

Santa Barbara Unified School District

Board Policy

Community Relations

BP 1312.3(a)

UNIFORM COMPLAINT PROCEDURES

The Board of Education recognizes that the district has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs. The Board encourages the early, informal resolution of complaints whenever possible and appropriate. To resolve complaints which cannot be resolved through such informal process, the Board shall adopt the uniform system of complaint processes specified in 5 CCR 4600-4670 and the accompanying administrative regulation.

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:
 - A. Adult Education (California Education Code [EC] sections [§§] 8500–8538, 52334.7, 52500-52616.4)
 - B. After School Education and Safety (EC §§ 8482–8484.65)
 - C. Agricultural Career Technical Education (EC §§ 52460–52462)
 - D. Career Technical and Technical Education, Career Technical, Technical Training-state (EC §§ 52300–52462) • Career Technical Education-federal (EC § 64000)
 - E. Child Care and Development (EC §§ 8200–8493)
 - F. Compensatory Education (EC § 54400)
 - G. Consolidated Categorical Aid Programs •Course Periods without Educational Content (EC §§ 51228.1–51228.3)
 - H. Education and graduation of Pupils in Foster Care, Pupils who are Homeless, former Juvenile Court Pupils now enrolled in a school district and Pupils of Military Families (EC §§ 48645.7, 48853, 48853.5, 49069.5, 51225.1, 51225.2)
 - I. Every Student Succeeds Act (20 United States Code [20 U.S.C.] § 6301 et seq.; EC § 52059) (cf. 3553 - Free and Reduced Price Meal Program)
 - J. Local Control and Accountability Plans (LCAP) (EC § 52075, Government Code [GC] § 17581.6(f)) *an LCAP complaint may be filed anonymously.
 - K. Migrant Education (EC §§ 54440–54445)
 - L. Physical Education Instructional Minutes (EC §§ 51210, 51223) Fees complaints may be filed with the school principal of a school or the Superintendent or his/her designee: ShaKenya Edison, Assistant Superintendent, Student Services *a pupil fees complaint may be filed anonymously, without an identifying signature.
 - M. Pregnant and Parenting Pupils Accommodations (EC § 46015)
 - N. Pupil Fees (EC §§ 49010–49011)
 - O. Regional Occupational Centers and Programs (EC §§ 52300–52334.7)

- P. School Plans For Student Achievement (EC § 64001)
- Q. School Safety Plans (EC §§ 32280–32289)
- R. Schoolsite Councils (EC § 65000)
- S. State Preschool (EC §§ 8235–8239.1) • State Preschool Health And Safety Issues In LEAs Exempt From Licensing (EC §§ 8235.5(a), 33315, GC § 17581.6 (f)), UCP complaints regarding state preschool health and safety issues pursuant to HSC Section 1596 7925 shall include the following statements: •file with the preschool program administrator or designee.

Health or safety issues pursuant to HSC Section 1596 7925 about problems beyond the authority of the preschool program administrator shall be forwarded in a timely manner, not to exceed 10 working days to the appropriate local agency for resolution.

A state preschool health and safety issues complaint pursuant to HSC Section 1596 7925 may be filed anonymously. A complainant who identifies themselves and requests a response is entitled to a response. If Section 48985 of the ED is otherwise applicable, the response, if requested and the district Investigation Report shall be written in English and the primary language of which the complaint was filed. A complaint form for a state preschool health and safety issue pursuant to HSC Section 1596.7925 shall specify the location for filing a complaint. A complainant may add as much text to explain the complaint as they wish.

The preschool program administrator or designee of the district superintendent shall (1) make all reasonable efforts to investigate any problem within his or her authority. Investigations shall begin within 10 days of the receipt of the complaint and (2) remedy a valid complaint within a reasonable time period, but not to exceed 30 working days from the date the complaint was received and report to the complainant the resolution of the complaint within 45 working days of the initial filing. If the preschool program administrator makes this report, he or she shall also provide the same report in the same timeframe to the designee of the district superintendent.

- T. California Health and Safety Code[HSC] § 1596.79(cf. 5141.4 - Child Abuse Prevention and Reporting)
- U. Lactating Pupil-Reasonable Accommodations (EC § 222)
- V. Discrimination, harassment, intimidation, or bullying against any protected group as identified under sections 200 and 220 and Section 1135 of the Government Code, including any actual or perceived characteristic as set forth in Section 422.55 of the Penal Code, 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 program or activity conducted by the district, as defined in Section 210.3, that is funded directly by, or that receives or benefits from, any state financial assistance.

And any other state or federal educational program the State Superintendent of Public Instruction (SSPI) or designee deems appropriate.

The district policies and procedures include the following provisions to the complainant:

Complainants are ensured protection from retaliation and have the right to pursue civil law remedies under the state or federal discrimination, harrassment, intimidation or bullying laws.

The district will provide the opportunity for complainants and/or representatives to present evidence or information. Refusal by the complainant to provide the investigator with documents or other information related to the allegations in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation, may result in the dismissal of the complaint because of a lack of evidence to support the allegations.

Refusal by the district to provide the investigator with access to records and/or other information related to the allegation in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage 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 complainants.

All UCP complaints shall be filed not later than one year from the date the alleged violation occurred. The complaint will be investigated and a written LEA Investigation Report issued to the complainant within 60 calendar days from the date of the receipt of the complaint, unless the complainant agrees in writing to an extension of time.

The LEA Investigation Report will contain the following elements:

- The findings of fact based on the evidence gathered;
- A conclusion that provides a clear determination for each allegation as to whether the LEA is in compliance with the relevant law:

Corrective actions if the LEA finds merit in a complaint:

Pertaining to complaints of Pupil Fees; LCAP; Physical Education Instructional Minutes, or Course Periods without Educational Content, the remedy shall go to all affected pupils, parents and guardians;

For all other complaints within the scope of the UCP, the remedy shall go to the affected pupil;

With respect to a pupil fees complaint, corrective actions shall include a remedy where in good faith, by engaging in reasonable efforts, an attempt to identify and fully reimburse all pupils,

parents and guardians who paid a pupil fee within one year prior to the filing of the complaint;

- A notice of the complainant's right to appeal the LEA Investigation Report to the CDE; and
- The procedures to be followed for initiating an appeal to the CDE.
- The complainant may appeal an LEA Investigation Report for a UCP complaint to the CDE by filing a written appeal within 30 days of the date of the LEA Investigation Report. In order to request an appeal, the complainant must specify and explain the basis for the appeal, including at least one of the following:

The LEA failed to follow its complaint procedures, and/or

The LEA Investigation Report lacks material findings of fact necessary to reach a conclusion of law, and/or

The legal conclusion in the LEA Investigation Report is inconsistent with the law, and/or

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

- The appeal shall be sent with: (1) a copy of the locally filed complaint; and (2) a copy of the LEA Investigation Report.
- All complaints and responses are public records.

(cf. 5148 - Child Care and Development)

(cf. 5148.2 - Before/After School Programs)

(cf. 6159 - Individualized Education Program)

(cf. 6171 - Title I Programs)

(cf. 6174 - Education for English Language Learners) (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 alleging the occurrence of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) in district programs and activities, including, but not limited to, those funded directly by or that receive or benefit from any state financial assistance (5

CCR 4610), against any person, based on his/her actual or perceived characteristics 4610) based on the following protected groups:

- A. Age
- B. Ancestry
- C. Color
- D. Disability – mental
- E. Disability – physical, ethnicity
- F. Ethnic group identification, gender, gender expression
- G. Gender identity
- H. Genetic information, immigration status, marital or parental status, nationality, national origin
- I. Sex – actual
- J. Sex – perceived
- K. Sexual orientation
- L. Race
- M. Religion
- N. Or based on his/her association with a person or group with one or more of these actual or perceived characteristics
- O. Or any other characteristic identified in Education Code 200 or 220,

Government Code 11135, or Penal Code 422.55

(cf. 0410 - Nondiscrimination in District Programs and Activities) (cf. 4030 - Nondiscrimination in Employment)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

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)

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

4. Any complaint alleging district violation of the prohibition against requiring students to pay 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)

5. Any complaint alleging that the district has not complied with legal requirements related to the implementation of the local control and accountability plan (Education Code 52075)

(cf. 0460 - Local Control and Accountability Plan)

6. Any complaint, by or on behalf of any student who is a foster youth, 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 or district, school 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)

7. Any complaint, by or on behalf of a homeless student as defined in 42 USC 11434a, alleging district noncompliance with any requirement applicable to the student regarding the award of credit for coursework satisfactorily completed in another school or district or the grant of an exemption from Board-imposed graduation requirements (Education Code 51225.1, 51225.2)

(cf. 6173 - Education for Homeless Children)

8. Any complaint, by or on behalf of a former juvenile court school student who transfers into the district after his/her second year of high school, alleging district noncompliance with any requirement applicable to the student regarding the award of credit for coursework satisfactorily completed in the juvenile court school or the grant of an exemption from Board-imposed graduation requirements (Education Code 51225.1, 51225.2)

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

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9. Any complaint alleging district noncompliance with the requirements of Education Code 51228.1 and 51228.2 that prohibit the assignment of a student 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)

10. 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)

11. 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
12. Any other complaint as specified in a district policy

District personnel are required to take immediate steps to intervene when safe to do so when witnessing an act of discrimination, harassment, intimidation, or bullying. Unlawful discrimination, harassment, intimidation or bullying complaints shall be filed no later than six months from the date of the alleged discrimination, harassment, intimidation or bullying occurred or six months from the date that the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation or bullying. The district must investigate all allegations of discrimination and implement effective corrective actions whenever necessary and appropriate and maintain documentation of complaints and their resolution for a minimum of one review cycle.

The district shall protect all complainants from retaliation. In investigating complaints, the confidentiality of the parties involved shall be protected as required by law. As appropriate for any complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the Superintendent or designee shall keep confidential the identity of the complainant and/or the subject of the complaint, if he/she is different from the complainant, 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)

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.

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For example, a UCP regarding discrimination based on disability that includes a request for grade change, the grade change request portion shall be forwarded to the Office of Secondary Schools (OSS) or equivalent department/division and the alleged discrimination based on disability complaint shall be investigated under the UCP. Any findings of discrimination based on disability will be forwarded to OSS or equivalent department/division for consideration in the grade change review. If the UCP investigation determines that discrimination occurred, the UCP/OSS response will be tailored to stop the discrimination, remedy the effects on any such student who was discriminated against, including with respect to that student's grade (if the grade was impacted), and the district will take steps reasonably calculated to prevent such discrimination from recurring.

The Superintendent or designee shall maintain records of all UCP complaints and the investigations of those complaints. All such records shall be destroyed in accordance with applicable state law and district policy.

(cf. 3580 - District Records)

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, the County Protective Services Division, and the appropriate law enforcement agency.
2. Any complaint alleging health and safety violations by a child development program shall, for licensed facilities, be referred to the Department of Social Services and shall, for licensing exempt facilities, be referred to the appropriate Child Development regional administrator.
3. Any complaint alleging employment discrimination shall be sent to the Human Resources Department for review and investigating who shall notify the complainant of the transfer.
4. Any complaint alleging fraud shall be referred to the California Department of Education.

In addition, the district's Williams Uniform Complaint Procedures, AR 1312.4, shall be used to investigate and resolve any complaint related to sufficiency of textbooks or instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff, or teacher and misassignments. (Education Code 35186)

(cf. 1312.4 - Williams Uniform Complaint Procedures)

Legal Reference:

EDUCATION CODE

20 United States Code [20 U.S.C] Section 6301 et seq.

200-262.4 Prohibition of discrimination

8200-8498 Child care and development programs

8500-8538 Adult basic education

17002, 17592.72, 32280-32289, 33126, 33315, 35186, 46015, 48645.7, 48853, 48853.5, 48987,

49010-49013, 49069.5, 51210, 51223, 51225.1-.3, 51228.1-51228.3,

18100-18203 School libraries

2075 Complaint for lack of compliance with local control and accountability plan requirements

52160-52178 Bilingual education programs

52300-52490 Career technical education

52500-52616.24 Adult schools

52800-52870 School-based program coordination

54400-54425 Compensatory education programs

54440-54445 Migrant education

54460-54529 Compensatory education programs

56000-56867 Special education programs

59000-59300 Special schools and centers

64000-64001 Consolidated application process

65000

CA GOVERNMENT CODE

11135 Nondiscrimination in programs or activities funded by state

12900-12996 Fair Employment and Housing Act

PENAL CODE

422.55 Hate crime; definition

422.6 Interference with constitutional right or privilege

CODE OF REGULATIONS, TITLE 5

3080 Application of section

4600-4687 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

6301-6577 Title I basic programs

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

12101-12213 Title II equal opportunity for individuals with disabilities

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

CODE OF FEDERAL REGULATIONS, TITLE 28

34 Code of Regulations [34 CFR] Sections 106.8, 299.10-12

35.107 Nondiscrimination on basis of disability; complaints

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.67 Family Educational Rights and Privacy Act

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

BP 1312.3(g)

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

CSBA: <http://www.csba.org>

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

Family Policy Compliance Office: <http://familypolicy.ed.gov>

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

<http://www.ed.gov/about/offices/list/ocr> U.S. Department of Justice: <http://www.justice.gov>

SANTA BARBARA UNIFIED SCHOOL DISTRICT

Santa Barbara, California

October 13, 2015; June 14, 2016; June 28, 2020; January 14, 2022, July 19, 2022