

UNIFORM COMPLAINT PROCEDURES

The Board of Education recognizes that the district has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs. The Board encourages the early, informal resolution of complaints whenever possible and appropriate. To resolve complaints which cannot be resolved through such informal process, the Board shall adopt the uniform system of complaint processes specified in 5 CCR 4600-4670 and the accompanying administrative regulation.

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

1. Any complaint alleging district violation of applicable state or federal law or regulations governing:
 - Adult Education (California *Education Code* [EC] sections [§§] 8500–8538, 52334.7, 52500-52616.4)
 - After School Education and Safety (EC §§ 8482–8484.65)
 - Agricultural Career Technical Education (EC §§ 52460–52462)
 - Career Technical and Technical Education, Career Technical, Technical Training-state (EC §§ 52300–52462)
 - Career Technical Education-federal (EC § 64000)
 - Child Care and Development (EC §§ 8200–8493)
 - Compensatory Education (EC § 54400)
 - Course Periods without Educational Content (EC §§ 51228.1–51228.3)
 - Education of Pupils in Foster Care, Pupils who are Homeless, former Juvenile Court Pupils now enrolled in a school district and Children of Military Families (EC §§ 48645.7, 48853, 48853.5, 49069.5, 51225.1, 51225.2)
 - Every Student Succeeds Act (20 *United States Code* [20 U.S.C.] § 6301 et seq.; EC § 52059)
 - Lactating Pupil-Reasonable Accommodations (EC § 222)
 - Local Control and Accountability Plans (LCAP) (EC § 52075, *Government Code* [GC] § 17581.6(f))
 - Migrant Education (EC §§ 54440–54445)
 - Physical Education Instructional Minutes (EC §§ 51210, 51223)
 - Pregnant and Parenting Pupils-Accommodations (EC § 46015)
 - Pupil Fees (EC §§ 49010–49011)
 - Regional Occupational Centers and Programs (EC §§ 52300–52334.7)
 - School Plans For Student Achievement (EC § 64001)
 - School Safety Plans (EC §§ 32280–32289)
 - Schoolsite Councils (EC § 65000)
 - State Preschool (EC §§ 8235–8239.1)
 - State Preschool Health And Safety Issues In LEAs Exempt From Licensing (EC §§ 8235.5(a), 33315, GC § 17581.6 (f)), *California Health and Safety Code* [HSC] § 1596.7925)

(cf. 3553 - Free and Reduced Price Meals)

(cf. 3555 - Nutrition Program Compliance)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

UNIFORM COMPLAINT PROCEDURES (continued)

(cf. 5148 - Child Care and Development)
(cf. 5148.2 - Before/After School Programs)
(cf. 6159 - Individualized Education Program)
(cf. 6171 - Title I Programs)
(cf. 6174 - Education for English Language Learners)
(cf. 6175 - Migrant Education Program)
(cf. 6178 - Career Technical Education)
(cf. 6178.1 - Work-Based Learning)
(cf. 6178.2 - Regional Occupational Center/Program)
(cf. 6200 - Adult Education)

2. Any complaint alleging the occurrence of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) in district programs and activities, including, but not limited to, those funded directly by or that receive or benefit from any state financial assistance (5 CCR 4610), against any person, based on his/her actual or perceived characteristics 4610) based on the following protected groups:

- age
- ancestry
- color
- disability – mental
- disability – physical
- ethnicity
- ethnic group identification
- gender
- gender expression
- gender identity
- genetic information
- immigration status
- marital or parental status
- nationality
- national origin
- sex – actual
- sex – perceived
- sexual orientation
- race
- religion
- or based on his/her association with a person or group with one or more of these actual or perceived characteristics
- or any other characteristic identified in Education Code 200 or 220, Government Code 11135, or Penal Code 422.55

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 4030 - Nondiscrimination in Employment)
(cf. 5145.3 - Nondiscrimination/Harassment)
(cf. 5145.7 - Sexual Harassment)

3. Any complaint alleging district noncompliance with the requirement to provide reasonable accommodation to a lactating student on school campus to express breast milk, breastfeed an infant child, or address other breastfeeding-related needs of the student (Education Code 222)

UNIFORM COMPLAINT PROCEDURES (continued)

(cf. 5146 - Married/Pregnant/Parenting Students)

4. Any complaint alleging district violation of the prohibition against requiring students to pay fees, deposits, or other charges for participation in educational activities (5 CCR 4610)

(cf. 3260 - Fees and Charges)

(cf. 3320 - Claims and Actions Against the District)

5. Any complaint alleging that the district has not complied with legal requirements related to the implementation of the local control and accountability plan (Education Code 52075)

(cf. 0460 - Local Control and Accountability Plan)

6. Any complaint, by or on behalf of any student who is a foster youth, alleging district noncompliance with any legal requirement applicable to the student regarding placement decisions, the responsibilities of the district's educational liaison to the student, the award of credit for coursework satisfactorily completed in another school or district, school transfer, or the grant of an exemption from Board-imposed graduation requirements (Education Code 48853, 48853.5, 49069.5, 51225.1, 51225.2)

(cf. 6173.1 - Education for Foster Youth)

7. Any complaint, by or on behalf of a homeless student as defined in 42 USC 11434a, alleging district noncompliance with any requirement applicable to the student regarding the award of credit for coursework satisfactorily completed in another school or district or the grant of an exemption from Board-imposed graduation requirements (Education Code 51225.1, 51225.2)

(cf. 6173 - Education for Homeless Children)

8. Any complaint, by or on behalf of a former juvenile court school student who transfers into the district after his/her second year of high school, alleging district noncompliance with any requirement applicable to the student regarding the award of credit for coursework satisfactorily completed in the juvenile court school or the grant of an exemption from Board-imposed graduation requirements (Education Code 51225.1, 51225.2)

(cf. 6173.3 - Education for Juvenile Court School Students)

UNIFORM COMPLAINT PROCEDURES (continued)

9. Any complaint alleging district noncompliance with the requirements of Education Code 51228.1 and 51228.2 that prohibit the assignment of a student to a course without educational content for more than one week in any semester or to a course the student has previously satisfactorily completed, without meeting specified conditions (Education Code 51228.3)

(cf. 6152 - Class Assignment)

10. Any complaint alleging district noncompliance with the physical education instructional minutes requirement for students in elementary school (Education Code 51210, 51223)

(cf. 6142.7 - Physical Education and Activity)

11. 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

12. Any other complaint as specified in a district policy

District personnel are required to take immediate steps to intervene when safe to do so when witnessing an act of discrimination, harassment, intimidation, or bullying. The district must investigate all allegations of discrimination and implement effective corrective actions whenever necessary and appropriate and maintain documentation of complaints and their resolution for a minimum of one review cycle.

The district 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.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

(cf. 5125 - Student Records)

(cf. 9011 - Disclosure of Confidential/Privileged Information)

When an allegation that is not subject to the 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.

UNIFORM COMPLAINT PROCEDURES (continued)

For example, a UCP regarding discrimination based on disability that includes a request for grade change, the grade change request portion shall be forwarded to the Office of Secondary Schools (OSS) or equivalent department/division and the alleged discrimination based on disability complaint shall be investigated under the UCP. Any findings of discrimination based on disability will be forwarded to OSS or equivalent department/division for consideration in the grade change review. If the UCP investigation determines that discrimination occurred, the UCP/OSS response will be tailored to stop the discrimination, remedy the effects on any such student who was discriminated against, including with respect to that student's grade (if the grade was impacted), and the district will take steps reasonably calculated to prevent such discrimination from recurring.

The Superintendent or designee shall maintain records of all UCP complaints and the investigations of those complaints. All such records shall be destroyed in accordance with applicable state law and district policy.

(cf. 3580 - District Records)

The following complaints shall not be subject to the district'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 Human Resources Department for review and investigating who shall notify the complainant of the transfer.
4. Any complaint alleging fraud shall be referred to the California Department of Education.

In addition, the district's Williams Uniform Complaint Procedures, AR 1312.4, shall be used to investigate and resolve any complaint related to sufficiency of textbooks or instructional materials,

emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff, or teacher and misassignments. (Education Code 35186)

(cf. 1312.4 - Williams Uniform Complaint Procedures)

UNIFORM COMPLAINT PROCEDURES (continued)*Legal Reference:*EDUCATION CODE

200-262.4 *Prohibition of discrimination*
 8200-8498 *Child care and development programs*
 8500-8538 *Adult basic education*
 18100-18203 *School libraries*
 32289 *School safety plan, uniform complaint procedures*
 35186 *Williams uniform complaint procedures*
 48985 *Notices in language other than English*
 49010-49013 *Student fees*
 49060-49079 *Student records*
 49490-49590 *Child nutrition programs*
 52060-52077 *Local control and accountability plan, especially*
 52075 *Complaint for lack of compliance with local control and accountability plan requirements*
 52160-52178 *Bilingual education programs*
 52300-52490 *Career technical education*
 52500-52616.24 *Adult schools*
 52800-52870 *School-based program coordination*
 54400-54425 *Compensatory education programs*
 54440-54445 *Migrant education*
 54460-54529 *Compensatory education programs*
 56000-56867 *Special education programs*
 59000-59300 *Special schools and centers*
 64000-64001 *Consolidated application process*

GOVERNMENT CODE

11135 *Nondiscrimination in programs or activities funded by state*
 12900-12996 *Fair Employment and Housing Act*

PENAL CODE

422.55 *Hate crime; definition*
 422.6 *Interference with constitutional right or privilege*

CODE OF REGULATIONS, TITLE 5

3080 *Application of section*
 4600-4687 *Uniform complaint procedures*
 4900-4965 *Nondiscrimination in elementary and secondary education programs*

UNITED STATES CODE, TITLE 20

1221 *Application of laws*
 1232g *Family Educational Rights and Privacy Act*
 1681-1688 *Title IX of the Education Amendments of 1972*
 6301-6577 *Title I basic programs*
 6801-6871 *Title III language instruction for limited English proficient and immigrant students*
 7101-7184 *Safe and Drug-Free Schools and Communities Act*
 7201-7283g *Title V promoting informed parental choice and innovative programs*
 7301-7372 *Title V rural and low-income school programs*
 12101-12213 *Title II equal opportunity for individuals with disabilities*

UNITED STATES CODE, TITLE 29

794 *Section 504 of Rehabilitation Act of 1973*

UNITED STATES CODE, TITLE 42

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*

CODE OF FEDERAL REGULATIONS, TITLE 28

UNIFORM COMPLAINT PROCEDURES (continued)

- 35.107 Nondiscrimination on basis of disability; complaints*
- CODE OF FEDERAL REGULATIONS, TITLE 34*
- 99.1-99.67 Family Educational Rights and Privacy Act*
- 100.3 Prohibition of discrimination on basis of race, color or national origin*
- 104.7 Designation of responsible employee for Section 504*
- 106.8 Designation of responsible employee for Title IX*
- 106.9 Notification of nondiscrimination on basis of sex*
- 110.25 Notification of nondiscrimination on the basis of age*

Management Resources:

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Dear Colleague Letter: Title IX Coordinators, April 2015

Questions and Answers on Title IX and Sexual Violence, April 2014

Dear Colleague Letter: Bullying of Students with Disabilities, August 2013

Dear Colleague Letter: Sexual Violence, April 2011

Dear Colleague Letter: Harassment and Bullying, October 2010

Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001

U.S. DEPARTMENT OF JUSTICE PUBLICATIONS

Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 2002

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

Family Policy Compliance Office: <http://familypolicy.ed.gov>

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

U.S. Department of Justice: <http://www.justice.gov>

Policy

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SAN DIEGO UNIFIED SCHOOL DISTRICT

San Diego, California