

## **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 resolve the following complaints:

1. Any complaint alleging district violation of applicable state or federal law or regulations governing any program subject to the UCP which is offered by the district, including adult education programs, After School Education and Safety programs, migrant education, agricultural career technical education, state and federal career technical and technical education and 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, and any other district-implemented state categorical program that is not funded through the local control funding formula pursuant to Education Code 64000.

*(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)*

2. Any complaint, by a student, employee, or other person participating in a district program or activity, alleging the occurrence of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), in district programs and activities, including, but not limited to, 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, pregnancy, parental status, medical information, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code 200 or 220, Penal Code 422.55, or Government Code 11135 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)

*(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. 5146 – Married/Pregnant/Parenting Students)*

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

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

4. 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)*

5. 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)

*(cf. 3260 - Fees and Charges)*  
*(cf. 3320 - Claims and Actions Against the District)*

6. Any complaint alleging district noncompliance with applicable requirements of Education Code 52060-52077 related to the implementation of the local control and accountability plan, 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)*

7. Any complaint alleging noncompliance with requirements related to the development of a school plan 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)*

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

*(cf. 6173.1 - Education for Foster Youth)*

9. 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 - Education for Homeless Children)*

*(cf. 6173.2 - Education of Children of Military Families)*

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

10. 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)*

11. 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 a course without educational content for more than one week in any semester or to a course the student has previously satisfactorily completed, without meeting specified conditions (Education Code 51228.3)

*(cf. 6152 - Class Assignment)*

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

*(cf. 6142.7 - Physical Education and Activity)*

13. Complaints regarding the noncompliance of a license-exempt California State Preschool Program (CSPP) with health and safety standards specified in Health and Safety Code 1596.7925 and related state regulations (Education Code 8235.5; Health and Safety Code 1596.7925)

14. 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

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

The Board recognizes that a neutral mediator can often suggest a compromise that is acceptable to all parties in a dispute. In accordance with uniform complaint procedures, whenever all parties to a complaint agree to try resolving their problem through mediation, the Superintendent or designee shall initiate that process. The Superintendent or designee shall ensure that the results are consistent with state and federal laws and regulations.

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: (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.

*(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 and shall, for licensing-exempt facilities, be referred to the appropriate Child Development regional administrator.

3. Any complaint alleging fraud shall be referred to the Legal, Audits and Compliance Branch of the California Department of Education.

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.

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)*

*Fresno Unified School District prohibits discrimination, harassment, intimidation, and bullying based on actual or perceived race, color, ethnicity, national origin, immigration status, ancestry, age, creed, religion, political affiliation, gender, gender identity, gender expression, genetic information, mental or physical disability, sex, sexual orientation, marital status, pregnancy or parental status, medical information, military veteran status, or association with a person or a group with one or more of these actual or perceived characteristics or any other basis protected by law or regulation, in its educational program(s) or employment.*

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

222 Reasonable accommodations; lactating students

8200-8498 Child care and development programs

8500-8538 Adult basic education

18100-18203 School libraries

32280-32289 School safety plan, uniform complaint procedure

35186 Williams uniform complaint procedure

46015 Parental leave for students

48853.5 Foster youth

48985 Notices in language other than English

49010-49014 Student Fees

49060-49079 Student records, especially:

49069.5 Records of foster youth

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  
 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  
 65000-65001 School site councils  
 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  
 104420 Tobacco-Use Prevention Education  
 PENAL CODE  
 422.55 Hate crime; definition  
 422.6 Interference with constitutional right or privilege  
 CODE OF REGULATIONS, TITLE 2  
 11023 Harassment and discrimination prevention and correction  
 CODE OF REGULATIONS, TITLE 5  
 3080 Application of section  
 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  
 1681-1688 Title IX of the Education Amendments of 1972  
 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-2000e-17 Title VI and Title VII Civil Rights Act of 1964, as amended  
 2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964  
 6101-6107 Age Discrimination Act of 1975  
 12101-12213 Title II equal opportunity for individuals with disabilities  
 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  
 106.8 Designation of responsible employee for Title IX  
 106.9 Notification of nondiscrimination on basis of sex  
 110.25 Notification of nondiscrimination on the basis of age  
 Management Resources:  
 U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS  
 Dear Colleague Letter: Title IX Coordinators, April 2015 Questions and Answers on Title IX and Sexual Violence, April 2014  
 Dear Colleague Letter: Bullying of Students with Disabilities, August 2013  
 Dear Colleague Letter: Sexual Violence, April 2011  
 Dear Colleague Letter: Harassment and Bullying, October 2010  
 Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001  
 U.S. DEPARTMENT OF JUSTICE PUBLICATIONS  
 Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination

Affecting Limited English Proficient Persons, 2002

WEB SITES

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

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

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