generally not considered harmful or an invasion of privacy if released. Directory information can be disclosed to outside organizations without a parent's prior written consent. Outside organizations include, but are not limited to, companies that manufacture class rings or publish year books. The School has designated the following information as directory information:

1. Student's name
2. Grade level
3. Weight and height of members of athletic teams
4. Degrees, honors, and awards received

If you do not want the School to disclose directory information from your child's education records without your prior written consent, you must notify the School in writing at the time of enrollment or re-enrollment. Please notify the Community Schools Director at:

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