

BOARD POLICY 1312.3: UNIFORM COMPLAINT PROCEDURES

Comparison Matrix

Section: Community Relations

SUMMARY OF UPDATE

Summary of Update: Policy updated to reflect **NEW FEDERAL REGULATIONS (89 Fed. Reg. 33474)** which (1) require a district with knowledge of alleged conduct, which occurs in a district program or activity on or after August 1, 2024, that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct, and (2) clarify that discrimination on the basis of sex, including sex-based harassment, for the purpose of Title IX includes sex stereotypes; sex characteristics; gender identity; sexual orientation; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions or recovery; and parental, marital, and family status. Additionally, policy updated to reflect **NEW LAW (SB 153, 2024)** which prohibits the Governing Board from adopting or approving the use of any textbook, instructional material, supplemental instructional material, or curriculum for classroom instruction if the use would subject a student to unlawful discrimination in accordance with specified state law. In addition, policy updated to clarify that the uniform complaint procedures should not be used to investigate and resolve employment discrimination complaints, and reflect **NEW LAW (AB 714, 2023)** which exempts "newcomer students" from district adopted graduation requirements, transfer of coursework and credit requirements, and specified consultation and notice requirements, formerly applicable to students in the third or fourth year of high school participating in a newcomer program.

CSBA NOTE: To address prohibited discrimination and violations of state and federal laws governing educational programs, 5 CCR 4621 mandates districts to adopt uniform complaint procedures (UCP) consistent with the state's complaint procedures specified in 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, and Education Code 8212 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 (such as discriminatory harassment, intimidation, or bullying). For example, 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 110.25 to adopt policies and procedures to address discrimination on the basis of age. The following policy contains a list of programs and activities subject to these procedures pursuant to state law; see the section "Complaints Subject to UCP", below.

The California Department of Education (CDE) monitors district programs and operations for compliance with these requirements through its Federal Program Monitoring (FPM) process. The FPM consists of a review of (1) written district policies and procedures for required statements, including prohibition of discrimination (such as discriminatory harassment, intimidation, and bullying) against students pursuant to Education Code 234.1 and (2) records of required activities, such as annual notification provided to students, parents/guardians, employees, and other school community members.

CURRENT VERSION			REVISED VERSION	CSBA MODIFICATIONS and/or NOTES
PARA	Section	Sub-Section	March 8, 2022	

1		<p>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 adopts the uniform system of complaint processes specified in 5 CCR 4600-4670 and the accompanying administrative regulation.</p>	<p>No change</p>	<p>The U.S. Department of Education's Office for Civil Rights (OCR) enforces federal anti-discrimination laws, including Title II of the Americans with Disabilities Act (42 USC 12101-12213), Title VI of the Civil Rights Act of 1964 (42 USC 2000d-2000d-7), Title IX of the Education Amendments Act of 1972 (20 USC 1681-1688), Section 504 of the Rehabilitation Act of 1973 (29 USC 794), and the Age Discrimination Act of 1975 (42 USC 6101-6107). Pursuant to 34 CFR 106.1-106.82, as amended by the 89 Fed. Reg. 33474, districts are required to follow the Title IX grievance procedures when investigating and resolving Title IX sex discrimination complaints based on conduct that occurred on or after August 1, 2024. See BP/AR 5145.7 - Sex Discrimination and Sex-Based Harassment and AR/E(1) 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures. As such a complaint may also fall within the scope of the UCP, it is unclear whether districts would additionally be required to follow the UCP. Due to this uncertainty, it is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel prior to utilizing the UCP for this purpose.</p>
		<p><u>Complaints Subject to UCP</u></p>	<p>No change</p>	
1		<p>The district's uniform complaint procedures (UCP) shall be used to investigate and resolve complaints regarding the following programs and activities:</p>	<p>No change</p>	<p>CSBA NOTE: The FPM process includes a review of a district's policies and procedures to determine whether all district programs and activities that are subject to the UCP, as listed in the FPM instrument, are addressed. According to CDE, the district's policy must list all such programs and activities and, at the district's discretion, may add a paragraph below the list stating the UCP programs and</p>

				activities that are implemented in the district. For further information regarding requirements for the following programs and activities, see the law cited and/or related CSBA policy and/or administrative regulation.
	1	Accommodations for pregnant and parenting students	No change	
	2	Adult education programs	No change	
	3	After School Education and Safety programs	No change	
	4	Agricultural career technical education	No change	
	5	Career technical and technical education and career technical and technical training programs	No change	
	6	Child care and development programs	No change	
	7	Compensatory education	No change	
	8	Consolidated categorical aid programs	No change	
	9	Course periods without educational content	No change	
	10	Discrimination, harassment, intimidation, or bullying in district programs and activities, including in those programs or activities funded directly by or that receive or benefit from any state financial assistance, based on a person's actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, immigration status, ethnic group identification, age, religion, marital status, pregnancy, parental status, physical or mental disability, medical condition, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code 200 or 220, Government Code 11135, or Penal Code 422.55, or based on the person's association with a person or group	Discrimination, harassment, intimidation, or bullying in district programs and activities, including in those programs or activities funded directly by or that receive or benefit from any state financial assistance, based on a person's actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, immigration status, ethnic group identification, age, religion, physical or mental disability, medical condition, or genetic information; any other characteristic identified in Education Code 200 or 220, Government Code 11135, or Penal Code 422.55; or based on the person's association with a person or group with one or more of these actual or perceived characteristics	CSBA NOTE: As noted above, it is unclear whether districts are required to follow the UCP in addition to the Title IX grievance procedures when investigating and resolving a Title IX sex discrimination complaint based on conduct that occurred on or after August 1, 2024. As a result, Item #10 below does not list discrimination, harassment, intimidation, or bullying in district programs and activities based on sex. It is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel prior to including discrimination, harassment, intimidation, or bullying in district programs and activities based on sex in Item #10. See Item #3 in the Non-UCP Complaint section.

		with one or more of these actual or perceived characteristics		
			<p><i>10 (2) Discrimination includes, but is not limited to, the Board's refusal to approve the use or prohibit the use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or other resource in a school library, on the basis that it includes a study of the role and contributions of any individual or group consistent with the requirements of Education Code 51204.5 and 60040, unless such study would violate Education Code 51501 or 60044. Additionally, discrimination includes, but is not limited to, the Board's adoption or approval of use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or other resource in a school library if the use would subject a student to unlawful discrimination pursuant to Education Code 220. A complaint alleging such unlawful discrimination may, in addition to or in lieu of being filed with the district, be directly filed with the Superintendent of Public Instruction (SPI).</i></p>	<p>New paragraph added CSBA NOTE: Education Code 243, as added by AB 1078 (Ch. 229, Statutes of 2023), clarifies when it is unlawful discrimination for the Governing Board to (1) refuse to approve the use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or resource in a school library or (2) prohibit the use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or resource in a school library. The Board may not refuse to approve such use on the basis that the material includes a study of the role and contributions of specified individuals or groups, unless the study of the role and contributions reflects adversely upon legally protected groups. Additionally, the Board may not prohibit such use on the basis that the study of the role and contributions contain inclusive or diverse perspectives. Any Board action to ban or censor a textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction on any of the bases described above may also constitute unlawful discrimination under Education Code 220. In addition, pursuant to Education Code 244, as added by SB 153 (Ch. 38, Statutes of 2024), the Board is prohibited from adopting or approving the use of any textbook, instructional material, supplemental instructional material, or curriculum for classroom instruction if the use would subject a student to unlawful discrimination pursuant</p>

					<p>to Education Code 220.</p> <p>Complaints alleging discrimination based on a violation of Education Code 243, as added by AB 1078, or Education Code 244, as added by SB 153, may be brought under the district's UCP or may be filed directly with the Superintendent of Public Instruction (SPI). Complaints that are filed directly with the SPI are required to identify the basis for doing so, and present evidence that supports the basis for the direct filing. In such cases, the SPI may directly intervene without waiting for an investigation by the district. For more information regarding complaints concerning instructional materials, see BP/AR 1312.2 - Complaints Concerning Instructional Materials and AR 1312.4 - Williams Uniform Complaint Procedures.</p> <p>Education Code 242, as added by AB 1078, requires CDE to develop, by July 1, 2025, guidance and public educational materials to ensure that all Californians can access information about educational laws and policies that safeguard the right to an accurate and inclusive curriculum.</p> <p>For more information regarding instructional materials adoption, see BP/AR/E(1) 6161.1 - Selection and Evaluation of Instructional materials, CSBA's publication, "Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities," and corresponding Fact Sheet and Reference, and the California Attorney General's, "Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books."</p>
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			<i>10 (3) The UCP shall not be used to investigate and resolve employment discrimination complaints.</i>	New paragraph added
11		Educational and graduation requirements for students in foster care, homeless students , students from military families, and students formerly in a juvenile court school	Educational and graduation requirements for students in foster care, <i>students experiencing</i> homelessness, students from military families, students formerly in a juvenile court school, <i>students who are migratory, and newcomer students</i>	CSBA NOTE: Pursuant to Education Code 51225.1 and 51225.2, as amended by AB 714 (Ch. 342, Statutes of 2023), exemptions from district adopted graduation requirements, transfer of coursework and credit requirements, and specified consultation and notice requirements, formerly applicable to students in the third or fourth year of high school participating in a newcomer program, are applicable to "newcomer students," as defined in Education Code 51225.2, who are in the third or fourth year of high school.
12		Every Student Succeeds Act	No change	
13		Local control and accountability plan	No change	
14		Migrant education	No change	
15		Physical education instructional minutes	No change	
16		Student fees	No change	
17		Reasonable accommodations to a lactating student	No change	
18		Regional occupational centers and programs	No change	
19		School plans for student achievement as required for the consolidated application for specified federal and/or state categorical funding	No change	
20		School safety plans	Delete	
21		School site councils as required for the consolidated application for specified federal and/or state categorical funding	No change except number	
22		State preschool programs	No change except number	
23		State preschool health and safety issues in license-exempt programs	No change except number	CSBA NOTE: Pursuant to Education Code 8212, and CDE's 2023-24 FPM instrument, which is

				subject to change as the 2024-25 FPM instrument has not yet been released, the district must use the UCP, with modifications as necessary, to resolve complaints alleging deficiencies related to health and safety issues in license-exempt CSPPs. Pursuant to 5 CCR 4610, such complaints must be addressed through the procedures described in 5 CCR 4690-4694. See the section "Health and Safety Complaints in License-Exempt Preschool Programs" in the accompanying administrative regulations.
	24	Any complaint alleging retaliation against a complainant or other participant in the complaint process or anyone who has acted to uncover or report a violation subject to this policy	No change except number	CSBA NOTE: 5 CCR 4621 mandates that district policy ensure that complainants are protected from retaliation as specified in item #23 below.
	25	Any other state or federal educational program the Superintendent of Public Instruction or designee deems appropriate	No change	
2		The Board recognizes that alternative dispute resolution (ADR) can, depending on the nature of the allegations, offer a process for resolving a complaint in a manner that is acceptable to all parties. An ADR process such as mediation may be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint involving sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. The Superintendent or designee shall ensure that the use of ADR is consistent with state and federal laws and regulations.	The Board recognizes that alternative dispute resolution (ADR) can, depending on the nature of the allegations, offer a process for resolving a complaint in a manner that is acceptable to all parties. An ADR process such as mediation may be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint 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 federal, <i>state, and local laws</i> and regulations.	CSBA NOTE: 5 CCR 4631 authorizes the district to utilize alternative dispute resolution (ADR) methods, including mediation, to resolve complaints before initiating a formal investigation. However, the district should ensure that any ADR it uses, particularly "in-person ADR," is appropriate for the particular situation. For example, in some instances, face-to-face mediation should not be used, even if all parties voluntarily agree, given the risk that a student might feel pressured to "voluntarily" agree to it. The following optional paragraph provides for a neutral mediator and should be revised to reflect district practice.

3		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 different from the complainant, confidential when appropriate and as long as the integrity of the complaint process is maintained.	No change	CSBA NOTE: The following paragraph is mandated pursuant to 5 CCR 4621. Since appropriate disclosure will vary in each case depending on the facts and circumstances, it is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel.
4		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.	No change	
5		The Superintendent or designee shall provide training to district staff to ensure awareness and knowledge of current law and requirements related to UCP, including the steps and timelines specified in this policy and the accompanying administrative regulation.	No change	
6		The Superintendent or designee shall maintain a record of each complaint and subsequent related actions, including steps taken during the investigation and all information required for compliance with 5 CCR 4631 and 4633.	No change	CSBA NOTE: It is important to maintain records of all UCP complaints and the investigations of those complaints. If the district is investigated by OCR or CDE, these are important documents in demonstrating that the district has complied with federal law, state law, and its own policies and regulations.
		Non-UCP Complaints	No change	
1		The following complaints shall not be subject to the district's UCP but shall be investigated	No change	

		and resolved by the specified agency or through an alternative process:		
1		Any complaint alleging child abuse or neglect shall be referred to the County Department of Social Services Protective Services Division and the appropriate law enforcement agency.	Any complaint alleging child abuse or neglect shall be referred to the County Department of Social Services Protective Services Division <i>or</i> the appropriate law enforcement agency	
2		Any complaint alleging health and safety violations by a child development program shall, for licensed facilities, be referred to Department of Social Services.	No change	
3		Any complaint alleging that a student, while in an education program or activity in which the district exercises substantial control over the context and respondent, was subjected to sexual harassment as defined in 34 CFR 106.30 shall be addressed through the federal Title IX complaint procedures adopted pursuant to 34 CFR 106.44-106.45, as specified in AR 5145.71 Title IX Sexual Harassment Complaint Procedures.	Any complaint alleging that a student, while in an education program or activity, was subjected to <i>conduct known to the district that may reasonably constitute sex discrimination under Title IX, including sex-based harassment, as defined in 34 CFR 106.2</i>	CSBA NOTE: 34 CFR 106.2 and 106.10, as amended by 89 Fed. Reg. 33474, clarify that discrimination on the basis of sex for the purpose of Title IX includes discrimination on the basis of sex stereotypes; sex characteristics; sexual orientation; gender identity; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions or recovery; and parental, marital, and family status. While the phrases "gender" and "gender expression" are not explicitly included, they are implied by the definitions of those terms that are explicitly included.
			3 (2) Discrimination on the basis of sex includes sex stereotypes; sex characteristics; sexual orientation; gender; gender identity; gender expression; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions or recovery; and parental, marital, and family status. Such a complaint shall be addressed through the federal Title IX complaint procedures adopted pursuant to 34 CFR 106.44-106.45, as specified in Administrative Regulation 5145.71 - Title IX Sex Discrimination and	New paragraph added

				Sex-Based Harassment Complaint Procedures.	
	4		<p>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.</p>	<p><i>Except for</i> complaints alleging <i>sex</i> discrimination, <i>including sex-based harassment, any complaint alleging employment discrimination</i> or harassment shall be investigated and resolved by the district in accordance with the procedures specified in Administrative Regulation 4030 - Nondiscrimination in Employment, including the right to file the complaint with the California <i>Civil Rights Department</i></p>	<p>New paragraph added CSBA NOTE: Complaints of employment discrimination are not subject to the UCP. Instead, pursuant to 2 CCR 11023, the district must establish an impartial and prompt process for addressing such complaints. In addition, 5 CCR 4611 requires that employment discrimination complaints be referred to the Civil Rights Department.</p> <p>However, pursuant to 34 CFR 106.1-106.82, as amended by 89 Fed. Reg. 33474, districts are required to follow the Title IX grievance procedures when investigating and resolving employment complaints alleging sex discrimination based on conduct that occurred on or after August 1, 2024. See BP/AR 4119.11/4219.11/4319.11 - Sex Discrimination and Sex-Based Harassment and AR/E(1) 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures. As such a complaint may also fall within the process specified in AR 4030 - Nondiscrimination in Employment, it is unclear whether districts would additionally be required to follow the complaint procedures specified in AR 4030 - Nondiscrimination in Employment. Due to this uncertainty, it is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel prior to utilizing the procedures specified in AR 4030 - Nondiscrimination in Employment for this purpose. See AR 4030 - Nondiscrimination in Employment for applicable complaint procedures.</p>

			Employment complaints alleging sex discrimination, including sex-based harassment, shall be investigated and resolved as specified in 34 CFR 106.44 and 106.45 and Administrative Regulation 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.	New paragraph added
	5	Any complaint alleging a violation of a state or federal law or regulation related to special education, a settlement agreement related to the provision of a free appropriate public education (FAPE), failure or refusal to implement a due process hearing order to which the district is subject, or a physical safety concern that interferes with the district's provision of FAPE shall be submitted to the California Department of Education (CDE) in accordance with AR 6159.1 - Procedural Safeguards and Complaints for Special Education.	No change	CSBA NOTE: 5 CCR 4610 limits the applicability of the UCP for complaints regarding special education and child nutrition, as provided in Items #5-7 below.
	6	Any complaint alleging noncompliance of the district's food service program with laws regarding meal counting and claiming, reimbursable meals, eligibility of children or adults, or use of cafeteria funds and allowable expenses shall be filed with or referred to CDE in accordance with BP 3555 - Nutrition Program Compliance.	No change	
	7	Any allegation of discrimination based on race, color, national origin, sex, age, or disability in the district's food service program shall be filed with or referred to the U.S. Department of Agriculture in accordance with BP 3555 - Nutrition Program Compliance.	No change	
	8	Any complaint related to sufficiency of textbooks or instructional materials,	No change	CSBA NOTE: Education Code 35186 requires the district to use UCP, with modifications, to

		<p>emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff, or teacher vacancies and misassignments shall be investigated and resolved in accordance with AR 1312.4 - Williams Uniform Complaint Procedures.</p>		<p>investigate and resolve complaints related to the issues stated in the following paragraph (i.e., "Williams complaints"). Because Education Code 35186 sets forth different timelines for investigation and resolution of these kinds of complaints than the timelines specified in law for other uniform complaints, CDE has created a separate uniform complaint process for the Williams complaints. See AR 1312.4 - Williams Uniform Complaint Procedures for the separate procedure.</p>
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