



# CSBA Sample Board Policy

Community Relations

BP 1312.3(a)

## UNIFORM COMPLAINT PROCEDURES

Note: To address prohibited discrimination and violations of state and federal laws governing educational programs, 5 CCR 4621 **mandates** districts to adopt uniform complaint procedures (UCP) consistent with the state's complaint procedures specified in 5 CCR 4600-4670. Additionally, Education Code 52075 **mandates** districts to adopt policies and procedures implementing the use of UCP to investigate and resolve complaints alleging noncompliance with requirements related to the local control and accountability plan, and Education Code 8212, as renumbered by AB 131 (Ch. 116, Statutes of 2021) **mandates** districts to adopt policies and procedures for resolving complaints regarding specified health and safety issues in license-exempt California State Preschool Programs (CSPP). Furthermore, a number of federal civil rights statutes and their implementing regulations **mandate** districts to adopt policies and procedures for the prompt and equitable resolution of complaints of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying). For example, districts are **mandated** pursuant to 28 CFR 35.107 to adopt policy and procedures to address discrimination on the basis of disability, while districts that receive federal financial assistance are **mandated** pursuant to 34 CFR 106.8 and 34 CFR 110.25 to adopt policies and procedures to address discrimination on the basis of sex and age. The following policy contains a list of programs and activities subject to these procedures pursuant to state law; see the section "Complaints Subject to UCP", below.

The California Department of Education (CDE) monitors district programs and operations for compliance with these requirements through its Federal Program Monitoring (FPM) process. The FPM consists of a review of (1) written district policies and procedures for required statements, including prohibition of discrimination (such as discriminatory harassment, intimidation, and bullying) against students pursuant to Education Code 234.1; and (2) records of required activities, such as annual notification provided to students, parents/guardians, employees, and other school community members.

The U.S. Department of Education's Office for Civil Rights (OCR) enforces federal anti-discrimination laws, including Title II of the Americans with Disabilities Act (42 USC 12101-12213), Title VI of the Civil Rights Act of 1964 (42 USC 2000d-2000e-17), Title IX of the Education Amendments Act of 1972 (20 USC 1681-1688), Section 504 of the Rehabilitation Act of 1973 (29 USC 794), and the Age Discrimination Act of 1975 (42 USC 6101-6107). Whether a complaint of sexual harassment is addressed through the UCP or the federal Title IX complaint procedures adopted pursuant to 34 CFR 106.44-106.45, as added by 85 Fed. Reg. 30026, is dependent on whether the alleged conduct meets the more stringent federal definition or the state definition of sexual harassment. See the section "Non-UCP Complaints" below, the accompanying administrative regulation, BP/AR 5145.7 - Sexual Harassment, and AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.

The following policy and accompanying administrative regulation reflect all components required by law, 5 CCR 4600-4670, as amended by Register 2020, No. 21, and the 2021-22 FPM instrument. Additional details provided herein may help districts during a compliance check by CDE or in the event that a CDE or OCR investigation occurs.

The Governing Board 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 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.

## UNIFORM COMPLAINT PROCEDURES (continued)

### Complaints Subject to UCP

Note: The FPM process includes a review of a district's policies and procedures to determine whether all district programs and activities that are subject to the UCP, as listed in the FPM instrument, are addressed. Items #1-23 list all programs and activities identified in the FPM instrument. According to CDE, the district's policy must list all such programs and activities and, at the district's discretion, may add a paragraph below the list stating the UCP programs and activities that are implemented in the district.

For further information regarding requirements for the following programs and activities, see the law cited and/or related CSBA policy and/or administrative regulation.

The district's uniform complaint procedures (UCP) shall be used to investigate and resolve complaints regarding the following programs and activities:

1. Accommodations for pregnant and parenting students (Education Code 46015)

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

2. Adult education programs (Education Code 8500-8538, 52334.7, 52500-52617)

(cf. 6200 - Adult Education)

3. After School Education and Safety programs (Education Code 8482-8484.65)

(cf. 5148.2 - Before/After School Programs)

4. Agricultural career technical education (Education Code 52460-52462)

5. Career technical and technical education and career technical and technical training programs (Education Code 52300-52462)

(cf. 6178 - Career Technical Education)

(cf. 6178.1 - Work-Based Learning)

6. Child care and development programs (Education Code 8200-8488)

(cf. 5148 - Child Care and Development)

7. Compensatory education (Education Code 54400)

(cf. 6171 - Title I Programs)

8. Consolidated categorical aid programs (Education Code 33315; 34 CFR 299.10-299.12)

**UNIFORM COMPLAINT PROCEDURES** (continued)

9. Course periods without educational content (Education Code 51228.1-51228.3)

*(cf. 6152 - Class Assignment)*

10. Discrimination, harassment, intimidation, or bullying in district programs and activities, including in those programs or activities funded directly by or that receive or benefit from any state financial assistance, based on a person's actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, immigration status, ethnic group identification, age, religion, marital status, pregnancy, parental status, physical or mental disability, medical condition, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code 290 or 220, Government Code 11135, or Penal Code 422.55, 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. 5145.3 - Nondiscrimination/Harassment)*

*(cf. 5145.7 - Sexual Harassment)*

*(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)*

11. Educational and graduation requirements for students in foster care, homeless students, students from military families, and students formerly in a juvenile court school (Education Code 48645.7, 48853, 48853.5, 49069.5, 51225.1, 51225.2)

*(cf. 6173 - Education for Homeless Children)*

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

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

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

12. Every Student Succeeds Act (Education Code 52059.5; 20 USC 6301 et seq.)

13. Local control and accountability plan (Education Code 52075)

*(cf. 0460 - Local Control and Accountability Plan)*

14. Migrant education (Education Code 54440-54445)

*(cf. 6175 - Migrant Education Program)*

15. Physical education instructional minutes (Education Code 51210, 51222, 51223)

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

**UNIFORM COMPLAINT PROCEDURES** (continued)

16. Student fees (Education Code 49010-49013)

*(cf. 3260 - Fees and Charges)*

17. Reasonable accommodations to a lactating student (Education Code 222)

18. Regional occupational centers and programs (Education Code 52300-52334.7)

*(cf. 6178.2 - Regional Occupational Center/Program)*

19. School plans for student achievement as required for the consolidated application for specified federal and/or state categorical funding (Education Code 64001)

*(cf. 0420 - School Plans/Site Councils)*

20. School safety plans (Education Code 32280-32289)

*(cf. 0450 - Comprehensive Safety Plan)*

21. School site councils as required for the consolidated application for specified federal and/or state categorical funding (Education Code 65000)

*(cf. 0420 - School Plans/Site Councils)*

22. State preschool programs (Education Code 8207-8225)

*(cf. 5148.3 - Preschool/Early Childhood Education)*

Note: Pursuant to Education Code 8212, as renumbered by AB 131, and CDE's 2021-22 FPM instrument, the district must use the UCP, with modifications as necessary, to resolve complaints alleging deficiencies related to health and safety issues in license-exempt CSPPs.

Pursuant to 5 CCR 4610, such complaints must be addressed through the procedures described in 5 CCR 4690-4694, as added by Register 2020, No. 21. See the section "Health and Safety Complaints in License-Exempt Preschool Programs" in the accompanying administrative regulations.

23. State preschool health and safety issues in license-exempt programs (Education Code 8212)

Note: 5 CCR 4621 **mandates** that district policy ensure that complainants are protected from retaliation as specified in item #24 below.



**UNIFORM COMPLAINT PROCEDURES** (continued)

24. 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
25. Any other state or federal educational program the Superintendent of Public Instruction or designee deems appropriate

Note: 5 CCR 4631 authorizes the district to utilize alternative dispute resolution (ADR) methods, including mediation, to resolve complaints before initiating a formal investigation. However, the district should ensure that any ADR it uses, particularly "in-person ADR," is appropriate for the particular situation. For example, in some instances (e.g., sexual assault), face-to-face mediation should not be used, even if all parties voluntarily agree, given the risk that a student might feel pressured to "voluntarily" agree to it. Districts may not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student; see AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.

The following **optional** paragraph provides for a neutral mediator and should be revised to reflect district practice.

*Remove* { The Board recognizes that alternative dispute resolution (ADR) can, depending on the nature of the allegations, offer a process for resolving a complaint in a manner that is acceptable to all parties. An ADR process 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.

Note: The following paragraph is **mandated** pursuant to 5 CCR 4621. Appropriate disclosure will vary in each case depending on the facts and circumstances.

The district shall protect all complainants 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 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)

When an allegation that is not subject to 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.

## UNIFORM COMPLAINT PROCEDURES (continued)

The Superintendent or designee shall provide training to district staff to ensure awareness and knowledge of current law and 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)

Note: It is important to maintain records of all UCP complaints and the investigations of those complaints. If the district is investigated by OCR or CDE, these are important documents in demonstrating that the district has complied with federal law, state law, and its own policies and regulations.

The Superintendent or designee shall maintain a record of each complaint and subsequent related actions, including steps taken during the investigation 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 investigated and resolved by the specified agency or through an alternative process:

1. Any complaint alleging child abuse or neglect shall be referred to the County Department of Social Services Protective Services Division or the appropriate law enforcement agency. (5 CCR 4611)

(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. (5 CCR 4611)
3. Any complaint alleging that a student, while in an education program or activity in which the district exercises substantial control over the context and respondent, was subjected to sexual harassment as defined in 34 CFR 106.30 shall be addressed through the federal Title IX complaint procedures adopted pursuant to 34 CFR 106.44-106.45, as specified in AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.

Note: Complaints of employment discrimination are not subject to the UCP. Instead, pursuant to 2 CCR 11023, the district must establish an impartial and prompt process for addressing such complaints. In addition, 5 CCR 4611 requires that employment discrimination complaints be referred to the Department of Fair Employment and Housing. See AR 4030 - Nondiscrimination in Employment for applicable complaint procedures.

## UNIFORM COMPLAINT PROCEDURES (continued)

4. 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.

Note: 5 CCR 4610, as amended by Register 2020, No. 21, limits the applicability of the UCP for complaints regarding special education and child nutrition, as provided in Items #5-7 below.

5. Any complaint alleging a violation of a state or federal law or regulation related to special education, a settlement agreement related to the provision of a free appropriate public education (FAPE), failure or refusal to implement a due process hearing order to which the district is subject, or a physical safety concern that interferes with the district's provision of FAPE shall be submitted to the California Department of Education (CDE) in accordance with AR 6159.1 - Procedural Safeguards and Complaints for Special Education. (5 CCR 3200-3205)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

6. Any complaint alleging noncompliance of the district's food service program with laws regarding meal counting and claiming, reimbursable meals, eligibility of children or adults, or use of cafeteria funds and allowable expenses shall be filed with or referred to CDE in accordance with BP 3555 - Nutrition Program Compliance. (5 CCR 15580-15584)
7. Any allegation of discrimination based on race, color, national origin, sex, age, or disability in the district's food service program shall be filed with or referred to the U.S. Department of Agriculture in accordance with BP 3555 - Nutrition Program Compliance. (5 CCR 15582)

Note: Education Code 35186 requires the district to use UCP, with modifications, to investigate and resolve complaints related to the issues stated in the following paragraph (i.e., "Williams complaints"). 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, CDE has created a separate uniform complaint process for the Williams complaints. See AR 1312.4 - Williams Uniform Complaint Procedures for the separate procedure.

8. 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 vacancies and misassignments shall be investigated and resolved in accordance with AR 1312.4 - Williams Uniform Complaint Procedures. (Education Code 35186)

(cf. 1312.4 - Williams Uniform Complaint Procedures)

## UNIFORM COMPLAINT PROCEDURES (continued)

### Legal Reference:

#### EDUCATION CODE

200-262.4 Prohibition of discrimination  
 8200-8488 Child care and development programs  
 8500-8538 Adult basic education  
 18100-18203 School libraries  
 32280-32289.5 School safety plan, uniform complaint procedures  
 35186 Williams uniform complaint procedures  
 46015 Parental leave for students  
 48645.7 Juvenile court schools  
 48853-48853.5 Foster youth  
 48985 Notices in language other than English  
 49010-49014 Student fees  
 49060-49079 Student records, especially:  
 49069.5 Records of foster youth  
 49490-49590 Child nutrition programs  
 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, homeless children, former juvenile court school students, 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  
 52059.5 Statewide system of support  
 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  
 52500-52617 Adult schools  
 54400-54425 Compensatory education programs  
 54440-54445 Migrant education  
 54460-54529 Compensatory education programs  
 59000-59300 Special schools and centers  
 64000-64001 Consolidated application process; school plan for student achievement  
 65000-65001 School site councils

#### GOVERNMENT CODE

11135 Nondiscrimination in programs or activities funded by state  
 12900-12996 Fair Employment and Housing Act

Legal Reference continued: (see next page)



## UNIFORM COMPLAINT PROCEDURES (continued)

*Legal Reference: (continued)*

### 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

### 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

3200-3205 Special education compliance complaints

4600-4670 Uniform complaint procedures

4680-4687 Williams uniform complaint procedures

4690-4694 Complaints regarding health and safety issues in license-exempt preschool programs

4900-4965 Nondiscrimination in elementary and secondary education programs

15580-15584 Child nutrition programs complaint procedures

### 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 English Learners 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

11431-11435 McKinney-Vento Homeless Assistance Act

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 Act

100.3 Prohibition of discrimination on basis of race, color or national origin

104.7 Designation of responsible employee for Section 504

106.1-106.82 Nondiscrimination on the basis of sex in education programs, especially:

106.8 Designation of responsible employee and adoption of grievance procedures

106.30 Definitions

106.44 Response to notice of sexual harassment

106.45 Titles IX sexual harassment complaint procedures

110.25 Notification of nondiscrimination on the basis of age

*Management Resources: (see next page)*

## UNIFORM COMPLAINT PROCEDURES (continued)

### *Management Resources:*

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Sample UCP Board Policies and Procedures

Uniform Complaint Procedure 2021-22 Program Instrument

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Questions and Answers on the Title IX Regulations on Sexual Harassment, July 2021

Part I: Questions and Answers Regarding the Department's Title IX Regulations, January 2021

Dear Colleague Letter: Responding to Bullying of Students with Disabilities, October 2014

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, 2007

### WEB SITES

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

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

California Department of Fair Employment and Housing: <https://www.dfeh.ca.gov>

California Department of Social Services: <https://www.cdss.ca.gov>

Student Privacy Policy Office: <http://www2.ed.gov/about/offices/list/oepdp/sppo>

U.S. Department of Agriculture: <https://www.usda.gov>

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

U.S. Department of Justice: <http://www.justice.gov>

Copyright 2021 by California School Boards Association

(5/20 12/20) 12/21