

MODESTO CITY SCHOOLS

Board Policy

BP 1312.3

COMMUNITY RELATIONS

Uniform Complaint Procedures

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, informal resolution of complaints whenever possible and appropriate. To resolve complaints which cannot be resolved through such informal process, the Board shall adopt a uniform system of complaint processes specified in 5 CCR 4600-4670 and the accompanying Administrative Regulation.

Complaints Subject to UCP

The District's Uniform Complaint Procedures (UCP) shall be used to investigate and resolve the following complaints:

1. Any complaint alleging District violation of applicable state or federal law or regulations governing any program subject to the UCP which is offered by the district, including adult education programs; After School Education and Safety programs; agricultural career technical education; state career technical and technical education, career technical, and technical training programs; federal career technical education; child care and development programs; compensatory education; ~~Economic Impact~~ ~~Aid~~; the federal Every Student Succeeds Act; migrant education; Regional Occupational Centers and Programs; school safety plans; California State Preschool Programs and any other district-implemented state categorical program that is not funded through the local control funding formula pursuant to Education Code 6400.

BP 1312.3 (a)

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(cf. 3553 – Free and Reduced Price Meals) (N/A)
(cf. 3553 – Free and Reduced Lunch Program)
(cf. 3555 – Nutrition Program Compliance)
(cf. 5131.62 – Tobacco)
(cf. 5141.4 – Child Abuse Prevention and Reporting)
(cf. 5148 – Child Care and Development)
(cf. 5148.2 – Before/After School Programs)
(cf. 5148.3 – Preschool/Early Childhood Education)
(cf. 6159 – Individualized Education Program)
(cf. 6171 – Title I Programs)
(cf. 6174 – Education for English 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)

2. Any complaint, by a student, employee, or other person participating in a district program or activity, alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying, in District programs and activities, which are funded directly by or that receive or benefit from any state financial assistance, against any person based on his/her actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, immigration status, ethnic group identification, age, religion, marital or parental status, pregnancy, medical condition, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code 200 or 220, Government Code 11135, or Penal Code 422.55, or based on his/her association with a person or group with one or more of these actual or perceived characteristics. (5 CCR 4610) This includes complaints alleging sexual harassment of students by employees, other students, and third parties and to off-campus activities.

BP 1312.3 (b)

COMMUNITY RELATIONS**Uniform Complaint Procedures**

(cf. 0410 – Nondiscrimination in District Programs and Activities)
(cf. 4030 – Nondiscrimination in Employment)
(cf. 5145.3 – Nondiscrimination/Harassment) (N/A)
(cf. 4031 – Complaint Procedure for Discrimination in Employment)
(cf. 5145.3 – Nondiscrimination in Education Programs and Activities)
(cf. 5145.7 – Sexual Harassment) (N/A)
(cf. 5145.7 – Student Sexual Harassment)
(cf. 5145.7 – Sexual Harassment)

3. Any complaint alleging district noncompliance with the requirement to provide reasonable accommodation to a lactating student on school campus to express breast milk, breastfeed an infant child, or address other breastfeeding-related needs of the student. (Education Code 222)

(cf. 5146 – Married/Pregnant/Parenting Students) (N/A)
(cf. 5146.1 – Married Students)
(cf. 5146.2 – Pregnant Students)

4. Any complaint alleging district noncompliance with requirements to provide a pregnant or parenting student the accommodations specified in Education Code 46015, including those related to the provision of parental leave, right of return to the school of previous enrollment or to an alternative education program, if desired, and possible enrollment in school for a fifth year of instruction to enable the student to complete state and Board-imposed graduation requirements. (Education Code 46015)
5. Any complaint alleging bullying in District programs and activities, regardless of whether the bullying is based on a person's actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, ethnic group identification, age, religion, marital or parental status, medical condition, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code 200 or 220, Government Code 11135, or Penal Code 422.55, or based on his/her association with a person or group with one or more of these actual or perceived characteristics.

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6. Any complaint alleging District noncompliance with the prohibition against requiring students to pay fees, deposits, or other charges for participation in educational activities. (5 CCR 4610)

(cf. 3260 – Fees and Charges) (N/A)

(cf. 3260 – Fees, Deposits and Other Charges to Pupils)

(cf. 3320 – Claims and Actions Against the District) (N/A)

7. Any complaint alleging District noncompliance with applicable requirements of Education Code 52060-52077 related to the implementation of the Local Control and Accountability Plan (LCAP), including the development of a local control funding formula budget overview for parents/guardians. (Education Code 52075)

(cf. 0460 – Local Control and Accountability Plan) (N/A)

(cf. 3100 – Budget) (N/A)

(cf. 3101 – School District Budgets)

8. Any complaint alleging noncompliance with requirements related to the development of a school plan for student achievement or the establishment of a school site council, as required for the consolidated application for specified federal and/or state categorical funding. (Education Code 64000-64001, 65000-65001)

(cf. 0420 – School Plans/Site Councils) (N/A)

(cf. 0420 – District Master Plan for School Improvement)

(cf. 0421 – School Site Councils)

9. Any complaint, by or on behalf of any student who is a foster youth, as defined in Education Code 51225.2, alleging District noncompliance with any legal requirement applicable to the student regarding placement decisions, the responsibilities of the District's educational liaison to the student, the award of credit for coursework satisfactorily completed in another school, district, or country, school or records transfer, or the grant of an exemption from Board-imposed graduation requirements. (Education Code 48853, 48853.5, 49069.5, 51225.1, 51225.2)

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(cf. 6173.1 – Education for Foster Youth) (N/A)

10. Any complaint, by or on behalf of a student who transfers into the district after the second year of high school and is a homeless child or youth as defined in 42 USC 11434a, a former juvenile court school student currently enrolled in the district, a child of a military family as defined in Education Code 49701, or a migrant student as defined in Education Code 54441, ~~or by or on behalf of an immigrant student participating in a newcomer program as defined in Education Code 51225.2 in the third or fourth year of high school,~~ alleging district noncompliance with any requirement applicable to the student regarding the grant of an exemption from Board-imposed graduation requirements. (Education Code 51225.1)

(cf. 6173 – Education for Homeless Children) (N/A)

(cf. 6170 – Education for Homeless Children)

(cf. 6173.2 – Education of Children of Military Families) (N/A)

(cf. 6173.3 – Education for Juvenile Court School Students) (N/A)

11. Any complaint, by or on behalf of a student who is a homeless child or youth as defined in 42 USC 11434a, a former juvenile court school student, a child of a military family as defined in Education Code 49701, a migrant child as defined in Education Code 54441, ~~or a newly arrived immigrant student who is participating in a newcomer program as defined in Education Code 51225.2,~~ alleging district noncompliance with requirements for the award of credit for coursework satisfactorily completed in another school, district, or country. (Education Code 51225.2)
12. Any complaint alleging District noncompliance with the requirements of Education Code 51228.1 and 51228.2 that prohibits the assignment of a student in grades 9-12 to a course without educational content for more than one week in any semester or to a course the student has previously satisfactorily completed, without meeting specific conditions. (Education Code 51228.1, 51228.2, 51228.3)

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(cf. 6152 – Class Assignment) (N/A)

(cf. 6152 – Changing Official Schedule of Classes, 9-12)

13. Any complaint alleging District noncompliance with the physical education instructional minutes requirement for students in elementary school. (Education Code 51210, 51223)

(cf. 6142.7 – Physical Education and Activity) (N/A)

(cf. 6142.1 – Physical Education)

14. 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.
15. State Preschool health and safety issues in LEA's exempt from licensing.
16. Any other complaint as specified in a District policy.

The Board recognizes that alternative dispute resolution (ADR) can, depending on the nature of the allegations, offer a process to reach a resolution to the complaint that is agreeable to all parties. ADR 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.

The Board prohibits any form of retaliation against any complainant in the complaint process. 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.

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In filing and investigating complaints, the confidentiality of the parties involved and the integrity of the process shall be protected as required by law. As appropriate for any complaint alleging retaliation, unlawful discrimination, harassment, intimidation and/or bullying, the Superintendent or designee shall keep confidential the identity of the complainant and/or the subject of the complaint, if he/she is different from the complainant, as long as the integrity of the complaint process is maintained.

(cf. 4119.23/4219.23/4319.23 – Unauthorized Release of Confidential/Privileged Information) (N/A)

(cf. 4119.12/4219.12/4319.12 – Release of Employee Information)

(cf. 5125 – Student Records) (N/A)

(cf. 5125 – Student Records; Confidentiality)

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

When an allegation that is not subject to the 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.

The Superintendent or designee shall provide training to District staff to ensure awareness and knowledge of current law and related requirements, 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)

The Superintendent or designee shall maintain records of all UCP complaints and the investigations of those complaints. All such records shall be destroyed in accordance with applicable state law and District policy.

Non-UCP Complaints

The following complaints shall not be subject to the District's UCP but shall be referred to the specified agency: (5 CCR 4611)

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- a. Any complaint alleging child abuse or neglect shall be referred to the County Department of Social Services, the County Protective Services Division, and the appropriate law enforcement agency alleging health and safety violations by a child development program shall, for licensed facilities, be referred to Department of Social Services and shall, for licensing-exempt facilities, be referred to the appropriate Child Development regional administrator.
- b. Any complaint alleging employment discrimination, harassment, intimidation or bullying shall be sent to the California Department of Fair Employment and Housing and the Compliance Officer shall notify the complainant by first class mail of the transfer.
- c. Any complaint alleging fraud shall be referred to the California Department of Education.

—→ ~~In addition, the District's Williams Uniform Complaint Procedures, AR 1312.4, shall be used to investigate and resolve 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. (Education Code 35186)~~

—→ ~~(cf. 1312.4 Williams Uniform Complaint Procedures)~~

*Legal References:***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**48985 Notices in language other than English**49010-49013 Student fees**49060-49079 Student records**49490-49590 Child nutrition programs**52060-52077 Local control and accountability plan, especially**52075 Complaint for lack of compliance with local control and accountability plan requirements**52160-52178 Bilingual education programs*

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COMMUNITY RELATIONS**Uniform Complaint Procedures***Legal References (cont.):**EDUCATION CODE (cont.)**52300-52490 Career technical education**52500-52616.24 Adult schools**52800-52870 School-based program coordination**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**422.55 Hate crime; definition**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**1221 Application of laws**1232g Family Educational Rights and Privacy Act**1681-1688 Title IX of the Education Amendments of 1972**6301-6577 Title I basic programs**6600-6777 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**12101-12213 Title II equal opportunity for individuals with disabilities**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**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*

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Legal References (cont.):

CODE OF FEDERAL REGULATIONS, TITLE 34 (con.t)

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

104.7 Designation of responsible employee for Section 504

106.8 Designation of responsible employee for Title IX

106.9 Notification of nondiscrimination on basis of sex

110.25 Notification of nondiscrimination on the basis of age

Management Resources:

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

Dear Colleague Letter: Title IX Coordinators, April 2015

Questions and Answers on Title IX and Sexual Violence, April 2014

Dear Colleague Letter: Bullying of Students with Disabilities, August 2013 Dear Colleague Letter: Sexual Violence, April 2011

Dear Colleague Letter: Harassment and Bullying, October 2010

Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001

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, 2002

WEB SITES

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

California Department of Education: <http://www.cde.ca.gov> Family Policy Compliance Office: <http://familypolicy.ed.gov>

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

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

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September 30, 2019

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