

UNIFORM COMPLAINT PROCEDURES

Policy of the Board of Education

The Governing Board recognizes that the district is primarily responsible for complying with applicable state and federal laws and regulations governing educational programs. The district shall investigate complaints alleging failure to comply with such laws and/or alleging discrimination and shall seek to resolve those complaints in accordance with the district's uniform complaint procedures (Title 5, California Code of Regulations, Section 4620).

The district shall follow uniform complaint procedures when addressing complaints alleging unlawful discrimination as identified under Education Code Section 200 and 220 and Government Code Section 11135, including actual or perceived sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability, or age, or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics in any district program or activity that receives or benefits from state financial assistance (Title 5, California Code of Regulations, Section 4610).

Uniform complaint procedures shall also be used when addressing complaints alleging failure to comply with state and/or federal laws in consolidated categorical aid programs, migrant education, vocational education, preschool and early childhood education, child nutrition programs, and special education programs.

- (cf. BP 300.27 - Nondiscrimination)
- (cf. BP 300.31 - School-Based Program Coordination)
- (cf. BP 300.13 - Complaints Against District Employees)
- (cf. BP 400.38 - Complaints Concerning Instructional Materials)
- (cf. BP 1000.3 - Free and Reduced Price Meals)
- (cf. BP 500.49 - Nondiscrimination in Employment)
- (cf. BP 603.7 - Child Abuse and Neglect Reporting Procedures)
- (cf. BP 400.47 - Preschool/Early Childhood Education)
- (cf. BP 606.9 - Individualized Education Program)
- (cf. BP 400.28 - Education for English Language Learners)
- (cf. BP 605.13 - Williams Uniform Complaint Procedures)

Complaints 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, and teacher vacancies and misassignments shall be investigated pursuant to the district's Williams uniform complaint procedure.

- (cf. BP 605.13 - Williams Uniform Complaint Procedures)

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The Board encourages the early, informal resolution of complaints at the site level whenever possible.

The Board acknowledges and respects student and employee rights to privacy. Discrimination complaints shall be investigated in a manner that protects the confidentiality of the parties and the integrity of the process. This may include keeping the identity of the complainant confidential, as appropriate and except to the extent necessary to carry out the investigation or proceedings, as determined by the Superintendent or designee on a case-by-case basis.

(cf. BP 300.49 - Unauthorized Release of Confidential/Privileged Information)

(cf. BP 605.7 - Pupil Records)

(cf. BP 100.51 - Disclosure of Confidential/Privileged Information)

The Board prohibits any form of retaliation against any complainant in the complaint process, including but not limited to the complainant's filing of a complaint or the reporting of instances of discrimination. Such participation shall not in any way affect the status, grades, or work assignments of the complainant.

The Board recognizes that a neutral mediator can often suggest a compromise that is agreeable 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.

The Board intends for the Superintendent or designee to receive, investigate, and resolve complaints to ensure district compliance with law, board policy, and administrative regulations. The Board does not intend to hear cases where the complainant is dissatisfied with the district's decision. The Superintendent or designee's decision shall be considered final. However, the Board may decide to hear an appeal if the complainant provides sufficient information to establish a factual base the complaint was not resolved within the parameters of law, policy, or procedures. An agreement in writing with the complainant may be necessary to extend the timelines for investigating and resolving the processing complaints should the Board decide to hear an appeal (Title 5, California Code of Regulations, Section 4631).

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Legal Reference:

EDUCATION CODE

200-262.4	Prohibition of discrimination
8200-8498	Child care and development programs
18100-18203	School libraries
32289	School safety plan, uniform complaint procedure
35186	Williams uniform complaint procedure
41500-41513	Categorical education block grants
48985	Notices in language other than English
49060-49079	Pupil records
49490-49590	Child nutrition programs
52160-52178	Bilingual education programs
52300-52499.6	Vocational education
52800-52870	School-based coordinated programs
54000-54028	Economic impact aid programs
54100-54145	Miller-Unruh Basic Reading Act
54460-54529	Compensatory education programs
54440-54445	Migrant education
56000-56885	Special education programs
59000-59300	Special schools and centers
64000-64001	Consolidated application process

CODE OF REGULATIONS, TITLE 5

3080	Application of section
4600-4687	Uniform complaint procedures
4900-4965	Nondiscrimination in elementary and secondary education programs receiving state financial assistance

PENAL CODE

422.6	Interference with constitutional right or privilege
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UNITED STATES CODE, TITLE 20

6301-6577	Title I basic programs
6601-6777	Title II preparing and recruiting high quality teachers and principals
6801-6871	Title III language instruction for limited English proficient and immigrant students
7101-7184	Safe and Drug-Free Schools and Communities Act
7201-7283g	Title V promoting informed parental choice and innovative programs
7301-7372	Title V rural and low-income school programs

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Legal Reference (Continued):

Other:

CDE: <http://www.cde.ca.gov>

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

Revision Approved: February 28, 1984

Revision Approved: October 28, 2003

Revision Approved: December 11, 2007

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Compliance Officers

The Governing Board designates the following compliance officer(s) to receive and investigate complaints and to ensure district compliance with law:

Erin Johnston, Personnel Administrator
1300 Baker Street
Bakersfield, California 93311
Telephone: (661) 631-4663

The Superintendent or designee shall ensure that employees designated to investigate complaints are knowledgeable about the laws and programs for which they are responsible. Such employees may have access to legal counsel as determined by the Superintendent or designee.

Notifications

The Superintendent or designee shall annually provide written notification of the district's uniform complaint procedures to students, employees, parents/guardians, the district advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties (Title 5, California Code of Regulations, Section 4622).

The Superintendent or designee shall make available copies of the district's uniform complaint procedures free of charge (Title 5, California Code of Regulations, Section 4622).

The notice shall:

1. Identify the person(s), position(s), or unit(s) responsible for receiving complaints;
2. Advise the complainant of any civil law remedies that may be available to him/her under state or federal discrimination laws, if applicable;
3. Advise the complainant of the appeal process pursuant to Education Code Section 262.3, including the complainant's right to take a complaint directly to the California Department of Education (CDE) or to pursue remedies before civil courts or other public agencies.
4. Include statements that:
 - a. The district is primarily responsible for compliance with state and federal laws and regulations;

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- b. The complaint review shall be completed within 60 calendar days from the date of receipt of the complaint unless the complainant agrees in writing to an extension of the timeline;
- c. An unlawful discrimination complaint must be filed not later than six months from the date the alleged discrimination occurs, or six months from the date the complainant first obtains knowledge of the facts of the alleged discrimination;
- d. The complainant has a right to appeal the district's decision to the CDE by filing a written appeal within 15 days of receiving the district's decision; and
- e. The appeal to the CDE must include a copy of the complaint filed with the district and a copy of the district's decision.

(cf. BP 300.56 - Parental Notifications)

Procedures

The following procedures shall be used to address all complaints which allege that the district has violated federal or state laws or regulations governing educational programs. Compliance officers shall maintain a record of each complaint and subsequent related actions, including all information required for compliance with Title 5, California Code of Regulations, Section 4631 and 4633.

All parties involved in allegations shall be notified when a complaint is filed, when a complaint meeting or hearing is scheduled, and when a decision or ruling is made.

Step 1: Filing of Complaint

Any individual, public agency, or organization may file a written complaint of alleged noncompliance by the district (Title 5, California Code of Regulations, Section 4630).

A complaint alleging unlawful discrimination shall be initiated no later than six months from the date when the alleged discrimination occurred, or six months from the date when the complainant first obtained knowledge of the facts of the alleged discrimination. A complaint may be filed by a person who alleges that he/she personally suffered unlawful discrimination or by a person who believes that an individual or any specific class of individuals has been subjected to unlawful discrimination (Title 5, California Code of Regulations, Section 4630).

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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 complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, district staff shall help him/her in filing the complaint (Title 5, California Code of Regulations, Section 4600).

Step 2: Mediation

Within three days of receiving the complaint, the compliance officer may informally discuss with the complainant the possibility of using mediation. If the complainant agrees to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a discrimination complaint, the compliance officer shall ensure that all parties agree to make the mediator a party to related confidential information.

If the mediation process does not resolve the problem within the parameters of law, the compliance officer shall proceed with his/her 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 (Title 5, California Code of Regulations, Section 4631).

Step 3: Investigation of Complaint

The compliance officer is encouraged to investigate within ten days of receiving the complaint or an unsuccessful attempt to mediate the complaint. This communication or meeting shall provide an opportunity for the complainant and/or his/her representative to repeat the complaint orally.

The complainant and/or his/her representative and the district's representatives shall have an opportunity to present the complaint and evidence or information leading to evidence to support the allegations in the complaint (Title 5, California Code of Regulations, Section 4631).

A complainant's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, or his/her failure or refusal to cooperate in the investigation or his/her engagement in any other obstruction of the investigation, may result in the dismissal of the complaint because of a lack of evidence to support the allegation (Title 5, California Code of Regulations, Section 4631).

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The district's refusal to provide the investigator with access to records and/or other information related to the allegation in the complaint, or its failure or refusal to cooperate in the investigation or its engagement in any other obstruction of the investigation, may result in a finding, based on evidence collected, that a violation has occurred and may result in the imposition of a remedy in favor of the complainant (Title 5, California Code of Regulations, Section 4631).

Step 4: Response

Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant a written report of the district's investigation and decision, as described in Step #5 below, within 60 calendar days of receiving the complaint (Title 5, California Code of Regulations, Section 4631).

The Board does not intend to hear cases where the complainant does not agree with the compliance officer's decision. The Superintendent or designee's decision shall be considered final. However, the Board may decide to hear an appeal if the complainant provides sufficient information to establish a factual base the complaint was not resolved within the parameters of law, policy, or procedure.

If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 60 days of the district's initially receiving the complaint or within the time period that has been specified in a written agreement with the complainant (Title 5, California Code of Regulations, Section 4631).

If the Board decides not to hear the complaint, the compliance officer's decision shall be final although the complainant may appeal the district's decision to the CDE as described below (Title 5, California Code of Regulations, Section 4632).

Step 5: Final Written Decision

The district's decision shall be written in English and in the language of the complainant whenever feasible or required by law (Title 5, California Code of Regulations, Section 4631).

The decision shall include:

1. The findings of fact based on the evidence gathered (Title 5, California Code of Regulations, Section 4631).

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2. The conclusion(s) of law (Title 5, California Code of Regulations, Section 4631).
3. Disposition of the complaint (Title 5, California Code of Regulations, Section 4631).
4. Rationale for such disposition (Title 5, California Code of Regulations, Section 4631).
5. Corrective actions, if any are warranted (Title 5, California Code of Regulations, Section 4631).
6. Notice of the complainant's right to appeal the district's decision within 15 days to the CDE and procedures to be followed for initiating such an appeal (Title 5, California Code of Regulations, Section 4631).
7. For discrimination complaints, notice that the complainant must wait until 60 days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies (Education Code Section 262.3)

If an employee is disciplined as a result of the complaint, the decision shall simply state that effective action was taken and that the employee was informed of district expectations. The report shall not give any further information as to the nature of the disciplinary action.

Appeals to the California Department of Education

If dissatisfied with the district's decision, the complainant may appeal in writing to the CDE within 15 days of receiving the district's decision. When appealing to the CDE, the complainant must specify the basis for the appeal of the decision and whether the facts are incorrect and/or the law has been misapplied. The appeal shall be accompanied by a copy of the locally filed complaint and a copy of the district's decision (Title 5, California Code of Regulations, Section 4632).

Upon notification by the CDE that the complainant has appealed the district's decision, the Superintendent or designee shall forward the following documents to the CDE (Title 5, California Code of Regulations, Section 4633):

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1. A copy of the original complaint
2. A copy of the decision
3. A summary of the nature and extent of the investigation conducted by the district, if not covered by the decision
4. 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
5. A report of any action taken to resolve the complaint
6. A copy of the district's complaint procedures
7. Other relevant information requested by the CDE

The CDE may directly intervene in the complaint without waiting for action by the district when one of the conditions listed in Title 5, California Code of Regulations, Section 4650 exists, including cases in which the district has not taken action within 60 days of the date the complaint was filed with the district.

Civil Law Remedies

A complainant may pursue available civil law remedies outside of the district's complaint procedures. Complainants may seek assistance from mediation centers or public/private interest attorneys. Civil law remedies that may be imposed by a court include, but are not limited to, injunctions and restraining orders. For discrimination complaints, however, a complainant must wait until 60 days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies. The moratorium does not apply to injunctive relief and is applicable only if the district has appropriately, and in a timely manner, apprised the complainant of his/her right to file a complaint in accordance with Title 5, California Code of Regulations, Section 4622.

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