



# Imperial Valley Regional Occupational Program

## Nondiscrimination, Harassment, Retaliation and Complaint Policy

### COMPLAINTS CONCERNING EMPLOYEES

(BP/AR 1312.1)

The Governing Board accepts responsibility for providing a means by which the public can hold IVROP employees accountable for their actions. The Board desires that complaints be resolved expeditiously without disrupting the educational process.

The Superintendent or designee shall develop regulations which permit the public to submit complaints against IVROP employees in an appropriate way. These regulations shall protect the rights of involved parties. The Board may serve as an appeals body if the complaint is not resolved.

Complaints against employees from participating districts working in the program shall be directed to the Superintendent or designee of the employee's district.

The Board prohibits retaliation against complainants. The Superintendent or designee at his/her discretion may keep a complainant's identity confidential, except to the extent necessary to investigate the complaint. IVROP will not investigate anonymous complaints unless it so desires.

The Superintendent or designee shall determine whether a complaint should be considered a complaint against IVROP and/or an individual employee, and whether it should be resolved by IVROP's process for complaints concerning personnel and/or other IVROP procedures.

To promote prompt and fair resolution of the complaint, the following procedures shall govern the resolution of complaints against IVROP employees:

1. Every effort should be made to resolve a complaint at the earliest possible stage. Whenever possible, the complainant should communicate directly to the employee in order to resolve concerns.
2. If a complainant is unable or unwilling to resolve the complaint directly with the employee, he/she may submit an oral or written complaint to the employee's immediate supervisor or the Superintendent or designee.
3. All complaints related to IVROP personnel other than administrators shall be submitted in writing to the Superintendent or designee or immediate supervisor. If the complainant is unable to prepare the complaint in writing, administrative staff shall help him/her to do so. Complaints related to an administrator shall be initially filed in writing with the Superintendent or designee. Complaints related to the Superintendent shall be initially filed in writing with the Board.
4. When a written complaint is received, the employee shall be notified within five days.
5. A written complaint shall include:
  - a. The full name of each employee involved
  - b. A brief but specific summary of the complaint and the facts surrounding it
  - c. A specific description of any prior attempt to discuss the complaint with the employee and the failure to resolve the matter
6. Staff responsible for investigating complaints shall attempt to resolve the complaint to the satisfaction of the parties involved within 30 days.
7. Both the complainant and the employee against whom the complaint was made may appeal a decision by the Superintendent or designee or immediate supervisor to the Superintendent or designee, who shall attempt to resolve the complaint to the satisfaction of the person involved within 30 days. Parties should consider and accept the Superintendent or designee's decision as final. However, the complainant, the employee, or the Superintendent or designee may ask to address the Board regarding the complaint.
8. Before any Board consideration of a complaint, the Superintendent or designee shall submit to the Board a written report concerning the complaint, including but not limited to:
  - a. The full name of each employee involved
  - b. A brief but specific summary of the complaint and the facts surrounding it, sufficient to inform the Board and the parties as to the precise nature of the complaint and to allow the parties to prepare a response
  - c. A copy of the signed original complaint
  - d. A summary of the action taken by the Superintendent or designee, together with his/her specific finding that the problem has not been resolved and the reasons
9. The Board may uphold the Superintendent's decision without hearing the complaint.
10. All parties to a complaint may be asked to attend a Board meeting in order to clarify the issue and present all available evidence.

11. A closed session may be held to hear the complaint in accordance with law.

12. The decision of the Board shall be final.

Any complaint of child abuse or neglect alleged against a district employee shall be reported to the appropriate local agencies in accordance with law, Board policy and administrative regulation.

## **NONDISCRIMINATION IN EMPLOYMENT**

*(BP/AR 4030)*

The Governing Board is determined to provide IVROP employees, interns, volunteers and job applicants a safe, positive environment where they are assured of full and equal employment access and opportunities, protection from harassment or intimidation, and freedom from any fear of reprisal or retribution for asserting their employment rights in accordance with law. This policy shall apply to all IVROP employees and, to the extent required by law, to interns, volunteers, and job applicants.

No IVROP employee shall be discriminated against or harassed by any coworker, supervisor, manager, or other person with whom the employee comes in contact in the course of employment, on the basis of the person's actual or perceived race, religious creed, color, national origin, ancestry, age, marital status, pregnancy, physical or mental disability, medical condition, genetic information, military and veteran status, gender, gender identity, gender expression, sex, or sexual orientation, or his/her association with a person or group with one or more of these actual or perceived characteristics.

Discrimination in employment based on the characteristics listed above is prohibited in all areas of employment and in all employment-related practices, including the following:

1. Discrimination in hiring, compensation, terms, conditions, and other privileges of employment.
2. Taking of an adverse employment action, such as termination or the denial of employment, promotion, job assignment, or training.
3. Unwelcome conduct, whether verbal, physical, or visual, that is so severe or pervasive as to adversely affect an employee's employment opportunities, or that has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, or offensive work environment.
4. Actions and practices identified as unlawful or discriminatory pursuant to Government Code 12940 or 2 CCR 11006-11086, such as:
  - a. Sex discrimination based on an employee's pregnancy, childbirth, breastfeeding, or any related medical condition or on an employee's gender, gender expression, or gender identity, including transgender status

- b. Religious creed discrimination based on an employee's religious belief or observance, including his/her religious dress or grooming practices, or based on IVROP's failure or refusal to use reasonable means to accommodate an employee's religious belief, observance, or practice which conflicts with an employment requirement
- c. Disability discrimination based on a IVROP requirement for a medical or psychological examination of a job applicant, or an inquiry into whether a job applicant has a mental or physical disability or a medical condition or as to the severity of any such disability or condition, without the showing of a job-related need or business necessity
- d. Disability discrimination based on IVROP's failure to make reasonable accommodation for the known physical or mental disability of an employee or to engage in a timely, good faith, interactive process with an employee, to determine effective reasonable accommodations for the employee, when he/she has requested reasonable accommodation for a known physical or mental disability or medical condition

The Board also prohibits retaliation against any IVROP employee who opposes any discriminatory employment practice by IVROP or its employee, agent, or representatives or who complains, testifies, assists, or in any way participates in IVROP's complaint process pursuant to this policy. No employee who requests an accommodation for any protected characteristic listed in this policy shall be subjected to any punishment or sanction, regardless of whether the request was granted. (Government Code 12940)

Complaints concerning employment discrimination, harassment, or retaliation shall immediately be investigated in accordance with procedures specified in the accompanying administrative regulation.

Any supervisory or management employee who observes or has knowledge of an incident of prohibited discrimination or harassment shall report the incident to the Superintendent or designated IVROP coordinator as soon as practical after the incident. All other employees are encouraged to report such incidents to their supervisor immediately. IVROP shall protect any employee who does report such incidents from retaliation.

The Superintendent or designee shall use all appropriate means to reinforce IVROP's nondiscrimination policy. He/she shall provide training and information to employees about how to recognize harassment, discrimination, or other related conduct, how to respond appropriately, and components of IVROP's policies and regulations regarding discrimination. The Superintendent or designee shall regularly review IVROP's employment practices and, as necessary, shall take action to ensure IVROP compliance with the nondiscrimination laws.

In addition, the Superintendent or designee shall post, in a conspicuous place on IVROP premises, the California Department of Fair Employment and Housing publication on

workplace discrimination and harassment issued pursuant to 2 CCR 11013.

Any IVROP employee who engages in prohibited discrimination, harassment, or retaliation or who aids, abets, incites, compels, or coerces another to engage or attempt to engage in such behavior in violation of this policy shall be subject to disciplinary action, up to and including dismissal.

IVROP designates the position identified below as its coordinator for nondiscrimination in employment (coordinator) to coordinate IVROP's efforts to comply with state and federal nondiscrimination laws and to answer inquiries regarding IVROP's nondiscrimination policies. The coordinator may be contacted at:

Director of Human Services  
687 State Street  
El Centro, CA 92243  
(760) 482-2600  
[complaint@ivrop.org](mailto:complaint@ivrop.org)

### Measures to Prevent Discrimination

To prevent unlawful discrimination, harassment, and retaliation against in IVROP employment, the Superintendent or designee shall implement the following measures:

1. Publicize IVROP's nondiscrimination policy and regulation, including the complaint procedures and the coordinator's contact information by: (5 CCR 4960; 34 CFR 100.6, 106.9)
  - a. Including them in each announcement, bulletin, or application form that is used in employee recruitment
  - b. Posting them in all IVROP facilities, including staff lounges and other prominent locations
  - c. Posting them on the IVROP's web site and providing easy access to them through IVROP-supported social media, when available
2. Disseminate IVROP's nondiscrimination policy to all employees by one or more of the following methods: (2 CCR 11023)
  - a. Printing and providing a copy of the policy to all employees, with an acknowledgment form for each employee to sign and return
  - b. Sending the policy via email with an acknowledgment return form
  - c. Posting the policy on IVROP intranet with a tracking system ensuring all employees have read and acknowledged receipt of the policies
  - d. Discussing the policy with employees upon hire and/or during a new hire orientation session

- e. Any other way that ensures employees receive and understand the policy
3. Provide to employees a handbook that contains information that clearly describes the IVROP's nondiscrimination policy, procedures for filing a complaint, and resources available to anyone who feels that he/she has been the victim of any discriminatory or harassing behavior.
4. Provide training to employees, volunteers, and interns regarding IVROP's nondiscrimination policy, including what constitutes unlawful discrimination, harassment, and retaliation and how and to whom a report of an incident should be made.
5. Periodically review IVROP's recruitment, hiring, and promotion processes and regularly monitor the terms, conditions, and privileges of employment to ensure IVROP compliance with law.
6. For any IVROP facility where 10 percent of employees have a language other than English as their spoken language, translate the policy into every language spoken by at least 10 percent of the workforce.

### Complaint Procedure

Any complaint alleging unlawful discrimination or harassment shall be addressed in accordance with the following procedures:

1. Notice and Receipt of Complaint: A complainant may inform his/her direct supervisor, another supervisor, the coordinator or the Superintendent.

The complainant may file a written complaint in accordance with this procedure, or if he/she is an employee, may first attempt to resolve the situation informally with his/her supervisor.

A supervisor who has received information about an incident of discrimination or harassment, or has observed such an incident, shall report it to the coordinator, whether or not the complainant files a written complaint.

The written complaint should contain the complainant's name, the name of the individual who allegedly committed the act, a description of the incident, the date and location where the incident occurred, any witnesses who may have relevant information, other evidence of the discrimination or harassment, and any other pertinent information which may assist in investigating and resolving the complaint.

2. Investigation Process: The coordinator shall initiate an impartial investigation of an allegation of discrimination or harassment within five business days of receiving notice of the alleged discriminatory or harassing behavior, regardless of whether a written complaint has been filed or whether the written complaint is complete.

The coordinator shall meet with the complainant to describe IVROP's complaint procedure and discuss the actions being sought by the complainant in response to the allegation. The

coordinator shall inform the complainant that the investigation of the allegations will be fair, timely, and thorough and will be conducted in a manner that provides all parties due process and reaches reasonable conclusions based on the evidence collected. He/she shall also inform the parties that the investigation will be kept confidential to the extent possible, but that some information may be revealed as necessary to conduct an effective investigation.

If the coordinator determines that a detailed fact-finding investigation is necessary, he/she shall begin the investigation immediately. As part of this investigation, the coordinator should interview the complainant, the person accused, and other persons who could be expected to have relevant information.

The coordinator shall track and document the progress of the investigation to ensure reasonable progress and shall inform the parties as necessary.

When necessary to carry out his/her investigation or to protect employee safety, the coordinator may discuss the complaint with the Superintendent or designee, or IVROP's legal counsel.

The coordinator also shall determine whether interim measures, such as scheduling changes, transfers, or leaves, need to be taken before the investigation is completed to ensure that further incidents are prevented. The coordinator shall ensure that such interim measures do not constitute retaliation.

3. **Written Report on Findings and Corrective Action:** No more than 20 business days after receiving the complaint, the coordinator shall conclude the investigation and prepare a written report of his/her findings. This timeline may be extended for good cause. If an extension is needed, the coordinator shall notify the parties and explain the reasons for the extension.

The report shall include the decision and the reasons for the decision and shall summarize the steps taken during the investigation. If a determination has been made that discrimination or harassment occurred, the report also shall include any corrective action(s) that have been or will be taken to address the behavior, , provide appropriate options for remedial actions and resolutions for the complainant, and ensure that retaliation or further discrimination or harassment is prevented.

The report shall be presented to the complainant, the person accused, and the Superintendent or designee.

4. **Appeal to the Governing Board:** The complainant or the person accused may appeal any findings to the Board within 10 business days of receiving the written report of the coordinator's findings. The Superintendent or designee shall provide the Board with all information presented during the investigation. Upon receiving an appeal, the Board shall schedule a hearing as soon as practicable. Any complaint against an IVROP employee shall be addressed in closed

session in accordance with law. The Board shall render its decision within 10 business days.

### **Other Remedies**

In addition to filing a discrimination or harassment complaint with IVROP, a person may file a complaint with either the California Department of Fair Employment and Housing (DFEH) or the Equal Employment Opportunity Commission (EEOC). The time limits for filing such complaints are as follows:

1. To file a valid complaint with DFEH, within one year of the alleged discriminatory act(s), unless an exception exists pursuant to Government Code 12960.
2. To file a valid complaint directly with EEOC, within 180 days of the alleged discriminatory act(s) (42 USC 2000e-5).
3. To file a valid complaint with EEOC after first filing a complaint with DFEH, within 300 days of the alleged discriminatory act(s) or within 30 days after the termination of proceedings by DFEH, whichever is earlier (42 USC 2000e-5).

### **SEXUAL HARASSMENT – EMPLOYEES / JOB APPLICANTS**

*(BP 4119.11/4219.11/4319/11)*

The Governing Board prohibits sexual harassment of IVROP employees. The Board also prohibits retaliatory behavior or action against IVROP employees or other persons who complain, testify or otherwise participate in the complaint process established pursuant to this policy and the administrative regulation. This policy shall apply to all IVROP employees and, when applicable, to interns, volunteers, and job applicants.

The Superintendent or designee shall take all actions necessary to ensure the prevention, investigation and correction of sexual harassment, including but not limited to:

1. Providing training to employees in accordance with law and administrative regulation.
2. Publicizing and disseminating the IVROP's sexual harassment policy to staff.
3. Ensuring prompt, thorough and fair investigation of complaints.
4. Taking timely and appropriate corrective/remedial action(s), which may require interim separation of the complainant and the alleged harasser and subsequent monitoring of developments.

All complaints and allegations of sexual harassment shall be kept confidential to the extent necessary to carry out the investigation or take other subsequent necessary action. (5 CCR 4964)

Any IVROP employee who feels that he/she has been sexually harassed or who has knowledge of any incident of sexual harassment by or against another employee shall immediately report the incident to his/her supervisor, an IVROP administrator or Superintendent.

A supervisor or other IVROP administrator who receives a harassment complaint shall promptly notify the Superintendent or designee.

Complaints of sexual harassment shall be filed in accordance with AR 4030 – Nondiscrimination in Employment. An employee may bypass his/her supervisor in filing a complaint where the supervisor is the subject of the complaint.

Any IVROP employee who engages or participates in sexual harassment or who aids, abets, incites, compels, or coerces another to commit sexual harassment in violation of this policy is subject to disciplinary action, up to and including dismissal.

This administrative regulation shall apply to all allegations of sexual harassment involving employees, interns, volunteers, and job applicants, but shall not be used to resolve any complaint by or against a student.

### Definitions

Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual or physical conduct of a sexual nature made against another person of the same or opposite sex in the work or educational setting when: (Education Code 212.5; 5 CCR 4916)

1. Submission to the conduct is made expressly or implicitly a term or condition of the individual's employment.
2. Submission to or rejection of the conduct is used as the basis for an employment decision affecting the individual.
3. Submission to or rejection of the conduct is used as the basis for any decision affecting the individual regarding benefits, services, honors, programs or activities available at or through IVROP.

Prohibited sexual harassment also includes conduct which, regardless of whether or not it is motivated by sexual desire, is so severe or pervasive as to unreasonably interfere with the victim's work performance or create an intimidating, hostile, or offensive work environment.

Examples of actions that might constitute sexual harassment in the work or educational setting, whether committed by a supervisor, a co-worker, or a non-employee, include, but are not limited to:

1. Unwelcome verbal conduct such as sexual flirtations or propositions; graphic comments about an individual's body; overly personal conversations or pressure for sexual activity; sexual jokes or stories; unwelcome sexual slurs; epithets, threats, innuendos, derogatory comments, sexually degrading descriptions, or the spreading of sexual rumors.

2. Unwelcome visual conduct such as drawings, pictures, graffiti, or gestures; sexually explicit e-mails; displaying sexually suggestive objects.
3. Unwelcome physical conduct such as massaging, grabbing, fondling, stroking or brushing the body; touching an individual's body or clothes in a sexual way; cornering, blocking, leaning over, or impeding normal movements.

### Training

The Superintendent or designee shall ensure that all employees receive training regarding IVROP's sexual harassment policies when hired and periodically thereafter. The training shall include the procedures for reporting and/or filing complaints involving an employee, employees' duty to use the IVROP's complaint procedures, and employee obligations when a sexual harassment report involving a student is made to the employee.

Every two years, the Superintendent or designee shall ensure that supervisory employees receive at least two hours of classroom or other effective interactive training and education regarding sexual harassment. All such newly hired or promoted employees shall receive training within six months of their assumption of the new position. (Government Code 12950.1)

A supervisory employee is any employee with the authority, in the interest of IVROP, to hire, transfer, suspend, lay off, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, adjust their grievances, or effectively recommend such action, when the exercise of the authority is not of a merely routine or clerical nature, but requires the use of independent judgment. (Government Code 12926)

IVROP's sexual harassment training and education program for supervisory employees shall be aimed at assisting them in preventing and effectively responding to incidents of sexual harassment, as well as implementing mechanisms to promptly address and correct wrongful behavior. The training shall include, but is not limited to, the following: (Government Code 12950.1; 2 CCR 11023)

1. Information and practical guidance regarding federal and state laws on the prohibition, prevention and correction of sexual harassment, the remedies available to sexual harassment victims in civil actions, and potential IVROP and/or individual exposure or liability.
2. The types of conduct that constitute sexual harassment and practical examples which illustrate sexual harassment, discrimination, and retaliation using training modalities such as role plays, case studies, and group discussions, based on factual scenarios taken from case law, news and media accounts, and hypotheticals based on workplace situations and other sources.
3. A supervisor's obligation to report sexual harassment, discrimination, and retaliation of which he/she becomes aware and what to do if the supervisor himself/herself is personally accused of harassment.

4. Strategies for preventing harassment, discrimination, and retaliation and appropriate steps to ensure that remedial measures are taken to correct harassing behavior, including an effective process for investigation of a complaint.
  5. The essential elements of IVROP's anti-harassment policy, including the limited confidentiality of the complaint process and resources for victims of unlawful sexual harassment, such as to whom they should report any alleged sexual harassment, and how to use the policy if a harassment complaint is filed.
  6. A copy of IVROP's sexual harassment policy and administrative regulation, which each participant shall acknowledge in writing that he/she has received.
  7. The definition and prevention of abusive conduct that addresses the use of derogatory remarks, insults, or epithets, other verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, and the gratuitous sabotage or undermining of a person's work performance.
5. The legal remedies and complaint process available through DFEH and the Equal Employment Opportunity Commission (EEOC).
  6. Directions on how to contact the DFEH and the EEOC.
  7. The protection against retaliation provided by 2 CCF 11021 for opposing harassment prohibited by law or for filing a complaint with or otherwise participating in an investigation, proceeding, or hearing conducted by DFEH and the EEOC.

In addition, IVROP shall post, in a prominent and accessible location, DFEH's poster on discrimination in employment and the illegality of sexual harassment. (Government Code 12950)

## COMPLAINTS

(BP/AR 4144/4244/4344)

The Governing Board recognizes the need to establish a process to allow employees and job applicants to have their concerns heard in an expeditious and unbiased manner. The Board expects that employees will make every effort to resolve complaints and disagreements informally before filing a formal complaint.

The Board prohibits retaliation against complainants. The Superintendent or designee may keep a complainant's identity confidential, except to the extent necessary to investigate the complaint.

All matters related to a complaint shall be kept confidential and any document, communication, or record regarding the complaint shall be placed in a separate file and shall not be placed in an employee's personnel file.

Except as specified below, the following procedure shall be used for any complaint by an employee alleging misapplication of IVROP's policies, regulations, rules, or procedures or for "whistleblower" complaints by an employee or job applicant regarding an improper IVROP activity including, but not limited to, an allegation of gross mismanagement, a significant waste of funds, an abuse of authority, or a specific danger to public health or safety.

In addition, information and complaints involving fraud, waste, abuse, criminal activity, mismanagement or gross waste of Workforce Innovation and Opportunity funds (WIOA) shall be reported in accordance with IVROP's procedures for fraud, waste, abuse or criminal activity incident reporting

Complaints alleging unlawful discrimination of any basis specified in IVROP's nondiscrimination policies, including complaints of sexual harassment, shall be resolved in accordance with IVROP's procedure for complaints regarding discrimination in employment.

Complaints regarding unlawful discriminations in IVROP programs or IVROP's failure to comply with state or federal laws regarding educational programs shall be resolved in accordance with IVROP's Uniform Complaint Procedures.

The Superintendent or designee shall retain for at least two years the records of any training provided to supervisory employees. Such records shall include the names of trained employees, date of the training, the type of training, and the name of the training provider. (2 CCR 11023)

## Notifications

A copy of the Board policy and this administrative regulation shall: (Education Code 231.5)

1. Be displayed in a prominent location in the main administrative building and other IVROP offices where notices of IVROP rules, regulations, procedures and standards of conduct are posted.
2. Be provided to every IVROP employee at the beginning of the calendar year or whenever a new employee is hired.
3. Appear in any IVROP publication that sets forth IVROP's comprehensive rules, regulations, procedures, and standards of conduct.

All employees shall receive either a copy of information sheets prepared by the California Department of Fair Employment and Housing (DFEH) or a copy of IVROP information sheets that contain, at a minimum, components on: (Government Code 12950)

1. The illegality of sexual harassment.
2. The definition of sexual harassment under applicable state and federal law.
3. A description of sexual harassment, with examples.
4. IVROP's complaint process available to the employee.

Any of the time limits specified in this procedure may be extended by written agreement between IVROP and complainant.

### **Step 1: Informal Complaint Process**

Prior to instituting a formal, written complaint, the employee shall first discuss the issue with his/her supervisor. Formal complaint procedures shall not be initiated until the employee has first attempted to resolve the complaint informally.

### **Step 2: Site Level Formal Complaint Process**

If complaint has not been satisfactorily resolved through the informal process in Step 1, the complainant may file a written complaint with his/her immediate supervisor within 60 days of the act or even which is the subject of the complaint. If an employee fails to file a written complaint within 60 days, the complaint shall be considered settled on the basis of the answer given at the preceding step.

In the written complaint, the employee shall specify the nature of the problem, including names, dates, locations, witnesses, the remedy sought by the employee, and a description of informal effort to resolve the issue.

Within 10 working days of receiving the complaint, the immediate supervisor shall conduct any necessary investigation and meet with the complainant in an effort to resolve the complaint. Within five working days after the meeting, he/she shall prepare and send a written response to the complainant.

### **Step 3: IVROP Level Appeal**

If a complaint has not been satisfactorily resolved at Step 2, the complainant may file the written complaint with the Superintendent or designee within five working days of receiving the written response from the immediate supervisor. The complainant shall include all information presented to the immediate supervisor at Step 2.

Within 10 working days of receiving the complaint, the Superintendent or designee shall conduct any necessary investigation, including reviewing the investigation and written response by the immediate supervisor at Step 2, and shall meet with the complainant in an effort to resolve the complaint. Within five working days after the meeting, he/she shall prepare and send a written response to the complainant.

### **Step 4: Appeal to the Governing Board**

If a complaint has not been satisfactorily resolved at Step 3, the complainant may file a written appeal to the Board within five working days of receiving the Superintendent or designee's response. All information presented at Steps 1, 2, and 3 shall be included with the appeal, and the Superintendent or designee shall submit to the Board a written report describing attempts to resolve the complaint and IVROP's response.

The Board may uphold the findings by the Superintendent or designee without hearing the complaint or the Board may hear the complaint at a regular or special Board meeting. The hearing

shall be held in closed session if the complaint relates to matters that may be addressed in closed session in accordance with law.

The Board shall make its decision within 30 days of the hearing and shall mail its decision to all concerned parties. The Board's decision shall be final.

## **FRAUD, WASTE, ABUSE OR CRIMINAL ACTIVITY INCIDENT REPORTING**

Information and complaints involving criminal fraud, waste, abuse or other criminal activity and complaints of a noncriminal nature, such as mismanagement and gross waste of funds, shall be resolved in accordance to IVROP's complaint procedures. Incidents involving Workforce Innovation and Opportunity funds (WIOA) must immediately be reported, using the Incident Report form, to the Superintendent and/or designee:

Superintendent	Director of Human Services
Edwin P. Obergfell	Luis De La Torre
687 State Street	587 State Street
El Centro, CA 92243	El Centro, CA 92243
(760) 482-2644	(760) 482-2600
complaint@ivrop.org	complaint@ivrop.org

IVROP will notify the funding entity of any suspected or proven incidents and within one workday of detection or discovery of information alleging fraud, abuse, or other criminal activity involving WIOA funds, IVROP shall prepare and submit a written incident report to both of the following:

Mail to:  
Attention: Compliant Resolution Unit  
Compliance Review Office, MIC 22  
Employment Development Department  
P.O. Box 826880  
Sacramento, CA

Online, by phone, by fax or mail to:  
Office of Inspector General  
Complaints Analysis Office  
200 Constitution Avenue, N.W., Room S-5506  
Washington, D.C. 20210  
[www.oig.dol.gov/hotlinecontact.htm](http://www.oig.dol.gov/hotlinecontact.htm)  
(800) 347-3756 phone  
(202) 693-7020 fax

Allegations considered to be of an emergency nature may be reported by telephone to the Compliant Resolution Unit Supervisor at (916) 653-0298 and by calling the OIG Hotline at 1(800) 347-3756 and followed immediately thereafter by a written incident.

Action will not be taken against any complainant for disclosing information concerning criminal or improper activities or making a valid complaint to proper authorities. Complainants may remain anonymous. If a complainant considers that his or her position will be compromised by reporting information via an incident report, he or she may send the report directly to the OIG.

## **NONDISCRIMINATION IN IVROP PROGRAMS AND ACTIVITIES**

(BP 0410)

The Governing Board is committed to providing equal opportunity for all individuals in education. IVROP programs, activities, and practices shall be free from unlawful discrimination, including discrimination against an individual or group based on race, color, ancestry, nationality, national origin, ethnic group identification, age, religion, marital, pregnancy, or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity or expression, or genetic information; a perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics.

IVROP programs and activities shall also be free of any racially derogatory or discriminatory program or team names, mascots, or nicknames.

Annually, the Superintendent or designee shall review IVROP programs and activities to ensure the removal of any derogatory or discriminatory name, image, practice, or other barrier that may unlawfully prevent an individual or group in any of the protected categories stated above from accessing IVROP programs and activities. He/she shall take prompt, reasonable actions to remove any identified barrier. The Superintendent or designee shall report his/her findings and recommendations to the Board after each review.

All allegations of unlawful discrimination in IVROP programs and activities shall be investigated and resolved in accordance with the procedures specified in IVROP's Uniform Complaint Procedures (UCP).

Pursuant to 34 CFR 104.8 and 34 CFR 106.9, the Superintendent or designee shall notify students, participants, parents/guardians, employees, employee organizations, applicants for admission and employment, and sources of referral for applicants about IVROP's policy on nondiscrimination and related complaint procedures. Such notification shall be included in each announcement, bulletin, catalog, handbook, application form, or other materials distributed to these groups and, as applicable, to the public. As appropriate, such notification shall be posted in IVROP facilities and offices, including staff lounges, student / participant meeting rooms, and other prominent locations and shall be posted on IVROP's web site and, when available, IVROP-supported social media.

IVROP's nondiscrimination policy and related informational materials shall be published in a format that parents/guardians can understand. In addition, when 15 percent or more of a IVROP's students speak a single primary language other than English, those materials shall be translated into that other language.

### **Access for Individuals with Disabilities**

IVROP programs and facilities, viewed in their entirety, shall be in compliance with the Americans with Disabilities Act and any implementing standards and/or regulations. When structural changes to existing IVROP facilities are needed to provide

individuals with disabilities access to programs, services, activities, or facilities, the Superintendent or designee shall develop a transition plan that sets forth the steps for completing the changes.

The Superintendent or designee shall ensure that IVROP provides auxiliary aids and services when necessary to afford individuals with disabilities equal opportunity to participate in or enjoy the benefits of a service, program or activity. These aids and services may include, but are not limited to, qualified interpreters or readers, assistive listening devices, notetakers, written materials, taped text, and Braille or large print materials. Individuals with disabilities shall notify the Superintendent or administrator if they have a disability that requires special assistance or services. Reasonable notification should be given prior to the IVROP-sponsored function, program or meeting.

The Superintendent or designee shall notify students, participants, parents/guardians, employees, employee organizations and applicants for admission and employment, and sources of referral for applicants about IVROP's policy on nondiscrimination. Such notification shall be included in each announcement, bulletin, catalog, application form or other recruitment materials distributed to these groups. (34 CFR 104.8, 106.9)

The individual identified in the UPC as the employee responsible for coordinating IVROP's response to complaints and for complying with state and federal civil rights laws is hereby designated as IVROP's ADA coordinator. He/she shall receive and address requests for accommodation submitted by individuals with disabilities, and shall investigate and resolve complaints regarding their access to IVROP programs, services, activities, or facilities.

Director of Human Services  
687 State Street  
El Centro, CA 92243  
(760) 482-2600  
[complaint@ivrop.org](mailto:complaint@ivrop.org)

## **SEXUAL HARASSMENT – STUDENTS / PARTICIPANTS**

(BP 5145.7)

The Governing Board is committed to maintaining a safe environment that is free from harassment and discrimination. The Board prohibits, at IVROP-sponsored or IVROP-related activities, sexual harassment targeted at any student or participant by anyone. The Board also prohibits retaliatory behavior or action against any person who reports, files a complaint or testifies about, or otherwise supports a complainant in alleging sexual harassment.

IVROP strongly encourages any student or participant who feels that he/she is being or has been sexually harassed on IVROP grounds or at a IVROP-sponsored or IVROP-related activity by another student, participant or an adult who has experienced off-premise sexual harassment that has a continuing effect on IVROP premises to immediately contact his/her teacher, a supervisor, or any other available IVROP employee. Any employee who receives a report or observes an incident of

sexual harassment shall notify a supervisor or a IVROP compliance officer. Once notified, the supervisor or compliance officer shall take the steps to investigate and address the allegation, as specified in the accompanying administrative regulation.

The Superintendent or designee shall take appropriate actions to reinforce IVROP's sexual harassment policy.

### **Information**

The Superintendent or designee shall ensure that all IVROP students and participants receive age-appropriate information on sexual harassment. Such information shall include:

1. What acts and behavior constitute sexual harassment, including the fact that sexual harassment could occur between people of the same sex and could involve sexual violence
2. A clear message that students and participants do not have to endure sexual harassment under any circumstance
3. Encouragement to report observed incidents of sexual harassment even where the alleged victim of the harassment has not complained
4. A clear message that student and participant safety is IVROP's primary concern, and that any separate rule violation involving an alleged victim or any other person reporting a sexual harassment incident will be addressed separately and will not affect the manner in which the sexual harassment complaint will be received, investigated, or resolved
5. A clear message that, regardless of a complainant's noncompliance with the writing, timeline, or other formal filing requirements, every sexual harassment allegation that involves a student or participant, whether as the complainant, respondent, or victim of the harassment, shall be investigated and prompt action shall be taken to stop any harassment, prevent recurrence, and address any continuing effect on students or participants
6. Information about IVROP's procedure for investigating complaints and the person(s) to whom a report of sexual harassment should be made
7. Information about the rights of students, participants and parents/guardians to file a civil or criminal complaint, as applicable, including the right to file a civil or criminal complaint while IVROP investigation of a sexual harassment complaint continues
8. A clear message that, when needed, IVROP will take interim measures to ensure a safe environment for a student or participant who is the complainant or victim of sexual harassment and/or other students or participants during an investigation and that, to the extent possible, when such interim measures are taken, they shall not disadvantage the complainant or victim of the alleged harassment

### **Complaint Process and Disciplinary Actions**

Sexual harassment complaints by and against students or participants shall be investigated and resolved in accordance with law and IVROP's UPC. Supervisors are responsible for notifying students, participants and parents/guardians that complaints of sexual harassment can be filed under AR 1312.3 and where to obtain a copy of the procedures.

Upon investigation of a sexual harassment complaint, any student or participant found to have engaged in sexual harassment or sexual violence in violation of this policy shall be subject to disciplinary action.

Upon investigation of a sexual harassment complaint, any employee found to have engaged in sexual harassment or sexual violence toward any student or participant shall have his/her employment terminated in accordance with law.

### **Record-Keeping**

The Superintendent or designee shall maintain a record of all reported cases of sexual harassment to enable IVROP to monitor, address, and prevent repetitive harassing behavior on IVROP premises.

IVROP designates the following individual(s) as the responsible employee(s) to coordinate its efforts to comply with Title IX of the Education Amendments of 1972 and California Education Code 234.1, as well as to investigate and resolve sexual harassment complaints IVROP's UPC. The coordinator/compliance officer(s) may be contacted at:

Director of Human Services  
687 State Street  
El Centro, CA 92243  
(760) 482-2600  
[complaint@ivrop.org](mailto:complaint@ivrop.org)

Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature made against another person of the same or opposite sex in the educational setting, under any of the following conditions: (Education Code 212.5; 5 CCR 4916)

1. Submission to the conduct is explicitly or implicitly made a term or condition of a student's or participant's academic or program status or progress.
2. Submission to or rejection of the conduct by a student or participant is used as the basis for academic or program decisions affecting the student or participant.
3. The conduct has the purpose or effect of having a negative impact on the student's or participant's academic or program performance or of creating an intimidating, hostile, or offensive educational environment.
4. Submission to or rejection of the conduct by the student or participant is used as the basis for any decision affecting the student or participant regarding benefits and services,

honors, programs, or activities available at or through any IVROP program or activity.

Examples of types of conduct which are prohibited in IVROP and which may constitute sexual harassment include, but are not limited to:

1. Unwelcome leering, sexual flirtations, or propositions
2. Unwelcome sexual slurs, epithets, threats, verbal abuse, derogatory comments, or sexually degrading descriptions
3. Graphic verbal comments about an individual's body or overly personal conversation
4. Sexual jokes, derogatory posters, notes, stories, cartoons, drawings, pictures, obscene gestures, or computer-generated images of a sexual nature
5. Spreading sexual rumors
6. Teasing or sexual remarks about students or participants enrolled in a predominantly single-sex class or program
7. Massaging, grabbing, fondling, stroking, or brushing the body
8. Touching an individual's body or clothes in a sexual way
9. Impeding or blocking movements or any physical interference with IVROP activities when directed at an individual on the basis of sex
10. Displaying sexually suggestive objects
11. Sexual assault, sexual battery, or sexual coercion
12. Electronic communications containing comments, words, or images described above

Any prohibited conduct that occurs off premises or outside of IVROP-related or IVROP-sponsored programs or activities will be regarded as sexual harassment in violation of IVROP policy if it has a continuing effect on or creates a hostile IVROP environment for the complainant or victim of the conduct.

### **Reporting Process and Complaint Investigation and Resolution**

Any student or participant who believes that he/she has been subjected to sexual harassment by another student, participant, an employee, or a third party or who has witnessed sexual harassment is strongly encouraged to report the incident to his/her teacher, a supervisor, or any other available IVROP employee. Within one business day of receiving such a report, the IVROP employee shall forward the report to their supervisor or IVROP's compliance officer identified in IVROP's UCP. In addition, any IVROP employee who observes an incident of sexual harassment involving a student or participant shall, within one business day, report his/her observation to their supervisor or the IVROP compliance officer. The employee shall take these actions, whether or not the alleged victim files a complaint.

When a report or complaint of sexual harassment involves off-premises conduct, the supervisor shall assess whether the conduct may create or contribute to the creation of a hostile IVROP environment. If he/she determines that a hostile environment may be created, the complaint shall be investigated and resolved in the same manner as if the prohibited conduct occurred at IVROP.

When a verbal or informal report of sexual harassment is submitted, the supervisor or compliance officer shall inform the student, participant or parent/guardian of the right to file a formal written complaint in accordance with IVROP's UCP. Regardless of whether a formal complaint is filed, the supervisor or compliance officer shall take steps to investigate the allegations and, if sexual harassment is found, shall take prompt action to stop it, prevent recurrence, and address any continuing effects.

If a complaint of sexual harassment is initially submitted to the supervisor, he/she shall, within two business days, forward the report to the compliance officer to initiate investigation of the complaint. The compliance officer shall contact the complainant and investigate and resolve the complaint in accordance with law and IVROP procedures specified in IVROP's UCP.

In investigating a sexual harassment complaint, evidence of past sexual relationships of the victim shall not be considered, except to the extent that such evidence may relate to the victim's prior relationship with the respondent.

In any case of sexual harassment involving the supervisor, compliance officer, or any other person to whom the incident would ordinarily be reported or filed, the report may instead be submitted to the Superintendent or designee who shall determine who will investigate the complaint.

### **Confidentiality**

All complaints and allegations of sexual harassment shall be kept confidential except as necessary to carry out the investigation or take other subsequent necessary action. (5 CCR 4964)

However, when a complainant or victim of sexual harassment notifies IVROP of the harassment but requests confidentiality, the compliance officer shall inform him/her that the request may limit IVROP's ability to investigate the harassment or take other necessary action. When honoring a request for confidentiality, IVROP will nevertheless take all reasonable steps to investigate and respond to the complaint consistent with the request.

When a complainant or victim of sexual harassment notifies IVROP of the harassment but requests that IVROP not pursue an investigation, IVROP will determine whether or not it can honor such a request while still providing a safe and nondiscriminatory environment for all students and participants.

### **Response Pending Investigation**

When an incident of sexual harassment is reported, the supervisor or designee, in consultation with the compliance officer, shall determine whether interim measures are necessary

pending the results of the investigation. The supervisor/designee or compliance officer shall take immediate measures necessary to stop the harassment and protect students and participants and/or ensure their access to the educational program. To the extent possible, such interim measures shall not disadvantage the complainant or victim of the alleged harassment. Interim measures may include placing the individuals involved in separate classes or project activities, or transferring a student or participant to a class or project facilitated by a different employee, in accordance with law and Board policy. IVROP should notify the individual who was harassed of his/her options to avoid contact with the alleged harasser and allow the complainant to change academic and extracurricular arrangements as appropriate. IVROP should also ensure that the complainant is aware of the resources and assistance, such as counseling, that are available to him/her. As appropriate, such actions shall be considered even when a student or participant chooses to not file a formal complaint or the sexual harassment occurs off IVROP grounds or outside IVROP-sponsored or IVROP-related programs or activities.

### **Notifications**

A copy of IVROP's sexual harassment policy and regulation shall:

1. Be included in the notifications that are sent to parents/guardians at the beginning of each program (Education Code 48980; 5 CCR 4917)
  2. Be displayed in a prominent location in the main administrative building or other area where notices of IVROP rules, regulations, procedures, and standards of conduct are posted (Education Code 231.5)
- A copy of IVROP's sexual harassment policy and regulation shall be posted on IVROP web sites and, when available, on IVROP-supported social media
3. Be provided as part of any orientation program conducted for new students or participants at the beginning of each program
  4. Appear in any IVROP publication that sets forth the IVROP's comprehensive rules, regulations, procedures, and standards of conduct (Education Code 231.5)
  5. Be included in student or participant handbooks

### **UNIFORM COMPLAINT PROCEDURES**

*(BP/AR 1312.3)*

The Governing Board recognizes that IVROP 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.

IVROP's uniform complaint procedures (UCP) shall be used to investigate and resolve the following complaints:

1. Any complaint alleging IVROP violation of applicable state or federal law or regulations governing career technical and technical education and training programs, special education programs, and any other IVROP-implemented program which is listed in Education Code 64000(a) (5 CCR 4610)
2. Any complaint alleging the occurrence of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) against any student, participant, employee, or other person participating in IVROP 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, ethnic group identification, age, religion, marital, pregnancy, or 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)
3. Any complaint alleging IVROP noncompliance with the requirement to provide reasonable accommodation to a lactating student or participant on IVROP premises to express breast milk, breastfeed an infant child, or address other breastfeeding-related needs of the student or participant (Education Code 222)
4. 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
5. Any other complaint as specified in an IVROP policy

The Board recognizes that alternative dispute resolution (ADR) can, depending on the nature of the allegations, offer a process to reach a resolution to the complaint that is acceptable to all parties. ADR such as mediation may 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 sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. The Superintendent or designee shall ensure that the use of ADR is consistent with state and federal laws and regulations.

IVROP shall protect all complainants from retaliation. In investigating complaints, the confidentiality of the parties involved shall be protected as required by law. As appropriate for any complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the Superintendent or designee shall keep confidential the identity of the complainant and/or the subject of the complaint if he/she is different from the complainant, as long as the integrity of the complaint process is maintained.

When an allegation that is not subject to the UCP is included in a UCP complaint, IVROP 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 IVROP's UCP.

The Superintendent or designee shall provide training to IVROP 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.

The Superintendent or designee shall maintain records of all UCP complaints and the investigations of those complaints in accordance with applicable law and IVROP policy.

### **Non-UCP Complaints**

The following complaints shall not be subject to IVROP's UCP but shall be referred to the specified agency: (5 CCR 4611)

1. Any complaint alleging child abuse or neglect shall be referred to the County Department of Social Services, the County Protective Services Division, and the appropriate law enforcement agency.
2. Any complaint alleging health and safety violations by a child development program shall, for licensed facilities, be referred to Department of Social Services and shall, for licensing-exempt facilities, be referred to the appropriate Child Development regional administrator.
3. Any complaint alleging employment discrimination shall be sent to the California Department of Fair Employment and Housing and the compliance officer shall notify the complainant by first class mail of the transfer.
4. Any complaint alleging fraud shall be referred to the California Department of Education.

Except as the Governing Board may otherwise specifically provide in other IVROP policies, these uniform complaint procedures (UCP) shall be used to investigate and resolve only the complaints specified in BP 1312.3.

### **Compliance Officers**

IVROP designates the individual(s) identified below as the employee(s) responsible for coordinating IVROP's response to complaints and for complying with state and federal civil rights laws. The individual(s) also serve as the compliance officer(s) specified in AR 5145.3 - Nondiscrimination/Harassment as the responsible employee 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 IVROP compliance with law.

Director of Human Services  
687 State Street  
El Centro, CA 92243  
(760) 482-2600

[complaint@ivrop.org](mailto:complaint@ivrop.org)

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 Superintendent or designee who shall determine how the complaint will be investigated.

The Superintendent 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 include 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 Superintendent 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 Superintendent, the Superintendent's designee, or, if appropriate, the site principal 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 IVROP issues its final written decision, whichever occurs first.

### **Notifications**

IVROP's UCP policy and administrative regulation shall be posted in all IVROP offices, including staff lounges. (Education Code 234.1)

The Superintendent or designee shall annually provide written notification of IVROP's UCP, to students, participants, employees, parents/guardians, IVROP advisory committees, and other interested parties. (Education Code 262.3, 48853, 48853.5, 49013, 49069.5, 51225.1, 51225.2, 52075; 5 CCR 4622)

The annual notification and complete contact information of the compliance officer(s) may be posted on IVROP web site and, if available, provided through IVROP-supported social media.

The Superintendent or designee shall ensure that all students, participants and parents/guardians, including students, participants and parents/guardians with limited English proficiency, have access to the relevant information provided in

IVROP's policy, regulation, forms, and notices concerning the UCP.

If 15 percent or more of students or participants enrolled in IVROP programs speak a single primary language other than English, IVROP'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, IVROP shall ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

The notice shall:

1. Identify the person(s), position(s), or unit(s) responsible for receiving complaints
2. Advise the complainant of any civil law remedies that may be available to him/her under state or federal antidiscrimination laws, if applicable
3. Advise the complainant of the appeal process, including, if applicable, the complainant's right to take a complaint directly to the California Department of Education (CDE) or to pursue remedies before civil courts or other public agencies, such as the U.S. Department of Education's Office for Civil Rights (OCR) in cases involving unlawful discrimination (such as discriminatory harassment, intimidation, or bullying).
4. Include statements that:
  - a. IVROP has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs.
  - b. The complaint review shall be completed within 60 calendar days from the date of receipt of the complaint unless the complainant agrees in writing to an extension of the timeline.
  - c. A complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) must be filed not later than six months from the date it occurred, or six months from the date 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 Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension.
  - d. Complaints should be filed in writing and signed by the complainant. If a complainant is unable to put his/her complaint in writing, for example, due to conditions such as a disability or illiteracy, IVROP staff shall assist him/her in the filing of the complaint.
  - e. If a complaint is not filed in writing but IVROP receives notice of any allegation that is subject to the UCP, IVROP shall take affirmative steps to investigate

and address the allegations, in a manner appropriate to the particular circumstances.

If the allegation involves retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) and the investigation reveals that discrimination has occurred, IVROP will take steps to prevent recurrence of discrimination and correct its discriminatory effects on the complainant, and on others, if appropriate.

- f. The complainant has a right to appeal IVROP's decision to the CDE by filing a written appeal within 15 calendar days of receiving IVROP's decision.

In any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the respondent also shall have the right to file an appeal with the CDE in the same manner as the complainant, if he/she is dissatisfied with IVROP's decision.

- g. The appeal to the CDE must include a copy of the complaint filed with IVROP and a copy of IVROP's decision.

- h. Copies of IVROP's UCP are available free of charge.

### **IVROP Responsibilities**

All UCP-related complaints shall be investigated and resolved within 60 calendar days of IVROP'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), IVROP 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)

### **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, IVROP 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:

1. A complaint alleging IVROP violation of applicable state or federal law or regulations governing adult education programs, migrant education, career technical and technical education and training programs, child care and development programs, and special education programs may be filed by any individual, public agency, or organization. (5 CCR 4630)
2. 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 Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension. (5 CCR 4630)
3. 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.
4. 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 IVROP's ability to investigate the conduct or take other necessary action. When honoring a request for confidentiality, IVROP shall nevertheless take all reasonable steps to investigate and resolve/respond to the complaint consistent with the request.

## **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 or participant 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 IVROP'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 IVROP shall take only the actions agreed to through the mediation. If mediation is unsuccessful, IVROP shall then continue with subsequent steps specified in this administrative regulation.

## **Investigation of Complaint**

Within 10 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 IVROP'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 IVROP'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, IVROP 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 IVROP 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.

### **Report of Findings**

Unless extended by written agreement with the complainant, a final decision shall be sent to the complainant within 60 calendar days of IVROP'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 report, as described in the section "Final Written Decision" 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. 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 IVROP'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 IVROP's decision.

### **Final Written Decision**

IVROP'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 IVROP 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 IVROP'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, participant or parent/guardian and the student or participant involved attends IVROP programs at which 15 percent or more of the students or participants speak a single primary language other than English, then the decision shall also be translated into that language. In all other instances, IVROP shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

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

1. The findings of fact based on the evidence gathered. In reaching a factual determination, the following factors may be taken into account:
  - a. Statements made by any witnesses
  - b. The relative credibility of the individuals involved
  - c. How the complaining individual reacted to the incident
  - d. Any documentary or other evidence relating to the alleged conduct
  - e. Past instances of similar conduct by any alleged offenders
  - f. Past false allegations made by the complainant
2. The conclusion(s) of law
3. Disposition of the complaint
4. Rationale for such disposition

For complaints of retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the disposition of the complaint shall include a determination for each allegation as to whether retaliation or unlawful discrimination has occurred.

The determination of whether a hostile environment exists may involve consideration of the following:

- a. How the misconduct affected one or more students' or participants' education
- b. The type, frequency, and duration of the misconduct
- c. The relationship between the alleged victim(s) and offender(s)
- d. The number of persons engaged in the conduct and at whom the conduct was directed
- e. The location of the incidents, and context in which they occurred
- f. Other incidents involving different individuals

5. Corrective action(s), including any actions that have been taken or will be taken to address the allegations in the complaint and including, with respect to a student fees complaint, a remedy that comports with Education Code 49013 and 5 CCR 4600

For complaints of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the decision may, as required by law, include:

- a. The corrective actions imposed on the respondent
  - b. Individual remedies offered or provided to the complainant or another person who was the subject of the complaint, but this information should not be shared with the respondent.
  - c. Systemic measures taken to eliminate a hostile environment and prevent recurrence
6. Notice of the complainant's and respondent's right to appeal IVROP's decision to the CDE within 15 calendar days, and procedures to be followed for initiating such an appeal

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

For complaints alleging unlawful discrimination based on state law (such as discriminatory harassment, intimidation, and bullying), the decision shall also include a notice to the complainant that:

1. He/she may pursue available civil law remedies outside of IVROP's complaint procedures, including seeking assistance from mediation centers or public/private interest attorneys, 60 calendar days after the filing of an appeal with the CDE. (Education Code 262.3)
2. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law. (Education Code 262.3)
3. Complaints alleging discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the U.S. Department of Education, Office for Civil Rights at [www.ed.gov/ocr](http://www.ed.gov/ocr) within 180 days of the alleged discrimination.

### **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 IVROP environment may include, but are not limited to, actions to reinforce IVROP policies; training for faculty, staff, and students; updates to IVROP policies; or IVROP climate surveys.

For complaints involving retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), appropriate remedies that may be offered to the victim but not

communicated to the respondent may include, but are not limited to, the following:

1. Counseling
2. Academic support
3. Health services
4. Assignment of an escort to allow the victim to move safely about campus
5. Information regarding available resources and how to report similar incidents or retaliation
6. Separation of the victim from any other individuals involved, provided the separation does not penalize the victim
7. Restorative justice
8. Follow-up inquiries to ensure that the conduct has stopped and there has been no retaliation
9. Determination of whether any past actions of the victim that resulted in discipline were related to the treatment the victim received and described in the complaint

For complaints involving retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), appropriate corrective actions that focus on a student offender may include, but are not limited to, the following:

1. Transfer from a program as permitted by law
2. Parent/guardian conference
3. Education regarding the impact of the conduct on others
4. Positive behavior support
5. Referral to a student success team
6. Denial of participation in extracurricular or co-curricular activities or other privileges as permitted by law
7. Disciplinary action, such as suspension or expulsion, as permitted by law

When an employee is found to have committed retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), IVROP shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

IVROP may also consider training and other interventions to ensure that students, staff, and parents/guardians understand the types of behavior that constitute unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), that IVROP does not tolerate it, and how to report and respond to it.

## **Appeals to the California Department of Education**

Any complainant who is dissatisfied with IVROP's final written decision may file an appeal in writing with the CDE within 15 calendar days of receiving IVROP's decision. (Education Code 222, 48853, 48853.5, 49013, 49069.5, 51223, 51225.1, 51225.2, 51228.3, 52075; 5 CCR 4632)

When a respondent in any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying) is dissatisfied with IVROP's final written decision, he/she, in the same manner as the complainant, may file an appeal with the CDE.

The complainant or respondent shall 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 IVROP's decision. (5 CCR 4632)

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

1. A copy of the original complaint
2. A copy of the written decision
3. A summary of the nature and extent of the investigation conducted by IVROP, 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 the parties and gathered by the investigator
5. A report of any action taken to resolve the complaint
6. A copy of IVROP's uniform complaint procedures
7. Other relevant information requested by the CDE