



**CALIFORNIA DEPARTMENT
OF EDUCATION**

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California Department of Education
Education Equity UCP Office
Decision of Appeal

Case Matter No.	2025-0153
Appellant:	████████████████████
Local Educational Agency:	Oakland Unified School District
Date Appeal Received by the CDE:	August 25, 2025
Subject of Appeal:	Discrimination based on race or ethnicity
Decision of Appeal Issued:	October 24, 2025

I. APPEAL PROCEDURES AND DETERMINATION

The California Department of Education (CDE) reviewed the original complaint, the local educational agency, Oakland Unified School District (LEA) Investigation Report (IR), the appeal, the LEA's response to the appeal, and the LEA's complaint procedures. This appeal is limited to allegations of discrimination on the basis of race or ethnicity that occurred within six months of the filing of the complaint. Title 5, California Code of Regulations (5 CCR), Section 4630(b).

The CDE finds that the appeal has merit. Corrective actions are assigned below.

The applicable law pertinent to this appeal, the scope of the CDE's jurisdiction on appeal, as well as the applicable appellate review procedures are set forth in the Uniform Complaint Procedures (UCP) pursuant to 5 CCR, Section 4600 *et. seq.* as referenced in Appendix A.

SUMMARY OF COMPLAINT AND APPEAL

Submitted on November 18, 2023, and December 2, 2023, the Complaint made allegations of discrimination and intimidation against Jewish students and staff when a flag associated with Palestinians (the "Palestinian flag") was flown on the flagpole of a high school within the LEA from October 18, 2023, through November 15, 2023. (Complaint, p. 1) The Complaint asserts that there were two Twitter posts related to the incident with one of them alleging that an unnamed Fremont teacher stated that the raising of the flag "was student led and supported by teachers," but the flag was removed by the LEA and that the teachers were "still supporting students in more organizing efforts at Fremont." (*Id.*) Appellant stated that the flying the Palestinian flag clearly violated the LEA's policies and the law, which included EC §§ 201 and 220 and 5

CCR § 4960. (Complaint, p. 2-4) Appellant asserts that this act “discriminates against Jewish students and staff, and would be likely cause students or staff members who support Jews or Israel in this conflict to feel less than or marginalized.” Appellant further asserts that it was “an attempt to indoctrinate students or staff into taking one position over another, and/or intimidate others based on their religion, ethnicity or nationality.” (Complaint, p. 4) In neither complaint does Appellant identify any specific student or staff member from the school that alleged a hostile environment or discrimination based on the raising of the Palestinian flag during the month that the flag was raised on the school’s flagpole.

The May 22, 2025, Appeal asserted three (3) grounds for appeal. Specifically, that the LEA (1) failed to comply with procedural requirements for investigating UCP Complaints when the District failed to issue an IR within 60 days, (2) the material findings in the IR are not supported by substantial evidence, and (3) the IR lacked material findings of fact necessary to reach a conclusion of law on the subject of the appeal, i.e., the allegation of discrimination and intimidation.

On July 17, 2025, the CDE determined that the LEA IR was deficient as to Ground 2 and Ground 3, so CDE notified the LEA of these deficiencies. Pursuant to 5 CCR Section 4633(f)(1), the matter was sent back to the LEA for further processing and the issuance of an amended IR within 20 days of the notification. The LEA submitted its amended IR on September 25, 2025.

The August 25, 2025, Appeal of the amended IR asserts that the LEA failed to address the deficiencies of the May 22, 2025, IR because it (1) the LEA failed to comply with procedural requirements for investigating UCP Complaints when the District failed to issue an IR within 60 days, (2) the material findings in the IR are not supported by substantial evidence, and (3) the IR lacked material findings of fact necessary to reach a conclusion of law on the subject of the appeal, i.e., the allegation of discrimination.

COMPLAINT PROCEDURES

The LEA received the original complaint on November 18, 2023, and December 2, 2023. The LEA issued the original IR on May 21, 2025, approximately 18 months after the first complaint was submitted.

When the LEA issued its May 12, 2025, IR and its August 25, 2025, amended IR, the LEA concluded that there was not a violation of its board policy pertaining to the presentation of controversial issues, but in neither IR did the LEA address the allegation of discrimination or intimidation of the LEA’s Jewish students and staff.

In addition, pursuant to 5 CCR, Section 4631(a), the LEA is required to issue a written IR within 60 days of LEA’s receipt of the original complaint unless there is written agreement of the complainant to extend the timeline. In issuing the written IR, the LEA

must include a “findings of fact based on the evidence gathered” and a “conclusion providing a clear determination as to each allegation as to whether the LEA is in compliance with the relevant law.” 5 CCR Section 4631(e)(2).

The CDE finds that the LEA failed to comply with complaint procedures when it issued an IR approximately 18 months after the original complaint was received with no evidence of written agreement for an extension of the timeline. The CDE also finds that the LEA failed to comply with complaint procedures when it failed to include a conclusion pertaining to the allegation of discrimination against the LEA’s Jewish students and staff in either its May 21, 2025, IR or the amended August 22, 2025, IR.

LEA’S FINDINGS OF FACT

The LEA’s investigation, conducted under the UCP and resulting in the August 21, 2025, IR.

The LEA’s key factual findings were summarized as follows:

1. LEA students raised the Palestinian flag on the School’s courtyard flagpole as part of a student-led Walkout event on October 18, 2023 (the Walkout).
2. The Palestinian flag remained raised on the courtyard flagpole from October 18, 2023 until the Head Custodian removed it on November 15, 2023.
3. The School Principal was aware of and had the authority to remove the Palestinian flag from the courtyard flagpole. However, the School Principal did not have concerns about the Palestinian flag being raised on the courtyard flagpole prior to November 15, 2023.
4. The School Principal did not receive any complaints about the Palestinian flag from students, staff, or parents until the date of the complaint.
5. There had been variety of flags raised on the same flagpole, including most recently the Transgender Pride flag.
6. Other flags representing Latin American countries and Yemen were raised on the courtyard flagpole.

CDE’S DETERMINATION AS TO LEA’S FINDINGS OF FACT

Pursuant to 5 CCR, Section 4633(d)(2) and (3), the CDE requested a copy of the investigation file from the LEA, which the LEA is required to provide under 5 CCR, Section 4633, to determine whether:

The LEA IR includes material findings of fact necessary to reach a conclusion of law on the subject of the appeal; and

The material findings of fact in the LEA IR are supported by substantial evidence.

The CDE finds that the IR does not meet these criteria. The IR did not include material findings of fact that addressed whether flying the Palestinian flag on the school flagpole in the immediate aftermath of the events of October 7, 2023, could create a hostile or intimidating environment for Jewish students or staff. The LEA also failed to provide its investigation file, which would allow CDE to determine whether the findings of fact were supported by substantial evidence. Instead, the LEA asserts attorney-client privilege and attorney work product privilege “due to litigation initiated by Appellant against the District” and that the investigation was conducted by attorney-investigators. (Response, p. 1) However, the CDE finds that this argument does not relieve the LEA of its obligation to provide a copy of the investigation file pursuant to 5 CCR Section 4633(a)(3).

LEA’S CONCLUSIONS OF LAW

In the IR, the LEA concluded that there was no violation of the LEA’s policy pertaining to the presentation of controversial issues; however, it failed to address whether such conduct constituted discrimination or intimidation against Jewish students and staff.

CDE’S DETERMINATION AS TO LEA’S CONCLUSIONS OF LAW

The CDE finds that the LEA impliedly concluded that the conduct did not constitute such discrimination. The CDE finds that this implied conclusion is inconsistent with the law. Specifically, the Palestinian flag (which represents a state that Israel disputes its existence) was flown on a school flagpole shortly after the events in the Middle East on October 7, 2023, and left on the school flagpole for about a month. The Israeli flag was not included in what could be perceived as a show of LEA support for a particular viewpoint in the conflict. In this context, the evidence is consistent with a legal conclusion that the District contributed to a discriminatory environment for Jewish students and staff. As such, the LEA’s implied conclusion is not supported by material findings of fact supported by substantial evidence for the reasons and thus, is inconsistent with the law.

CONCLUSION

The appeal has merit. Corrective actions are assigned.

CORRECTIVE ACTIONS

The CDE issues the following corrective action:

1. By January 9, 2026, the District shall provide the CDE with evidence it has provided a training to its UCP compliance staff on the requirements of:
 - a. 5 CCR Section 4631(a) (the 60-day time period for an IR if no written agreement on an extension);

- b. 5 CCR Section 4631(e)(1) and (e)(2) (the need for the LEA IR to include findings of fact based on the evidence gathered and a conclusion that provides clear determination as to each allegation as to whether the LEA is in compliance with the relevant law, i.e., the laws prohibiting discrimination).

Acceptable evidence of compliance shall be a copy of the training agenda and materials and a written log of attendee names who completed the training with their signatures and titles.

- 2. By January 9, 2026, the District shall provide a training to all District site administrators ensuring that the District does not show discrimination or bias towards persons with protected characteristics in its written communications and physical displays.

Acceptable evidence of compliance shall be a copy of the training agenda and materials and a written log of attendee names who completed the training with their signatures and titles.

APPENDIX A

APPLICABLE LAW

California Education Code (EC) Section 220 Discrimination

No person shall be subjected to discrimination or harassment on the basis of . . . race or ethnicity . . . in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance . . .

EC, Section 33315(a)(1) Uniform Complaint Procedures (UCP)

The UCP shall apply to all of the following:

. . .

(f) The filing of complaints that allege unlawful discrimination, harassment, intimidation, or bullying against any protected group as identified under Sections 200 and 220 and Section 11135 of the Government Code, including any actual or perceived characteristic as set forth in Section 422.55 of the Penal Code, 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 program or activity conducted by an educational institution, as defined in Section 210.3, that is funded directly by, or that receives or benefits from, any state financial assistance.

CDE'S JURISDICTION ON APPEAL

The scope of the CDE's jurisdiction on appeal, as well as the applicable appellate review procedures are set forth in the UCP pursuant to 5 CCR, Section 4600 *et. seq.*

Purpose and Scope

In pertinent part, 5 CCR, Section 4610 states:

- (a) This chapter applies to the filing, investigation, and resolution of a complaint regarding an alleged violation by a local agency of federal or state law or regulations governing educational programs, and other specified subject matter described in subsection (b), below.
- (b) The UCP in this chapter shall apply to complaints relating to all of the matters addressed in *EC* Section 33315(a)(1) and any other matters identified by the Legislature in the future.

Appeal of LEA Investigation Report

In pertinent part 5 CCR, Section 4632 states:

(f) If the CDE determines that the LEA Investigation Report failed to address an allegation raised in the complaint, the CDE shall notify the LEA of such failure and direct the LEA to investigate such allegations. The LEA must provide both the CDE and the appellant an amended Investigation Report within 20 days of such notification. The amended report must also inform the appellant of the right to separately appeal . . . the complaint allegations . . . not addressed in the original report.

In pertinent part 5 CCR, Section 4633 states:

(a) If the LEA Investigation Report is appealed and meets the requirements of Section 4632, subdivisions (a) through (c), the CDE shall notify the LEA of the appeal. Upon notification by the CDE that the LEA Investigation Report has been appealed, the LEA shall forward the following to the CDE within 10 days of the date of notification:

- (1) A copy of the original complaint;
- (2) A copy of the LEA Investigation Report;
- (3) A copy of the investigation file, including but not limited to, all notes, interviews and documents submitted by the parties or gathered by the investigator;
- (4) A report of any action taken to resolve the complaint;
- (5) A copy of the LEA complaint procedures; and
- (6) Such other relevant information as the CDE may request.

An LEA's failure to provide a timely and complete response may result in the CDE ruling on the appeal without considering information from the LEA.

(b) In deciding an appeal, the CDE shall not consider any information not previously presented to the LEA investigator during the investigation, unless requested by the CDE. Any confidential information or pupil information in the investigative file shall remain confidential and shall not be disclosed by the CDE, to the extent permitted by law.

(c) The CDE may contact the parties for further information, if necessary.

- (d) The CDE shall review the investigation file, the complaint procedures, documents, and any other evidence received from the LEA and determine whether:
 - (1) The LEA followed its complaint procedures;
 - (2) The LEA Investigation Report includes material findings of fact necessary to reach a conclusion of law on the subject of the appeal;
 - (3) The material findings of fact in the LEA Investigation Report are supported by substantial evidence;
 - (4) The LEA Investigation Report includes a legal conclusion(s) that is consistent with the law; and
 - (5) In a case in which the LEA found noncompliance, the corrective actions provide a proper remedy.
- (e) If the CDE determines that the LEA Investigation Report meets the criteria in subsection (d) above, the appeal shall be denied.
- (f) If the CDE determines that the LEA Investigation Report is deficient because it does not meet the criteria in subsection (d) above, the CDE may:
 - (1) Notify the LEA of such deficiencies and return the LEA Investigation Report to the LEA for further processing and instruct the LEA to provide both the CDE and the complainant with an amended Investigation Report within 20 days of such notification, which amended report must inform the complainant of the right to appeal in accordance with Section 4632; or
 - (2) Issue a Decision based on the evidence in the investigation file received from the LEA; or
 - (3) Conduct a further investigation of the allegations which are the basis for the appeal and issue a Decision.