

REGULATION 1312.3: Uniform Complaint Procedures
Comparison Chart
Section: Community Relations

SUMMARY OF UPDATE

Summary of Update: Regulation updated to delete outdated and/or repealed U.S. Department of Education's Office for Civil Rights (OCR) references and where appropriate add current OCR material, ensure consistency with the California Department of Education's 2021-22 federal program monitoring instrument, clarify posting requirements for the annual notification, compliance officer contact information and information related to Title IX, add material regarding the requirement for an administrator who is not designated as a compliance officer who receives a complaint to notify the compliance officer, clarify that districts may not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student, add descriptions to the OPTION headings for districts that do or do not allow complainants to appeal to the governing board, delete material regarding respondent being sent the investigation report at the same time it is provided to complainant as this simultaneous exchange is not required by law, amend language in regard to pursuing civil law remedies in the notice to complainants included in investigation reports for allegations of unlawful discrimination, harassment, intimidation, and bullying based on state law, clarify when either party may request reconsideration of an appeal by the Superintendent of Public Instruction, and reflect NEW LAW (AB 131, 2021) which renumbers the license-exempt California State Preschool Program code sections.

CSBA NOTE: 5 CCR 4621 mandates that the district's uniform complaint procedures (UCP) be consistent with the procedures of 5 CCR 4600-4670. Additionally, Education Code 52075 mandates districts to adopt policies and procedures implementing the use of UCP to investigate and resolve complaints alleging noncompliance with requirements related to the local control and accountability plan (LCAP), and Education Code 8212, as renumbered by AB 131 (Ch. 116, Statutes of 2021) mandates districts to adopt policies and procedures for resolving complaints regarding specified health and safety issues in license-exempt California State Preschool Programs (CSPP). Furthermore, a number of federal civil rights statutes and their implementing regulations mandate districts to adopt policies and procedures for the prompt and equitable resolution of complaints of unlawful discrimination, harassment, intimidation, or bullying. For example, all districts are mandated pursuant to 28 CFR 35.107 to adopt policy and procedures to address discrimination on the basis of disability, while districts that receive federal financial assistance are mandated pursuant to 34 CFR 106.8 and 34 CFR 110.25 to adopt policies and procedures to address discrimination on the basis of sex and age. Some of the factors considered by the U.S. Department of Education's Office for Civil Rights (OCR) when determining whether a district's procedures are "prompt and equitable" are addressed throughout the following administrative regulation.

Apart from these mandates, state law authorizes the use of UCP to resolve complaints of noncompliance with laws related to the development of a school plan for student achievement and the establishment of school site councils; accommodations for pregnant and parenting students; prohibition against the charging of student fees; educational rights of foster youth, homeless students, former juvenile court school students, children of military families, migrant students, and students participating in a newcomer program for newly arrived immigrants; assignment of students to courses without educational content; and physical education instructional minutes. See the section "Complaints Subject to UCP" in the accompanying Board policy.

PARA	Section	Sub-Section	<p style="text-align: center;">October 12, 2021</p> <p style="text-align: center;">CURRENT VERSION</p>	<p style="text-align: center;">December 2021</p> <p style="text-align: center;">REVISED VERSION</p>	<p style="text-align: center;">CSBA MODIFICATIONS and/or NOTES</p>
1			<p>Except as the Governing Board may otherwise specifically provide in other district policies, these uniform complaint procedures (UCP) shall be used to investigate and resolve only the complaints specified in the accompanying Board policy.</p>	<p>Except as may otherwise be specifically provided in other district policies, these uniform complaint procedures (UCP) shall be used to investigate and resolve only the complaints specified in the accompanying Board policy.</p>	
			<p><u>Compliance Officers</u></p>	<p>No change</p>	
1			<p>The district designates the individual(s), position(s), or unit(s) identified below as responsible for coordinating the district's response to complaints and for complying with state and federal civil rights laws. The individual(s), position(s), or unit(s) also serve as the compliance officer(s) specified in AR 5145.3 - Nondiscrimination/Harassment responsible for handling complaints regarding unlawful discrimination, harassment, intimidation, or bullying and in AR 5145.7 - Sexual Harassment for handling complaints regarding sexual harassment. The compliance officer(s) shall receive and coordinate the investigation of complaints and shall ensure district compliance with law.</p>	<p>The district designates the individual(s), position(s), or unit(s) identified below as responsible for receiving, coordinating, and investigating complaints and for complying with state and federal civil rights laws. The individual(s), position(s), or unit(s) also serve as the compliance officer(s) specified in AR 5145.3 - Nondiscrimination/Harassment responsible for handling complaints regarding unlawful discrimination, harassment, intimidation, or bullying and in AR 5145.7 - Sexual Harassment for handling complaints regarding sexual harassment.</p>	<p>CSBA NOTE: 5 CCR 4621 mandates the district to identify in its policies and procedures the person(s), position(s), or unit(s) responsible for ensuring compliance with applicable state and federal laws and regulations governing educational programs, including the receiving and investigating of complaints alleging unlawful discrimination, harassment, intimidation, or bullying and retaliation. During its Federal Program Monitoring (FPM) process, California Department of Education (CDE) staff will check to ensure that the district's procedures list the specific title(s) of the employee(s) responsible for receiving and investigating complaints. Districts should identify the specific title(s) of the compliance officer(s) in the space provided below. If a district identifies multiple compliance officers, it is recommended that one be designated the lead compliance officer.</p> <p>The following paragraph specifies that the compliance officer will be the same person designated to serve as the Title IX Coordinator</p>

				for addressing complaints of sexual harassment pursuant to AR 5145.7 - Sexual Harassment and AR 5145.71 - Title IX Sexual Harassment Complaint Procedures. Districts may modify this regulation to designate different district employees to serve these functions.
2		Assistant Superintendent, Administrative Services 35320 Daggett-Yermo Road Yermo, CA 92398 760-254-2916 ext. 1182	Jeff Youskievicz, Asst. Superintendent, Educational Services 35320 Daggett-Yermo Road Yermo, CA 92398 760-254-2916	
3		The compliance officer who receives a complaint may assign another compliance officer to investigate and resolve the complaint. The compliance officer shall promptly notify the complainant and respondent if another compliance officer is assigned to the complaint.	No change	CSBA NOTE: The following paragraph is for use by districts that have designated more than one compliance officer.
4		In no instance shall a compliance officer be assigned to a complaint in which the compliance officer has a bias or conflict of interest that would prohibit the fair investigation or resolution of the complaint. Any complaint against a compliance officer or that raises a concern about the compliance officer's ability to investigate the complaint fairly and without bias shall be filed with the Superintendent or designee who shall determine how the complaint will be investigated.	No change	
5		The Superintendent or designee shall ensure that employees assigned to investigate and resolve complaints receive training and are knowledgeable about the laws and programs	No change	CSBA NOTE: 5 CCR 4621 mandates that the district's policy requires employees responsible for compliance and/or for investigating and resolving complaints to be

		at issue in the complaints to which they are assigned. Training provided to such 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, harassment, intimidation, or bullying; applicable standards for reaching decisions on complaints; and appropriate corrective measures. Assigned employees may have access to legal counsel as determined by the Superintendent or designee.		knowledgeable about the laws and programs at issue in the complaints they are assigned. Compliance officers must also have training or experience in handling discrimination complaints, including appropriate investigative techniques and understanding of the applicable legal standards.
6		The compliance officer or, if necessary, an appropriate administrator shall determine whether interim measures are necessary during an investigation and while the result is pending. 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 one or more interim measures. The interim measures shall 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.	No change	
		<u>Notifications</u>	No change	
1		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.	No change	
2		In addition, the Superintendent or designee shall annually provide written notification of	No change	CSBA NOTE: During the FPM process, CDE staff will check to ensure that the district's policy

		the district's UPC to students, employees, parents/guardians of district students, district advisory committee members, school advisory committee members, appropriate private school officials or representatives, and other interested parties.		contains a statement ensuring annual dissemination of notice of the district's UCP to the persons specified below.
3		The notice shall include:	No change	CSBA NOTE: 5 CCR 4622 requires the district to include specified information in its annual UCP notice to students, parents/guardians, employees, and others. The following list reflects those required components and additional content of the notice listed in CDE's FPM instrument. A sample of the annual notice is available through CDE's web site. It is the district's responsibility to update the notice as necessary to reflect new law.
	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 a list of all programs and activities that are subject to UCP as identified in the section "Complaints Subject to UCP" in the accompanying Board policy	No change	
	2	The title of the position responsible for processing complaints, the identity of the person(s) currently occupying that position if known, and a statement that such persons will be knowledgeable about the laws and programs that they are assigned to investigate	No change	

3	A statement that a UCP complaint, except a complaint alleging unlawful discrimination, harassment, intimidation, or bullying, must be filed no later than one year from the date the alleged violation occurred	No change	
4	A statement that a UCP complaint alleging unlawful discrimination, harassment, intimidation, or bullying must be filed no later than six months from the date of the alleged conduct or the date the complainant first obtained knowledge of the facts of the alleged conduct	No change	
5	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	No change	
6	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	No change	
7	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	A statement that the district will post a standardized notice of the educational and graduation requirements of foster youth, homeless students, children of military families, and former juvenile court school students now enrolled in the district, as specified in Education Code 48645.7, 48853, 48853.5, 49069.5, 51225.1, and 51225.2, and the complaint process	

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 60 days from the receipt of the complaint, unless this time period is extended by written agreement of the complainant	No change	
9	A statement that, for programs within the scope of the UCP as specified in the accompanying Board policy, the complainant has a right to appeal the district's investigation report 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 30 calendar days of receiving the district's decision	No change	
10	A statement advising the complainant of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal laws prohibiting discrimination, harassment, intimidation, or bullying, if applicable	No change	
11	A statement that copies of the district's UCP are available free of charge	No change	
4	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.	The annual notification, complete contact information of the compliance officer(s), and information related to Title IX as required pursuant to Education Code 221.6 shall be posted on the district and district school web sites and may be provided through district-supported social media, if available.	CSBA NOTE: The following paragraph may be modified to reflect district practice. Pursuant to Education Code 221.61, a district and district school are required to post information related to Title IX on their web sites, including specified information about complaint procedures under Title IX. See AR 5145.3 - Nondiscrimination/Harassment. A school or district that does not maintain a web

				<p>site may comply by posting the information on the web site of its district or county office of education (COE), however a school, district, or COE is not required to establish a web site if it does not maintain one. A comprehensive list of rights based on the provisions of the federal regulations implementing Title IX can be found in Education Code 221.8</p>
5			<p>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.</p>	<p>No change</p> <p>CSBA NOTE: Both federal and state laws contain requirements for translation of certain information and documents. Title VI of the Civil Rights Act of 1964 requires districts to ensure meaningful access to their programs and activities by persons with limited English proficiency. OCR has interpreted this to require that, whenever information is provided to parents/guardians, districts must notify limited-English-proficient (LEP) parents/guardians in a language other than English in order to be adequate. OCR enforces this requirement consistent with the Department of Justice's 2007 Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons. Under the Guidance, a recipient of federal funds has an obligation to provide language assistance to LEP individuals based on the balancing of four factors: (1) the number or proportion of LEP individuals likely to encounter the program, (2) the frequency with which LEP individuals come in contact with the program, (3) the nature and importance of the services provided by the program, and (4) the resources available to the recipient. State law is more specific than federal law: Education Code 48985 requires</p>

					translation of certain information and documents if 15 percent or more of students enrolled in the school speak a single primary language other than English.
6			If 15 percent or more of students enrolled in a particular district school speak a single primary language other than English, the district's UCP policy, regulation, forms, and notices 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.	No change	
			Filing of Complaints	No change	
1			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.	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. If a site administrator not designated as a compliance officer receives a complaint, the site administrator shall notify the compliance officer.	CSBA NOTE: Complaints filed under UCP may be filed directly with a compliance officer or with any site administrator not designated as a compliance officer. For example, acts of unlawful discrimination, harassment, intimidation, or bullying may initially be reported to a principal. See AR 5145.3 - Nondiscrimination/Harassment and AR 5145.7 - Sexual Harassment. If a site administrator not designated as a compliance officer receives a UCP complaint, the site administrator must notify a compliance officer. A district may also establish a site-level process for receiving informal reports about incidents for which a UCP complaint may be filed and notifying students and parents/guardians of their right to file a UCP complaint. Any site-level process established by a district should be in writing and distributed in the same manner as the grievance procedures listed herein with an

					explanation of how it interacts with the UCP complaint process.
2			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.	No change	
3			Complaints shall also be filed in accordance with the following rules, as applicable:	No change	
	1		A complaint alleging district violation of applicable state or federal law or regulations governing the programs specified in the accompanying Board policy may be filed by any individual, public agency, or organization.	No change	
	2		Any complaint alleging noncompliance with law regarding the prohibition against 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.	No change	CSBA NOTE: Education Code 49013 and 52075 mandate districts to adopt procedures that allow for anonymous complaints to be filed when a district allegedly violates the prohibition against the charging of student fees or violates any requirement related to the LCAP.
	3		A UCP complaint, except for a UCP complaint alleging unlawful discrimination, harassment, intimidation, or bullying, shall be filed no later than one year from the date the alleged violation occurred. For complaints related to the LCAP, the date of the alleged violation is the date when the County Superintendent of Schools approves the LCAP that was adopted by the Board.	No change	CSBA NOTE: Pursuant to 5 CCR 4630, complaints related to the LCAP must be filed within a year of the date that the County Superintendent of Schools, the reviewing authority for districts, approves the district's LCAP.

4		A complaint alleging unlawful discrimination, harassment, intimidation, or bullying may be filed only by a person who alleges having personally suffered unlawful discrimination, a person who believes that any specific class of individuals has been subjected to unlawful discrimination, or a duly authorized representative who alleges that an individual student has been subjected to discrimination, harassment, intimidation, or bullying.	No change	
5		A complaint alleging unlawful discrimination, harassment, intimidation, or bullying shall be initiated no later than six months from the date that the alleged unlawful discrimination occurred, or six months from the date that the complainant first obtained knowledge of the facts of the alleged unlawful discrimination. 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.	No change	
6		When a complaint alleging unlawful discrimination, harassment, intimidation, 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.	No change	
7		When a complainant of unlawful discrimination, harassment, intimidation, 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	No change	CSBA NOTE: Districts should consult legal counsel before honoring a confidentiality request to withhold the victim's name from the alleged perpetrator, especially in the case of alleged sexual assault, as this may affect the district's ability to conduct a thorough

		limit the district's ability to investigate the conduct or take other necessary action. When honoring a request for confidentiality, the district shall nevertheless take all reasonable steps to investigate and resolve/respond to the complaint consistent with the request.		<p>investigation or provide supportive measures to the victim. In OCR's Part 1: Questions and Answers Regarding the Department's Title IX Regulations, it is stated that, "Title IX regulations balance a complainant's desire for confidentiality (in terms of, for instance, the complainant's identity not being disclosed to the respondent) with a school's discretion to pursue an investigation where factual circumstances warrant an investigation even though the complainant does not desire to file a formal complaint or participate in a grievance process."</p> <p>These guiding principles would also apply to harassment on the basis of race, gender, disability, or other protected characteristic.</p>
		<u>Mediation</u>	No change	
1		Within three business days after receiving the complaint, the compliance officer may informally discuss with all the parties the possibility of using mediation to resolve the complaint. 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.	No change	<p>CSBA NOTE: The following section should be used only by those districts that have decided to establish procedures for attempting to resolve complaints through alternative dispute resolution (ADR) procedures such as mediation; see the accompanying Board policy. The following section may be modified to specify the ADR method and timelines used within the district.</p> <p>Districts may not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student; see AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.</p>
2		Before initiating the mediation of a complaint alleging retaliation or unlawful discrimination, harassment, intimidation, or bullying, the	No change	

		compliance officer shall ensure that all parties agree to permit the mediator access to all relevant confidential information. The compliance officer shall also notify all parties of the right to end the informal process at any time.		
3		If the mediation process does not resolve the problem within the parameters of law, the compliance officer shall proceed with an investigation of the complaint.	No change	
4		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. If mediation is successful and the complaint is withdrawn, then the district shall take only the actions agreed upon through the mediation. If mediation is unsuccessful, the district shall then continue with subsequent steps specified in this administrative regulation.	No change	
		<u>Investigation of Complaint</u>	No change	
1		Within 10 business days after the compliance officer receives the complaint, the compliance officer shall begin an investigation into the complaint.	No change	CSBA NOTE: 5 CCR 4631, which requires the district to provide the complainant with the opportunity to present relevant information, does not provide any timeline. Thus, the timeline specified below may be modified to reflect district practice.
2		Within one business day of initiating the investigation, the compliance officer shall provide the complainant and/or the complainant's representative with the opportunity to present the information contained in complaint to the compliance officer and shall notify the complainant	No change	

		and/or 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.		
3		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. At appropriate intervals, the compliance officer shall inform both parties of the status of the investigation.	No change	CSBA NOTE: During the investigation, the compliance officer should consider all relevant circumstances, such as how the alleged misconduct affected one or more students' education; the type, frequency, and duration of the misconduct; the identity, age, and sex of the individuals involved in and impacted by the conduct and the relationship between them; the number of persons engaged in the conduct and at whom the conduct was directed; the size of the school, location of the incidents, and context in which they occurred; and other incidents at the school involving different individuals.
4		To investigate a complaint alleging retaliation or unlawful discrimination, harassment, intimidation, or bullying, the compliance officer shall interview the alleged victim(s), any alleged offender(s), and other relevant witnesses privately, separately, and in a confidential manner. As necessary, additional staff or legal counsel may conduct or support the investigation.	No change	
5		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 any other obstruction of	No change	CSBA NOTE: 5 CCR 4631 allows the district to dismiss a complaint when the complainant refuses to provide the investigator with relevant documents or otherwise obstructs the investigation. 5 CCR 4631 also provides

		the investigation may result in the dismissal of the complaint because of a lack of evidence to support the allegation. Refusal by the district to provide the investigator with access to records and/or information related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or 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.		that, if the district refuses to provide the investigator with access to records or other documents, the investigator may issue a finding in favor of the complainant. During the FPM process, CDE staff will check to ensure that both of these statements regarding the provision of access to information are included in the district's policy or procedures, as specified below.
		<u>Timeline for Investigation Report</u>	No change	
1		Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant a written investigation report, as described in the section "Investigation Report" below, within 60 calendar days of the district's receipt of the complaint.	No change	<p>CSBA NOTE: Pursuant to 5 CCR 4631, the district's investigation report must be sent to the complainant within 60 calendar days of receiving the complaint. Option 1 below is for districts that do not allow complainants to appeal the compliance officer's decision to the Governing Board. Option 2 is for districts that allow appeals to the Board, and it requires the compliance officer's decision within 30 calendar days so that the Board's decision can still be given within the 60-day time limit.</p> <p>Pursuant to 5 CCR 4631, only a complainant has the right to receive the investigation report and to file a complaint with the Board if dissatisfied with the compliance officer's decision. However, under certain circumstances, some of the same rights should be extended to a respondent in order to make the process equitable. For example, since the respondent to a complaint alleging unlawful discrimination, harassment, intimidation, or bullying is usually an individual, the respondent should be notified when the</p>

				<p>complainant has agreed to an extension of timelines. Options 1 and 2 reflect these recommendations and may be modified to reflect district practice. When questions arise as to what rights to provide to a respondent, the district should consult legal counsel accordingly.</p> <p>Pursuant to 5 CCR 4640, when a UCP complaint is erroneously sent to CDE without first being filed with the district, the 60-day period specified in 5 CCR 4631 begins when the district receives the complaint.</p>
2		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 investigation report at the same time it is provided to the complainant.	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.	
3		If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 60 calendar days of the district's initial receipt of the complaint or within the time period that has been specified in a written agreement with the complainant.	Delete	
4		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, shall be sent the district's investigation report, and, in the same manner as the complainant, may file a complaint with the Board if dissatisfied with the decision.	Delete	

		<u>Investigation Report</u>	No change	
1		For all complaints, the district's investigation report shall include:	No change	CSBA NOTE: 5 CCR 4631 specifies components that are required to be part of the district's investigation report. Inclusion of these items will help protect the district's position in case of an appeal to CDE, a complaint submitted to OCR, or if litigation is filed.
	1	The findings of fact based on the evidence gathered	No change	
	2	A conclusion providing a clear determination for each allegation as to whether the district is in compliance with the relevant law	No change	
	3	Corrective action(s) whenever the district finds merit in the complaint, including, when required by law, a remedy to all affected students and parents/guardians and, for a student fees complaint, a remedy that complies with Education Code 49013 and 5 CCR 4600	No change	
	4	Notice of the complainant's right to appeal the district's investigation report to CDE, except when the district has used the UCP to address a complaint not specified in 5 CCR 4610	No change	
	5	Procedures to be followed for initiating an appeal to CDE	No change	
2		The investigation report may also include follow-up procedures to prevent recurrence or retaliation and for reporting any subsequent problems.	No change	
3		In consultation with district legal counsel, information about the relevant part of an investigation report may be communicated to	No change	CSBA NOTE: The Family Educational Rights and Privacy Act (FERPA) (20 USC 1232g; 34 CFR 99.1-99.67) protects student privacy, including

		<p>a victim who is not the complainant and to other parties who may be involved in implementing the investigation report or are affected by the complaint, as long as the privacy of the parties is protected. In a complaint alleging unlawful discrimination, harassment, intimidation, and bullying, notice of the investigation report to the alleged victim shall include information about any sanction to be imposed upon the respondent that relates directly to the alleged victim.</p>		<p>student records containing details of the actions taken in response to a UCP complaint. However, pursuant to 20 USC 1221, FERPA may not "be construed to affect the applicability of Title VI of the Civil Rights Act of 1964, Title IX of Education Amendments of 1972, Title V of the Rehabilitation Act of 1973, the Age Discrimination Act, or other statutes prohibiting discrimination, to any applicable program." In February 2015, the Family Policy Compliance Office (FPCO), now the Student Privacy Policy Office, released a letter concluding that FERPA permits a district to disclose to a student who was subjected to unlawful discrimination certain information about the sanctions imposed upon the respondent when the sanctions directly relate to that student. Thus, if properly remedying the impact of discrimination would require disclosing to the alleged victim certain information on how the district disciplined the respondent (e.g., an order that the respondent stay away from the alleged victim), FPCO interprets FERPA as allowing the district to disclose that information.</p> <p>Given the potential liability from improperly disclosing such information, districts are advised to consult with legal counsel when presented with a situation where a victim of unlawful discrimination requests information about sanctions imposed upon the respondent.</p>
4		<p>If the complaint involves a Limited-English-proficient (LEP) student or parent/guardian, then the district's response, if requested by the complainant, and the investigation report</p>	<p>No change</p>	<p>CSBA NOTE: Education Code 48985 requires that reports sent to parents/guardians be written in their primary language when 15 percent or more of a school's enrolled</p>

		shall be written in English and the primary language in which the complaint was filed.		students speak a single primary language other than English. During the FPM process, CDE staff will check to ensure that UCP complaint procedures pertaining to CSPP health and safety issues include a statement that the district response and the investigation report must, whenever Education Code 48985 is applicable, be written in English and the primary language in which the complaint was filed; see the section "Health and Safety Complaints in License-Exempt Preschool Programs" below. The following paragraph extends this provision to all types of complaints to ensure compliance with Education Code 48985. In addition, based on Title VI of the Civil Rights Act of 1964, OCR requires districts to ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.
5		For complaints alleging unlawful discrimination, harassment, intimidation, and bullying based on state law, the investigation report shall also include a notice to the complainant that:	No change	CSBA NOTE: During the FPM process, CDE staff will expect to see a statement detailing a complainant's right to pursue civil law remedies (i.e., action in a court of law) in addition to or in conjunction with the right to pursue administrative remedies from CDE.
	1	The complainant may pursue available civil law remedies outside of the district's complaint procedures, including seeking assistance from mediation centers or public/private interest attorneys, 60 calendar days after the filing of an appeal with CDE.	The complainant may pursue available civil law remedies outside of the district's complaint procedures, including, but not limited to, injunctions, restraining orders or other remedies or orders, 60 calendar days after the filing of an appeal with CDE.	
	2	The 60 days' moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law.	No change	

	3	Complaints alleging discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the U.S. Department of Education, Office for Civil Rights at www.ed.gov/ocr within 180 days of the alleged discrimination.	No change	
		<u>Corrective Actions</u>	No change	
1		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.	No change	CSBA NOTE: The following section may be revised to reflect district practice.
2		For complaints involving retaliation or unlawful discrimination, harassment, intimidation, or bullying, appropriate remedies that may be offered to the victim but not communicated to the respondent may include, but are not limited to, the following:	No change	
	1	Counseling	No change	
	2	Academic support	No change	
	3	Health services	No change	
	4	Assignment of an escort to allow the victim to move safely about campus	No change	
	5	Information regarding available resources and how to report similar incidents or retaliation	No change	
	6	Separation of the victim from any other individuals involved, provided the separation does not penalize the victim	No change	

	7	Restorative justice	No change	
	8	Follow-up inquiries to ensure that the conduct has stopped and there has been no retaliation	No change	
3		For complaints of retaliation or unlawful discrimination, harassment, intimidation, or bullying involving a student as the respondent, appropriate corrective actions that may be provided to the student include, but are not limited to, the following:	No change	
	1	Transfer from a class or school as permitted by law	No change	
	2	Parent/guardian conference	No change	
	3	Education regarding the impact of the conduct on others	No change	
	4	Positive behavior support	No change	
	5	Referral to a student success team	No change	
	6	Denial of participation in extracurricular or co-curricular activities or other privileges as permitted by law	No change	
	7	Disciplinary action, such as suspension or expulsion, as permitted by law	No change	
4		When an employee is found to have committed retaliation or unlawful discrimination, 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.	No change	
5		The district may also consider training and other interventions for the larger school community to ensure that students, staff, and	No change	

		parents/guardians understand the types of behavior that constitute unlawful discrimination, harassment, intimidation, or bullying, that the district does not tolerate it, and how to report and respond to it.		
6		When a complaint is found to have merit, an appropriate remedy shall be provided to the complainant or other affected person.	No change	CSBA NOTE: Generally, when a complaint is found to have merit, an appropriate remedy is provided to the complainant or other affected person. However, in certain instances, the law may require a remedy to be provided to all affected persons, not just the complainant or subject of the complaint. For example, pursuant to Education Code 49013 and 5 CCR 4600, if the district, or CDE on appeal, finds merit in the complaint alleging noncompliance with the law regarding student fees and charges, the district is required to provide a remedy to all affected students and parents/guardians, as specified below. The same requirement applies to allegations of noncompliance with required instructional minutes for physical education pursuant to Education Code 51222 and 51223, course periods without educational content pursuant to Education Code 51228.3, and the LCAP requirements pursuant to Education Code 52075. Districts that do not maintain elementary schools should delete the reference to physical education below.
7		However, if a complaint alleging noncompliance with the law regarding student fees, deposits, and other charges, physical education instructional minutes, courses without educational content, or any requirement related to the LCAP is found to have merit, the district shall provide a remedy	No change	

		to all affected students and parents/guardians subject to procedures established by regulation of the State Board of Education.		
8		For complaints alleging noncompliance with the law regarding student fees, the district, by engaging in reasonable efforts, shall attempt in good faith 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.	No change	
		<u>Appeals to the California Department of Education</u>	No change	
1		Any complainant who is dissatisfied with the district's investigation report on a complaint regarding any specified federal or state educational program subject to UCP may file an appeal in writing with CDE within 30 calendar days of receiving the district's investigation report.	No change	
2		The appeal shall be sent to CDE with a copy of the original locally filed complaint and a copy of the district's investigation report for that complaint. The complainant shall specify and explain the basis for the appeal, including at least one of the following:	No change	
	1	The district failed to follow its complaint procedures	No change	
	2	Relative to the allegations of the complaint, the district's investigation report lacks material findings of fact necessary to reach a conclusion of law	No change	
	3	The material findings of fact in the district's investigation report are not supported by substantial evidence	No change	

	4	The legal conclusion in the district's investigation report is inconsistent with the law	No change	
	5	In a case in which the district found noncompliance, the corrective actions fail to provide a proper remedy	No change	
3		Upon notification by CDE that the district's investigation report has been appealed, the Superintendent or designee shall forward the following documents to CDE within 10 days of the date of notification:	No change	CSBA NOTE: 5 CCR 4633 requires the district to submit the following documents to CDE within 10 days after the district has been notified that an appeal has been filed. The district's failure to provide a timely and complete response may result in CDE ruling on the appeal without considering information from the district.
	1	A copy of the original complaint	No change	
	2	A copy of the district's investigation report	No change	
	3	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	No change	
	4	A report of any action taken to resolve the complaint	No change	
	5	A copy of the district's UCP	No change	
	6	Other relevant information requested by CDE	No change	
4		If notified by CDE that the district's investigation report failed to address allegation(s) raised by the complaint, the district shall, within 20 days of the notification, provide CDE and the appellant with an amended investigation report that addresses the allegation(s) that were not addressed in the original investigation report.	No change	

			The amended report shall also inform the appellant of the right to separately appeal the amended report with respect to the allegation(s) that were not addressed in the original report.		
			<u>Health and Safety Complaints in License-Exempt Preschool Programs</u>	No change	<p>CSBA NOTE: Pursuant to 5 CCR 4633, CDE is required to issue a written decision regarding the appeal within 60 days of CDE's receipt of the appeal, unless extended by written agreement with the appellant or documentation by CDE of exceptional circumstances. Pursuant to 5 CCR 4635, if CDE's decision was issued based on evidence in the investigation file CDE received from the district or evidence uncovered after further investigation of the allegations that were the basis of the appeal, either party may request reconsideration by the Superintendent of Public Instruction or designee within 30 days of the appeal decision.</p> <p>Pursuant to 5 CCR 4650, CDE may directly intervene in a complaint without waiting for action by the district when certain conditions exist, including the following: (1) the complaint alleges failure to comply with the UCP, including failure to follow the required timelines and failure to implement the final investigation report; (2) the complainant requests anonymity due to the possibility of retaliation and would suffer immediate and irreparable harm if a complaint was filed and the complainant was named; or (3) the complainant would suffer immediate and irreparable harm as a result of an application of a districtwide policy that is in conflict with</p>

				state or federal law and that filing a complaint would be futile.
1		Any complaint regarding health or safety issues in a license-exempt CSPP program shall be addressed through the procedures described in 5 CCR 4690-4694.	Any complaint regarding health or safety issues in a license-exempt California State Preschool Program (CSPP) shall be addressed through the procedures described in 5 CCR 4690-4694.	<p>CSBA NOTE: The following section is for use by districts that operate any license-exempt CSPP program. Education Code 8212, as renumbered by AB 131 (Ch. 116, Statutes of 2021), mandates districts to adopt policies and procedures for resolving complaints regarding specified health and safety issues in a license-exempt CSPP program. Pursuant to Education Code 8212, the district must use the UCP, with modifications as necessary, to resolve such complaints. Pursuant to 5 CCR 4610, such complaints must be addressed through the procedures described in 5 CCR 4690-4694.</p> <p>See the accompanying exhibits for a sample classroom notice and complaint form.</p>
2		In order to identify appropriate subjects of CSPP health and safety issues pursuant to Health and Safety Code 1596.7925, a notice shall be posted in each license-exempt CSPP classroom in the district notifying parents/guardians, students, and teachers of the health and safety requirements of Title 5 regulations that apply to CSPP programs pursuant to Health and Safety Code 1596.7925 and the location at which to obtain a form to file any complaint alleging noncompliance with those requirements. For this purpose, the Superintendent or designee may download and post a notice available from the CDE web site.	No change	
3		The district's annual UCP notification distributed pursuant to 5 CCR 4622 shall	No change	

		clearly indicate which of its CSPP programs are operating as exempt from licensing and which CSPP programs are operating pursuant to requirements under Title 22 of the Code of Regulations.		
4		Any complaint regarding specified health or safety issues in a license-exempt CSPP program shall be filed with the preschool program administrator or designee, and may be filed anonymously. The complaint form shall specify the location for filing the complaint, contain a space to indicate whether the complainant desires a response to the complaint, and allow a complainant to add as much text as desired to explain the complaint.	No change	
5		If it is determined that the complaint is beyond the authority of the preschool program administrator, the matter shall be forwarded to the Superintendent or designee in a timely manner, not to exceed 10 working days, for resolution. The preschool administrator or the Superintendent or designee shall make all reasonable efforts to investigate any complaint within their authority.	No change	
6		Investigation of a complaint regarding health or safety issues in a license-exempt CSPP program shall begin within 10 days of receipt of the complaint.	No change	
7		The preschool administrator or designee shall remedy a valid complaint within a reasonable time period not to exceed 30 working days from the date the complaint was received. If the complainant has indicated on the	No change	

		complaint form a desire to receive a response to the complaint, the preschool administrator or Superintendent's designee shall, within 45 working days of the initial filing of the complaint, report the resolution of the complaint to the complainant and CDE's assigned field consultant. If the preschool administrator makes this report, the information shall be reported at the same time to the Superintendent or designee.		
8		If a complaint regarding health or safety issues in a license-exempt CSPP program involves a Limited-English-proficient student or parent/guardian, then the district's response, if requested by the complainant, and the investigation report shall be written in English and the primary language in which the complaint was filed.	If a complaint regarding health or safety issues in a license-exempt CSPP program involves an LEP student or parent/guardian, then the district's response, if requested by the complainant, and the investigation report shall be written in English and the primary language in which the complaint was filed.	CSBA NOTE: Education Code 48985 requires that reports sent to parents/guardians be written in their primary language when 15 percent or more of a school's enrolled students speak a single primary language other than English. During the FPM process, CDE staff will check to ensure compliance with this requirement. Based on Title VI of the Civil Rights Act of 1964, OCR requires districts to ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.
9		If a complainant is not satisfied with the resolution of a complaint, the complainant has the right to describe the complaint to the Board at a regularly scheduled meeting and, within 30 days of the date of the written report, may file a written appeal of the district's decision to the Superintendent of Public Instruction in accordance with 5 CCR 4632.	If a complainant is not satisfied with the resolution of a complaint, the complainant has the right to describe the complaint to the Board at a regularly scheduled hearing and, within 30 days of the date of the written report, may file a written appeal of the district's decision to the Superintendent of Public Instruction in accordance with 5 CCR 4632.	
10		All complaints and responses are public records.	No change	
11		On a quarterly basis, the Superintendent or designee shall report summarized data on the	No change	

		nature and resolution of all CSPP health and safety complaints, including the number of complaints by general subject area with the number of resolved and unresolved complaints, to the Board at a regularly scheduled Board meeting and to the County Superintendent of Schools.		
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Created: 1/28/2022