

# 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 **complaints regarding** the following **programs and activities** ~~complaints~~:

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

*(cf. 5146 – Married/Pregnant/Parenting Students)*

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

*(cf. 6200 – Adult Education)*

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

*(cf. 5148.2 – Before/After School Programs)*

*(cf. 5148.2 – After School Programs)*

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

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

*(cf. 6178 – Career Technical Education) (N/A)*

*(cf. 6178.1 – Work-Based Learning) (N/A)*

**6. Child care and development programs (Education Code 8200-8498)**

*(cf. 5148 – Child Care and Development)*

**7. Compensatory education (Education Code 54400)**

*(cf. 6171 – Title I Programs)*

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

**9. Course periods without educational content, when students in grades 9-12 are assigned to such courses more than one week in any semester or in a course the student has previously satisfactorily completed, unless specified conditions are met (Education Code 51228.1-51228.3)**

*(cf. 6152 – Class Assignment) (N/A)*

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

**10. Discrimination, harassment, intimidation, or bullying in District programs and activities, including in those programs or activities funded directly by or that receive or benefit from any state financial assistance, based on the person's actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, or mental disability, medical condition, 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 the person's association with a person or group with one or more of these actual or perceived characteristics (5 CCR 4610)**

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*(cf. 0410 – Nondiscrimination in District Programs and Activities)*

*(cf. 5145.3 – Nondiscrimination in Education Programs and Activities)*

*(cf. 5145.7 – Sexual Harassment)*

***(cf. 5145.71 – Title IX Sexual Harassment Complaint Procedures) (N/A)***

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

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

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

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

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

**12. Every Student Succeeds Act (Education Code 52059; 20 USC 6301 et seq.)**

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

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

**14. Migrant education (Education Code 54440-54445)**

*(cf. 6175 – Migrant Education Program)*

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

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

**16. Student fees (Education Code 49010-49013)**

*(cf. 3260 – Fees and Charges) (N/A)*

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

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

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

*(cf. 6178.2 – Regional Occupational Center/Program) (N/A)*

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

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

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

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

*(cf. 0450 – Comprehensive Safety Plan) (N/A)*

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

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

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

**22. State preschool programs (Education Code 8235-8239.1)**

*(cf. 5148.3 – Preschool/Early Childhood Education) (N/A)*

~~**23. State preschool health and safety issues in license-exempt programs (Education Code 8235.5)**~~

**23.24. Any complaint alleging retaliation against a complainant or other participant in the complaint process or anyone who has acted to uncover or report a violation subject to this policy**

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

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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 training programs; federal career technical education; child care and development programs; compensatory education; 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.~~

~~(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-~~

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~~4610) This includes complaints alleging sexual harassment of students by employees, other students, and third parties and to off campus activities.~~

~~(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)~~

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

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- ~~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, 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, 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)~~

~~(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)~~

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- ~~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 in a manner that is agreeable to all parties. An ADR process such as mediation may be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint involving sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. The Superintendent or designee shall ensure that the use of ADR is consistent with state and federal laws and regulations.

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.

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 or, unlawful discrimination (such as discriminatory, 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, when appropriate and as long as the integrity of the complaint process is maintained.

*(cf. 4119.23/4219.23/4319.23 – Unauthorized Release of Confidential/Privileged Information) (N/A)*  
*(cf. 4119.~~42~~**14**/4219.~~42~~**14**/4319.~~42~~**14** – Release of Employee Information)*  
*(cf. 5125 – Student Records) (N/A)*  
*(cf. 5125 – Student Records; Confidentiality)*  
*(cf. 9011 – Disclosure of Confidential/Privileged Information)*

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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 requirements related to UCP, including the steps and timelines specified in this policy and the accompanying Administrative Regulation.

*(cf. 4131/4231/4331 – Staff Development)*

The Superintendent or designee shall maintain records of each complaint and **subsequent related actions, including steps taken during the investigation and all information required for compliance** investigations of those complaints. All such records shall be destroyed in accordance with **5 CCR 4631 and 4633** applicable state law and District policy.

*(cf. 3580 – District Record)*

### **Non-UCP Complaints**

The following complaints shall not be subject to the District's UCP but shall be referred to the specified agency **or investigated and resolved through an alternative process**: (5 CCR 4611)

- 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.~~

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

*(cf. 5141.4 – Child Abuse Prevention and Reporting)*

2. Any complaint alleging health and safety violations by a child development program shall, for licensed facilities, be referred to Department of Social Services. (5 CCR 4611)

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.~~

3. Any complaint alleging employment discrimination or harassment shall be investigated and resolved by the District in accordance with the procedures specified in AR 4030 – Nondiscrimination in Employment, including the right to file the complaint with the California Department of Fair Employment and Housing.

c. ~~Any complaint alleging fraud shall be referred to the California Department of Education.~~

4. Any complaint alleging a violation of a state or federal law or regulation related to special education, a settlement agreement related to the provision of a free appropriate public education, or a due process hearing order shall be submitted to the California Department of Education (CDE) in accordance with AR 6159.1 – Procedural Safeguards and Complaints for Special Education. (5 CCR 3200-3205)

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

5. Any complaint alleging noncompliance of the District's food service program with laws regarding meal counting and claiming, reimbursable meals, eligibility of children or adults, or use of cafeteria funds and allowable expenses shall be filed with or referred to CDE in accordance with BP 3555 - Nutrition Program Compliance. (5 CCR 15580-15584)

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6. Any allegation of discrimination based on race, color, national origin, sex, age, or disability in the District's foodservice program shall be filed with or referred to the U.S. Department of Agriculture in accordance with BP 3555 - Nutrition Program Compliance. (5 CCR 15582)
7. Any complaint related to sufficiency of textbooks or instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff, or teacher vacancies and misassignments shall be investigated and resolved in accordance with AR 1312.4 – Williams Uniform Complaint Procedures. (Education Code 35186)

(cf. 13112.4 – 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

**32221.5 Insurance for athletic team members**

**32280-32289 School safety plans**, ~~uniform complaint procedures~~

35186 Williams uniform complaint procedures

**46015 Parental leave for students**

**48853-48853.5 Foster youth**

48985 Notices in language other than English

49010-49013 ~~4~~ Student fees

49060-49079 Student records

**49069.5 Records of foster youth**

49490-49590 Child nutrition programs

**49701 Interstate Compact on Educational Opportunity for Military Children**

**51210 Courses of student grades 1-6**

**51222 Physical education**

**51223 Physical education, elementary schools**

**51225.1-51225.2 Foster youth, homeless children, former juvenile court school students; course credits; graduation requirements**

**51226-51226.1 Career technical education**

**51228.1-51228.3 Course periods without education content**

**52059.5 Statewide system of support**

52060-52077 Local control and accountability plan, especially

52075 Complaint for lack of compliance with local control and accountability plan requirements

~~52160-52178 Bilingual education programs~~

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*Legal References (cont.):*

EDUCATION CODES (cont.):

~~52300-52490~~**62** 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

**65000-65001 School site councils**

GOVERNMENT CODE

11135 Nondiscrimination in programs or activities funded by state

12900-12996 Fair Employment and Housing Act

**HEALTH AND SAFETY CODE**

**1596.792 California Child Day Care Act; general provisions and definitions**

**1596.7925 California Child Day Care Act; health and safety regulations**

PENAL CODE

422.55 Hate crime; definition

422.6 Interference with constitutional right or privilege

CODE OF REGULATIONS, TITLE 2

**11023 Harassment and discrimination prevention and correction**

CODE OF REGULATIONS, TITLE 5

~~3080 Application of section~~

**3200-3205 Special education compliance complaints**

4600-468**770** Uniform complaint procedures

**4680-4687 Williams uniform complaint procedures**

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

4900-4965 Nondiscrimination in elementary and secondary education programs

15580-15584 Child nutrition programs complaint procedures

UNITED STATES CODE, TITLE 20

1221 Application of laws

1232g Family Educational Rights and Privacy Act (FERPA) of 1974

1681-1688 Title IX of the Education Amendments of 1972

6301-657**76** Title I basic programs **Improving the Academic Achievement of the Disadvantaged**

~~6600-6777 Title II preparing and recruiting high-quality teachers and principals~~

6801-~~6871~~**7014** 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

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*Legal References (cont.):*

**UNITED STATES CODE, TITLE 42**

*2000d-2000e-17 Title VI and Title VII Civil Rights Act of 1964, as amended*

*2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964*

*6101-6107 Age Discrimination Act of 1975*

***11431-11435 McKinney-Vento Homeless Assistance Act***

***12101-12213 Title II equal opportunity for individuals with disabilities***

**CODE OF FEDERAL REGULATIONS, TITLE 28**

*35.107 Nondiscrimination on basis of disability; complaints*

**CODE OF FEDERAL REGULATIONS, TITLE 34**

*99.1-99.67 Family Educational Rights and Privacy*

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

*104.7 Designation of responsible employee for Section 504*

***106.1-106.82 Nondiscrimination on the basis of sex in education programs***

*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: September 22, 2017***

*Dear Colleague Letter: Title IX Coordinators, April 2015*

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

*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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August 17, 2015  
November 7, 2016  
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January 21, 2020  
February 11, 2020

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