

CSBA Sample

Board Policy

Uniform Complaint Procedures

BP 1312.3

Community Relations

***Note: 5 CCR 4621 mandates districts to adopt policies and procedures not inconsistent with the state's uniform complaint procedures as specified in 5 CCR 4600-4687. During the Categorical Program Monitoring (CPM) process (formerly the Coordinated Compliance Review), California Department of Education (CDE) staff will review the district's uniform complaint policy, administrative regulation, and annual notification. During this review, CDE staff will check to ensure that the district's policy contains a statement that the district is primarily responsible for legal enforcement and investigation of complaints, as specified in the following paragraph. ***

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. (5 CCR 4620)

***Note: The following paragraph lists types of discrimination prohibited by state and federal law, as well as protected groups listed in 5 CCR 4600, as amended by Register 2005, No. 52. Pursuant to 5 CCR 4600, this list includes discrimination based on a person's actual or perceived sex, gender, or sexual orientation, as specified below. During the CPM process, CDE staff will check to ensure that all protected categories of discrimination are listed in the district's policy. In addition, 5 CCR 4600, as amended, changed the title of vocational instruction to career/technical instruction. ***

***Note: Education Code 32289 authorizes an individual to file a complaint if he/she believes that the district has not complied with the school safety planning requirements of the No Child Left Behind Act, 20 USC 7114(d)(7). The CDE has interpreted this to mean that only complaints as to the development and adoption of the school safety plan need to be considered under this procedure. ***

Note: Even if the district participates in a special education local planning area (SELPA), it is required to use the district's uniform complaint procedures when investigating complaints regarding special education. Pursuant to 5 CCR 3080, due process hearing procedures are to be used for the resolution of issues between a parent/guardian and a district or SELPA regarding the identification, assessment, or placement of a special education student. See BP/AR 6159.1 - Procedural Safeguards and Complaints for Special Education.

The district shall follow uniform complaint procedures when addressing complaints alleging

unlawful discrimination against any protected group as identified under Education Code 200 and 220 and Government Code 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. (5 CCR 4610)

Uniform complaint procedures shall also be used when addressing complaints alleging failure to comply with state and/or federal laws in adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and career technical and technical training programs, child care and development programs, child nutrition programs, and special education programs. (5 CCR 4610)

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 1312.2 - Complaints Concerning Instructional Materials)
(cf. 3553 - Free and Reduced Price Meals)
(cf. 4031 - Complaints Concerning Discrimination in Employment)
(cf. 5141.4 - Child Abuse Prevention and Reporting)
(cf. 5148 - Child Care and Development)
(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. 6200 - Adult Education)

***Note: Education Code 35186 requires a district to use the uniform complaint procedure, with modifications, to investigate and resolve complaints related to sufficiency of textbooks or instructional materials, emergency or urgent facilities conditions that pose a threat to the health and safety of students or staff, and teacher vacancy or misassignment (i.e., Williams complaints). However, because Education Code 35186 sets forth different timelines for investigation and resolution of these kinds of complaints than the timelines specified in law for other uniform complaints, the CDE has created a separate uniform complaint process for "Williams" complaints. See AR 1312.4 - Williams Uniform Complaint Procedures for the separate procedure. ***

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 (AR 1312.4).

(cf. 1312.4 - Williams Uniform Complaint Procedures)

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

Note: 5 CCR 4621 mandates that the district's policy ensure that the identity of the complainant alleging discrimination remains confidential, as appropriate. 5 CCR 4630, as amended by Register 2005, No. 52, requires that the investigation of a discrimination complaint be conducted in a manner that protects the confidentiality of the parties and maintains the integrity of the process. Appropriate disclosure will vary in each case depending on the facts and circumstances.

The Board acknowledges and respects every individual's right 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. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 5125 - Student Records)
(cf. 9011 - Disclosure of Confidential/Privileged Information)

***Note: 5 CCR 4621 mandates that the district's policy ensure that complainants are protected from retaliation. ***

The Board prohibits any form of retaliation against any complainant in the complaint process, including but not limited to a 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.

***Note: As amended by Register 2005, No. 52, 5 CCR 4631 authorizes the district to utilize alternative dispute resolution methods, including mediation, to help resolve complaints before initiating a formal investigation. The following optional paragraph provides for a neutral mediator and should be revised to reflect district practice. ***

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.

***Note: As amended by Register 2005, No. 52, 5 CCR 4650-4665 provide that the CDE may directly intervene in a complaint without waiting for district action under certain conditions, including when a district has failed to cooperate with the investigation or when the complainant has requested anonymity because he/she would be in danger of retaliation and would suffer immediate harm if a complaint was filed at the district. ***

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination
8200-8498 Child care and development programs
8500-8538 Adult basic education
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 Student records
49490-49590 Child nutrition programs
52160-52178 Bilingual education programs
52300-52490 Career-technical education
52500-52616.24 Adult schools
52800-52870 School-based coordinated programs
54000-54028 Economic impact aid programs
54100-54145 Miller-Unruh Basic Reading Act
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

CODE OF REGULATIONS, TITLE 5

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

PENAL CODE

422.6 Interference with constitutional right or privilege

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

Management Resources:

WEB SITES

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

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

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

