

Fresno Unified Board Policy (BP) 1312.3

Uniform Complaint Procedures (UCP)

The Governing Board recognizes the district has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs. The Board encourages 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.

Complaints Subject to the UCP

The district's Uniform Complaint Procedures (UCP) shall be used to investigate and seek to resolve the following complaints regarding the following programs and activities:

Any complaint alleging district failure to comply with applicable state or federal laws and regulations governing any program subject to the UCP which is offered by the district, including but not limited to allegations of discrimination, discriminatory harassment, intimidation, or bullying or noncompliance with laws relating to all programs and activities, such as adult education programs, accommodations for pregnant and parenting pupils, After School Education and Safety programs, migrant education, agricultural career technical education, state and federal career technical and technical education and technical training programs, child care and development programs; compensatory education; the federal Every Student Succeeds Act; Regional Occupational Centers and Programs, school safety plans, California State Preschool Programs, consolidated categorical aid programs, and any other district-implemented state categorical program that is not funded through the local control funding formula pursuant to Education Code 64000. (Education Code 8207-8225, 33315, 52059.5, 52300-52462 52460-52462, 54400-54445.1, 8200-8488, 8482-8484.65, 8500-8538, 52334.7, 52500-52617)

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3553 - Free and Reduced Price Meals)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

(cf. 5148 - Child Care and Development)

(cf. 5148.2 - Before/After School Programs)

(cf. 5148.3 - Preschool/Early Childhood Education)

(cf. 6171 - Title I Programs)

(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)

1. Any complaint, by a student, employee, or other person, alleging the occurrence of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), in district programs and 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 status, parental status, physical or mental disability, medical condition sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any actual or perceived characteristic as set forth 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 CCR4610)

Discrimination includes, but is not limited to, the Board's refusal to approve the use or prohibit the use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or other resource in a school library, on the basis that it includes a study of the role and contributions of any individual or group consistent with the requirements of Education Code 51204.5 and 60040, unless such study would violate Education Code 51501 or 60044. A complaint alleging such unlawful discrimination may, in addition to or in lieu of being filed with the district, be directly filed with the

Superintendent of Public Instruction (SPI). (Education Code 243)

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 4031 - Complaints Concerning Discrimination in Employment)
(cf. 5131.2 - Bullying)
(cf. 5145.3 - Nondiscrimination/Harassment)
(cf. 5145.31 - Gender and Identity Inclusion)
(cf. 5145.7 - Sexual Harassment)
(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)
(cf. 5146 - Married/Pregnant/Parenting Students)

2. Any complaint alleging district noncompliance with the requirement to provide reasonable accommodations 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)

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

3. Any complaint alleging district noncompliance with requirements to provide a pregnant or parenting student the accommodations specified in Education Code 46015, including those related to the provision of parental leave, right of return to the school of previous enrollment or to an alternative education program, if desired, and possible enrollment in school for a fifth year of instruction to enable the student to complete state and Board-imposed graduation requirements (Education Code 46015)

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

4. Any complaint alleging district noncompliance with the prohibition against requiring students to pay pupil fees, deposits, or other charges for participation in educational activities (5 CCR 4610; Education Code 49010-49013)

(cf. 3260 - Fees and Charges)

5. Any complaint alleging district noncompliance with applicable requirements of Education Code 52060-52077 related to the implementation of the local control and accountability plan (LCAP), including the development of a local control funding formula budget overview for parents/guardians (Education Code 52075)

(cf. 0460 - Local Control and Accountability Plan)
(cf. 3100 - Budget)

6. Any complaint alleging noncompliance with requirements related to school plans for student achievement or the establishment of a school site council, as required for the consolidated application for specified federal and/or state categorical funding (Education Code 64000-64001, 65000- 65001)

(cf. 0420 - School Plans/Site Councils)

7. Educational and graduation requirements for pupils in foster care, pupils who are experiencing homelessness, pupils from military families, pupils formerly in Juvenile Court school, and pupils participating in a newcomer program (Education Code 48645.7, 48853, 48853.5, 49069.5, 51225.1, 51225.2)

(cf. 6173 - Education for Homeless Children)
(cf. 6173.1 - Education for Foster Youth)
(cf. 6173.2 - Education of Children of Military Families)
(cf. 6173.3 - Education for Juvenile Court School Students)

8. Any complaint by or on behalf of a student who transfers into the district after the second year of high school and is a homeless child or youth as defined in 42 USC 11434a, a former juvenile court school student currently enrolled in the district, a child of a military family as defined in Education Code 49701, or a migrant student as defined in Education Code 54441, or by or on behalf of an immigrant student participating in a newcomer program as defined in Education Code 51225.2 in the third or fourth year of high school, alleging district noncompliance with any requirement applicable to the student regarding the grant of an exemption from Board-imposed graduation requirements (Education Code 51225.1)

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

9. Any complaint, by or on behalf of a homeless child or youth as defined in 42 USC 11434a, a former juvenile court school student, a child of a military family as defined in Education Code 49701, a migrant child as defined in Education Code 54441, or a newly arrived immigrant student who is participating in a newcomer program as defined in Education Code 51225.2, alleging district noncompliance with requirements for the award of credit for coursework satisfactorily completed in another school, district, or country (Education Code 51225.1, 51225.2)

(cf. 6173 - Education for Homeless Children)

10. Any complaint alleging district noncompliance with the requirements of Education Code 51228.1 and 51228.2 that prohibit the assignment of a student in grades 9-12 to course periods 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 51228.1-51228.3)

(cf. 6152 - Class Assignment)

11. Any complaint alleging district noncompliance with the physical education instructional minutes requirement for students in elementary school (Education Code 51210, 51222, 51223)

(cf. 6142.7 - Physical Education and Activity)

12. Complaints regarding the noncompliance of a license-exempt California State Preschool Program (CSPP) with State Preschool Health and Safety issues in districts exempt from licensing standards specified in Health and Safety Code 1596.7925 and related state regulations (Education Code 8235-8239.1; Health and Safety Code 1596.7925)

13. 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

14. 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 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 Board acknowledges and respects every individual's right to privacy. The district shall ensure that complainants are protected 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 their different from the complainant, confidential when appropriate and 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)

Complainants have the right to pursue civil law remedies under state or federal discrimination, harassment, intimidation or bullying laws.

The district will ensure annual dissemination of a written notice of the complaint procedures to students,

employees, parents or guardians of the students, school and district advisory committees, appropriate private school officials or representatives, and other interested parties that includes information regarding allegations about discrimination, harassment, intimidation, or bullying. The UCP Annual Notice will be provided in writing to all six required groups each year and will include information on how to appeal to the California Department of Education (CDE).

A copy of this UCP complaint policies and procedures document shall be available free of charge and is available on the district's website.

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 related requirements related to UCP, including the steps and timelines specified in this policy and the accompanying administrative regulation.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

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

(cf. 3580 - District Records)

Non-UCP Complaints

The following complaints shall not be subject to the district's UCP but shall be referred to the specified agency for appropriate resolution: (5 CCR 4611)

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)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

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 Civil Rights Department.

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)

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, 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)

(cf. 1312.4 - Williams Uniform Complaint Procedures)

Legal Reference:

EDUCATION CODE

200-262.4 Educational equity; prohibition of discrimination on the basis of sex
 18100-18203 School libraries
 32221.5 Insurance for athletic team members 32280-
 32289 School safety plan
 35186 Williams uniform complaint procedure
 46015 Parental leave for students
 48853-48853.5 Foster youth
 48985 Notices in language other than English 49010-
 49014 Student Fees
 49060-49079 Student records 49069.5
 Records of foster youth
 49490-49590 Child Nutrition programs
 49701 Interstate Compact on Educational Opportunity for Military Children
 51210 Courses of study grades 1-6
 51222 Physical education, secondary schools
 51223 Physical education, elementary schools
 51225.1-51225.2 Foster youth and homeless children; former juvenile court school students, and military-connected students; migrant students, and newly arrived
 immigrant 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, especially
 52075 Complaint for lack of compliance with local control and accountability plan requirements 52300-52462
 Career-technical education
 52500-52616.24 Adult schools
 54400-54425 Compensatory education programs 54440-
 54445 Migrant education
 54460-54529 Compensatory education programs
 59000-59300 Special schools and centers
 64000-64100 Consolidated application process; school plan for student achievement
 65000-65001 School site councils
 8200-8538 Child care and development programs
 8500-8538 Adult basic education
 GOVERNMENT CODE
 11135 Non-discrimination 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
 HEALTH AND SAFETY
 1596.792 California Child Day Care Act; general provisions and definitions
 1596.7925 California Child Day Care Act; health and safety regulations
 PENAL CODE
 422.55 Hate crime; definition
 422.6 Civil rights; crime
 CODE OF REGULATIONS, TITLE 2
 11023 Harassment and discrimination prevention and correction
 CODE OF REGULATIONS, TITLE 5
 3200-3205 Special education compliance complaints
 4600-4670 Uniform complaint procedures

4680-4687 Williams 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 (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
6801-7014 Title III language instruction for limited English proficient and immigrant students
UNITED STATES CODE, TITLE 29
794 Section 504 of Rehabilitation Act of 1973 UNITED STATES CODE, TITLE 42
2000d-2000d-7 Title VI Civil Rights Act of 1964
2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964
6101-6107 Age Discrimination Act of 1975
11431-11435 McKinney-Vento Homeless Assistance Act
12101-12213 Americans with Disabilities Act
CODE OF FEDERAL REGULATIONS, TITLE 28
35.107 Nondiscrimination on basis of disability; complaints
CODE OF FEDERAL REGULATIONS, TITLE 34
99.1-99.67 Family Educational Rights and Privacy
100.3 Prohibition of discrimination on basis of race, color or national origin
104.7 Designation of responsible employee for Section 504
106.1-106.82 Nondiscrimination on the basis of sex in education programs, especially:
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 proves for formal complaints of sexual harassment
106.8 Designation of responsible employee for Title IX
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, September 22, 2017

Dear Colleague Letter: Title IX Coordinators, April 2015

Dear Colleague Letter: Bullying of Students with Disabilities, August 2014

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

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

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

Policy FRESNO UNIFIED SCHOOL DISTRICT

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