

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 early resolution of complaints whenever possible. To resolve complaints which may require a more formal process, the Board shall adopt the uniform system of complaint processes specified in 5 CCR 4600-4670 and the accompanying administrative regulation.

Complaints Subject to ~~the~~ UCP

The district's uniform complaint procedures (UCP) shall be used to investigate and resolve the following complaints:

1. Any complaint alleging district violation of applicable state or federal laws 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~~;; American Indian education centers and early childhood education program assessments;; bilingual education, California Peer Assistance and Review Programs for Teachers, **state** career technical and technical education and **technical educational, career technical, and technical training programs;; federal career technical education;** child care and development programs;; child nutrition programs;; compensatory education;; consolidated categorical aide programs;; Economic Impact Aid;; ~~English learner programs, the federal~~ Every Student Succeeds Act;~~No Child Left Behind~~, migrant education;; Regional Occupational Centers and Programs;; school safety plans;; special education programs;; **California** State Preschool Programs;; Tobacco-Use Prevention Education programs;; and any other district-implemented **state categorical** program ~~which is listed in~~ **that is not funded through the local control funding formula pursuant to Education 64000(a)**

(cf. 3553 - Free and Reduced Price Meals)

(cf. 3555 - Nutrition Program Compliance)

(cf. 5131.62 - Tobacco)

(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)

UNIFORM COMPLAINT PROCEDURES (continued)

2. Any complaint, **by a student, employee, or other person participating in a district program or activity**, alleging the occurrence of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) **against any student, employee or other person participating** in district programs and activities, including, **but not limited to, in** those programs or activities funded directly by or that receive or benefit any state financial assistance, 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 status, pregnancy, or parental status, 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 the person's** association with a person or group with one or more of these actual or perceived characteristics (5 CCR 4610)

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. ~~4031 - Complaints Concerning Discrimination in Employment~~)

(cf. 5145.3 - Nondiscrimination/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)

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)**

- 4.5. 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)

(cf. 3320 - Claims and Actions Against the District)

UNIFORM COMPLAINT PROCEDURES (continued)

- 5-6.** Any complaint alleging ~~that the~~ district ~~has not complied~~ **noncompliance** with ~~legal~~ **applicable** requirements **of Education Code 52060-52077** related to the implementation of the local control and accountability plan, **including the development of a local control funding formula budget overview for parents/guardians** (Education Code 52075)

(cf. 0460 - Local Control and Accountability Plan)

(cf. 3100 - Budget)

- 7.** 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)

- 6-8.** Any complaint, by or on behalf of **a 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, ~~or~~ 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)

- 7-9.** 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 ~~student~~ **child or youth** as defined in 42 USC 11434a, a former juvenile court school student **currently enrolled in the district,** ~~or~~ a child of a military family as defined in Education Code **49701,** **or a migrant student as defined in Education Code 54441,** ~~who transfers into the district after his/her second year of high school,~~ **or by or on behalf of an immigrant student participating in a newcomer program as defined in Education Code 51225.2 in the third or fourth year of high school,** alleging district noncompliance with any requirement applicable to the student regarding ~~the award of credit for coursework satisfactorily completed in another school or district or~~ the grant of an exemption from Board-imposed graduation requirements (Education Code 51225.1, ~~51225.2~~)

(cf. 6173 - Education for Homeless Children)

(cf. 6173.2 - Education of Children of Military Families)

(cf. 6173.3 - Education for Juvenile Court School Students)

UNIFORM COMPLAINT PROCEDURES (continued)

10. Any complaint, by or on behalf of a student who is a homeless child or youth as defined in 42 USC 11434a, a former juvenile court school student, a child of a military family as defined in Education Code 49701, a migrant child as defined in Education Code 54441, or a newly arrived immigrant student who is participating in a newcomer program as defined in Education Code 51225.2, alleging district noncompliance with requirements for the award of credit for coursework satisfactorily completed in another school, district, or country (Education Code 51225.2)

8.11. Any complaint alleging district noncompliance with the requirements of Education Code 51228.1 and 51228.2 that prohibit 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 specified conditions (Education Code 51228.3)

(cf. 6152 - Class Assignment)

9.12. 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)

10.13. 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

11.14. Any other complaint as specified in a district policy

The Board recognizes that alternative dispute resolution (ADR) can, depending on the nature of the allegations, offer a process to reach a resolution to the complaint that is agreeable to all parties. ADR such as mediation may be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint involving sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. The Superintendent or designee shall ensure that the use of ADR is consistent with state and federal laws and regulations.

The district shall protect all complainants from retaliation. In investigating complaints, the confidentiality of the parties involved shall be protected as required by law. For any complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the Superintendent or designee shall keep the identity of the complainant, and/or the subject of the complaint, if he/she is different from the complainant,

UNIFORM COMPLAINT PROCEDURES (continued)

confidential 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)

(cf. 5125 - Student Records)

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

When an allegation that is not subject to **the** UCP is included in a UCP complaint, the district shall refer the non-UCP allegation to the appropriate staff or agency and shall investigate and, if appropriate, resolve the UCP-related allegation(s) through the district's UCP.

The Superintendent or designee shall provide training to district staff to ensure awareness and knowledge of current law and **related** requirements **related to UCP**, including the steps and timelines specified in this policy and the accompanying administrative regulation.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

The Superintendent or designee shall maintain **records of all UCP complaints and the investigations of those complaints in accordance with applicable law and district policy, 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.**

(cf. 3580 - District Records)

Non-UCP Complaints

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

1. 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.

(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 and shall, for licensing-exempt facilities, be referred to the appropriate Child Development regional administrator.

3. Any complaint alleging fraud shall be referred to the Legal, Audits and Compliance Branch of the California Department of Education.

UNIFORM COMPLAINT PROCEDURES (continued)

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.**

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, **or health and safety violations in any license-exempt California State Preschool Program** shall be investigated and resolved in accordance with the procedures in AR 1312.4 - Williams Uniform Complaint Procedures. (Education Code **8235.5**, 35186)

(cf. 1312.4 - Williams Uniform Complaint Procedures)

*Legal Reference:*EDUCATION CODE

200-262.4 Prohibition of discrimination

~~222 Reasonable accommodations; lactating students~~

8200-8498 Child care and development programs

8500-8538 Adult basic education

18100-18203 School libraries

32280-32289 School safety plan, uniform complaint procedures

33380-33384 California Indian Education Centers

35186 Williams uniform complaint procedures

44500-44508 California Peer Assistance and Review Program for Teachers

46015 Parental leave for students

48853-48853.5 Foster youth

48985 Notices in language other than English

49010-~~49013~~ **49014** Student fees49060-49079 Student records, **especially:**49069.5 ~~Rights of parents~~ **Records of foster youth**

49490-49590 Child nutrition programs

49701 Interstate Compact on Educational Opportunity for Military Children

51210 Courses of study grades 1-6

51223 Physical education, elementary schools

51225.1-51225.2 Foster youth, homeless children, former juvenile court school students, ~~and~~ military-connected students; **migrant students, and newly arrived immigrant students;** course credits; graduation requirements

51226-51226.1 Career technical education

51228.1-51228.3 Course periods without educational content

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

52300-52462 Career technical education

52500-52616.24 Adult schools

54000-54029 Economic Impact Aid

54400-54425 Compensatory education programs

54440-54445 Migrant education

Legal Reference continued: (next page)

UNIFORM COMPLAINT PROCEDURES (continued)

Legal Reference: (continued)

EDUCATION CODE (continued)

54460-54529 Compensatory education programs

56000-56865 Special education programs

59000-59300 Special schools and centers

64000-64001 Consolidated application process; **school plan for student achievement**

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

104420 Tobacco-Use Prevention Education

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~~ **Applicability of uniform complaint procedures to complaints regarding students with disabilities**

4600-4687 ~~4670~~ Uniform complaint procedures

4680-4687 Williams uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

UNITED STATES CODE, TITLE 20

1221 Application of laws

1232g Family Educational Rights and Privacy Act

1681-1688 Title IX of the Education Amendments of 1972

6301-6576 Title I ~~basic programs~~ **Improving the Academic Achievement of the Disadvantaged**

6801-7014 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

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

12101-12213 Title II equal opportunity for individuals with disabilities

Legal Reference continued: (next page)

UNIFORM COMPLAINT PROCEDURES (continued)

Legal Reference: (continued)

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 Act

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

104.7 Designation of responsible employee for Section 504

106.8 Designation of responsible employee for Title IX

106.9 Notification of nondiscrimination on basis of sex

110.25 Notification of nondiscrimination on the basis of age

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Sample UCP Board Policies and Procedures

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, ~~August 2013~~ **October 2014***

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>~~ <https://www2.ed.gov/policy/gen/guid/fpco>

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

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

ACTIONS BY THE BOARD

The Governing Board shall act by a majority vote of all of the membership constituting the Board, unless otherwise required by law. (Education Code 35164)

(cf. 9000 - Role of the Board)

(cf. 9005 - Governance Standards)

(cf. 9012 - Board Member Electronic Communications)

(cf. 9200 - Limits of Board Member Authority)

An "action" by the Board means: (Government Code 54952.6)

1. A collective decision by a majority of the Board members
2. A collective commitment or promise by a majority of the Board members to make a positive or negative decision
3. A vote by a majority of the Board members when sitting as the Board upon a motion, proposal, resolution, order, or ordinance

The Board shall not take action by secret ballot, whether preliminary or final. (Government Code 54953)

Actions taken by the Board in open session shall be recorded in the Board minutes. (Education Code 35145)

(cf. 9324 - Minutes and Recordings)

Action on Non-Agenda Items

After publicly identifying the item, the Board may take action on a subject not appearing on the posted meeting agenda under any of the following conditions: (Government Code 54954.2)

1. When a majority of the Board determines that an emergency situation exists, as defined for emergency meetings pursuant to Government Code 54956.5
2. When two-thirds of the members present, or if less than two-thirds of the members are present then by a unanimous vote of all members present, determine that the need to take immediate action came to the district's attention after the agenda was posted
3. When an item appeared on the agenda of, and was continued from, a meeting that occurred not more than five days earlier

(cf. 9320 - Meetings and Notices)

(cf. 9322 - Agenda/Meeting Materials)

ACTIONS BY THE BOARD (continued)**Challenging Board Actions**

The district attorney's office or any interested person may file an action in court ~~to~~ **for the purpose of: (Government Code 54960, 54960.2)**

1. ~~s~~**Stopping** or preventing ~~ing~~ the Board's violation or ~~threats of~~ **threatened** violations of the Brown Act;
2. ~~to~~**determine**ing the applicability of the Brown Act to ongoing or future threatened Board actions;
3. **Determining** the applicability of the Brown Act to ~~any a~~ **a past Board action of the Board that is not specified in Government Code 54960.1, if the following conditions are met provided that:**
 - a. **Within nine months of the alleged violation, a cease and desist letter is submitted to the Board, clearly describing the past Board action and the nature of the alleged violation.**
 - b. **The time for the Board to respond has expired and the Board has not provided an unconditional commitment to cease and desist from and not repeat the past action alleged to have violated the Brown Act.**
 - c. **The action is brought within the time required by Government Code 54960.2.**
4. ~~to~~**determine**ing the validity, under ~~California state~~ or federal law, of any Board rule or action ~~to~~ **which** penalizes any of its members or otherwise discourages ~~their~~ **member's** expression, ~~or~~
5. ~~to~~**e****Compelling** the Board to audio record its closed sessions because of **a court's finding of the Board's its** violation of any applicable Government Code provision. (Government Code 54960)

The district attorney or any interested person may ~~present a demand that the Board cure and correct a Board action which he/she alleges is~~ **file an action in court to nullify a Board action which is alleged to be** in violation of law regarding any of the following: (Government Code 54960.1)

1. Open meeting and teleconferencing (Government Code 54953)
2. Agenda posting (Government Code 54954.2)

ACTIONS BY THE BOARD (continued)

3. Closed session item descriptions (Government Code 54954.5)
4. New or increased tax assessments (Government Code 54954.6)
5. Special meetings (Government Code 54956)
6. Emergency meetings (Government Code 54956.5)

Prior to bringing any action to nullify a Board action, the district attorney or other interested person shall present a demand to "cure and correct" the alleged violation. The demand shall clearly describe the challenged action and the nature of the alleged violation and shall be presented to the Board in writing within 90 days of the date when the action was taken. If the alleged violation concerns action taken in an open session but in violation of Government Code 54954.2 (agenda posting), the written demand must be made within 30 days of the date when the alleged action took place. (Government Code 54960.1)

Within 30 days of receiving the demand, the Board shall do one of the following: (Government Code 54960.1)

1. Cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct.
2. Determine not to cure or correct the alleged violation and inform the demanding party in writing of its decision to not cure or correct.
3. Take no action. If the Board takes no action within the 30-day review period, its inaction shall be considered a decision not to cure or correct the **challenged** action.

~~In addition, the district attorney's office or any interested party may file an action in court to determine the applicability of the Brown Act to any past Board action not specified in Government Code 54960.1, if the following conditions are met: (Government Code 54960.2)[Moved up]~~

- ~~1. Within nine months of the alleged violation, a cease and desist letter is submitted to the Board, clearly describing the past Board action and the nature of the alleged violation.[Moved up]~~
- ~~2. The time for the Board to respond has expired and the Board has not provided an unconditional commitment to cease and desist from and not repeat the past action alleged to have violated the Brown Act. [Moved up]~~

ACTIONS BY THE BOARD (continued)

Legal Reference:

EDUCATION CODE

15266 School construction bonds

17466 Declaration of intent to sell or lease real property

17481 Lease of property with residence for nondistrict purposes

17510-~~17511~~17512 **Leasing for production of gas, r**Resolution requiring unanimous vote **of all**
~~members constituting board~~

17546 Private sale of personal property

17556-17561 Dedication of real property

35140-35149 Meetings

35160-35178.4 Powers and duties

48660-48661 Community day schools, establishment and restrictions

CODE OF CIVIL PROCEDURE

425.16 Special motion to strike in connection with a public issue

1245.240 Eminent domain vote requirements

1245.245 Eminent domain, resolution adopting different use

GOVERNMENT CODE

53090-53097.5 Regulation of local agencies by counties and cities

53724 Parcel tax resolution requirements

53790-53792 Exceeding the budget

53820-53833 Temporary borrowing

53850-53858 Temporary borrowing

54950-54963 The Ralph M. Brown Act, especially:

54952.6 Action taken, definition

54953 Meetings to be open and public; attendance; **prohibition against** secret ballots

54960-54960.5 Actions to prevent violations

65352.2 Coordination with planning agency

PUBLIC CONTRACT CODE

3400 Bid specifications

20111 Contracts over \$50,000; contracts for construction; award to lowest responsible bidder

20113 Emergencies, award of contracts without bids

20114 Repairs, maintenance, and improvements to district facilities by day labor or force account

22034 Uniform Public Construction Cost Accounting Act informal bidding ordinance

22035 Repair or replacement of facilities in case of emergency

22050 Emergency contracting procedures

COURT DECISIONS

Los Angeles Times Communications LLC v. Los Angeles County Board of Supervisors (2003) 112 Cal.App.4th 1313

McKee v. Orange Unified School District (2003) 110 Cal.App.4th 1310

Bell v. Vista Unified School District (2002) 82 Cal.App.4th 672

Boyle v. City of Redondo Beach (1999) 70 Cal.App.4th 1109

Management Resources: (see next page)

ACTIONS BY THE BOARD (continued)

Management Resources:

CSBA PUBLICATIONS

The Brown Act: School Boards and Open Meeting Laws, 2014

ATTORNEY GENERAL PUBLICATIONS

The Brown Act: Open Meetings for Local Legislative Bodies, 2003

LEAGUE OF CALIFORNIA CITIES PUBLICATIONS

*Open and Public IV: A Guide to the Ralph M. Brown Act **2nd Edition, rev. July 2010** ~~2007~~*

WEB SITES

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

~~California Attorney General's Office: <http://www.oag.ca.gov>~~

~~Institute of for Local Government: <http://www.ca-ilg.org>~~

Office of the Attorney General: <http://www.oag.ca.gov>