

COMMUNITY RELATIONS

SUBJECT: Uniform Complaint Procedures

The Governing Board recognizes that the district has the primary responsibility to insure compliance with applicable state and federal laws and regulations governing educational programs. The district shall investigate any complaints alleging failure to comply with such laws and/or alleging unlawful discrimination, harassment, intimidation or bullying, and shall seek to resolve those complaints in accordance with the district's uniform complaint procedures.

East Side Union High School District will investigate all allegations of unlawful discrimination, harassment, intimidation or bullying against any protected group as identified in Education Code section 200 and 220 and Government Code section 11135, including any actual or perceived characteristics as set forth in Penal Code section 422.55 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 East Side Union High School District, which is funded directly by, or that receives or benefits from, any state financial assistance.

East Side Union High School District shall investigate complaints alleging failure to comply with applicable state and federal laws and regulations including, but not limited to, allegations about discrimination, harassment, intimidation, bullying and noncompliance with laws relating to pupil fees for participation in an educational activity and seek to resolve those complaints in accordance with East Side Union High School District's Uniform Complaint Procedures.

If a public school finds merit in a pupil fees complaint, the public school shall provide a remedy to all affected pupils, parents, and guardians that where applicable includes reasonable efforts by the public school to ensure full reimbursement to all affected pupils, parents, and guardians, subject to procedures established through regulations adopted by the state board.

Ensuring that East Side Union High School District will attempt in good faith, by engaging in reasonable efforts 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 pupil fees complaint may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance with laws relating to pupil fees.

A pupil fee complaint shall be filed no later than one year from the date the alleged violation occurred.

A pupil enrolled in a public school shall not be required to pay a pupil fee for participation in an educational activity.

The district shall use the Uniform Complaint Procedures to resolve any complaint alleging unlawful discrimination, harassment, intimidation or bullying, in district programs and activities based on actual or perceived characteristics such as race or ethnicity, color, ancestry, nationality, national origin, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity and gender expression, or genetic information; the perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics.

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 4031 - Complaints Concerning Discrimination in Employment)

Uniform Complaint Procedures shall also be used to address any complaint alleging the district's 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 training programs, child care and development programs, child nutrition programs, special education programs, and the development and adoption of the school safety plan.

(cf. 0450 - Comprehensive Safety Plan)
(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 1312.2 - Complaints Concerning Instructional Materials)
(cf. 3553 - Free and Reduced Price Meals)
(cf. 3555 - Nutrition Program Compliance)
(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. 6178.1 - Work-Based Learning)
(cf. 6178.2 - Regional Occupational Center/Program)
(cf. 6200 - Adult Education)

The Board prohibits any form of retaliation against any complainant in the complaint process alleging discrimination, harassment, intimidation or bullying. Participation in the complaint process shall not in any way affect the status, grades, or work assignments of the complainant. The Board encourages the early, informal resolution of complaints at the site level whenever possible.

The Board acknowledges and respects students and employee rights to privacy. Discrimination, harassment, intimidation or bullying complaints shall be investigated in a manner that protects the confidentiality of the parties and the facts. The District ensures that the complainants are protected from retaliation and that the identity of a complainant alleging discrimination, harassment, intimidation or bullying will remain confidential as appropriate. This includes keeping the identity of the complainant confidential except to the extent necessary to carry out the investigation, as determined by the Superintendent or designee on a case-by-case basis.

The Superintendent shall ensure that the employees designated to investigate complaints are knowledgeable about the laws and programs for which they are responsible. Such employees may have access to legal counsel as determined by the Superintendent or designee.

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 the 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.

In investigating complaints alleging discrimination, harassment, intimidation or bullying, the confidentiality of the parties involved and the integrity of the process shall be protected. As appropriate, the Superintendent or designee may keep the identity of a complainant confidential to the extent that the investigation of the complaint is not obstructed.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

(cf. 5125 - Student Records)

(cf. 9011 - Disclosure of Confidential/Privileged Information)

The district's Williams Uniform Complaint Procedures, AR 1312.4, shall be used to investigate and resolve any complaint related to the following:

1. Sufficiency of textbooks or instructional materials
2. Emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff
3. Teacher vacancies and misassignments
4. Deficiency in the district's provision of instruction and/or services to any student who, by the completion of grade 12, has not passed one or both parts of the high school exit examination

(cf. 1312.4 - Williams Uniform Complaint Procedures)
(cf. 6162.52 - High School Exit Examination)
(cf. 6179 - Supplemental Instruction)

COMPLIANCE OFFICERS

The Governing Board designates the following compliance officer to receive and investigate complaints and ensure district compliance with law:

Assistant Superintendent of Instructional Services
830 North Capitol Avenue
San José, CA 95133
408.347.5061

NOTIFICATIONS

The annual notification will be disseminated to the following groups as follows:

The Superintendent or designee shall annually provide the written notification of the District's Uniform Complaint Procedures to students, employees, parents/guardians, school and district advisory committees, appropriate private school officials or representatives and other interested parties. (5 CCR 4622)

Complete copies of the District's Uniform Complaint Procedures are available free of charge from the office of the Assistant Superintendent of Instructional Services and each school site.

PROCEDURES

The following procedures shall be used to address all complaints that allege that the District has violated federal or state laws or regulations governing educational programs. Compliance officers shall maintain a record of each complaint as required for compliance with the California Code of Regulations.

All parties involved shall be notified when a complaint is filed, when a complaint meeting or hearing is scheduled, and when a decision or ruling is made.

STEP 1: FILING OF A COMPLAINT

1. Any individual, public agency or organization may file a written complaint with the Assistant Superintendent of Instructional Services or other officer designated by the Board, alleging a matter which, if true, would constitute a violation by that local educational agency of federal or state law or regulation governing the programs listed. However, complainants need not use the District's complaint form in order to file a complaint.

2. A complaint alleging unlawful discrimination, harassment, intimidation or bullying shall be initiated by filing a complaint not later than six months from the date of the alleged discrimination, harassment, intimidation or bullying, or the date the complainant first obtained knowledge of the facts of the discrimination, harassment, intimidation or bullying.
3. The complaint may be filed by one who alleges that he or she has personally suffered said unlawful discrimination, harassment, intimidation or bullying, or by one who believes an individual or any specific class of individuals has been subjected to unlawful discrimination, harassment, intimidation or bullying.
4. The complaint shall be filed with the Assistant Superintendent of Instructional Services or other officer designated by the Board.

STEP 2: MEDIATION

The District may attempt to resolve complaints through mediation prior to the initiation of a formal compliance investigation. Conducting local mediation shall not extend the local time lines for investigating and resolving complaints at the local level unless the complainant agrees, in writing, to the extension of the time line. In no event shall mediation be mandatory in resolving complaints.

STEP 3: INVESTIGATION OF COMPLAINT

Within sixty (60) days from receipt of the complaint or within a timeline that has been specified in a written agreement with the complainant, the Assistant Superintendent of Instructional Services or other officer designated by the Board, shall complete the investigation of the complaint in accordance with the local procedures and prepare a written decision.

The investigation shall provide an opportunity for the complainant and/or the complainant's representative to present the complaint and evidence or information leading to evidence to support the allegations in the complaint.

Refusal by the complainant to provide the investigator with documents or other evidence 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 to refuse or 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 complainant.

STEP 4: DISTRICT RESPONSE

The District Decision (the Decision), shall be in writing and sent to the complainant within sixty (60) days from receipt of the complaint by the District unless the complainant agrees in writing to an extension of time. The Decision shall be written in English and in the language of the complainant whenever feasible or as required by law.

STEP 5: FINAL WRITTEN DECISION

The report will contain the following elements:

1. The findings of fact based on the evidence gathered.
2. Conclusion(s) of law.
3. Disposition of the complaint.
4. The rationale for such a disposition.
5. Corrective actions, if any are warranted.
6. Notice of the complainant’s right to appeal the decision to the California Department of Education (CDE).
7. Procedures to be followed for initiating an appeal to CDE.

APPEALS TO THE CALIFORNIA DEPARTMENT OF EDUCATION

An appeal to the California Department of Education must be filed within fifteen (15) days from receipt of the District’s decision.

CIVIL LAW REMEDIES

Nothing in this policy precludes a complainant from pursuing available civil law remedies under State or Federal discrimination, intimidation or bullying laws outside of the District’s complaint procedures. Such remedies may include mediation centers, public/ private legal interest attorneys, injunctions, restraining orders, etc. For discrimination, harassment, intimidation or bullying complaints, however, a complainant must wait until sixty (60) days has elapsed from the filing of an appeal with the California Department of Education before pursuing civil law remedies. The moratorium does not apply to injunctive relief and is applicable only if the District has appropriately, and in a timely manner, apprised the complainant of his/her right to file a complaint. For assistance you may contact:

- Legal Aid Society of Santa Clara County408.283.1535 ext. 268
- Bay Area Legal Aid 408.283.3700
- A private attorney*
- Local Assistance Centers*

** Please consult your local white/yellow pages and/or business directory*

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 procedures*
35186 *Williams uniform complaint procedures*
37254 *Intensive instruction and services for students who have not passed exit exam*
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 program coordination*
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*

GOVERNMENT CODE

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

PENAL CODE

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

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/about/offices/list/ocr>