

MODESTO CITY SCHOOLS

Administrative Regulation

AR 1312.3

COMMUNITY RELATIONS

Uniform Complaint Procedures

Except as the Governing Board may otherwise specifically provide in other District policies, these general Uniform Complaint Procedures (UCP) shall be used to investigate and resolve only the complaints specified in BP 1312.3.

(cf. 1312.1 – Complaints Concerning School Personnel)

(cf. 1312.2 – Complaints Concerning Instructional Materials or Library Resources)

(cf. 1312.4 – Williams Uniform Complaint Procedures)

(cf. 4031 – Complaint Procedure for Discrimination in Employment)

Compliance Officers

The District designates the individuals identified below as the employees responsible for coordinating the District's response to complaints and for complying with state and federal civil rights laws. The individual(s) also serve as the Compliance Officer(s) specified in AR 5145.3 – Nondiscrimination in Education Programs and Activities and AR 5145.7 – Sexual Harassment as the responsible employee to handle complaints regarding unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), retaliation and sexual harassment. The individuals shall receive and coordinate the investigation of complaints and shall ensure District compliance with law.

Designee

Associate Superintendent,
Business Services
Chief Business Official

Tim Zearley
426 Locust Street
Modesto, CA 95351
(209) 574-1594
Zearley.T@monet.k12.ca.us

Programs

Child Nutrition Programs

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Designee

Associate Superintendent,
Educational Services

Brad Goudeau
426 Locust Street
Modesto, CA 95351
(209) 492-1454
Goudeau.B@monet.k12.ca.us

Programs

Adult Education Programs
After School Education and
Safety Programs
Agricultural Career Technical
Education
State Career Technical and
Technical Education
Career Technical and Technical
Education and Training
Programs
Federal Career Technical
Education
Child Care and Development
Programs
Compensatory Education;
→ ~~Economic Impact Aid;~~
The Federal Every Student
Succeeds Act;
Regional Occupational Centers
and Programs;
School Safety Plans;
California State Preschool
Programs;
State Preschool Health and
Safety Issues in LEA's
Exempt from Licensing;
Lactation Accommodations;
Title IX Compliance Officer;
Equity Compliance Officer.

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Designee

Associate Superintendent,
and Instruction
& Professional Development

Lauren Odell
1017 Reno Avenue, Building B
Modesto, CA 95351
(209) 492-4465
Odell.L@monet.k12.ca.us

Programs

Migrant Education Curriculum

Associate Superintendent,
Student Support Services

Mark Herbst
426 Locust Street
Modesto, CA 95351
(209) 492-5113
Herbst.M@monet.k12.ca.us

Special Education

NOTE: All complaints involving employees will also be reviewed by the Associate Superintendent, Human Resources.

(cf. 5145.3 – Nondiscrimination in Education Programs and Activities)
(cf. 5145.7 – Student Sexual Harassment)

The Compliance Officer who receives a complaint may assign another Compliance Officer to investigate the complaint. The Compliance Officer shall promptly notify the complainant and respondent, if another Compliance Officer is designated to investigate the complaint.

In no instance shall a Compliance Officer be designated to investigate a complaint if he/she is mentioned in the complaint or has a bias or conflict of interest that would prohibit the fair investigation or resolution of the complaint. Any complaint filed against or implicating a Compliance Officer, or that raises a concerns about the compliance officer's ability to investigate the complaint fairly and without bias shall

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filed with the Superintendent or designee who shall determine how the complaint will be investigated.

The Superintendent or designee shall ensure that employees designated to investigate and resolve complaints receive training and are knowledgeable about the laws and programs at issue in the complaints which they are assigned to investigate. Training provided to such designated 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. Designated employees may have access to legal counsel as determined by the Superintendent or designee.

(cf. 4331 – Staff Development)

(cf. 9124 – Attorney) (N/A)

The Compliance Officer or, if necessary, any appropriate administrator shall determine whether interim measures are necessary during and pending the results 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, if possible, one or more of the interim measures. The interim measures may 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, including information regarding unlawful student fees and Local Control and Accountability Plan (LCAP) requirements, to students, employees, parents/guardians of district students, District Advisory Committee members,

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School Advisory Committee members, appropriate private school officials or representatives, and other interested parties. (Education Code 262.3, 49013, 52075; 5 CCR 4622)

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

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

(cf. 0421 – School Site Councils)

(cf. 1220 – Citizen Advisory Committees)

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

(cf. 4112.9/4212.9/4312.9 – Employee Notifications) (N/A)

(cf. 5145.6 – Parental Notifications) (N/A)

The notice shall include:

1. A statement that the District is primarily responsible for compliance with federal and state laws and regulations, including those related to prohibition of unlawful discrimination, harassment, intimidation, or bullying against any protected group and all programs and activities that are subject to UCP as identified in the section “Complaints Subject to UCP” in the accompanying Board Policy.
2. 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.

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

(cf. 3260 – Fees and Charges) (N/A)

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

3. A statement that a student enrolled in a public school shall not be required to pay a fee for participation in an educational activity that constitutes an integral fundamental part of the District’s educational program, including curricular and extracurricular activities.

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4. A statement that a complaint regarding student fees must be filed no later than one year from the date of the alleged violation occurred.
5. A statement that the District will post a standardized notice of the educational rights of foster youth, homeless students, former juvenile court school students now enrolled in the District, children of military families, migrant students, ~~and immigrant students enrolled in a newcomer program,~~ as specified in Education Code 48853, 48853.5, 49069.5, 51225.1, and 51225.2, and the complaint process.
6. In order to identify appropriate subjects of state preschool health and safety issues pursuant to section 1596.7925 of the California Health and Safety Code (HSC section 1596.7925), a notice shall be posted in each California state preschool program classroom in each school in the District notifying parents, guardians, pupils, and teachers of both of the following:
 - a. The health and safety requirements under Title 5 of the California Code of Regulations apply to California state preschool programs pursuant to HSC section 1596.7925; and
 - b. The location at which to obtain a form to file a complaint.

(cf. 6170 – Education for Homeless Children)
(cf. 6173 – Education for Homeless Children) (N/A)
(cf. 6173.1 – Education for Foster Youth) (N/A)
(cf. 6173.2 – Education of Children of Military Families) (N/A)
(cf. 6173.3 – Education for Juvenile Court School Students) (N/A)
(cf. 6175 – Migrant Education Program) (N/A)

7. Identification of the responsible staff member(s), position(s), or unit(s) designated to receive complaints.
8. A statement that complaints will be investigated in accordance with the District's UCP and a written decision will be sent to the complainant within sixty (60) days from the receipt of the complaint, unless this time period is extended by written agreement of the complainant.

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9. A statement that the complainant has a right to appeal the District's decision to the California Department of Education (CDE) by filing a written appeal, including a copy of the original complaint and the District's decision, within fifteen (15) days of receiving the District's decision. (Education Code 262.3)
10. A statement advising the complainant of any civil law remedies, from civil courts or other public agencies (such as the U.S. Department of Education's Office for Civil Rights), including but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal antidiscrimination laws, if applicable.
11. A statement that copies of the District's UCP are available free of charge.
12. A complaint alleging retaliation, unlawful discrimination, harassment, intimidation and/or bullying 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 discrimination, harassment, intimidation and/or bullying. 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.
13. The Board is required to adopt and annually update a Local Control and Accountability Plan (LCAP), in a manner that includes meaningful engagement of parents/guardians, students, and other stakeholders in the development and/or review of the LCAP.

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.

(cf. 1113 – District and School Web Sites) (N/A)

(cf. 1113 – District, School, Staff and Student Websites)

(cf. 1114 – District-Sponsored Social Media)

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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 fifteen (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 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

The following procedures shall be used to address all complaints which allege that the District has violated federal or state laws or regulations governing educational programs or has committed unlawful discrimination, harassment, intimidation and/or bullying. "Harassment" includes complaints alleging sexual harassment of students by employees, other students, and third parties and to off-campus activities filed pursuant to AR 5145.7

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)

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 5 CCR 4631 and 4633.

All parties involved in allegations shall be notified when a complaint is filed, when a complaint meeting or hearing is scheduled, and when a decision or ruling is made. However, the Compliance Officer shall keep all complaints or allegations of retaliation, unlawful discrimination, harassment, intimidation and/or bullying confidential except when disclosure is necessary to carry out the investigation, take subsequent corrective action, conduct ongoing monitoring, or maintain the integrity of the process. (5 CCR 4630, 4964)

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Any individual, public agency, or organization may file a written complaint of the District's alleged noncompliance with federal or state laws or regulations governing educational programs. (5 CCR 4630)

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 shall be filed in writing and signed by the complainant. 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)

All complaints shall also be filed in accordance with the following rules, as applicable:

1. A written complaint alleging District violation of applicable state or federal law or regulations governing 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, and special education programs may be filed by any individual, public agency, or organization. (5 CCR 4630)
2. Any complaint alleging noncompliance with law regarding the prohibition against requiring students to pay 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. However, any such complaint shall be filed no later than one (1) year from the date the alleged violation occurred. (Education Code 49013, 52075, 5 CCR (4630)

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3. A complaint alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying, may be filed only by a person who alleges that he/she personally suffered unlawful discrimination, harassment, intimidation, or bullying or by a person who believes that an individual or any specific class of individuals has been subjected to it. The complaint shall be initiated no later than six (6) months from the date when the alleged discrimination occurred, or six (6) months from the date when the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation, or bullying. The time for filing may be extended for up to ninety (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)
4. When a complaint alleging unlawful discrimination, harassment, intimidation, and/or bullying is filed anonymously, the Compliance Officer shall pursue an investigation or other response as appropriate, depending on the specificity and reliability of the information provided and the seriousness of the allegation.
5. When a complainant alleging unlawful discrimination, harassment, intimidation, and/or bullying, or the alleged victim, when not the complainant, requests confidentiality, the Compliance Officer shall inform the complainant or victim 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 will nevertheless take all reasonable steps to investigate and resolve/respond to the complaint consistent with the request.
6. UCP Complaints regarding state preschool health and safety issues pursuant to HSC section 1596.7925 shall include the following statements:
 - a. The complaint must be filed with the preschool program administrator or the designee; and
 - b. A state preschool health and safety issues complaint pursuant to HSC section 1596.7925 about problems beyond the authority of the preschool program administrator shall be forwarded in a timely manner, but not to exceed ten (10) working days to the appropriate District official for resolution.

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- c. A state preschool health and safety issues complaint pursuant to HSC section 1596.7925 may be filed anonymously. A complainant who identifies himself or herself is entitled to a response if he or she indicates that a response is requested. A complaint form shall include a space to mark to indicate whether a response is requested. If section 48985 of the Education Code is otherwise applicable, the response, if requested, and report shall be written in English and the primary language in which the complaint was filed.
- d. A complaint form for a state preschool health and safety issue pursuant to HSC section 1596.7925 shall specify the location for filing a complaint. A complainant may add as much text to explain the complaint as he or she wishes.

Mediation

Within three (3) business days after the Compliance Officer receives the complaint, he/she may 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 Compliance Officer shall make all arrangements for this process.

Before initiating the mediation of a complaint alleging retaliation, unlawful discrimination, harassment, intimidation, and/or bullying, the Compliance Officer shall ensure that all parties agree to make the mediator a party to related confidential information. The Compliance Officer 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 his/her 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. (5 CCR 4631) If mediation is successful and the complaint is

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withdrawn, then the District shall take only the actions agreed to through the mediation. If mediation is unsuccessful, the District shall then continue with subsequent steps specified in this Administrative Regulation.

Investigation of Complaint

Within ten (10) business days after the Compliance Officer receives the complaint, the Compliance Officer shall begin an investigation into the complaint.

Within one (1) business day of initiating the investigation, the Compliance Officer shall provide the complainant and/or his/her representative with the opportunity to present the information contained in the complaint to the Compliance Officer and shall notify the complainant and/or his/her 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.

The preschool program administrator or the Superintendent or his/her designee shall:

1. Make all reasonable efforts to investigate any problem within his or her authority. Investigations shall begin within ten (10) days of the receipt of the complaint; and
2. Remedy a valid complaint within a reasonable time period, but not to exceed thirty (30) working days from the date the complaint was received and report to the complainant the resolution of the complaint within forty-five (45) working days of the initial filing. If the preschool program administrator makes this report, he or she shall also report the same information in the same timeframe to the designee of the District Superintendent.

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.

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To investigate/resolve a complaint alleging retaliation, unlawful discrimination, harassment, intimidation, and/or bullying, the Compliance Officer shall interview the alleged victim(s), 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. Failure or refusal of the District to cooperate in 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)

The Compliance Officer shall apply a "preponderance of the evidence" standard in determining the veracity of the factual allegations in a complaint. This standard is met if the allegation is more likely to be true than not.

For peer sexual harassment complaints filed pursuant to AR 5145.7, evidence of past relationships for the complainant will not be allowed as part of the investigation. Also, students and/or parents will be informed at regular intervals of the status of the investigation.

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Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant a written report, as described in the section “Final Written Decision” below, within sixty (60) calendar days of the District’s receipt of the complaint. (5 CCR 4631)

For any complaint alleging unlawful discrimination, harassment, intimidation, and bullying, the respondent shall be informed of any extension of the timeline agreed to by the complainant. The respondent also shall be sent the District’s final written decision at the same time it is provided to the complainant.

Final Written Decision

The District’s decision on how it will resolve the complaint shall be in writing and shall be sent to the complainant. (5 CCR 4631)

For all complaints, the District’s final written decision shall include: (5 CCR 4631)

1. The findings of fact based on the evidence gathered. In reaching a factual determination, the following factors may be taken into account:
 - a. Statements made by any witnesses
 - b. The relative credibility of the individuals involved
 - c. How the complaining individual reacted to the incident
 - d. Any documentary or other evidence relating to the alleged conduct
 - e. Past instances of similar conduct by any alleged offenders
 - f. Past false allegations made by the complainant
2. The conclusion(s) of law.
3. Disposition of the complaint.
4. Rationale for such disposition.

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For complaints of retaliation or unlawful discrimination, including discriminatory harassment, intimidation, or bullying, the disposition of the complaint shall include a determination for each allegation as to whether retaliation or unlawful discrimination, harassment, intimidation or bullying has occurred.

The determination of whether a hostile environment exists may involve consideration of the following:

- a. How the misconduct affected one or more students' education
 - b. The type, frequency, and duration of the misconduct
 - c. The relationship between the alleged victim(s) and offender(s)
 - d. The number of persons engaged in the conduct and at whom the conduct was directed
 - e. The size of the school, location of the incidents, and context in which they occurred
 - f. Other incidents at the school involving different individuals
5. Corrective action(s), including any actions that have been taken or will be taken to address the allegations in the complaint and including, with respect to a student fees complaint, a remedy that comports with Education Code 49013 and 5 CCR 4600.

For complaints of unlawful discrimination, including discriminatory harassment, intimidation, or bullying, the decision may, as required by law, include:

- a. The corrective actions imposed on the individual found to have engaged in the conduct that relate directly to the subject of the complaint
 - i. In determining what information to include and not include in the final written decision for complaints regarding sexual harassment, Family Educational Rights and Privacy Act (FERPA) permits the

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District to disclose to a student, who was subjected to sexual harassment, certain information about the sanctions imposed upon the offender when the sanctions directly relate to the student. For instance, if properly remedying the impact of sexual harassment would require disclosing to the alleged victim certain information on how the District disciplined the alleged student offender (e.g., a stay away order), OCR would require the District to disclose that information.

- ii. The District will not limit the information a complainant may receive regarding disciplinary action taken in a manner which prevents the complainant from being informed of the outcome of his/her complaint.
- b. Individual remedies offered or provided to the complainant or another person who was the subject of the complaint, but this information should not be shared with the respondent
- c. Systemic measures the school has taken to eliminate a hostile environment and prevent recurrence

If the District finds merit in a complaint regarding reasonable accommodations to a lactating pupil; course periods without educational content (grades nine (9) through twelve (12)); and/or education of pupils in foster care, pupils who are homeless, former juvenile court pupils now enrolled in a school district, and pupils in military families, the District shall provide a remedy to the affected pupil.

- 6. Notice of the complainant's and respondent's right to appeal the District's decision within fifteen (15) calendar days to the California Department of Education and procedures to be followed for initiating such an appeal.

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

In consultation with District legal counsel, information about the relevant part of a decision may be communicated to a victim who is not the complainant and to other parties that may be involved in implementing the decision or affected by the complaint, as long as the privacy of the parties is protected. In a complaint alleging unlawful discrimination, harassment, intimidation, and/or bullying, notice of the

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District's decision to the alleged victim shall include information about any sanction to be imposed upon the respondent that relates directly to the alleged victim.

The District's decision shall be written in English and, when required by Education Code 48985, in the complainant's primary language.

If the complaint involves a limited-English-proficient student or parent/guardian and the student involved is enrolled in a school at which fifteen (15) percent or more of the students speak a single primary language other than English, then the decision shall also be translated into that language pursuant to Education Code 48495. In all other instances, the District shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

For complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, and bullying, based on state law, 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, sixty (60) calendar days after the filing of an appeal with the CDE. (Education Code 262.3)
2. The sixty (60) days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination, harassment, intimidation or bullying complaints based on federal law. (Education Code 262.3)
3. Complaints alleging discrimination, harassment, intimidation and/or bullying based on his/her actual or perceived characteristics of 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, gender expression, or genetic information or based on his/her association with a person or group with one or more of these actual or perceived characteristics can also be filed with the U.S. Department of Education, Office for Civil Rights at www.ed.gov/ocr within one-hundred and eighty (180) days of the alleged discrimination, harassment, intimidation and/or bullying.

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4. Complainants are protected from retaliation and the identity of a complainant alleging discrimination, harassment, intimidation or bullying, will remain confidential as appropriate. (Education Code 234.1, 5 CCR 4621)

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.

(cf. 5137 – Positive School Climate) (N/A)

For complaints involving retaliation, unlawful discrimination, harassment, intimidation and/or bullying, appropriate corrective actions that may be offered to the victim but not communicated to the respondent may include, but are not limited to, the following:

1. Counseling

(cf. 6164.2 – Guidance/Counseling Services)

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

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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, unlawful discrimination, harassment, intimidation and/or bullying, appropriate corrective actions that focus on 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

(cf. 6145.5 – Student Success Team) (N/A)

6. Denial of participation in extracurricular or co-curricular activities or other privileges as permitted by law

(cf. 6145 - Extracurricular and Cocurricular Activities) (N/A)

(cf. 6145 - Extracurricular Activities, 7-12)

7. Disciplinary action, such as suspension or expulsion, as permitted by law

(cf. 5144 - Discipline) (N/A)

(cf. 5144.1 - Suspension and Expulsion/Due Process) (N/A)

(cf. 5132.1 - Suspension and Expulsion/Due Process (Pupils with Previously Identified Exceptional Needs))

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 collective bargaining agreement.

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(cf. 4118 - Dismissal/Suspension/Disciplinary Action) (N/A)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action) (N/A)

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, including discriminatory harassment, intimidation, or bullying, that the District does not tolerate it, and how to report and respond to it.

When a complaint is found to have merit, an appropriate remedy shall be provided to the complainant or other affected person.

If a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges, physical education instructional minutes for students in elementary schools, 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, 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 (1) year prior to the filing of the complaint. (Education Code 49013; 5 CCR 4600)

Appeals Regarding State Preschool Health and Safety Issues in Local Educational Authorities Exempt from Licensing

A complainant not satisfied with the resolution of the preschool program administrator or the Superintendent or his/her designee, has the right to describe the complaint to the Governing Board (or authorized designee) at a regularly scheduled hearing of the governing board.

A complainant who is not satisfied with the resolution proffered by the preschool program administrator or the Superintendent or his/her designee, as the right to file an appeal to the State Superintendent of Public Instruction (SSPI) within thirty (30) days of the date of the report.

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A complainant shall comply with the appeal requirements of 5 CCR section 4632.

The SSPI or his or her designee shall comply with the requirements of 5 CCR section 4633 and shall provide a written Decision to the State Board of Education describing the basis for the complaint, the District's response to the state preschool health and safety issues pursuant to HSC section 1596.7925 complaint and its remedy or proposed remedy and a proposed remedy for the issue described in the complaint, if different from the District's remedy.

The District shall report summarized data on the nature and resolution of all state preschool health and safety issues complaint pursuant to HSC section 1596.7925 on a quarterly basis to the County Superintendent of Schools and the Governing Board (or authorized designee), as applicable, of the District. The summaries shall be publicly reported on a quarterly basis at a regularly scheduled meeting of the Governing Board. The report shall include the number of complaints by general subject area with the number of resolved and unresolved complaints.

All complaints and responses are public records.

Appeals to the California Department of Education

Any complainant who is dissatisfied with the District's final written decision on a complaint regarding any specified federal or state educational program subject to UCP, may appeal in writing to the CDE within fifteen (15) calendar days of receiving the District's decision. (Education Code 49013, 52075; 5 CCR 4632)

When appealing to the CDE, the complainant shall specify the basis for the appeal of the decision and whether/how the facts are incorrect and/or the law has been misapplied. The appeal shall be accompanied by a copy of the locally filed complaint and a copy of the District's decision. (5 CCR 4632)

For peer sexual harassment complaints filed pursuant to AR 5145.7, respondents also have appeal rights on an adverse determination.

When a respondent in any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying) is dissatisfied with the district's final written decision, the respondent, in the same manner as the complainant, may file an appeal with CDE.

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Upon notification by the CDE that the complainant has appealed the District's decision, the Superintendent or designee shall forward the following documents to the CDE: (5 CCR 4633)

1. A copy of the original complaint
2. A copy of the decision
3. A summary of the nature and extent of the investigation conducted by the District, if not covered by the decision
4. 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
5. A report of any action taken to resolve the complaint
6. A copy of the District's Uniform Complaint Procedures
7. Other relevant information requested by the CDE

The CDE may directly intervene in a complaint without waiting for action by the District when one of the conditions listed in 5 CCR 4650 exists, including cases in which the District has not taken action within 60 days of the date the complaint was filed with the District.

Title 5, Section 4650 – Basis of Direct State Intervention

Except for Williams Uniform complaints, the California Department of Education (CDE) shall directly intervene without waiting for local educational agency (LEA) investigation if one or more of the following situations exist:

1. The complaint includes an allegation, and the CDE verifies, that an LEA failed to comply with the complaint procedures required by this Chapter (i.e., Chapter 5.1 of Division 1 of Title 5 of the California Code of Regulations) and its local rules and regulations, including, but not limited to, the failure or refusal of the LEA to cooperate with the investigation.

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2. Discrimination is alleged by the complainant and the facts alleged indicate that the complainant will suffer an immediate loss of some benefit such as employment or education if the Department does not intervene. However, nothing in this section gives the Department jurisdiction over employment discrimination claims.
3. The complaint relates to agencies other than local educational agencies funded through the Child Development and Child Nutrition Programs.
4. The complainant requests anonymity because he or she would be in danger of retaliation and would suffer immediate and irreparable harm if a complaint were filed with the LEA.
5. The complainant alleges that the LEA failed or refused to implement the final decision resulting from its local investigation or local mediation agreement.
6. The complainant alleges, and the CDE verifies, that he or she would suffer immediate and irreparable harm as a result of an application of a district-wide policy that is in conflict with state or federal law covered by this chapter (i.e., Chapter 5.1 of Division 1 or Title 5 of the California Code of Regulations), and that filing a complaint with the LEA would be futile.
7. The complainant alleges, and the CDE either verifies, or has information, that no action has been taken by the LEA within 60 calendar days of the date the complaint was filed locally. Prior to direct intervention, the CDE shall attempt to work with the LEA to allow it to complete the investigation and issue a decision.
8. For complaints relating to special education, any one of the following shall also be conditions for direct state intervention:
 - a. The complainant alleges that a public agency, other than an LEA, as specified in Government code section 7570 et seq., fails or refuses to comply with an applicable law or regulation relating to the provision of free appropriate public education to individuals with disabilities.

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- b. The complainant alleges that the local educational agency or public agency fails or refuses to comply with the due process procedures established pursuant to federal and state law and regulation; or has failed or refused to implement a due process hearing order.
- c. The complainant alleges facts that indicate that the child or group of children may be in immediate physical danger or that the health, safety or welfare of a child or group of children is threatened.
- d. The complainant alleges that an individual with a disability is not receiving the special education or related services specified in his or her individualized educational program (IEP).
- e. The complaint involves a violation of federal law governing special education, 20 U.S.C. section 1400 et seq., or its implementing regulations.

The complaint shall identify the basis, as described in 1. through 8. above, for filing the complaint directly the CDE. The complainant must present the CDE with clear and verifiable evidence that supports the basis for the direct filing, except as in 8.

NOTE: Authority cited: Section 232 and 33031, Education Code; Section 11138, Government Code; 5 CCR Section 4650

References: Sections 11135, 11136, and 11138, Government Code; 34 CFR 76.780 –76.783 and 106.8

Civil Law Remedies

A complainant may pursue available civil law remedies outside of the District's complaint procedures. Complainants may seek assistance from mediation centers or public/private interest attorneys. Civil law remedies that may be imposed by a court include, but are not limited to, injunctions and restraining orders.

For discrimination, harassment, intimidation and/or bullying complaints based on state law, a complainant shall wait until 60 days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies, provided the District has

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appropriately and in a timely manner apprised the complainant of his/her right to file a complaint in accordance with 5 CCR 4622. The moratorium does not apply to injunctive relief and to discrimination harassment, intimidation and/or bullying complaints based on federal law.

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