

Uniform Complaint Procedures

Community Relations

The purpose of this Administrative Regulation is to implement Board Policy 1312.3 and review complaints filed under Category One, Two, Three, Four, and Six.

Compliance Officer

The District designates the individual identified below as the employee responsible for coordinating the District's response to complaints and for complying with state and federal civil rights laws. The individual also serves as the compliance officers specified in AR 5145.3 – Nondiscrimination / Harassment as the responsible employee to handle complaints regarding sex discrimination. The individual shall receive and coordinate the investigation of complaints and ensure the District's compliance with applicable law.

Human Resources Director

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Complaints may be filed with the Compliance Officer or with any site administrator, and if a complaint is filed with a site administrator, the site administrator will notify the Compliance Officer of the complaint. The Compliance Officer shall review the complaint, and after gathering any additional information needed to make a determination, will determine whether the complaint raises allegation(s) of issues described in BP 1312.3 for which the UCP shall be used to investigate and resolve the complaint, or the complaint raises other allegation(s) of issues not described in BP 1312.3, for which BP 1312.1 shall be used to investigate and resolve the complaint.

The Compliance Officer who receives a complaint may assign a district or site administrator to investigate the complaint. The Compliance Officer shall promptly notify the complainant if a district or site administrator is designated to investigate the complaint.

In no instance shall the Compliance Officer be designated to investigate a complaint if he/she is mentioned in the complaint or has a conflict of interest that would prohibit him/her from fairly investigating the complaint. Any complaint filed against or implicating the Compliance Officer may be filed with the Superintendent or designee.

The Superintendent or designee shall ensure that employees designated to investigate complaints receive training and are knowledgeable about the laws and programs for which they are assigned to investigate. Training provided to such designated employees shall include current state and federal laws and regulations governing the program, applicable processes for investigating complaints, including those involving alleged discrimination, applicable standards for reaching decisions on complaints, and appropriate corrective measures. Designated employees may have access to legal counsel as determined by the Superintendent or designee.

The Compliance Officer or, if necessary, any appropriate administrator shall determine whether interim measures are necessary pending the results of an investigation. 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, if possible, one or more of the interim measures. The interim measures may 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.

PROCEDURES

All complaints filed in accordance with the District policy and regulations shall be mediated and/or investigated and resolved within 60 calendar days of the District's receipt of the complaint unless the complainant agrees in writing to an extension. (5 CCR 4631)

The Compliance Officer shall maintain a record of each complaint and subsequent related actions, including all information required for compliance with 5 CCR 4631 and 4633.

If a complainant is unable to put a complaint in writing due to a disability or illiteracy, the District shall assist the complainant in the filing of the complaint.

STEP 1: FILING OF COMPLAINT

All complaints subject to this regulation may be filed with the Compliance Officer.

Category Three and Category Five complaints may be with the Compliance Officer or the principal of the school where the complaint arose.

Complaints Alleging Violation of Law in Specified Programs

A Category One complaint alleging the District violated applicable state or federal law or regulations governing adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and training programs, child care and development programs, child nutrition programs, and special education programs, including failure to implement an agreed upon individualized education program, may be filed by any individual, public agency, or organization. (5 CCR 4630)

Complaints Alleging Unlawful Discrimination and Discriminatory Harassment, Intimidation and Bullying

A Category One or Category Two Complaint alleging unlawful discrimination, including discriminatory harassment, intimidation or bullying:

- Shall be filed no later than six months from the date the alleged discrimination, harassment, intimidation or bullying occurred, or six months from the date the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation or bullying; and

- Shall be filed by a person (1) who alleges that he or she has personally suffered unlawful discrimination, harassment, intimidation, or bullying or (2) who believes an individual or any specific class of individuals has been subjected to unlawful discrimination, harassment, intimidation, or bullying.

If a complaint is filed anonymously, the compliance officer shall pursue an investigation or other response, as appropriate, based on the specificity and reliability of the information in the complaint and the nature of the allegation.

When the complainant or alleged victim requests confidentiality, the Compliance Officer shall inform him/her that the request may limit the District's ability to investigate the conduct or take other necessary action and take all reasonable steps to investigate and respond to the complaint in a manner consistent with the request.

Category Three Complaints: Pupil Fees.

Category Three Complaints shall be filed not later than one year from the date the alleged violation occurred.

Such complaints may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance with laws relating to student fees. If filed with the principal, the principal shall promptly forward a copy to the District Compliance Officer.

Category Four Complaints: Local Control Accountability Plan

Category Four Complaints may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance with Education Code sections 52060 et seq.

STEP 2: MEDIATION

Within five (5) business days of receiving the complaint, the Compliance Officer may informally discuss with all the parties the option of using mediation. A business day is any day the District Office is open. If the parties agree to mediation, the Compliance Officer shall make all related arrangements.

Before initiating the mediation of a complaint alleging unlawful discrimination or discriminatory harassment, intimidation, or bullying, the compliance officer shall ensure that all parties agree to allow disclosure of confidential information to the mediator and are notified of the right to end the mediation process at any time.

If the mediation process does not result in resolution of the complaint, the Compliance Officer shall proceed with his/her investigation of the complaint.

Mediation shall not extend the timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time. (5 CCR 4631)

If mediation is successful and the complaint withdrawn, the District shall take only the actions agreed to in mediation. If mediation is not successful, the District shall complete Steps 3 and 4, below.

STEP 3: INVESTIGATION OF COMPLAINT

Within 10 business days of receiving the complaint, the Compliance Officer shall begin the investigation. The Compliance Officer shall provide the complainant and/or his/her representative an opportunity to present information in the complaint and any evidence, or information leading to evidence, to support the allegations in the complaint.

The Compliance Officer, with the assistance of additional staff as necessary, shall collect and review available documentary evidence and interview witnesses with information relevant to the complaint as necessary to make informed findings and maintain a record of the investigation including interview notes.

If the complaint alleges unlawful discrimination, including discriminatory harassment, intimidation, bullying, or retaliation, the compliance officer shall interview the parties and relevant witnesses privately, separately and in a confidential manner.

The Compliance Officer may visit any reasonably accessible location where the relevant acts or omissions in the complaint are alleged to have occurred.

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 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. (5 CCR 4631)

In accordance with law, the District shall provide the investigator with access to records and other information related to the allegation in the complaint and shall not in any way obstruct the investigation. Failure or refusal of the District staff to cooperate in 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)

The Compliance Officer shall apply a "preponderance of the evidence" standard which is met if the allegation is more likely than not true.

STEP 4: REPORT OF FINDINGS

Unless extended by written agreement, a final decision shall be personally delivered or mailed (by U.S. mail, or if authorized by complainant, by email) to the complainant within 60 calendar days of the District's receipt of the complaint.

Administrative Regulation 1312.3 (e)

Within 30 calendar days of receiving the complaint, the Compliance Officer shall prepare and send to the complainant a written report of the investigation and findings. The Compliance Officer's Report ("COR") shall become the Final Decision of the District, except when the complainant requests review by the Governing Board in a timely manner. Such request shall be submitted in writing to the Compliance Officer, within five business days after the COR was either personally delivered or mailed (by U.S. mail or with the complainant's authorization, emailed) to complainant.

If the Board decides not to review the complaint, the COR shall be the final decision of the District. If the Governing Board reviews the complaint, it may consider the matter at its next regular meeting or at a special meeting within the above-mentioned 60 calendar day period. The Governing Board may affirm or reject the COR in whole or in part and shall issue a Final Decision.

The Compliance Officer or other person designated by the Board shall notify the complainant, by personal delivery or mail (by U.S. mail or with the complainant's authorization, by email) of the Governing Board's decision 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) The Governing Board's decision shall be the Final Decision of the District.

STEP 5: COR / FINAL DECISION

The COR / Final Decision shall be written in English and, when required by Education Code 48985, in the complainant's primary language. In all other instances the District shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency. (5 CCR 4631)

For all complaints, the decision shall include: (5 CCR 4631)

1. The findings of fact based on the evidence gathered. In reaching a factual determination, the following factors may be taken into account:
 - a. Statements made by any witnesses
 - b. The relative credibility of the individuals involved
 - c. How the complaining individual reacted to the incident
 - d. Any documentary or other evidence relating to the alleged conduct
 - e. Past instances of similar conduct by any alleged offenders
 - f. Past false allegations made by the complainant
2. The conclusion(s) of law
3. Disposition of the complaint
4. Rationale for such disposition

Administrative Regulation 1312.3 (f)

For complaints of retaliation or unlawful discrimination, including discriminatory harassment, intimidation, or bullying, the disposition of the complaint shall include a determination for each allegation as to whether retaliation or unlawful discrimination has occurred.

The determination of whether a hostile environment exists may involve consideration of the following:

- a. How the misconduct affected one or more students' education
 - b. The type, frequency, and duration of the misconduct
 - c. The relationship between the alleged victim(s) and offender(s)
 - d. The number of persons engaged in the conduct and at whom the conduct was directed
 - e. The size of the school, location of the incidents, and context in which they occurred
 - f. Other incidents at the school involving different individuals.
5. Corrective actions, including any actions that have been taken or will be taken to address the allegations in the complaint and including, with respect to a student fees complaint, a remedy that comports with Education Code 49013 and 5 CCR 4600
- For complaints of unlawful discrimination, including discriminatory harassment, intimidation, or bullying, the notice may, as required by law, include:
- a. The corrective actions imposed on the individual found to have engaged in the conduct that relate directly to the subject of the complaint
 - b. Individual remedies offered or provided to the subject of the complaint
 - c. Systemic measures the school has taken to eliminate a hostile environment and prevent recurrence
6. Notice of the complainant's right to appeal the District's decision within 15 calendar days to the CDE and procedures to be followed for initiating such an appeal

The decision may also include a statement that retaliation is prohibited against persons who report harassment or participate in related proceedings, and a description of follow-up procedures to prevent recurrence or retaliation and for reporting any subsequent problems.

For complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, and bullying, based on state law, the decision shall also include a notice to the complainant that:

- a. He/she may pursue available civil law remedies outside of the District's complaint procedures, including seeking assistance from mediation centers or public/private interest attorneys, 60 calendar days after the filing of an appeal with the CDE. (Education Code 262.3)
- b. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law. (Education Code 262.3)

c. 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, Office for Civil Rights at www.ed.gov/ocr within 180 days of the alleged discrimination.

Corrective Actions

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 policies, or school climate surveys.

For complaints involving retaliation, unlawful discrimination, or bullying, appropriate corrective actions that focus on the victim 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
9. Determination of whether any past actions of the victim that resulted in discipline were related to the treatment the victim received and described in the complaint

For complaints involving retaliation, unlawful discrimination, or bullying, appropriate corrective actions that focus on a student offender may 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 co-curricular activities or other privileges as permitted by law
7. Disciplinary action, such as suspension or expulsion, as permitted by law

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, including discriminatory harassment, intimidation, or bullying, that the District does not tolerate it, and how to report and respond to it.

If a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges 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. (Education Code 49013, 52075)

For complaints alleging noncompliance with the laws regarding student fees, such remedies, where applicable, shall include reasonable efforts to ensure full reimbursement to affected students and parents/guardians. (Education Code 49013; 5 CCR 4600)

Appeals to the California Department of Education (CDE)

If dissatisfied with the District's Final Decision, the complainant may appeal in writing to the CDE. (Education Code 49013; 5 CCR 4632)

The complainant shall file his/her appeal within 15 calendar days of receiving the District's Final Decision, and the appeal shall specify the basis for the appeal 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 Final Decision. (5 CCR 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: (5 CCR 4633)

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 uniform complaint procedures
7. Other relevant information requested by the CDE

NOTICE

Board Policy 1312.3 and Administrative Regulations 1312.3 and 1312.4 shall be posted in all school offices, the District Office, and staff mailroom. If 15 percent or more of students enrolled in a particular district school speak a single primary language other than English, the district's policy, regulation, forms, and notices concerning uniform complaint procedures shall be translated into that language. (Education Code 234.1(d), 48985) In addition, as otherwise required by law, the District will provide translations to ensure meaningful access to its programs and activities by persons with limited English proficiency.

(cf. 5145.6 - Parental Notifications)

On an annual basis the District will disseminate a written notice of the District's uniform complaint procedures to students, employees, parents and guardians, school and district advisory committees,

Administrative Regulation 1312.3 (i)

appropriate private school officials or representatives, and other interested parties. The notice, which will include information regarding unlawful student fees and appeal to the California Department of Education, shall be available in English and in the primary language or mode of communication as required by law. (Education Code 234.1(d), 48985; 5 CCR § 4622)

A copy of BP1312.3 and related administrative regulations may be posted on the District's web site and will be made available free of charge.

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, including, if applicable, the complainant's right to take a complaint directly to the CDE or to pursue remedies before civil courts or other public agencies.
4. Include statements that:
 - a. The district has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs.
 - 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. A complaint alleging unlawful discrimination, harassment, intimidation, or bullying must be filed not later than six months from the date it occurred, or six months from the date the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation, or bullying. 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.
 - d. A student shall not be required to pay a fee for his/her participation in an educational activity that constitutes an integral fundamental part of the district's educational program, including curricular and extracurricular activities.
 - e. The Board is required to adopt and annually update the LCAP in a manner that includes meaningful engagement of parents/guardians, students and other student ideas in the development and/or review of the LCAP.
 - f. The complainant has a right to appeal the district's decision to the CDE by filing a written appeal within 15 calendar days of receiving the district's decision.

Administrative Regulation 1312.3 (j)

- g. The appeal to the CDE must include a copy of the complaint filed with the district and a copy of the district's decision.
- h. A copy of the district's Uniform Complaint Procedures shall be available free of charge.

Adopted: November 15, 1994
Revised: 1/16/97; 2/12/98; 6/17/99; 2/22/01;
5/20/02; 2/11/03; 6/28/06; 6/26/13; 8/24/16
Reviewed: 11/15/94

WEST SONOMA COUNTY UHSD
Sebastopol, California