

Community Relations

UNIFORM COMPLAINT PROCEDURES

The Governing Board recognizes that the District has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs. The District shall investigate and seek to resolve any complaints alleging failure to comply with such laws and/or alleging unlawful discrimination, harassment, intimidation, or bullying in accordance with the uniform complaint procedures. The Board encourages the 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.

The District shall use the uniform complaint procedures to investigate and resolve any complaint alleging unlawful discrimination, harassment, intimidation, or bullying in District programs and activities, including in those programs or activities funded directly by or that receive or benefit from any state financial assistance, based on a person's actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, immigration status, ethnic group identification, age, religion, marital status, pregnancy, parental status, mental or physical disability, medical condition, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristics identified in Education Code 200 and 220, Penal Code 422.55 and Government Code 11135, or based on association with a person or group with one or more of these actual or perceived characteristics (5 CCR 4610).

(cf. 0410 – Nondiscrimination in District Programs and Activities)

(cf. 1114 – District-Sponsored Social Media)

(cf. 4030 – Nondiscrimination in Employment)

(cf. 5131 – Conduct)

(cf. 5131.2– Bullying)

(cf. 5144 – Discipline)

(cf. 5144.1 Suspension and Expulsion, Due Process)

(cf. 5145.3 – Nondiscrimination-Harassment)(EEO, Title IX)

(cf. 5145.7 – Student Harassment)

(cf. 6145.2 – Athletic Competition)

(cf. 9000 – Role of the Board (Powers and Responsibilities)

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UNIFORM COMPLAINT PROCEDURES (continued)

Uniform complaint procedures shall also be used to address any complaint alleging the District's failure to comply with state and/or federal laws regarding adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and training programs, child-care and development programs, the local control and accountability plan, accommodations for pregnant and parenting students, After School Education and Safety programs, agricultural career technical education, compensatory education, course periods without educational content, educational and graduation requirements for students in foster care, homeless students, students from military families, and students formerly in a juvenile court school now enrolled in a school district, students who are migratory, and students participating in a newcomer program. _ Every Student Succeeds Act, physical education instructional minutes, reasonable accommodations to a lactating student, regional occupational centers and programs, student fees, school plans for student achievement as required for the consolidated application for specified federal and/or state categorical funding, school site councils as required for the consolidated application for specified federal and/or state categorical funding, state preschool programs, state preschool health and safety issues in license-exempt programs, 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, any other state or federal educational program the Superintendent of Public Instruction or designee deems appropriate.

- (cf. 0420 – School Plans – Site Councils)*
- (cf. 0402.41 – Charter School Oversight)*
- (cf. 0450 – Comprehensive Safety Plan)*
- (cf. 0460 – Local Control and Accountability Plan)*
- (cf. 1312 – Complaints Concerning the Schools)*
- (cf. 1312 E – Complaint Declaration Form)*
- (cf. 1312.1 – Complaints Concerning District Employees)*
- (cf. 3260 – Fees and Charges)*
- (cf. 3320 – Claims and Actions Against the District)*
- (cf. 5111.12 – Education for Homeless Children)*
- (cf. 5146 – Married/Pregnant/Parenting Students)*
- (cf. 5148 – Child Care)*
- (cf. 6142.7 – Physical Education)*

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UNIFORM COMPLAINT PROCEDURES (continued)

(cf. 6171 – Title I Programs)

(cf. 6173.1 – Education for Foster Youth)

(cf. 6174 – Education for English Language Learners)

(cf. 9000 – Role of the Board (Powers and Responsibilities))

The Board recognizes that alternative dispute resolution (ADR) can, depending on the nature of the allegations, offer a process for resolving a complaint in a manner that is acceptable to all parties. An ADR process 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.

The Superintendent or designee shall provide training to district staff to ensure awareness and knowledge of current law and requirements related to UCP, including the steps and timelines specified in this policy and the accompanying administrative regulation. Such employees may have access to legal counsel as determined by the Superintendent or designee.

(cf. 4131 – Professional Development)

The Board prohibits retaliation in any form for the filing of a complaint, the reporting of instances of discrimination, and/or for participation in complaint procedures. Such participation shall not in any way affect the status, grades, or work assignments of the complainant.

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

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

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UNIFORM COMPLAINT PROCEDURES (continued)

The Superintendent or designee 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.

(cf. 1100 – Communication with the Public)
(cf. 1340 – Access to District Records)
(cf. 3580 – District Records)
(cf. 4119.11 – Sexual Harassment)
(cf. 4119.23 – Unauthorized Release of Confidential, Privileged Information)
(cf. 5125 – Student Records; Confidentiality)
(cf. 5141.22 – Infectious Diseases)
(cf. 9011 – Disclosure of Confidential Privileged Information)

The following complaints shall not be subject to the district's UCP but shall be investigated and resolved by the specified agency or through an alternative process:

Complaints related to insufficiency of textbooks or instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff, and teacher vacancies and misassignments shall be investigated pursuant to the District's *Williams* Uniform Complaint Procedures.

(cf. 1312.2 – Complaints Concerning Instructional Materials)
(cf. 1312.4 – Williams Uniform Complaint Procedures)
(cf. 6142.2 – AIDS Prevention Instruction)

Any complaint alleging child abuse or neglect shall be referred to the County Department of Social Services Protective Services Division or the appropriate law enforcement agency. (5 CCR 4611)

Any complaint alleging health and safety violations by a child development program shall, for licensed facilities, be referred to Department of Social Services. (5 CCR 4611)

(cf. 5141.4 – Child Abuse Prevention and Reporting)

Any complaint alleging that a student, while in an education program or activity in which the district exercises substantial control over the context and respondent, was subjected to sexual harassment as defined in 34 CFR 106.30 shall be addressed through the federal Title IX complaint procedures adopted pursuant to 34 CFR 106.44-106.45, as specified in AR 5145.7 - Sexual Harassment.

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UNIFORM COMPLAINT PROCEDURES (continued)

(cf. 5145.7 – Sexual Harassment)

Any complaint alleging employment discrimination or harassment shall be investigated and resolved by the district in accordance with the procedures specified in AR 4030 - Nondiscrimination in Employment, including the right to file the complaint with the California Department of Fair Employment and Housing.

(cf. 4030 – Nondiscrimination in Employment)
(cf. 4218 – Termination of Employment)

Any complaint alleging a violation of a state or federal law or regulation related to special education, a settlement agreement related to the provision of a free appropriate public education (FAPE), failure or refusal to implement a due process hearing order to which the district is subject, or a physical safety concern that interferes with the district's provision of FAPE shall be submitted to the California Department of Education (CDE) in accordance with AR 6159.1 - Procedural Safeguards and Complaints for Special Education. (5 CCR 3200-3205) Complaints concerning Special Education programs shall be addressed in accordance with the regulations and procedures developed jointly with the Special Education Local Plan Area.

(cf. 0430 – Comprehensive Local Plan for Special Education)
(cf. 6159 – Individualized Education Program)
(cf. 6159.1 – Procedural Safeguards and Complaints for Special Education)
(cf. 6159.2 – Nonpublic, Nonsectarian School and Agency Services for Special Education)
(cf. 6159.3 Appointment of Surrogate Parent for Special Education Students)
(cf. 6164.4 - Identification of Individuals for Special Education)
(cf. 6164.5 – Student Success Teams)

Any complaint alleging noncompliance of the district's food service program with laws regarding meal counting and claiming, reimbursable meals, eligibility of children or adults, or use of cafeteria funds and allowable expenses shall be filed with or referred to CDE in accordance with BP 3555 - Nutrition Program Compliance. (5 CCR 15580-15584)

Any allegation of discrimination based on race, color, national origin, sex, age, or disability in the district's food service program shall be filed with or referred to the U.S. Department of Agriculture in accordance with BP 3555 - Nutrition Program Compliance. (5 CCR 15582)

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UNIFORM COMPLAINT PROCEDURES (continued)

(cf. 3555 – Nutrition Program Compliance)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination
8200-8490 Early Education Act
8500-8538 Adult basic education
18100-18203 School libraries
32289 School safety plan, uniform complaint procedures
35186 *Williams* uniform complaint procedures
41500-41513 Categorical education block grants
46015 Parental leave for students
48645.7 Juvenile court schools
48853-48853.5 Foster youth
48985 Notices in language other than English
49010-49013 Student fees
49060-49079 Student records
49490-49590 Child nutrition programs
49701 Provisions of the Interstate Compact on Education Opportunities for Military Children
51210 Course of study for grades 1-6
51222 Physical education
51223 Physical education, elementary schools
51225.1-51225.2 Foster youth, homeless children, former juvenile court school students;
course credits; graduation requirements
51226-51226.1 Career technical education
51228.1-51228.3 Course periods without educational content
52059.5 Statewide system of support
52060-52077 Local control and accountability plan
52075 Complaint for lack of compliance with local control and accountability plan
requirements
52160-52178 Bilingual education programs
52300-52490 Career technical education
52500-52617 Adult schools
54000-54029 Educationally disadvantaged youth programs
54400-54425 Compensatory education programs
54440-54445 Migrant education
54460-54529 Compensatory education programs
56000-56865 Special Education programs
59000-59300 Special schools and centers
64000-64001 Consolidated application process; school plan for student achievement
65000-65001 School site councils

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UNIFORM COMPLAINT PROCEDURES (continued)

GOVERNMENT CODE

11135 Nondiscrimination in programs or activities funded by state

12900-12996 Fair Employment and Housing Act

HEALTH AND SAFETY CODE

1596.792 California Child Day Care Act; general provisions and definitions

1596.7925 California Child Day Care Act; health and safety regulations

CODE OF REGULATIONS, TITLE 2

11023 Harassment and discrimination prevention and correction

CODE OF REGULATIONS, TITLE 5

3080 Application of section

3200-3205 Special education compliance complaints

4600-4687 Uniform complaint procedures and Williams complaints

4690-4694 Complaints regarding health and safety issues in license-exempt preschool programs

4900-4965 Nondiscrimination in elementary and secondary education programs receiving state financial assistance

15580-15584 Child nutrition programs complaint procedures

PENAL CODE

422.55 Hate crime; definition

422.6 Crimes; harassment

UNITED STATES CODE, TITLE 20

1221 Application of laws

1232g Family Educational Rights and Privacy Act (FERPA) of 1974

1681-1688 Title IX of the Education Amendments of 1972; discrimination based on sex

6301-6576 Title I Improving the Academic Achievement of the Disadvantaged

6601-6777 Title II preparing and recruiting high-quality teachers and principals

6801-7014 Title III language instruction for limited English proficient and immigrant students

7101-7184 Safe and Drug-Free Schools and Communities Act

7201-7283(g) Title V promoting informed parental choice and innovative programs

7301-7372 Title V rural and low-income school programs

UNITED STATES CODE, TITLE 29

794 Rehabilitation Act of 1973; Section 504

UNITED STATES CODE, TITLE 42

11431-11435 McKinney-Vento Homeless Assistance Act

12101-12213 Americans with Disabilities Act

2000d-2000e-17 Title VI and Title VII Civil Rights Act of 1964, as amended

2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964

6101-6107 Age Discrimination Act of 1975

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UNIFORM COMPLAINT PROCEDURES (continued)

CODE OF FEDERAL REGULATIONS, TITLE 28

35.107 Nondiscrimination on basis of disability; complaints

CODE OF FEDERAL REGULATIONS, TITLE 34

100.3 Prohibition of discrimination on basis of race, color or national origin

104.7 Section 504; Designation of responsible employee and adoption of grievances procedures

106.1-106.82 Nondiscrimination on the basis of sex in education programs

106.30 Discrimination on the basis of sex in education programs and activities; definitions

106.44 Recipient's response to sexual harassment

106.45 Grievance process for formal complaints of sexual harassment

106.8 Designation of coordinator; dissemination of policy, and adoption of grievance procedures

110.25 Notification of nondiscrimination on the basis of age

99.1-99.67 Family Educational Rights and Privacy

Management Resources:

WEBSITES

CSBA: www.csba.org

CDE: www.cde.ca.gov

U.S. Department of Education, Office for Civil Rights: www.ed.gov/about/offices/list/

CSBA District and County Office of Education Legal Services: legalservices.csba.org/

Student Privacy Policy Office: www2.ed.gov/about/offices/list/opepd/sppo/index.html

U.S. Department of Agriculture: www.fns.usda.gov/cacfp

California Department of Social Services: www.cdss.ca.gov/

U.S. Department of Justice: www.justice.gov/

California Civil Rights Department: calcivilrights.ca.gov/

PUBLICATIONS

California Department of Education Publication - Uniform Complaint Procedure 2021-22 Program Instrument

California Department of Education Publication - Sample UCP Board Policies and Procedures

U.S. DOE, Office for Civil Rights Publication - Part 1: Questions and Answers Regarding the Department's Title IX Regulations, January 2021

U.S. DOE, Office for Civil Rights Publication - Questions and Answers on the Title IX Regulations on Sexual Harassment, July 2021

U.S. DOE, Office for Civil Rights Publication - Dear Colleague Letter: Responding to Bullying of Students with Disabilities, October 2014

U.S. DOJ Publication - Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 200

Policy

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CHULA VISTA ELEMENTARY SCHOOL DISTRICT
Chula Vista, California