

(P) #1312.3 - Uniform Complaint Procedures

**Community Relations**

The Board and Superintendent recognize that the County Office of Education has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs. The Board and Superintendent encourage the early informal resolution of complaints at the site level whenever possible. To resolve complaints which may require a more formal process, the Board and Superintendent adopt the uniform system of complaint processes specified in 5 CCR 4600-4670 and the accompanying administrative regulation.

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

1. Any complaint alleging county office violation of applicable state or federal law or regulations governing adult education programs, after school education and safety programs, migrant education, career technical and technical education and training programs, child care and development programs, child nutrition programs, special education programs, consolidated categorical aid programs, and any other County Office of Education-implemented program which is listed in Education Code 64000(a) (5 CCR 4610).
2. Any complaint alleging the occurrence of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) against any student, employee, or other person participating in county office programs and activities, including, but not limited to, those programs or activities funded directly by or that receive or benefit from any state financial assistance, based on the person's actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, ethnic group identification, age, religion, marital, 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 association with a person or group with one or more of these actual or perceived characteristics (5 CCR 4610).
3. Any complaint alleging county office 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).
4. Any complaint alleging county office noncompliance with the prohibition against requiring students to pay fees, deposits, or other charges for participation in educational activities (5 CCR 4610).
5. Any complaint alleging county office noncompliance with legal requirements related to the

implementation of the local control and accountability plan (Education Code 52075).

6. Any complaint, by or on behalf of any student who is a foster youth, alleging county office noncompliance with any legal requirement applicable to the student regarding placement decisions, the responsibilities of the county office's educational liaison to the student, the award of credit for coursework satisfactorily completed in another school or county office, school transfer, or the grant of an exemption from Board-imposed graduation requirements (Education Code 48853, 48853.5, 49069.5, 51225.1, 51225.2).

7. Any complaint, by or on behalf of a homeless student as defined in 42 USC 11434a, alleging county office noncompliance with any requirement applicable to the student regarding the award of credit for coursework satisfactorily completed in another school or county office or the grant of an exemption from Board-imposed graduation requirements (Education Code 51225.1, 51225.2).

8. Any complaint alleging county office noncompliance with the requirements of Education Code 51228.1 and 51228.2 that prohibit the assignment of a student 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).

9. Any complaint alleging county office noncompliance with the physical education instructional minutes requirement for students in elementary school (Education Code 51210, 51223).

10. 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. Any other complaint as specified in a County Office of Education policy.

The Uniform Complaint Procedures applies to the following programs administered by the San Luis Obispo County Office of Education:

- 1) Adult Education programs established pursuant to Education Code sections 8500 through 8538 and 52500 through 52616.4
- 2) Consolidated Categorical Aid Programs as listed in Education Code section 64000(a)
- 3) Migrant Education established pursuant to Education Code sections 54440 through 54445
- 4) Foster and Homeless Student Education established pursuant to Education Code section 48853.
- 5) Career and Technical Education and Career Technical and Technical Training Programs established pursuant to Education Code sections 52300 through 52480
- 6) Child Care and Development Programs established pursuant to Education Code sections 8200 through 8493
- 7) Child Nutrition Programs established pursuant to Education Code sections 49490 through 49570

8) Special Education Programs established pursuant to Education Code sections 56000 through 56885 and 59000

9) Local Control Accountability Plan (LCAP) established pursuant to Education Code section 52075.

This document contains rules and instructions about the filing, investigation and resolution of a Uniform Complaint Procedures (UCP) complaint regarding an alleged violation by the San Luis Obispo County Office of Education of federal or state laws or regulations governing educational programs, including allegations of unlawful discrimination, harassment, intimidation, bullying and non-compliance with laws relating to pupil fees and our Local Control and Accountability Plan (LCAP).

This document presents information about how we process UCP complaints concerning particular programs or activities in which we receive state or federal funding. A UCP complaint is a written and signed statement by a complainant alleging a violation of federal or state laws or regulations, which may include an allegation of unlawful discrimination, harassment, intimidation, bullying or charging pupil fees for participation in an educational activity or non-compliance with the requirements of our LCAP. A complainant is any individual, including a person's duly authorized representative or an interested third party, public agency, or organization who files a written complaint alleging violation of federal or state laws or regulations, including allegations of unlawful discrimination, harassment, intimidation, bullying and non-compliance with laws relating to pupil fees or non-compliance with the requirements of our LCAP. If the complainant is unable to put the complaint in writing, due to a disability or illiteracy, we shall assist the complainant in the filing of the complaint.

Programs and activities that may be implemented by our County Office and subject to the UCP in which we receive state or federal funding are:

Adult Education; After School Education and Safety; Agricultural Vocational Education; American Indian Education Centers and Early Childhood Education Program Assessments; Bilingual Education; California Peer Assistance and Review Programs for Teachers; Career Technical and Technical Education and Career Technical and Technical Training; Career Technical Education; Child Care and Development; Child Nutrition; Compensatory Education; Consolidated Categorical Aid; Course Periods Without Educational Content; Economic Impact Aid; Education of Pupils in Foster Care and Pupils who are Homeless; Every Student Succeeds Act / No Child Left Behind; Local Control Accountability Plans (including Charter Schools as described in *EC* §§ 47606.5 and 47607.3); Migrant Education; Physical Education Instructional Minutes; Pupil Fees; Reasonable Accommodations to a Lactating Pupil; Regional Occupational Centers and Programs; School Safety Plans; Special Education; State Preschool; and Tobacco - Use Prevention Education.

The following complaints shall be referred to other agencies for appropriate resolution and are not subject to our UCP process set forth in this document unless these procedures are made applicable by separate interagency agreements:

1. Allegations of child abuse shall be referred to County Department of Social Services (DSS), Protective Services Division or appropriate law enforcement agency.
2. Health and safety complaints regarding a Child Development Program shall be referred to Department of Social Services for licensed facilities, and to the appropriate Child Development regional administrator for licensing-exempt facilities.
3. Employment discrimination, harassment, intimidation or bullying complaints shall be sent to the State Department of Fair Employment and Housing (DFEH).
4. Allegations of fraud shall be referred to the Legal, Audits and Compliance Branch in the California Department of Education (CDE).

A pupil fee is a fee, deposit, or other charge imposed on pupils, or a pupil's parents or guardians, in violation of state codes and constitutional provisions which require educational activities to be provided free of charge to all pupils without regard to their families' ability or willingness to pay fees or request special waivers. Educational activities are those offered by a school, school county office, charter school, or county office of education that constitute a fundamental part of education, including, but not limited to, curricular and extracurricular activities.

A pupil fee includes, but is not limited to, all of the following:

1. A fee charged to a pupil as a condition for registering for school or classes, or as a condition for participation in a class or an extracurricular activity, regardless of whether the class or activity is elective or compulsory, or is for credit.
2. A security deposit, or other payment, that a pupil is required to make to obtain a lock, locker, book, class apparatus, musical instrument, clothes, or other materials or equipment.
3. A purchase that a pupil is required to make to obtain materials, supplies, equipment, or clothes associated with an educational activity.

The LCAP is an important component of the Local Control Funding Formula (LCFF), the revised school finance system that overhauled how California funds its K-12 schools. Under the LCFF we are required to prepare an LCAP, which describes how we intend to meet annual goals for our pupils, with specific activities to address state and local priorities identified pursuant to Education Code Section 52060(d).

### **The responsibilities of the San Luis Obispo County Office of Education:**

We have the primary responsibility to insure compliance with applicable state and federal laws and regulations. We shall investigate complaints alleging failure to comply with applicable state and federal laws and regulations including, but not limited to, allegations of discrimination, harassment, intimidation, bullying or noncompliance with laws relating to all programs and activities implemented by the county office that are subject to the UCP.

We shall ensure annual dissemination of the written notice of our complaint procedures to students, employees, parents or guardians of its students, school and county office advisory committees member, appropriate private school officials or representatives, and other interested parties that includes information regarding allegations about discrimination, harassment, intimidation, or bullying.

An appeal is a request made in writing to a level higher than the original reviewing level by an aggrieved party requesting reconsideration or a reinvestigation of the lower adjudicating body's decision.

Our UCP Annual Notice shall also include information regarding the requirements of Education Code sections 49010 through 49013 relating to pupil fees and information regarding the requirements of Education Code section 52075 relating to the LCAP.

Our UCP Annual Notice shall be in English and in the primary language, pursuant to section 48985 of the Education Code, or mode of communication of the recipient of the notice.

The following is responsible for receiving and investigating complaints and ensuring our compliance:

Name or title:	Chief Human Resources Officer
Unit or office:	Human Resources Department
Address:	3350 Education Drive, San Luis Obispo, CA 93401
Phone:	(805) 782-7233

The above, responsible for compliance and investigations, is knowledgeable about the laws and programs assigned to investigate.

We will investigate all allegations of unlawful discrimination, harassment, intimidation or bullying against any protected group as identified in Education Code section 200 and 220 and Government Code section 11135, including any actual or perceived characteristics as set forth in Penal Code section 422.55 or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics in any program or activity conducted by the agency, which is funded directly by, or that receives or benefits from any state financial assistance.

An unlawful discrimination, harassment, intimidation and bullying complaint shall be filed no later than six months from the date the alleged discrimination, harassment, intimidation or bullying occurred, or six months from the date the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation or bullying.

The time for filing a discrimination, harassment, intimidation or bullying complaint may be extended in writing by our County Office Superintendent or his or her designee, upon written request by the complainant setting forth the reasons for the extension. The period for filing a discrimination, harassment, intimidation or bullying complaint may be extended by our County Office Superintendent or his or her designee for good cause for a period not to exceed 90 calendar days following the expiration of the six month time period. Our County Office Superintendent or his or her designee shall respond immediately upon a receipt of a request for extension.

The complaint shall be filed by one who alleges that he or she has personally suffered unlawful discrimination, harassment, intimidation, and bullying or by one who believes an individual or any specific class of individuals has been subjected to discrimination, harassment, intimidation, and bullying prohibited by this part.

We ensure that complainants are protected from retaliation. In investigating complaints, the confidentiality of the parties involved shall be protected as required by law. As appropriate for any complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the Superintendent or designee shall keep confidential the identity of the complainant and/or the subject of the complaint if he/she is different from the complainant, as long as the integrity of the complaint process is maintained.

An investigation of a discrimination, harassment, intimidation, and bullying complaint shall be conducted in a manner that protects confidentiality of the parties and maintains the integrity of the process.

Complainants are advised of the right to pursue civil law remedies under state or federal discrimination, harassment, intimidation or bullying laws. Civil law remedies, including, injunctions, restraining orders, or other remedies or orders may also be available at any time.

If we find merit in a pupil fees, LCAP, and/or a Course Period without Educational Content complaint, we shall provide a remedy. Specifically, in Course Period without Educational Content complaints the remedy shall go to the affected pupil. In LCAP and pupil fee complaints, the remedy shall go to all affected pupils, parents and guardians, which in the case of pupil fees, also includes reasonable efforts by us to ensure full reimbursement to all affected pupils, parents and guardians subject to procedures established through regulations adopted by the state board. We submitted our UCP policies and procedures to our local governing board or authorized designee for approval and adoption (see the bottom of this document for final adoption date).

### **Filing a complaint with the San Luis Obispo County Office of Education:**

Except for Williams complaints regarding instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of pupils or staff, and teacher vacancies or misassignments, and complaints that allege discrimination, harassment, intimidation, and bullying, any individual, public agency or organization may file a written complaint with our County Office Superintendent or his or her designee alleging a matter which, if true, would constitute a violation by our agency of federal or state law or regulation governing a program. A pupil fees complaint may be filed with the principal of a school or the County Superintendent or his or her designee.

A pupil fees complaint and/or an LCAP complaint may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance.

A pupil fee complaint shall be filed no later than one year from the date the alleged violation occurred.

We will attempt in good faith by engaging in reasonable efforts to identify and fully reimburse all pupils, parents and guardians who paid a pupil fee within one year prior to the filing of the complaint.

The investigation shall provide an opportunity for the complainant, or the complainant's representative, or both, to present evidence or information.

Refusal by the complainant to provide the investigator with documents or other evidence related to the allegations in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation, may result in the dismissal of the complaint because of a lack of evidence to support the allegations.

Refusal by the San Luis Obispo County Office of Education to provide the investigator with access to records and/or other information related to the allegation in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation, may result in a finding based on evidence collected that a violation has occurred and may result in the imposition of a remedy in favor of the complainant.

Except for Williams complaints and pupil fees complaints, a UCP complaint will be investigated and a written report (also known as the Decision) issued to the complainant within 60 days from the date of the receipt of the complaint, unless the complainant agrees in writing to an extension of time.

We shall issue a Decision based on the evidence and will contain the following elements:

- (i) the findings of fact based on the evidence gathered,
- (ii) conclusion of law,
- (iii) disposition of the complaint,
- (iv) the rationale for such disposition,
- (v) corrective actions, if any are warranted,
- (vi) notice of the complainant's right to appeal our agency Decision to the CDE,
  - We shall inform the complainant of his or her right to appeal the agency Decision to CDE and
  - The complainant may appeal our Decision of a UCP complaint regarding all specified federal and state educational programs subject to the UCP.
- (vii) procedures to be followed for initiating an appeal to the CDE.
  - To appeal our UCP Complaint Decision the complainant must file a written appeal within 15 days of receiving the Decision to the California Department of Education (CDE). This appeal to the CDE must fully explain the basis for the appeal, stating how the facts of the agency's Decision are incorrect and/or the law is misapplied.
  - The appeal shall be sent with (1) a copy of the locally filed complaint and (2) a copy of the Decision.

Nothing in this document shall prohibit anyone involved in the complaint from utilizing alternative methods to resolve the allegations, such as mediation. Nor are we prohibited from resolving complaints prior to the formal filing of a written complaint. Mediation is a problem solving activity whereby a third party assists the parties to the dispute in resolving the complaint. The Board recognizes that a neutral mediator can often suggest a compromise that is agreeable to all parties in a dispute. In accordance with uniform complaint procedures, whenever all parties to a complaint agree to try resolving the problem through mediation, the County Superintendent or designee shall initiate that process. The County Superintendent or designee shall ensure that the

results are consistent with state and federal laws and regulations. Complainants have the right to pursue civil law remedies under state or federal discrimination, harassment, intimidation or bullying laws.

The Superintendent or designee shall provide training to County Office of Education staff to ensure awareness and knowledge of current law and related requirements, including the steps and timelines specified in this policy and the accompanying administrative regulation. Such employees shall have access to consultation with legal counsel to the extent determined necessary and appropriate by the Superintendent or designee.

The Superintendent or designee shall ensure full, appropriate dissemination of complaint policies and procedures. The Superintendent or designee shall ensure that complainants are informed of complaint procedures and of any rights of appeal or civil law remedies that may pertain.

The Superintendent or designee shall maintain records of all UCP complaints and the investigations of those complaints in accordance with applicable law and County Office of Education policy.

The County Office of Education's Williams Uniform Complaint Procedures, AR 1312.4, shall be used to investigate and resolve 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, deficiency in the County's provision of instruction and/or services to any student who, by the completion of grade 12, has not passed one or both parts of the high school exit examination. (Education Code 35186)

Copies of these Uniform Complaint Procedures shall be available free of charge.

Federal and State Laws cited:

20 United States Code [USC] § 6301 *et seq.*

34 Code of Federal Regulations [CFR] §§ 299.11 & 300.510–511

California Education Code [EC] §§ 200, 220, 222, 234.1 - 234.5, 262.3, 8200 - 8493, 8500 - 8538, 32280 - 32289; 33380 - 33385, 35186, 44500, 47606 - 47606.5, 47607.3, 48204, 48645.5, 48853, 48853.5, 48985, 49010 - 49013, 49069.5, 49490 - 49570, 51210, 51223, 51225.1, 51225.2, 51226 - 51226.1, 51228.1 - 51228.3, 52059, 52060 - 52075, 52160, 52300 - 52480, 52500 - 52616.4, 52800, 54100, 54440 - 54445, 56000 - 56865, 59000 - 59300, 64000 (a)

California Government Code [GC] §§ 11135, 11138

California Health and Safety Code [HSC] § 104420

California Penal Code [PC] § 422.55

California Welfare and Institutions Code [WIC] §§ 300, 309, 602

California Code of Regulations [CCR] Title 5 §§ 4600–4687

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  
32289 School safety plan, uniform complaint procedures  
35186 Williams uniform complaint procedures  
48853-48853.5 Foster youth  
48985 Notices in language other than English  
49010-49013 Student fees  
49060-49079 Student records  
49069.5 Rights of parents  
49490-49590 Child nutrition programs  
51210 Courses of study grades 1-6  
51223 Physical education, elementary schools  
51225.1-51225.2 Foster youth and homeless children; course credits; graduation requirements  
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  
52300-52490 Career technical education  
52500-52616.24 Adult schools  
52800-52870 School-based program coordination  
54400-54425 Compensatory education programs  
54440-54445 Migrant education  
54460-54529 Compensatory education programs  
56000-56867 Special education programs  
59000-59300 Special schools and centers  
64000-64001 Consolidated application process

#### GOVERNMENT CODE

11135 Nondiscrimination in programs or activities funded by state  
12900-12996 Fair Employment and Housing Act

#### PENAL CODE

422.55 Hate crime; definition  
422.6 Interference with constitutional right or privilege

#### CODE OF REGULATIONS, TITLE 5

3080 Application of section  
4600-4687 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  
6301-6577 Title I basic programs  
6801-6871 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

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:

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Dear Colleague Letter: Title IX Coordinators, April 2015

Questions and Answers on Title IX and Sexual Violence, April 2014

Dear Colleague Letter: Bullying of Students with Disabilities, August 2013

Dear Colleague Letter: Sexual Violence, April 2011

Dear Colleague Letter: Harassment and Bullying, October 2010

Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001

U.S. DEPARTMENT OF JUSTICE PUBLICATIONS

Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 2002

WEB SITES

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

California Department of Education: <http://www.cde.ca.gov>

Family Policy Compliance Office: <http://familypolicy.ed.gov>

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

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

APPROVED BY COUNTY BOARD OF EDUCATION 4/7/05

REVISED BY COUNTY BOARD OF EDUCATION 01/10/13; 3/7/13; 6/26/14; 12/8/16