

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 Board encourages the early resolution of complaints whenever possible. To resolve complaints which may require a more formal process, the Board adopts a uniform system of complaint processes specified in 5 CCR 4600-4670 and the accompanying administrative regulation.

Complaints Subject to the UCP

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

1. Accommodations for pregnant and parenting students (Education Code 46015)
2. Adult education programs (Education Code 8500-8538, 52334.7, 52500-52617)
3. After School Education and Safety Programs (Education Code 8482-8484.65)
4. Agricultural career technical education (Education Code 52460-52462)
5. Career technical and technical education and career technical and technical training programs (Education Code 52300-52462)
6. Child care and development programs (Education Code 8200-8488)
7. Compensatory education (Education Code 54400)
8. Consolidated categorical aid programs (Education Code 33315; 34 CFR 299.10-299.12)
9. Course periods without educational content
10. 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 the 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, physical or mental disability, medical condition, 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 the person's association with a person or group with one or more of these actual or perceived characteristics (5 CCR 4610)
11. Educational and graduation requirements for students in foster care, homeless students, students from military families, students formerly in a juvenile court school (Education Code 48645.7, 48853, 48853.5, 49069.5, 51225.1, 51225.2)
12. Every Student Succeeds Act (Education Code 52059.5; 20 USC 6301 et seq.)
13. Local control and accountability plan (Education Code 52075)

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14. Migrant education (Education Code 54440-54445)
15. Physical education instructional minutes (Education Code 51210, 51222, 51223)
16. Student fees (Education Code 49010-49013)
17. Reasonable accommodations to a lactating student (Education Code 222)
18. Regional occupational centers and programs (Education Code 52300-52334.7)
19. School plans for student achievement as required for the consolidated application for specified federal and/or state categorical funding (Education Code 64001)
20. School safety plans (Education Code 32280-32289)
21. School site councils as required for the consolidated application for specified federal and/or state categorical funding (Education Code 65000)
22. State preschool programs (Education Code 8207-8255)
23. State preschool health and safety issues in license-exempt programs (Education Code 8212)
24. 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
25. Any other state or federal educational program the Superintendent of Public Instruction or designee deems appropriate

The Board recognizes that alternative dispute resolution (ADR) can, depending on the nature of the allegations, offer a process for resolving a complaint 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 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 confidential 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.

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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.

The Superintendent or designee shall provide training to district staff to ensure awareness and knowledge of current law and requirements to UCP, including the steps and timelines specified in this policy and the accompanying administrative regulation.

The Superintendent or designee shall maintain a record of each complaint and subsequent related actions, including steps taken during the investigations and all information required for compliance with 5 CCR 4631 and 4633.

Non-UCP Complaints

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:

1. Any complaint alleging child abuse or neglect shall be referred to the County Department of Social Services Protective Services Division, and the appropriate law enforcement agency. (5 CCR 4611)
2. 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)
3. 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 5145.71 - Title IX Sexual Harassment Complaint Procedures.
4. 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.
5. 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)
6. 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)

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7. 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)

8. 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 vacancies and misassignments shall be investigated and resolved in accordance with the procedures in AR 1312.4 – Williams Uniform Complaint Procedures. (Education Code 35186)

State

2 CCR 11023 Harassment and discrimination prevention and correction

5 CCR 15580-15584 Child nutrition programs complaint procedures

5 CCR 3200-3205 Special education compliance complaints

5 CCR 4600-4670 Uniform complaint procedures

5 CCR 4680-4687 Williams uniform complaint procedures

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

5 CCR 4900-4965 Nondiscrimination in elementary and secondary education programs

Ed. Code 200-262.4 Educational equity; prohibition of discrimination on the basis of sex

Ed. Code 18100-18203 School libraries

Ed. Code 32221.5 Insurance for athletic team members

Ed. Code 32280-32289 School safety plans

Ed. Code 35186 Williams uniform complaint procedures

Ed. Code 46015 Parental leave for students

Ed. Code 48853-48853.5 Foster youth

Ed. Code 48985 Notices in language other than English

Ed. Code 49010-49014 Student fees

Ed. code 49060-49079 Student records

Ed. Code 49069.5 Records of foster youth

Ed. Code 49490-49590 Child nutrition programs

Ed. Code 49701 Interstate Compact on Educational Opportunity for Military Children

Ed. Code 51210 Courses of study grades 1-6

Ed. Code 51222 Physical education

Ed. Code 51223 Physical education, elementary schools

Ed. Code 51225.1-51225.2 Foster youth, homeless children, former juvenile court school students; course credits; graduation requirements

Ed. Code 51226-51226.1 Career technical education

Ed. Code 51228.1-51228.3 Course periods without educational content

Ed. Code 52059.5 Statewide system of support

Ed. Code 52060-52077 Local control and accountability plan

Ed. Code 52075 Complaint for lack of compliance with local control and accountability plan requirements

Ed. Code 52300-52462 Career technical education

Ed. Code 52500-52616.24 Adult schools

Ed. Code 54400-54425 Compensatory education programs

Ed. Code 54440-54445 Migrant education

Ed. Code 54460-54529 Compensatory education programs

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Ed. Code 59000-59300 Special schools and centers

Ed. Code 64000-64001 Consolidated application process; school plan for student achievement

Ed. Code 65000-65001 School site councils

Ed. Code 8200-8498 Child care and development programs

Ed. Code 8500-8538 Adult basic education

Gov. Code 11135 Nondiscrimination in programs or activities funded by state

Gov. Code 11135 Discrimination

Gov. Code 12900-12996 Fair Employment and Housing Act

H&S Code 1596.792 California Child Day Care Act; general provisions and definitions

H&S Code 1596.7925 California Child Day Care Act; health and safety regulations

Pen. Code 422.55 Definition of hate crime

Pen. Code 422.6 Civil rights; crimes

Federal

20 USC 1221 Application of laws

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

20 USC 1681-1688 Title IX of the Education Amendments of 1972

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

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

28 CFR 35.107 Nondiscrimination on basis of disability; complaints

29 USC 794 Rehabilitation Act of 1973, Section 504

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

34 CFR 104.7 Designation of responsible employee for Section 504

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

34 CFR 106.8 Designation of responsible employee for Title IX

34 CFR 106.9 Notification of nondiscrimination on basis of sex

34 CFR 110.25 Notification of nondiscrimination on the basis of age

34 CFR 99.1-99.67 Family Educational Rights and Privacy Act

42 USC 11431-11435 McKinney-Vento Homeless Assistance Act

42 USC 12101-12213 Title II equal opportunity for individuals with disabilities

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

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

42 USC 6101-6107 Age Discrimination Act of 1975

Management Resources

California Department of Education Publication: Uniform Complaint Procedure 2020-21 Program Instrument

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

U.S. DOE, Office For Civil Rights Publication: Dear Colleague Letter, September 22, 2017

U.S. DOE, Office For Civil Rights Publication: Dear Colleague Letter: Title IX Coordinators, April 2015

U.S. DOE, Office for Civil Rights Publication: Dear Colleague Letter: Harassment and Bullying, October 2010

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

U.S. DOE, Office for Civil Rights Publication: Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001

U.S. DOJ Publication: Guidance to Federal Financial Assistance Recipients Regarding Title VI, 2002

Community Relations

BP 1312.3 (f)

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Website: U.S. Department of Justice

Website: California Department of Education

Website: CSBA

Website: U.S. Department of Education, Office for Civil Rights

Policy Adopted: 02/09/21

ORCUTT UNION SCHOOL DISTRICT
Orcutt, California