

Uniform Complaint Procedure

AR 1312.3 Community Relations

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

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 1312.2 - Complaints Concerning Instructional Materials)

(cf. 1312.4 - Williams Uniform Complaint Procedures)

(cf. 4030 - Nondiscrimination in Employment)

Compliance Officers

The Board designates the positions identified below as responsible for coordinating the district's response to complaints and for complying with state and federal civil rights laws. The individual(s) in the positions identified below also serve as the Compliance Officer(s) specified in AR 5145.3 - Nondiscrimination/Harassment/Anti-Bullying responsible for handling complaints regarding unlawful discrimination or harassment, such as discriminatory harassment, intimidation, and bullying, and in AR 5145.7 – Sexual Harassment, as responsible for handling complaints regarding sexual harassment. The Compliance Officers shall receive and coordinate the investigation of complaints and shall ensure district compliance with law.

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

UCP Compliance Officer
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The Compliance Officer who receives a complaint may designate another individual to investigate and resolve the complaint. The Compliance Officer shall promptly notify the complainant and respondent if applicable, who is assigned to the complaint. As necessary, additional staff or legal counsel may conduct or support the investigation.

In no instance shall a Compliance Officer be assigned to a complaint if the Compliance Officer has a bias or conflict of interest that could prohibit the fair investigation or resolution of 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 cover current state and federal laws and regulations governing the program, applicable processes for investigating and resolving complaints, including those involving alleged unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), applicable standards for reaching decisions on complaints, and appropriate corrective measures. Assigned individuals may have access to legal counsel as determined by the Superintendent or designee.

(cf. 4331 - Staff Development)

(cf. 9124 - Attorney)

If any school personnel witnesses an act of discrimination, harassment, intimidation or bullying, they shall take immediate steps to intervene when safe to do so. The Compliance Officer or, if necessary, any appropriate administrator shall determine whether interim measures are necessary during and pending the results 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 the district issues its investigation report. The Compliance Officer may decide to maintain interim measures in place after an investigation report is issued.

Notifications

The district's UCP policy and administrative regulation shall be posted in all district schools and offices, including staff lounges and student government meeting rooms. (Education Code 234.1)

The Superintendent or designee shall annually provide written notification of the district's UCP to students, employees, parents/guardians of district students district advisory committee members, school advisory committee members, appropriate private school officials or representatives, and other interested parties. (5 CCR 4622)

(cf. 0420 - School Plans/Site Councils)

(cf. 1220 - Citizen Advisory Committees)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

The notice shall include:

1. A statement that the district is primarily responsible for compliance with applicable federal and state laws and regulations, including those related to prohibition of unlawful discrimination, harassment, intimidation, or bullying against any protected group and all programs and activities that are subject to UCP as identified in the section "Complaints Subject to UCP" in the accompanying Board policy.
2. The title of the position responsible for processing complaints, the identity of the person(s) currently occupying that position if known, and a statement that such persons will be knowledgeable about the laws and programs that they are assigned to investigate.

3. A statement that, in the case of a complaint alleging unlawful discrimination, harassment, intimidation, or bullying, a UCP complaint must be filed no later than six months from the date of the alleged conduct or the date the complainant first obtained knowledge of the facts of the alleged conduct.
4. A statement that a UCP complaint must be filed no later than one year from the date the alleged violation occurred.
5. A statement that a student enrolled in a public school shall not be required to pay a fee for participation in an educational activity that constitutes an integral fundamental part of the district's educational program, including curricular and extracurricular activities.
6. A statement that a complaint regarding student fees or the local control and accountability plan (LCAP) may be filed anonymously if the complainant provides evidence or information leading to evidence to support the complaint.

(cf. 0460 - Local Control and Accountability Plan)

(cf. 3260 - Fees and Charges)

7. A statement that the district will post a standardized notice of the educational rights of foster youth, homeless students, former juvenile court school students now enrolled in the district, children of military families, migrant students, and immigrant students enrolled in a newcomer program, as specified in Education Code 48853, 48853.5, 49069.5, 51225.1, and 51225.2, and the complaint process.

(cf. 6173 - Education for Homeless Children)

(cf. 6173.1 - Education for Foster Youth)

8. A statement that complaints will be investigated in accordance with the district's UCP and a written investigation report will be sent to the complainant within 60 days from the receipt of the complaint, unless this time period is extended by written agreement of the complainant.
9. A statement that the complainant has a right to appeal the district's investigation report to CDE for programs within the scope of the UCP by filing a written appeal, including a copy of the original complaint and the district's investigation report, within 30 days of receiving the district's investigation report.
10. A statement advising the complainant of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available to the complainant under state or federal antidiscrimination laws, if applicable.
11. A statement that copies of the district's UCP are available free of charge.

In addition, in each license-exempt California State Preschool Program (CSPP) classroom, a notice shall be posted notifying parents/guardians, students, and teachers of the health and safety requirements of Title 5 regulations that apply to CSPP programs pursuant to Health and Safety Code 1596.7925 and the location at which to obtain a form to file any complaint alleging noncompliance with those requirements. (Education Code 8235.5)

The annual notification, complete contact information of the Compliance Officers, and information related to Title IX as required pursuant to Education Code 221.61 shall be posted on the district web site and may be provided through district-supported social media, if available.

(cf. 1113 - District and School Web Sites)

(cf. 1114 - District-Sponsored Social Media)

The Superintendent or designee shall ensure that all students and parents/guardians, including students and parents/guardians with limited English proficiency, have access to the relevant information provided in the district's policy, regulation, forms, and notices concerning the UCP.

If fifteen percent (15%) or more of students enrolled in a particular district school speak a single primary language other than English, the district'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, the district shall ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

Filing of Complaints

The complaint shall be presented to the Compliance Officer who shall maintain a log of complaints received.

All complaints shall be filed in writing, signed by the complainant, and filed with the Compliance Officer, whenever possible. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, district staff shall assist the complainant in the filing of the complaint. The signature on a complaint may be handwritten, typed (including in an email), or electronically generated. (5 CCR 4600)

All school personnel who are in receipt of a complaint that pertains to UCP shall immediately notify the site administrator. All UCP complaints filed with a site administrator will be forwarded to a Compliance Officer. All parties involved in the allegations shall be notified when a complaint is filed and when a decision or ruling is made. 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)

Complaints shall also be filed in accordance with the following rules, as applicable:

1. A complaint alleging district violation of applicable state or federal law or regulations governing the programs specified in the accompanying Board policy (items #1 through 26 of the section "Complaints Subject to UCP") may be filed by any individual, public agency, or organization. (5 CCR 4630)
2. Any complaint alleging noncompliance with law regarding the prohibition against student fees, deposits, and charges or any requirement related to the LCAP may be filed anonymously, without a signature, if the complaint provides evidence, or information leading to evidence, to support an allegation of noncompliance. A complaint about a violation of the prohibition against the charging of unlawful student fees may be filed with the principal of the school or with the Superintendent or designee. However, any such complaint shall be filed no later than one year from the date the alleged violation occurred. (Education Code 49013, 52075; 5 CCR 4630)
3. A complaint alleging unlawful discrimination, such as discriminatory harassment, intimidation, or bullying, may be filed only by persons who allege that they have personally suffered unlawful discrimination or who believe that any specific class of individuals has been subjected to unlawful discrimination, or by a duly authorized representative who alleges that an individual student has been subjected to unlawful discrimination, harassment, intimidation or bullying. . The complaint shall be initiated no later than six months from the date that 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)

4. When a complaint alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying is filed anonymously, the Compliance Officer shall pursue an investigation or other response as appropriate, based on the information provided and the seriousness of the allegation.
5. When the complainant of unlawful discrimination, including discriminatory harassment, intimidation, or bullying, or the alleged victim, when not the complainant, requests confidentiality, the Compliance Officer shall inform the complainant or victim that the request may limit the district's ability to investigate the conduct or take other necessary action. When honoring a request for confidentiality, the district shall nevertheless take all reasonable steps to investigate and resolve/respond to the complaint consistent with the request.

Investigation of Complaint

The Compliance Officer shall provide the complainant and/or the complainant's representative with the opportunity to present the information contained in the complaint and shall notify the complainant and/or representative of the opportunity to present 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 determine the proper investigation procedures to ensure an unbiased and thorough investigation. Generally, an investigation will include collection of 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. The Compliance Officer/Investigator 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/Investigator shall inform both parties of the status of the investigation. The Compliance Officer/Investigator shall interview the alleged victim(s), any alleged offenders, and other relevant witnesses privately, separately, and in a confidential manner to the extent practicable. As necessary, additional staff or legal counsel may conduct or support the investigation.

A complainant's refusal to provide the district's Compliance Officer/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(s). Similarly, a respondent's refusal to provide the district's Compliance Officer/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, the district shall provide the Compliance Officer/Investigator with access to records and other information related to the allegation(s) in the complaint and shall not in any way obstruct the investigation. Failure or refusal of the district 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/Investigator 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.

Investigation Report

Unless extended by written agreement with the complainant, the Compliance Officer shall prepare and send to the complainant a written report, as described herein below, within 60 calendar days of the district's receipt of the complaint. (5 CCR 4631)

For any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying), the respondent shall be informed of any extension of the timeline agreed to by the complainant. The respondent also shall be sent the district's written report at the same time it is provided to the complainant.

For all complaints, the district's investigation report shall include: (5 CCR 4631)

1. Findings of fact based on the evidence gathered.
2. Conclusion providing a clear determination as to each allegation as to whether the district is in compliance with the relevant law.
3. Corrective action(s), whenever the district finds merit in the complaint, including, when required by law, a remedy to all affected students and parents/guardians and, for a student fees complaint, a remedy that complies with Education Code 49013 and 5 CCR 4600.
4. Notice of the complainant's right to appeal the district's investigation report to CDE except when the district has used the UCP to address a complaint not specified in 5 CCR 4610.
5. Procedures to be followed for initiating an appeal to CDE.

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

In consultation with district legal counsel, information about the relevant part of an investigation report 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 the district's investigation report 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 or parent/guardian and the student involved is enrolled in a school at which 15 percent or more of the students speak a single primary language other than English, then the investigation report shall also be translated into that language pursuant to Education Code 48985. In all other instances, the district shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

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

1. The complainant may pursue available civil law remedies outside of the district'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-day 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 within 180 days of the alleged discrimination.
4. If an employee is disciplined as a result of the complaint, the investigation report shall simply state that effective action was taken and that the employee was informed of district expectations. The report shall not give any further information as to the nature of the disciplinary action.

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

When a complaint is found to have merit, an appropriate remedy shall be provided to the complainant or other affected person.

(cf. 5137 - Positive School Climate)

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; and/or
8. Follow-up inquiries to ensure that the conduct has stopped and there has been no retaliation.

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 class or school 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; and/or
7. Disciplinary action, such as suspension or expulsion, as permitted by law.

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

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

The district may also consider training and other interventions for the larger school community 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 the district does not tolerate it, and how to report and respond to it.

If a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges, physical education instructional minutes, or any requirement related to the LCAP is found to have merit, the district shall provide a remedy to all affected students and parents/guardians subject to procedures established by regulation of the State Board of Education. (Education Code 49013, 51222, 51223, 52075).

For complaints alleging noncompliance with the laws regarding student fees, the district shall attempt in good faith, by engaging in reasonable efforts, to identify and fully reimburse all affected students and parents/guardians who paid the unlawful student fees within one year prior to the filing of the complaint. (Education Code 49013; 5 CCR 4600)

Appeals to the California Department of Education (CDE)

Any complainant who is dissatisfied with the district's investigation report on a complaint regarding any specified federal or state educational program subject to UCP, may file an appeal in writing with the CDE within 30 calendar days of receiving the district's investigation report. (5 CCR 4632)

The appeal shall be sent to CDE with a copy of the original locally filed complaint and a copy of the district's investigation report for that complaint. The complainant shall specify and explain the basis for the appeal, including at least one of the following: (5 CCR 4632)

1. The district failed to follow its complaint procedures;
2. Relative to the allegations of the complaint, the district's investigation report lacks material findings of fact necessary to reach a conclusion of law;

3. The material findings of fact in the district's investigation report are not supported by substantial evidence;
4. The legal conclusion in the district's investigation report is inconsistent with law; and/or
5. In a case in which the district found noncompliance, the corrective actions fail to provide a proper remedy.

The CDE will not process an appeal if it is untimely or if it fails to include this information. (5 CCR 4632)

Upon notification by CDE that the complainant has appealed the district's investigation report, the Superintendent or designee shall forward the following documents to the CDE within 10 days of the date of notification: (5 CCR 4633)

1. A copy of the original complaint.
2. A copy of the written investigation report.
3. . 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.
4. . A report of any action taken to resolve the complaint.
5. . A copy of the district's uniform complaint procedures.
6. . Other relevant information requested by CDE.

The district's failure to provide a timely and complete response may result in the CDE ruling on the appeal without considering information from the district. (5 CCR 4633)

If notified by CDE that the district's investigation report failed to address allegation(s) raised by the complaint, the district shall, within 20 days of the notification, provide CDE and the appellant with an amended investigation report that addresses the allegation(s) that were not addressed in the original investigation report. The amended report shall also inform the appellant of the right to separately appeal the amended report with respect to the allegation(s) that were not addressed in the original report. (5 CCR 4632)

Health and Safety Complaints in California State Preschool Program (CSPP)

UCP complaints regarding state preschool health and safety issues in a license-exempt CSPP program shall comply with the following:

1. All complaints shall be filed with the preschool program administrator or designee, and may be filed anonymously. The complaint form shall specify the location for filing the complaint and shall contain a space to indicate whether the complainant desires a response to the complaint. A complainant may add as much text to explain the complaint as he or she wishes. A complainant who self-identifies is entitled to a response if the complainant indicates that a response is requested. Any response, if requested, shall be written in English and the primary language in which the complaint was filed.
2. If it is determined that the complaint is beyond the authority of the preschool program administrator, the matter shall be forwarded to the Superintendent or designee in a timely manner, not to exceed 10 working days, for resolution. (Education Code 8235.5)

3. Investigation of a complaint regarding health or safety issues in a license-exempt CSPP program shall begin within 10 days of receipt of the complaint. (Education Code 8235.5)
4. The preschool administrator or designee shall remedy a valid complaint within a reasonable time period not to exceed 30 working days from the date the complaint was received. If the complainant has indicated on the complaint form a desire to receive a response to the complaint, the preschool administrator or Superintendent's designee shall report the resolution of the complaint to the complainant within 45 working days of the initial filing of the complaint.
5. If the preschool administrator makes this report, the information shall be reported at the same time to the Superintendent or designee.
6. A complainant not satisfied with the resolution of the complaint has the right to describe the complaint to the Governing Board at a regularly scheduled meeting. (Education Code 8235.5)
7. A complainant may file a written appeal of the district's decision to CDE in accordance with 5 CCR 4632 as described above. (Education Code 8235.5) Any appeal must be filed within 30 days of the date of the complainant's receipt of the district's report.
8. The district shall report summarized data on the nature and resolution of all CSPP health and safety complaints by general subject area with the number of resolved and unresolved complaints, on a quarterly basis to the Board at a regularly scheduled meeting, and to the County Superintendent of Schools.
9. All complaints and responses are public records. (Education Code 8235.5)

Regulation
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SAN RAMON VALLEY UNIFIED SCHOOL DISTRICT
Danville, California

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