

1312.3 Uniform Complaint Procedures

The Governing Board of the Etiwanda School District recognizes that the District has primary responsibility for compliance with state and federal laws and regulations governing educational programs. The District shall investigate and seek to resolve, at the local level, complaints alleging failure to comply with such laws or alleging unlawful discrimination, harassment, intimidation, or bullying. The District shall follow these uniform complaint procedures pursuant to state regulations when addressing complaints alleging violation or non-compliance with applicable state or federal laws or regulations governing the following, including any additional areas required by 5 C.C.R. § 4600-4670, if and when revised:

1. Adult Basic Education (Education Code sections 8500-8538 and 52500-52617);
2. Consolidated Categorical Aid Programs (Education Code sections 64000-64001);
3. Migrant Education (Education Code sections 54440-54445);
4. Vocational Education (Education Code sections 52300-52490);
5. Child Care and Development Programs (Education Code sections 8200-8498);
6. Federal school safety planning requirements;
7. The provision of support to pregnant or parenting students (Education Code section 46015) or to provide lactation accommodations (Education Code section 222);
8. Educational rights of Foster and Homeless Students (Education Code sections 48853-48853.5; 49069.5);
9. Educational Rights of Juvenile Court School Students (Education Code sections 51225.1 and 51225.2);
10. Physical Education Instructional Minutes requirements (Education Code sections 51210 and 51223);
11. Unlawful discrimination, harassment, intimidation, or bullying in District programs and activities on the basis of sex, sexual orientation, gender, gender identity, gender expression, marital/parental status, ethnic group identification, race, ancestry, national origin, immigration status, religion, color, mental/physical disability, age, or genetic information; the perception of one or more such characteristics; or any other characteristic identified in Education Code section 200 or 220 and Penal Code section 422.55; or association with a person or group with one or more of these actual or perceived characteristics unless such complaint is governed by the Title IX complaint procedures or other procedures included in District Board Policies.
12. The prohibition against requiring students to pay fees, deposits, or other charges for participation in educational activities (Education Code section 49013);
13. Requirements for Local Control and Accountability Plans (LCAP) (Education Code 52075). This type of complaint may be filed anonymously. If an LCAP complainant is not satisfied with the decision of the District, the complainant may appeal to the State Superintendent of Public Instruction (see Appeals, below) and will receive a written appeal decision within 60 days of the State Superintendent's receipt of the appeal;

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14. 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 specific federal and/or state categorical funding (Education Code 64000-64001, 65000-65001); and
15. Any complaint alleging retaliation against a complainant or other participant in the complaint process described in the policy or anyone who has acted to uncover or report a violation subject to this policy.

Matters listed below under “Referring Complaint to Appropriate Agencies” are not covered by these procedures. However, the District may elect to investigate complaints about such matters in accordance with these procedures.

The Board encourages the early, informal resolution of complaints at the site level whenever possible.

The Board prohibits any form of retaliation against any complainant or participant in the complaint process. Participation in this process shall not affect the status, grades, or work assignments of the complainant or participating witnesses.

The confidentiality of the parties involved and the integrity of the process shall be protected to the extent required by law in connection with the investigation of complaints.

The Superintendent or designee shall provide training to designated District staff to ensure awareness and knowledge of current law and related requirements, including the steps and timelines specified in this policy.

Williams Uniform Complaints

The District’s *Williams* uniform complaint procedures, BP 1312.31, 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; or
3. Teacher vacancies and misassignments.

Notifications

The District shall post the UCP policy in all District schools and offices, including staff lounges and student government meetings rooms.

The District shall annually notify, in writing, its students, employees, parents/guardians of its students, the district advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties of these procedures.

The notice shall:

1. Identify the person(s), position(s), or unit(s) responsible for receiving complaints.
2. Advise the complainant that civil law remedies that may be available to him/her under state or federal discrimination laws, if applicable.

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3. Advise the complainant of the appeal process pursuant to Education Code 262.3, including the complainant's right to take a complaint directly to the California Department of Education (CDE) or to pursue remedies before civil courts or other public agencies.
4. Include statements that:
 - a. The District is primarily responsible for compliance with state and federal laws and regulations.
 - b. The complaint review shall be completed within 60 calendar days from the date of receipt of the complaint unless the complainant agrees in writing to an extension of the timeline.
 - c. A complaint alleging unlawful discrimination, harassment, intimidation, or bullying, or retaliation for making or participating in a complaint under this policy, must be filed not later than six months from the date of the alleged unlawful act(s), or six months from the date the complainant first obtains knowledge of the facts of the alleged unlawful act(s). The filing time may be extended for up to 90 days by the Superintendent or designee for good cause on written request by the complainant setting forth the reasons for the extension.
 - d. A student enrolled in public school shall not be required to pay a fee for his or her participation in an educational activity that constitutes an integral fundamental part of the District's educational program, including curricular and extracurricular activities.
 - e. The Board is required to adopt and annually update an LCAP, in a manner that includes meaningful engagement of parents or guardians, students, and other stakeholders in the development and review of the LCAP.
 - f. A foster youth shall receive information about educational rights related to his/her educational placement, enrollment in and checkout from school, as well as the responsibilities of the district liaison for foster youth to ensure and facilitate these requirements and to assist the student in ensuring proper transfer of his/her credits, records, and grades when he/she transfers between schools or between the district and another district.
 - g. The complainant has a right to appeal the District's decision to the CDE by filing a written appeal within 30 days of receiving the District's determination.
 - h. The appeal to the CDE must include a copy of the original complaint filed with the District and a copy of the District's decision.
 - i. Copies of the District's uniform complaint procedures are available free of charge.

In addition, the District's uniform complaint procedures shall be posted in all District schools and the administrative office, including staff lounges and student government meeting rooms. If 15 percent or more of students enrolled in a particular District school speak a single primary language other than English, the policy, forms, and notices concerning uniform complaint procedures shall be translated into that language. (Education Code sections 234.1, 48985)

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Complainants are hereby notified that they may have alternative civil law remedies via governmental agencies such as OCR, DFEH, EEOC, local bar associations, law schools, the State Superintendent of Public Instruction, or mediation services.

Compliance Officer

The Board designates the Director of Pupil Services, 6061 East Avenue, Etiwanda, California 91739, telephone (909) 899-2451, as the District's compliance officer to receive and direct investigation of complaints, maintain records of complaints and subsequent related actions. In the event the compliance officer has a bias or conflict of interest that would prohibit the fair investigation or resolution of the complaint, the Superintendent or designee shall assign an alternative individual.

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

The compliance officer shall determine with interim measures are necessary during and pending the result of an investigation. If interim measures are determined to be necessary, the compliance officer shall consult with staff to ensure implementation of such measures. These measures shall remain in place until the compliance officer determines that they are no longer necessary or until the District issues its final decision, whichever occurs first.

Filing of Complaint

A written complaint of alleged non-compliance with a federal or state law or regulation governing education programs listed above must be filed with the compliance officer. When the subject matter of a complaint is not covered by this policy, the complainant shall be so advised.

Complaints alleging unlawful discrimination, harassment, intimidation, or bullying, or retaliation for making or participating in a complaint under this policy, may be filed 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 such unlawful conduct.

All complaints must be filed within one year from the date of alleged violations except for complaints of unlawful discrimination, harassment, intimidation, or bullying. These complaints must be filed no later than six months from the date of the alleged discrimination, harassment, intimidation, or bullying or when the complainant first obtained knowledge of the facts of the alleged conduct. If such complaint is filed anonymously, the compliance officer shall pursue investigation or other response as appropriate, depending on the specificity and reliability of the information provided and the seriousness of the allegation.

A complaint alleging noncompliance with the law regarding the prohibition against requiring students to pay fees, deposits, and charges, or alleging noncompliance with 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. (Education Code section 49013) Such a complaint 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 on year from the date the alleged violation occurred.

The complaint shall be presented to the compliance officer, who shall maintain a log of complaints received.

If a complainant is unable to put a complaint in writing due to conditions such as illiteracy or other handicaps, District staff shall assist in filing the complaint.

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Investigation of Complaint

The compliance officer may designate an outside investigator, as appropriate, to investigate a complaint. The investigator shall be knowledgeable about the laws and programs he or she is assigned to investigate.

In the discretion of the compliance officer/designee, and with the consent of the parties, the compliance officer/designee may undertake a resolution of the dispute via mediation. This step is optional. Engaging in mediation does not extend the 60 day timeline for completion of the District's investigation.

The compliance officer/designee shall hold investigative meetings promptly upon receipt of the complaint. Complainant and/or complainant's representatives and the District representatives shall have the opportunity to present any evidence or relevant information.

To ensure that all pertinent facts are discovered, the compliance officer/designee may conduct interviews with other individuals or request others to provide additional information and evidence.

Complainants are advised that while the District will make an effort to protect their privacy and confidentiality, investigation of their complaints may require disclosure of certain information to others. By filing a complaint, complainant authorizes the District to investigate and make disclosures as may be reasonably necessary to the investigation and resolution of the complaint.

As appropriate for any complaint alleging discrimination, harassment, intimidation, or bullying, the Superintendent or designee may keep the identity of a complainant confidential to the extent doing so does not obstruct the investigation of the complaint.

Complainants, witnesses, and all other participants are protected by law from retaliation for their participation in the complaint investigation process.

A complainant's refusal to provide the compliance officer 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 based on a lack of evidence to support the allegation(s).

In accordance with law, the District shall provide the investigator with access to records and other information related to the allegation(s) in the complaint and shall not 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.

Written Decision

Unless extended by written agreement with the complainant, within 60 days of receiving the complaint, the compliance officer/designee shall prepare and send to the complainant a document constituting the District's investigation report. It shall be in writing and include:

1. Findings of fact based on the evidence gathered;
2. Conclusion(s) of law, as applicable;
3. The disposition of the complaint;
4. The rationale for such disposition;

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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); and
7. Procedures to be followed for initiating an appeal to the CDE.

When a complaint is found to have merit, the compliance officer shall adopt any appropriate corrective action permitted by law. If an investigation of a complaint results in discipline to a student or an employee, the decision shall state only that corrective action was taken and the student or employee was informed of District expectations. The decision shall not give any further information as to the nature of disciplinary action.

If a complaint regarding Pupil Fees, LCAP, Education of Pupils in Foster Care, Pupils who are Homeless, and former Juvenile Court Pupils currently enrolled in the District, Reasonable Accommodations to a Lactating Pupil, and Physical Education Instructional Minutes (grades one through eight) is found to have merit, the District shall provide a remedy.

In the case of complaints regarding Reasonable Accommodations to a Lactating Pupil, and Education of Pupils in Foster Care, Pupils who are Homeless, and former Juvenile Court Pupils currently enrolled in the District, the remedy shall go to the affected pupil. 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, 51223, 52075.)

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

The District's investigation report shall be written in English and in the language of the complainant whenever feasible or required by law.

Referring Complaint Issues to Appropriate Agencies

In accordance with 5 C.C.R. 4611, the following complaints shall be referred to the specified agencies for appropriate resolution and are not subject to these complaint procedures.

1. Allegations of child abuse:
San Bernardino County Department of Public Social Services
412 W. Hospitality Lane, San Bernardino, CA 92415
2. Health and safety complaints regarding a Child Development Program:
San Bernardino County Department of Public Social Services
412 W. Hospitality Lane, San Bernardino, CA 92415
3. Discrimination issues involving child nutrition programs:

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Administrator, U.S. Department of Agriculture

Food and Nutrition Service

3101 Park Center Drive, Alexandria, VA 22302 (OR)

Secretary of Agriculture

Washington, D.C. 20250 (OR)

U.S. Department of Agriculture

Food and Consumer Service, Western Regional Office

550 Kearney Street, #400, San Francisco, CA 94108

4. Employment discrimination complaints:

State Department of Fair Employment and Housing (DFEH)

1845 S. Business Center Drive, Suite 127, San Bernardino, CA 92408

5. Allegations of fraud shall be referred to the responsible State or Federal Department Division Director and its legal office:

California Department of Education

P.O. Box 944272, Sacramento, CA 94244-2720

Appeals to the California Department of Education

If a complainant is dissatisfied with the decision, he/she may appeal in writing to the CDE within 30 days of receiving the District's decision.

When appealing, the complainant must specify all the reason(s) for the appeal and must include copies of the original complaint and the District's investigation report. Basis of appeals are limited to the following:

1. The District failed to follow its complaint procedures, and/or;
2. Relative to the allegations of the complaint, the District's decision lacks material findings of fact necessary to reach a conclusion of law, and/or;
3. The material findings of fact in the District's decision are not supported by substantial evidence, and/or;
4. The legal conclusion in the District's decision is inconsistent with the law, and/or; and

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5. In a case in which the District found noncompliance, the corrective actions fail to provide a proper remedy.

Upon notification by the Superintendent of Public Instruction that the District's decision has been appealed, the compliance officer/designee shall forward the following to the Superintendent of Public Instruction:

1. A copy of the original complaint;
2. A copy of the District's investigation report;
3. A copy of the investigation file;
4. A report of any action taken to resolve the complaint;
5. A copy of the District's uniform complaint procedure; and
6. Such other relevant information as the Superintendent of Public Instruction may require.

The CDE may directly intervene in a complaint without waiting for action by the District when one of the conditions listed in 5 C.C.R. 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.

Other Available Remedies

Depending on the nature of the complaint, the complainant may also have available civil law remedies, and may consult his/her attorney.

Civil law remedies include, but are not limited to, injunctions, restraining orders, or other remedies or orders. Notwithstanding any other provision of law, a person who alleges, based on state law, that he or she is a victim of discrimination, harassment, intimidation, or bullying may not seek civil remedies, other than injunctive relief or complaints based on federal law, until at least 60 days have elapsed from the filing of an appeal to the CDE. (Education Code section 262.3)

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