Regulation 1312.3: Uniform Complaint Procedures

Status: ADOPTED

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CSBA NOTE: 5 CCR 4621 mandates that the district's uniform complaint procedures (UCP) be consistent with the procedures of 5 CCR 4600-4670. Additionally, Education Code 52075 mandates districts to adopt policies and procedures implementing the use of UCP to investigate and resolve complaints alleging noncompliance with requirements related to the local control and accountability plan (LCAP), and Education Code 8212 mandates districts to adopt policies and procedures for resolving complaints regarding specified health and safety issues in license-exempt California State Preschool Programs (CSPP). Furthermore, a number of federal civil rights statutes and their implementing regulations mandate districts to adopt policies and procedures for the prompt and equitable resolution of complaints of unlawful discrimination. For example, all districts are mandated pursuant to 28 CFR 35.107 to adopt policy and procedures to address discrimination on the basis of disability, while districts that receive federal financial assistance are mandated pursuant to 34 CFR 106.8 and 110.25 to adopt policies and procedures to address discrimination on the basis of sex and age.

Complaints alleging discrimination in the adoption, approval, or use of textbooks, instructional materials, supplemental instructional materials, or other curriculum for classroom instruction, or any book or resource in a school library based on a violation of Education Code 243, or Education Code 244, as added by SB 153 (Ch. 38, Statutes of 2024), may be brought under the district's UCP or may be filed directly with the Superintendent of Public Instruction (SPI). Complaints that are filed directly with the SPI are required to identify the basis for doing so, and present evidence that supports the basis for the direct filing. In such cases, the SPI may directly intervene without waiting for an investigation by the district. For more information regarding complaints concerning instructional materials, see BP/AR 1312.2 - Complaints Concerning Instructional Materials and AR 1312.4 - Williams Uniform Complaint Procedures.

Pursuant to Education Code 242, the California Department of Education (CDE) has developed guidance and public educational materials to ensure that all Californians can access information about educational laws and policies that safeguard the right to an accurate and inclusive curriculum, which are available on its website.

Apart from these mandates, state law authorizes the use of UCP to resolve complaints of noncompliance with laws related to the development of a school plan for student achievement and the establishment of school site councils; accommodations for pregnant and parenting students; prohibition against the charging of student fees; educational rights of foster youth, students experiencing homelessness, former juvenile court school students, children of military families, students who are migratory, newcomer students as defined in Education Code 51225.2 who are in the third or fourth year of high school, and pursuant to Education Code 51225.25, as added by AB 2473 (Ch. 831, Statutes of 2024), a "student participating in a newcomer program," as that term was defined by Education Code 51225.2 on January 1, 2023, who was enrolled prior to January 1, 2024 as well as any other students participating in a newcomer program for whom the district has extended such rights; assignment of students to courses without educational content; and physical education instructional minutes. See "Complaints Subject to UCP" in the accompanying Board policy.

For a complaint which is based on allegations part of which fall under UCP and part of which fall outside of UCP, such as the non-UCP complaints identified in the accompanying Board policy, districts may need to initiate two separate investigations: one to investigate the allegations that fall under UCP and the other to investigate the allegations that fall outside of UCP.

Except as may otherwise be specifically provided in other district policies, these uniform complaint procedures (UCP) shall be used to investigate and resolve only the complaints specified in the accompanying Board policy.

Compliance Officers

CSBA NOTE: 5 CCR 4621 requires the district to identify in its policies and procedures the person(s), position(s), or unit(s) responsible for ensuring compliance with applicable state and federal laws and regulations governing educational programs, including the receiving and investigating of complaints alleging unlawful discrimination, harassment, intimidation, or bullying, and retaliation. During its Federal Program Monitoring (FPM) process, CDE staff will check to ensure that the district's procedures list the specific title(s) of the employee(s) responsible for receiving and investigating complaints. Districts should identify the specific title(s) of the compliance officer(s) in the space provided below.

The following paragraph specifies that the compliance officer will be the same person designated to serve as the Title IX Coordinator for addressing complaints of unlawful discrimination, harassment, intimidation, or bullying

pursuant to AR 5145.3 - Nondiscrimination/Harassment, and complaints of sexual harassment pursuant to AR 5145.7 - Sexual Harassment and AR 5145.71 - Title IX Sexual Harassment Complaint Procedures. Districts may modify this regulation to designate different district employees to serve these functions. However, if the district wishes to separate these responsibilities, it is recommended that one individual be responsible for oversight of the complaint process for the district.

The district designates the individual(s), position(s), or unit(s) identified below as responsible for receiving, coordinating, and investigating complaints and for complying with state and federal civil rights laws. The individual(s), position(s), or unit(s) also serve as the compliance officer(s) specified in Administrative Regulation 5145.3 - Nondiscrimination/Harassment, who is responsible for handling complaints regarding unlawful discrimination, harassment, intimidation, or bullying, and in Administrative Regulation 5145.7 - Sexual Harassment, who is responsible for handling complaints regarding sexual harassment.

_____
(title or position)
_____
(unit or office)
_____
(address)
_____
(telephone number)
_____
(email)

CSBA NOTE: The following paragraph is for use by districts that have designated more than one compliance officer.

The compliance officer who receives a complaint may assign another compliance officer to investigate and resolve the complaint. The compliance officer shall promptly notify the complainant and respondent if another compliance officer is assigned to the complaint.

In no instance shall a compliance officer be assigned to a complaint in which the compliance officer has a bias or conflict of interest that would 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.

CSBA NOTE: 5 CCR 4621 requires the district's policy to include that employees responsible for compliance and/or for investigating and resolving complaints be knowledgeable about the laws and programs at issue in the complaints they are assigned. Compliance officers must also have training or experience in handling discrimination complaints, including appropriate investigative techniques and understanding of the applicable legal standards.

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 alleging unlawful discrimination, harassment, intimidation, or bullying; applicable standards for reaching decisions on complaints; and appropriate corrective measures. Assigned employees may have access to legal counsel as determined by the Superintendent or designee.

The compliance officer or, if necessary, an appropriate administrator shall determine whether interim measures are necessary during an investigation and while the result is pending. 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 final written decision, whichever occurs first.

Notifications

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

CSBA NOTE: During the FPM process, CDE staff will check to ensure that the district's policy contains a statement ensuring annual dissemination of notice of the district's UCP to the persons specified below.

In addition, 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)

CSBA NOTE: 5 CCR 4622 requires the district to include specified information in its annual UCP notice to students, parents/guardians, employees, and others. The following list reflects those required components and additional content of the notice listed in CDE's FPM instrument.

It is the district's responsibility to update the notice as necessary to reflect new law.

The notice shall include, but need not be limited to, all of the following:

1. A statement that the district is primarily responsible for compliance with federal and state laws and regulations, including those related to prohibition of unlawful discrimination, harassment, intimidation, or bullying against any protected group, and a list of all programs and activities that are subject to UCP as identified in "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 person(s) will be knowledgeable about the laws and programs that they are assigned to investigate

3. A statement that a UCP complaint, except a complaint alleging unlawful discrimination, harassment, intimidation, or bullying, must be filed no later than one year from the date the alleged violation occurred

4. A statement that a UCP complaint alleging unlawful discrimination, harassment, intimidation, or bullying 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

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

7. A statement that the district will post a standardized notice of the educational and graduation requirements of foster youth, students experiencing homelessness, children of military families, former juvenile court school students now enrolled in the district, students who are migratory, and newcomer students as specified in Education Code 48645.7, 48853, 48853.5, 49069.5, 51225.1, and 51225.2, and the complaint process

8. A statement that complaints will be investigated in accordance with the district's UCP and a written decision 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, for programs within the scope of the UCP as specified in the accompanying Board policy, the complainant has a right to appeal the district's investigation report to the California Department of Education (CDE) by filing a written appeal, including a copy of the original complaint and the district's decision, within 30 calendar days of receiving the district's decision

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 under state or federal laws prohibiting discrimination, harassment, intimidation, or bullying, if applicable

11. A statement that copies of the district's UCP are available free of charge

CSBA NOTE: The following paragraph may be modified to reflect district practice. Pursuant to Education Code 221.61, a district and its schools are required to post information related to Title IX on their websites, including specified information about complaint procedures under Title IX; see AR 5145.3 - Nondiscrimination/Harassment. A school or district that does not maintain a website may comply by posting the information on the website of its district or county office of education. A comprehensive list of rights based on the provisions of the federal

regulations implementing Title IX can be found in Education Code 221.8.

The annual notification, complete contact information of the compliance officer(s), and information related to Title IX as required pursuant to Education Code 221.61 and 34 CFR 106.8 shall be posted on district and school websites, published in handbooks or catalogs, and may be provided through district-supported social media, if available.

CSBA NOTE: Both federal and state laws contain requirements for translation of certain information and documents. Title VI of the Civil Rights Act of 1964 requires districts to ensure meaningful access to their programs and activities by persons with limited English proficiency. Education Code 48985 requires translation of certain information and documents if 15 percent or more of students enrolled in the school speak a single primary language other than English.

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 15 percent or more of students enrolled in a particular district school speak a single primary language other than English, the district's UCP policy, regulation, forms, and notices 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

CSBA NOTE: Complaints filed under UCP may be filed directly with a compliance officer or with any site administrator. See AR 5145.3 - Nondiscrimination/Harassment and AR 5145.7 - Sexual Harassment. If a site administrator not designated as a compliance officer receives a UCP complaint, the site administrator must notify a compliance officer. A district may also establish a site-level process for receiving informal reports about incidents for which a UCP complaint may be filed and notifying students and parents/guardians of their right to file a UCP complaint. Any site-level process established by a district should be in writing and distributed in the same manner as the grievance procedures listed herein with an explanation of how it interacts with the UCP complaint process.

The complaint shall be presented to the compliance officer who shall maintain a log of complaints received, providing each with a code number and a date stamp. If a site administrator not designated as a compliance officer receives a complaint, the site administrator shall notify the compliance officer.

All complaints shall be filed in writing and signed by the complainant. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, district staff shall assist in the filing of the complaint. (5 CCR 4600)

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 may be filed by any individual, public agency, or organization (5 CCR 4600)

   CSBA NOTE: Education Code 49013 and 52075 mandate districts to adopt procedures that allow for anonymous complaints to be filed when a district allegedly violates the prohibition against the charging of student fees or violates any requirement related to the LCAP.

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 if the complaint provides evidence, or information leading to evidence, to support an allegation of noncompliance (Education Code 49013, 52075)

   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. (Education Code 49013)

   CSBA NOTE: Pursuant to 5 CCR 4630, complaints related to the LCAP must be filed within a year of the date that the County Superintendent of Schools, the reviewing authority for districts, approves the district's LCAP.

3. A UCP complaint, except for a UCP complaint alleging unlawful discrimination, harassment, intimidation, or bullying, shall be filed no later than one year from the date the alleged violation occurred (5 CCR 4630)

   For complaints related to the LCAP, the date of the alleged violation is the date when the County Superintendent of Schools approves the LCAP that was adopted by the Governing Board. (5 CCR 4630)

4. A complaint alleging unlawful discrimination, harassment, intimidation, or bullying may be filed only by a person who alleges having personally suffered unlawful discrimination, a person who believes that any specific class of individuals has been subjected to unlawful discrimination, or a duly authorized representative who alleges that an individual student has been subjected to discrimination, harassment, intimidation, or bullying (5 CCR 4630)

5. A complaint alleging unlawful discrimination, harassment, intimidation, or bullying shall be initiated no later than six months from the date that the alleged unlawful discrimination occurred, or six months from the date that the complainant first obtained knowledge of the facts of the alleged unlawful discrimination (5 CCR 4630)

   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)

6. When a complaint alleging unlawful discrimination, harassment, intimidation, or bullying is filed anonymously, the compliance officer shall pursue an investigation or other response as appropriate, depending on the specificity and reliability of the information provided and the seriousness of the allegation

   CSBA NOTE: It is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel before honoring a confidentiality request to withhold the victim's name from the alleged perpetrator, especially in the case of alleged sexual assault, as this may affect the district's ability to conduct a thorough investigation or provide supportive measures to the victim.

7. When a complainant of unlawful discrimination, 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.

Mediation

CSBA NOTE: The following section should be used only by those districts that have decided to establish procedures for attempting to resolve complaints through alternative dispute resolution (ADR) procedures such as mediation; see the accompanying Board policy. The following section may be modified to specify the ADR method and timelines used within the district.

Districts may not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student; see AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.

Within three business days after receiving the complaint, the compliance officer may informally discuss with all the parties the possibility of using mediation to resolve the complaint. Mediation shall 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 an allegation of sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. If the parties agree to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a complaint alleging retaliation or unlawful discrimination, harassment, intimidation, or bullying, the compliance officer shall ensure that all parties agree to permit the mediator access to all relevant confidential information. The compliance officer shall also notify all parties of the right to end the informal process at any time.

If the mediation process does not resolve the complaint within the parameters of law, the compliance officer shall proceed with an investigation of the complaint.

The use of mediation shall not extend the district's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time. If mediation is successful and the complaint is withdrawn, then the district shall take only the actions agreed upon through the mediation. If mediation is unsuccessful, the district shall then continue with subsequent steps specified in this administrative regulation.

Investigation of Complaint

CSBA NOTE: The timeline specified below may be modified to reflect district practice. 5 CCR 4631, which requires the district to provide the complainant with the opportunity to present relevant information, does not provide any

timeline.

The compliance officer shall begin an investigation into the complaint within 10 business days of receiving the complaint.

Within one business day of initiating the investigation, the compliance officer shall provide the complainant and/or the complainant's representative with the opportunity to present the information contained in the complaint to the compliance officer and shall notify the complainant and/or representative of the opportunity to present the compliance officer with 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.

CSBA NOTE: During the investigation, the compliance officer should consider all relevant circumstances, such as how the alleged misconduct affected one or more students' education; the type, frequency, and duration of the misconduct; the identity, age, and sex of the individuals involved in and impacted by the conduct and the relationship between them; the number of persons engaged in the conduct and at whom the conduct was directed; the size of the school, location of the incidents, and context in which they occurred; and other incidents at the school involving different individuals.

In conducting the investigation, the compliance officer shall collect 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 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 shall inform the parties of the status of the investigation.

To investigate a complaint alleging retaliation or unlawful discrimination, harassment, intimidation, or bullying, the compliance officer shall interview the alleged victim(s), any alleged offender(s), and other relevant witnesses privately, separately, and in a confidential manner. As necessary, additional staff or legal counsel may conduct or support the investigation.

CSBA NOTE: 5 CCR 4631 allows the district to dismiss a complaint when the complainant refuses to provide the investigator with relevant documents or otherwise obstructs the investigation. 5 CCR 4631 also provides that, if the district refuses to provide the investigator with access to records or other documents, the investigator may issue a finding in favor of the complainant.

A complainant's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or any other obstruction of the investigation may result in the dismissal of the complaint. Refusal by the district to provide the investigator with access to records and/or information related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or 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)

Timeline for Investigation Report

CSBA NOTE: Pursuant to 5 CCR 4631, the district's investigation report is required to be sent to the complainant within 60 calendar days of receiving the complaint. Option 1 below is for districts that do not allow complainants to appeal the compliance officer's decision to the Governing Board. Option 2 is for districts that allow appeals to the Board, and it requires the compliance officer's decision within 30 calendar days so that the Board's decision can still be given within the 60-day time limit.

Pursuant to 5 CCR 4631, only a complainant has the right to receive the investigation report and to file a complaint with the Board if dissatisfied with the compliance officer's decision. Districts may want to consider extending some of the same rights to a respondent. When questions arise as to what rights to provide to a respondent, it is recommend that the district consult CSBA's District and County Office of Education Legal Services or district legal counsel accordingly.

Pursuant to 5 CCR 4640, when a UCP complaint is erroneously sent to CDE without first being filed with the district, the 60-day period specified in 5 CCR 4631 begins when the district receives the complaint.

OPTION 1: (Districts that do not allow complainants to appeal to the Board)

Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant a written investigation report, as described in the section "Investigation Report" below, within 60 calendar days of the district's receipt of the complaint. (5 CCR 4631)

END OF OPTION 1

OPTION 2: (Districts that allow complainants to appeal to the Board)

CSBA NOTE: The remainder of this section is for use by districts that select Option 2.

Unless extended by written agreement with the complainant, the investigation report shall be sent to the complainant within 60 calendar days of the district's receipt of the complaint.

Within 30 calendar days of receiving the complaint, the compliance officer shall prepare and send to the complainant a written report, as described in the section "Investigation Report" below. If the complainant is dissatisfied with the compliance officer's decision, the complainant may, within five business days, file the complaint in writing with the Board.

If the Board decides not to hear the complaint, the compliance officer's decision shall be final.

If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 60 calendar days of the district's initial receipt of the complaint or within the time period that has been specified in a written agreement with the complainant. (5 CCR 4631)

END OF OPTION 2

Investigation Report

CSBA NOTE: 5 CCR 4631 specifies components that are required to be part of the district's investigation report. Inclusion of these items will help protect the district's position in case of an appeal to CDE, a complaint submitted to the U.S. Department of Education's Office for Civil Rights (OCR), or if litigation is filed.

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

1. The findings of fact based on the evidence gathered

2. A conclusion providing a clear determination for 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.

CSBA NOTE: The Family Educational Rights and Privacy Act (FERPA) (20 USC 1232g; 34 CFR 99.1-99.67) protects student privacy, including student records containing details of the actions taken in response to a UCP complaint. However, pursuant to 20 USC 1221, FERPA may not "be construed to affect the applicability of Title VI of the Civil Rights Act of 1964, Title IX of Education Amendments of 1972, Title V of the Rehabilitation Act of 1973, the Age Discrimination Act, or other statutes prohibiting discrimination, to any applicable program."

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 investigation report or are affected by the complaint.

CSBA NOTE: Education Code 48985 requires that reports sent to parents/guardians be written in their primary language when 15 percent or more of a school's enrolled students speak a single primary language other than English. During the FPM process, CDE staff will check to ensure that UCP complaint procedures pertaining to CSPP health and safety issues include a statement that the district response and the investigation report must, whenever Education Code 48985 is applicable, be written in English and the primary language in which the complaint was filed; see "Health and Safety Complaints in License-Exempt Preschool Programs" below. The following paragraph

extends this provision to all types of complaints to ensure compliance with Education Code 48985. In addition, based on Title VI of the Civil Rights Act of 1964, OCR requires districts to ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

If the complaint involves a limited-English-proficient (LEP) student or parent/guardian, then the district's response, if requested by the complainant, and the investigation report shall be written in English and the primary language in which the complaint was filed.

CSBA NOTE: During the FPM process, CDE staff will expect to see a statement detailing a complainant's right to pursue civil law remedies (i.e., action in a court of law) in addition to or in conjunction with the right to pursue administrative remedies from CDE.

For complaints alleging unlawful discrimination, harassment, intimidation, or bullying based on state law, 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, but not limited to, injunctions, restraining orders or other remedies or orders, 60 calendar days after the filing of an appeal with 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's Office for Civil Rights at www.ed.gov/ocr within 180 days of the alleged discrimination

Corrective Actions

CSBA NOTE: The following section may be revised to reflect district practice.

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 practices or procedures; or school climate surveys.

CSBA NOTE: Pursuant to Education Code 48900.5, the district is encouraged to have a student who has been suspended, or for whom other means of correction have been implemented pursuant to Education Code 48900.5 for an incident of racist bullying, harassment, or intimidation, as well as the victim, to engage in a restorative justice practice suitable to address the needs of both the victim and the perpetrator; to have the perpetrator engage in a culturally sensitive program that promotes racial justice and equity and combats racism and ignorance; and to regularly check on the victim to ensure that the victim is not in danger of suffering from any long-lasting mental health issues; see AR 5131.2 - Bullying.

For complaints involving retaliation or unlawful discrimination, 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

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

For complaints of retaliation or unlawful discrimination, harassment, intimidation, or bullying involving a student as

the respondent, appropriate corrective actions that may be provided to the student 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 cocurricular activities or other privileges as permitted by law
7. Disciplinary action, such as suspension or expulsion, as permitted by law

When an employee is found to have committed retaliation or unlawful discrimination, 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, harassment, intimidation, or bullying, that the district does not tolerate it, and how to report and respond to it.

CSBA NOTE: Generally, when a complaint is found to have merit, an appropriate remedy is provided to the complainant or other affected person. However, in certain instances, the law may require a remedy to be provided to all affected persons, not just the complainant or subject of the complaint. For example, pursuant to Education Code 49013 and 5 CCR 4600, if the district, or CDE on appeal, finds merit in the complaint alleging noncompliance with the law regarding student fees and charges, the district is required to provide a remedy to all affected students and parents/guardians, as specified below. The same requirement applies to allegations of noncompliance with required instructional minutes for physical education pursuant to Education Code 51222 and 51223, course periods without educational content pursuant to Education Code 51228.3, and the LCAP requirements pursuant to Education Code 52075. Districts that do not serve students in grades transitional kindergarten-6 should delete the reference to physical education below.

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

However, if a complaint alleging noncompliance with the law regarding student fees, deposits, and other charges, physical education instructional minutes, courses without educational content, 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, 51228.3, 52075)

For complaints alleging noncompliance with the law regarding student fees, the district, by engaging in reasonable efforts, shall attempt in good faith 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

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 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 the law
5. In a case in which the district found noncompliance, the corrective actions fail to provide a proper remedy

CSBA NOTE: 5 CCR 4633 requires the district to submit the following documents to CDE within 10 days after the district has been notified that an appeal has been filed. The district's failure to provide a timely and complete response may result in CDE ruling on the appeal without considering information from the district.

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

1. A copy of the original complaint
2. A copy of the district's 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 UCP
6. Other relevant information requested by CDE

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)

CSBA NOTE: Pursuant to 5 CCR 4633, CDE is required to issue a written decision regarding the appeal within 60 days of CDE's receipt of the appeal, unless extended by written agreement with the appellant or documentation by CDE of exceptional circumstances. Pursuant to 5 CCR 4635, if CDE's decision was issued based on evidence in the investigation file CDE received from the district or evidence uncovered after further investigation of the allegations that were the basis of the appeal, either party may request reconsideration by the SPI or designee within 30 days of the appeal decision.

Pursuant to 5 CCR 4650, CDE may directly intervene in a complaint without waiting for action by the district when certain conditions exist such as the following: (1) the complaint alleges failure to comply with the UCP, including failure to follow the required timelines and failure to implement the final investigation report, (2) the complainant requests anonymity due to the possibility of retaliation and would suffer immediate and irreparable harm if a complaint was filed and the complainant was named, or (3) the complainant would suffer immediate and irreparable harm as a result of an application of a districtwide policy that is in conflict with state or federal law and that filing a complaint would be futile.

Health and Safety Complaints in License-Exempt Preschool Programs

CSBA NOTE: The following section is for use by districts that operate any license-exempt CSPP program. Education Code 8212 mandates districts to adopt policies and procedures for resolving complaints regarding specified health and safety issues in a license-exempt CSPP program. Pursuant to Education Code 8212, the district is required to use the UCP, with modifications as necessary, to resolve such complaints. Pursuant to 5 CCR 4610, such complaints are required to be addressed through the procedures described in 5 CCR 4690-4694.

See the accompanying exhibits for a sample classroom notice and complaint form.

Any complaint regarding health or safety issues in a license-exempt California State Preschool Program (CSPP) shall be addressed through the procedures described in 5 CCR 4690-4694.

In order to identify appropriate subjects of CSPP health and safety issues pursuant to Health and Safety Code 1596.7925, a notice shall be posted in each license-exempt CSPP classroom in the district 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. For this purpose, the Superintendent or designee may download and post a notice available from CDE's website. (Education Code 8212; 5 CCR 4691)

The district's annual UCP notification distributed pursuant to 5 CCR 4622 shall clearly indicate which of its CSPP programs are operating as exempt from licensing and which CSPP programs are operating pursuant to requirements under Title 22 of the Code of Regulations. (5 CCR 4691)

Any complaint regarding specified health or safety issues in a license-exempt CSPP program 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, contain a space to indicate whether the complainant desires a response to the complaint, and allow a complainant to add as much text as desired to explain the complaint. (Education Code 8212; 5 CCR 4690)

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. The preschool administrator or the Superintendent or designee shall make all reasonable efforts to investigate any complaint within their authority. (Education Code 8212; 5 CCR 4692)

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 8212; 5 CCR 4692)

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, within 45 working days of the initial filing of the complaint, report the resolution of the complaint to the complainant and CDE's assigned field consultant. If the preschool administrator makes this report, the information shall be reported at the same time to the Superintendent or designee. (Education Code 8212; 5 CCR 4692)

CSBA NOTE: Education Code 48985 requires that reports sent to parents/guardians be written in their primary language when 15 percent or more of a school's enrolled students speak a single primary language other than English. During the FPM process, CDE staff will check to ensure compliance with this requirement. Based on Title VI of the Civil Rights Act of 1964, OCR requires districts to ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

If a complaint regarding health or safety issues in a license-exempt CSPP program involves an LEP student or parent/guardian, then the district's response, if requested by the complainant, and the investigation report shall be written in English and the primary language in which the complaint was filed.

If a complainant is not satisfied with the resolution of a complaint, the complainant has the right to describe the complaint to the Board at a regularly scheduled hearing and, within 30 days of the date of the written report, may file a written appeal of the district's decision to the Superintendent of Public Instruction in accordance with 5 CCR 4632. (Education Code 8212; 5 CCR 4693, 4694)

All complaints and responses are public records. (5 CCR 4690)

On a quarterly basis, the Superintendent or designee shall report summarized data on the nature and resolution of all CSPP health and safety complaints, including the number of complaints by general subject area with the number of resolved and unresolved complaints, to the Board at a regularly scheduled Board meeting and to the County Superintendent. (5 CCR 4693)

Policy Reference Disclaimer: These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the Governing Board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State	Description
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

State	Description
5 CCR 4600-4670	Uniform complaint procedures
5 CCR 4600-4687	Uniform complaint procedures and Williams complaints
5 CCR 4690-4694	Complaints regarding health and safety issues in license-exempt preschool programs
5 CCR 4900-4965	Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
Ed. Code 18100-18203	School libraries
Ed. Code 200-262.4	Prohibition of discrimination
Ed. Code 32280-32289.5	School safety plans
Ed. Code 33315	Uniform complaint procedures
Ed. Code 35186	Williams uniform complaint procedures
Ed. Code 46015	Parental leave for students
Ed. Code 48645.7	Juvenile court schools
Ed. Code 48853-48853.5	Foster youth
Ed. Code 48900.5	Suspension; other means of correction
Ed. Code 48985	Notices to parents in language other than English
Ed. Code 49010-49013	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	Provisions of the Interstate Compact on Educational Opportunities for Military Children
Ed. Code 51204.5	Social sciences instruction; contributions of specified groups
Ed. Code 51210	Course of study for grades 1-6
Ed. Code 51222	Physical education
Ed. Code 51223	Physical education; elementary schools
Ed. Code 51225.1-51225.25	Foster youth, homeless children, former juvenile court school students, newcomer 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 51501	Nondiscriminatory subject matter
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 52500-52617	Adult schools
Ed. Code 54400-54425	Compensatory education programs
Ed. Code 54440-54445	Migrant education
Ed. Code 54460-54529	Compensatory education programs
Ed. Code 59000-59300	Special schools and centers
Ed. Code 60010	Instructional materials; definition

State	Description
Ed. Code 60040-60052	Requirements for instructional materials
Ed. Code 64000-64001	Consolidated application process; school plan for student achievement
Ed. Code 65000-65001	School site councils
Ed. Code 8200-8488	Child care and development programs
Ed. Code 8500-8538	Adult basic education
Gov. Code 11135	Prohibition of 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	Crimes; harassment

Federal	Description
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; discrimination based on sex
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	Section 504; Designation of responsible employee and adoption of grievances procedures
34 CFR 106.1-106.82	Nondiscrimination on the basis of sex in education programs or activities
34 CFR 106.30	Discrimination on the basis of sex in education programs and activities; definitions
34 CFR 106.44	Recipient's response to sexual harassment
34 CFR 106.45	Grievance process for formal complaints of sexual harassment
34 CFR 106.8	Designation of coordinator; dissemination of policy, and adoption of grievance procedures
34 CFR 110.25	Notification of nondiscrimination on the basis of age
34 CFR 99.1-99.67	Family Educational Rights and Privacy
42 USC 11431-11435	McKinney-Vento Homeless Assistance Act
42 USC 12101-12213	Americans with Disabilities Act
42 USC 2000d-2000d-7	Title VI, Civil Rights Act of 1964
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	Description
California Department of Education Publication	Uniform Complaint Procedure Program Instrument
California Department of Education Publication	Sample UCP Board Policies and Procedures

Management Resources	Description
California Department of Justice Publication	Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books, January 2024
Court Decision	Tennessee v. Cardona (2024) 737 F.Supp.3d 510
Court Decision	Olmstead v. L.C. ex rel. Zimring (1999) 527 U.S. 581
Court Decision	John T. D. v. River Delta Joint Unified School District (2021) WL 5176356
CSBA Publication	Reference: State Roles, Responsibilities, and Process for Instructional Materials Adoption, February 2024
CSBA Publication	Fact Sheet: Instructional Materials Adoption: Local governing board responsibilities, February 2024
CSBA Publication	Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities, February 2024
Federal Register	Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, May 19, 2020, Vol. 85, No. 97, pages 30026-30579
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Enforcement of Title IX under the provisions of the 2020 Title IX Rule, February 4, 2025
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Responding to Bullying of Students with Disabilities, October 2014
Website	CSBA District and County Office of Education Legal Services
Website	Student Privacy Policy Office
Website	U.S. Department of Agriculture
Website	California Department of Social Services
Website	U.S. Department of Justice
Website	California Civil Rights Department
Website	California Department of Education
Website	CSBA
Website	U.S. Department of Education, Office for Civil Rights

Cross References	Description
0410	Nondiscrimination In District Programs And Activities
0420	School Plans/Site Councils
0420	School Plans/Site Councils
0420.41	Charter School Oversight
0420.41-E(1)	Charter School Oversight
0430	Comprehensive Local Plan For Special Education
0430	Comprehensive Local Plan For Special Education
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
1100	Communication With The Public
1113	District And School Websites
1113	District And School Websites

Cross References	Description
1113-E(1)	District And School Websites
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
1220	Citizen Advisory Committees
1220	Citizen Advisory Committees
1250	Visitors/Outsiders
1250	Visitors/Outsiders
1312.1	Complaints Concerning District Employees
1312.1	Complaints Concerning District Employees
1312.2	Complaints Concerning Instructional Materials
1312.2	Complaints Concerning Instructional Materials
1312.2-E(1)	Complaints Concerning Instructional Materials
1312.4	Williams Uniform Complaint Procedures
1312.4-E(1)	Williams Uniform Complaint Procedures
1312.4-E(2)	Williams Uniform Complaint Procedures
1313	Civility
1340	Access To District Records
1340	Access To District Records
3260	Fees And Charges
3260	Fees And Charges
3555	Nutrition Program Compliance
3555-E(1)	Nutrition Program Compliance
3580	District Records
3580	District Records
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4112.23	Special Education Staff
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.1	Civil And Legal Rights
4119.11	Sexual Harassment
4119.11	Sexual Harassment
4119.12	Title IX Sexual Harassment Complaint Procedures
4119.12-E(1)	Title IX Sexual Harassment Complaint Procedures
4119.23	Unauthorized Release Of Confidential/Privileged Information
4131	Staff Development
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications

Cross References	Description
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4219.1	Civil And Legal Rights
4219.11	Sexual Harassment
4219.11	Sexual Harassment
4219.12	Title IX Sexual Harassment Complaint Procedures
4219.12-E(1)	Title IX Sexual Harassment Complaint Procedures
4219.23	Unauthorized Release Of Confidential/Privileged Information
4231	Staff Development
4244	Complaints
4244	Complaints
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4319.1	Civil And Legal Rights
4319.11	Sexual Harassment
4319.11	Sexual Harassment
4319.12	Title IX Sexual Harassment Complaint Procedures
4319.12-E(1)	Title IX Sexual Harassment Complaint Procedures
4319.23	Unauthorized Release Of Confidential/Privileged Information
4331	Staff Development
4344	Complaints
4344	Complaints
5116.1	Intradistrict Open Enrollment
5116.1	Intradistrict Open Enrollment
5117	Interdistrict Attendance
5117	Interdistrict Attendance
5125	Student Records
5125	Student Records
5131.2	Bullying
5131.2	Bullying
5131.62	Tobacco
5131.62	Tobacco
5137	Positive School Climate
5141.22	Infectious Diseases
5141.22	Infectious Diseases
5141.4	Child Abuse Prevention And Reporting
5141.4	Child Abuse Prevention And Reporting
5144	Discipline
5144	Discipline
5144.1	Suspension And Expulsion/Due Process

Cross References	Description
5144.1	Suspension And Expulsion/Due Process
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5145.7	Sexual Harassment
5145.7	Sexual Harassment
5145.71	Title IX Sexual Harassment Complaint Procedures
5145.71-E(1)	Title IX Sexual Harassment Complaint Procedures
5145.9	Hate-Motivated Behavior
5146	Married/Pregnant/Parenting Students
5148	Child Care And Development
5148	Child Care And Development
5148.2	Before/After School Programs
5148.2	Before/After School Programs
5148.3	Preschool/Early Childhood Education
5148.3	Preschool/Early Childhood Education
6142.1	Sexual Health And HIV/AIDS Prevention Instruction
6142.1	Sexual Health And HIV/AIDS Prevention Instruction
6142.7	Physical Education And Activity
6142.7	Physical Education And Activity
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
6145.2	Athletic Competition
6145.2	Athletic Competition
6146.1	High School Graduation Requirements
6152	Class Assignment
6159	Individualized Education Program
6159	Individualized Education Program
6159.1	Procedural Safeguards And Complaints For Special Education
6159.1	Procedural Safeguards And Complaints For Special Education
6159.2	Nonpublic, Nonsectarian School And Agency Services For Special Education
6159.2	Nonpublic, Nonsectarian School And Agency Services For Special Education
6159.3	Appointment Of Surrogate Parent For Special Education Students
6159.3	Appointment Of Surrogate Parent For Special Education Students
6161.1	Selection And Evaluation Of Instructional Materials
6161.1	Selection And Evaluation Of Instructional Materials
6161.1-E(1)	Selection And Evaluation Of Instructional Materials
6161.11	Supplementary Instructional Materials
6163.1	Library Media Centers

Cross References	Description
6164.2	Guidance/Counseling Services
6164.4	Identification And Evaluation Of Individuals For Special Education
6164.4	Identification And Evaluation Of Individuals For Special Education
6164.5	Student Success Teams
6164.5	Student Success Teams
6171	Title I Programs
6171	Title I Programs
6173	Education For Homeless Children
6173	Education For Homeless Children
6173-E(1)	Education For Homeless Children
6173-E(2)	Education For Homeless Children
6173.1	Education For Foster Youth
6173.1	Education For Foster Youth
6173.2	Education Of Children Of Military Families
6173.2	Education Of Children Of Military Families
6173.3	Education For Juvenile Court School Students
6175	Migrant Education Program
6175	Migrant Education Program
6178	Career Technical Education
6178	Career Technical Education
6178.1	Work-Based Learning
6178.1	Work-Based Learning
6178.2	Regional Occupational Center/Program
6200	Adult Education
6200	Adult Education
9000	Role Of The Board
9011	Disclosure Of Confidential/Privileged Information
9012	Board Member Electronic Communications
9124	Attorney
9200	Limits Of Board Member Authority
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session
9322	Agenda/Meeting Materials