

Administrative Regulation

BP 1312.3

Community Relations

UNIFORM COMPLAINT PROCEDURES

Except as the Board of Trustees may otherwise specifically provide in other District policies, these uniform complaint procedures (“UCP”) shall be used to investigate and resolve only the complaints specified in Board Policy 1312.3.

Compliance Officers

The District designates the individual identified below as 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 officer specified in Administrative Regulation 5145.3 -

Nondiscrimination/Harassment responsible for handling complaints regarding unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) and in Administrative Regulation 5145.7 - Sexual Harassment for handling complaints regarding sexual harassment. The compliance officer shall receive and coordinate the investigation of complaints and shall ensure District compliance with law.

Enrique Torres
Office of Constituent Services
Stockton Unified School District
701 N. Madison Street
Stockton, CA 95202
(209) 933- 7000 Ext. 2195

The compliance officer who receives a complaint may assign another individual to investigate and resolve the complaint. The compliance officer shall promptly notify the complainant and respondent, if applicable, if another individual is assigned to the complaint.

In no instance shall a compliance officer be assigned to a complaint in which the compliance officer has a bias or conflict of interest that would prohibit the fair investigation or resolution of the complaint. Any complaint against a compliance officer or that raises a concern about the compliance officer's ability to investigate the complaint fairly and without bias shall be filed with the Superintendent or designee who shall determine how the complaint will be investigated.

The Superintendent or designee shall ensure that individuals assigned to investigate and resolve complaints receive training and are knowledgeable about the laws and programs at issue in the

complaints to which they are assigned. Training provided to such employees shall cover current state and federal laws and regulations governing the program, applicable processes for investigating and resolving complaints, including those alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), applicable standards for reaching decisions on complaints, and appropriate corrective measures. Assigned 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 during and pending the result 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 one or more interim measures. The interim measures shall 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.

Notifications

The District's UCP policy and Administrative Regulation shall be posted in all District schools and offices, including staff lounges and student government meeting rooms. (Education Code § 234.1)

The Superintendent or designee shall annually provide written notification of the District's UCP to students, employees, parents/guardians of District students, District advisory committee members, school advisory committee members, appropriate private school officials or representatives, and other interested parties. The notification shall include information regarding the prohibition of discrimination, harassment, intimidation, and bullying; unlawful student fees; local control and accountability plan (LCAP) requirements; and requirements related to the educational rights of foster youth, homeless students, former juvenile court school students, and children of military families. (Education Code §§ 262.3, 48853, 48853.5, 49010-49013, 49069.5, 51225.1, 51225.2, 52075; 5 CCR § 4622)

The notice shall include:

1. The person(s), position(s), or unit(s) responsible for receiving complaints.
2. Information regarding any civil law remedies that may be available to the complainant under state or federal antidiscrimination laws, if applicable.
3. Information regarding the appeal process, including, if applicable, 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, such as the U.S. Department of Education's Office for Civil Rights (OCR) in cases involving unlawful discrimination (such as discriminatory harassment, intimidation, or bullying).
4. A list of all federal and state programs within the scope of the UCP.

5. A statement that the District has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs.
6. A statement that the person(s) responsible for processing complaints shall be knowledgeable about the laws and programs that they are assigned to investigate
7. A statement that 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.
8. A statement that UCP complaints must be filed no later than one year from the date that the alleged violation occurred, except for a complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), which 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 unlawful retaliation or discrimination.
8. A statement that complaints should be filed in writing and signed by the complainant. If a complainant is unable to put his/her complaint in writing, for example, due to conditions such as a disability or illiteracy, District staff shall assist him/her in the filing of the complaint.
9. A statement that a student enrolled in a public school 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.
10. A statement that a complaint regarding student fees or the local control and accountability plan ("LCAP") may be filed anonymously if the complainant provides evidence or information leading to evidence to support the complaint.
11. A statement that a complainant has a right to appeal the District's investigation report to the California Department of Education ("CDE") for a complaint regarding programs within the scope of the UCP by filing a written appeal, including a copy of the original complaint and the District's investigation report, within 15 calendar days of receiving the District's investigation report.
12. A statement that copies of the District's UCP are available free of charge.

The annual notification, complete contact information of the compliance officer(s), and information related to Title IX as required pursuant to Education Code 221.61 shall be posted on the District web site and may be provided through District-supported social media, if available.

The Superintendent or designee shall ensure that all students and parents/guardians, including students and parents/guardians with limited English proficiency, have access to the relevant information provided in the district's policy, regulation, forms, and notices concerning the UCP.

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 the UCP shall be translated into that language, in accordance with Education Code Sections 234.1 and 48985.

In all other instances, the District shall ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

District Responsibilities

All UCP-related complaints shall be investigated and resolved within 60 calendar days of the District's receipt of the complaint unless the complainant agrees in writing to an extension of the timeline. (5 CCR § 4631)

For complaints alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the District shall inform the respondent when the complainant agrees to an extension of the timeline for investigating and resolving the complaint.

The compliance officer shall maintain a record of each complaint and subsequent related actions, including steps taken during the investigation and all information required for compliance with Title 5 of the California Code of Regulations at Sections 4631 and 4633.

The District prohibits retaliation against an individual for filing a UCP complaint.

Filing of Complaints

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.

All complaints must be filed in writing and signed by the complainant except for complaints regarding local control and accountability plans or pupil fees. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, District staff shall assist in the filing of the complaint. (5 CCR § 4600)

Complaints must be filed in accordance with the following rules, as applicable:

1. A complaint filed on behalf of an individual student must be filed by the student or the student's duly authorized representative. (5 CCR § 4630)
2. Any complaint alleging noncompliance with law regarding the prohibition against student fees, deposits, and charges or any requirement related to the LCAP may be filed anonymously if the complaint provides evidence, or information leading to evidence, to support an allegation of noncompliance. A complaint about a violation of the prohibition against the charging of unlawful student fees may be filed with the principal of the school or with the Superintendent or designee.
3. A UCP complaint shall be filed no later than one year from the date the alleged violation occurred except for complaints regarding educational rights of foster youth and complaints alleging unlawful discrimination, as provided below. For complaints related to the LCAP, the date of the alleged

violation is the date that the County Superintendent of Schools approves the LCAP or annual update that was adopted by the Board. (5 CCR §§ 4630, 4630.5)

4. A complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) may be filed only by a person who alleges having personally suffered unlawful discrimination, a person who believes that a specific class of individuals has been subjected to unlawful discrimination, or a duly authorized representative of a student who alleges that the student has been subjected to discrimination, harassment, intimidation, or bullying. The complaint shall be initiated no later than six months from the date that the alleged unlawful discrimination occurred, or six months from the date that the complainant first obtained knowledge of the facts of the alleged unlawful discrimination. 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. (5 CCR § 4630)

5. When the complainant of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) or the alleged victim, when he/she is not the complainant, 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. When honoring a request for confidentiality, the District shall nevertheless take all reasonable steps to investigate and resolve/respond to the complaint consistent with the request.

Mediation

Within three business days after the compliance officer receives the complaint, he/she may recommend the Department of Constituent Services informally discuss with all the parties the possibility of using mediation. Mediation shall 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 an allegation of sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. If the parties agree to mediation, the Department of Constituent Services shall make all arrangements for this process.

Before initiating the mediation of a complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the Department of Constituent Services shall ensure that all parties agree to make the mediator a party to relevant confidential information. Department of Constituent Services shall also notify all parties of the right to end the informal process at any time.

If the mediation process does not resolve the problem within the parameters of law, the compliance officer shall proceed with an 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. If mediation is successful and the complaint is withdrawn, then the District shall take only the actions agreed upon

through the mediation. If mediation is unsuccessful, the district shall then continue with subsequent steps specified in this administrative regulation.

Investigation of Complaint

Within 10 business days after the compliance officer receives the complaint, the compliance officer shall begin an investigation into the complaint.

Promptly after initiating the investigation, the compliance officer shall provide the complainant and/or the complainant's representative with the opportunity to present the information contained in the complaint to the compliance officer and shall notify the complainant and/or representative of the opportunity to present the compliance officer with any evidence, or information leading to evidence, to support the allegations in the complaint. Such evidence or information may be presented at any time during the investigation.

In conducting the investigation, the compliance officer shall collect all available documents and review all available records, notes, or statements related to the complaint, including any additional evidence or information received from the parties during the course of the investigation. The compliance officer shall individually interview all available witnesses with information pertinent to the complaint, and may visit any reasonably accessible location where the relevant actions are alleged to have taken place. At appropriate intervals, the compliance officer shall inform the parties of the status of the investigation.

To investigate a complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the compliance officer shall interview the alleged victims, any alleged offenders, and other relevant witnesses privately, separately, and in a confidential manner. As necessary, additional staff or legal counsel may conduct or support the investigation.

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. Similarly, a respondent'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 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)

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. (5 CCR § 4631)

Investigative Report

Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant, and respondent if there is one, a written report, as described in the section "Final Written Decision" below, within 60 calendar days of the district's receipt of the complaint. (5 CCR § 4631)

Final Written Decision

The District shall investigate the complaint and issue an investigative report within 60 days. (5 CCR § 4631)

In consultation with District legal counsel, information about the relevant part of an investigative report may be communicated to a victim who is not the complainant and to other parties who may be involved in implementing the investigative report or are affected by the complaint, as long as the privacy of the parties is protected. In a complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying), notice of the District's investigative report to the alleged victim shall include information about any sanction to be imposed upon the respondent that relates directly to the alleged victim.

If the complaint involves a limited-English-proficient student or parent/guardian and the student involved is enrolled in a school at which 15 percent or more of the students speak a single primary language other than English, then the investigative report shall also be translated into that language pursuant to Education Code Section 48985. In all other instances, the District shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

For all complaints, the District's investigative report shall include: (5 CCR § 4631)

1. The findings of fact based on the evidence gathered;
2. A conclusion providing a clear determination for each allegation as to whether the District is in compliance with the relevant law;
3. Corrective action if the District finds merit in the complaint, including, when required by law, a remedy to all affected students and parents/guardians and, for a student fees complaint, a remedy that complies with Education Code Section 49013 and California Code of Regulations, Title 5, Section 4600;
4. Notice of the complainant's right to appeal the District's investigation report to CDE, except when the District has used the UCP to address a complaint not specified in California Code of Regulations, Title 5, Section 4610;
5. Procedures to be followed for initiating an appeal to CDE.

The investigative report may also include follow-up procedures to prevent recurrence or retaliation and for reporting any subsequent problems.

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

1. 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 CDE. (Education Code § 262.3)
2. 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)
3. 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 or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), appropriate remedies that may be offered to the victim but not communicated to the respondent 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 or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), appropriate corrective actions for 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.

When an employee is found to have committed retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the District shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and any applicable collective bargaining agreement.

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 (such as discriminatory harassment, intimidation, or bullying), that the District does not tolerate it, and how to report and respond to it.

In general, when a complaint is found to have merit, the appropriate remedy shall be provided to the affected student. However, if a complaint alleging noncompliance with the laws regarding student fees, physical education instructional minutes, courses without educational content, 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 subject to procedures established by regulation of the State Board of Education. (Education Code §§ 49013, 51222, 51223, 52075)

For complaints alleging noncompliance with the laws regarding student fees, the District shall attempt in good faith, by engaging in reasonable efforts, to identify and fully reimburse all affected students and parents/guardians who paid the unlawful student fees within one year prior to the filing of the complaint. (Education Code § 49013; 5 CCR § 4600)

Appeals to the California Department of Education

Any complainant who is dissatisfied with the District's investigation report on a complaint regarding any specified federal or state educational program subject to UCP may file an appeal in writing with CDE within 30 calendar days of receiving the District's investigation report. (5 CCR § 4632)

The appeal shall be sent to CDE with a copy of the original locally filed complaint and a copy of the District's investigation report for that complaint. The complainant shall specify and explain the basis for the appeal, including as least one of the following: (5 CCR § 4632)

1. The District failed to follow its complaint procedures.
2. Relative to the allegations of the complaint, the District's investigation report lacks material findings of fact necessary to reach a conclusion of law.
3. The material findings of fact in the District's investigation report are not supported by substantial evidence.
4. The legal conclusion in the District's investigation report is inconsistent with the law.
5. In a case in which the District found noncompliance, the corrective actions fail to provide a proper remedy.

Upon notification by CDE that the District's investigation report has been appealed, the Superintendent or designee shall forward the following documents to CDE within 10 days of the date of notification: (5 CCR § 4633)

1. A copy of the original complaint
2. A copy of the District's investigation report
3. 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
4. A report of any action taken to resolve the complaint
5. A copy of the District's UCP policy and regulation
6. Other relevant information requested by CDE

If notified by CDE that the District's investigation report failed to address allegations raised by the complaint, the District shall, within 20 days of the notification, provide CDE and the appellant with an amended investigation report that addresses the allegations that were not addressed in the original investigation report. The amended report shall also inform the appellant of the right to separately appeal the amended report with respect to the allegations that were not addressed in the original report. (5 CCR § 4632)

Cross References

BP /AR 0420 - School Plans/Site Councils

BP/AR 0460 - Local Control and Accountability Plan

BP/AR 1220 - Citizen Advisory Committees

BP/AR 1312.1 - Complaints Concerning District Employees
BP/AR 1312.2 - Complaints Concerning Instructional Materials
AR 1312.4 - Williams Uniform Complaint Procedures
BP/AR 3260 - Fees and Charges
BP/AR 4030 - Nondiscrimination in Employment
BP 4112.9/4212.9/4312.9 - Employee Notifications
BP/AR 5145.3 - Nondiscrimination/Harassment
BP 5145.6 - Parental Notifications
BP/AR 5145.7 - Sexual Harassment
BP/AR 6173 - Education for Homeless Children
BP/AR 6173.1 - Education for Foster Youth
BP/AR 6173.2 - Education of Children of Military Families

Regulation STOCKTON UNIFIED SCHOOL DISTRICT

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