San Francisco USD
Board Policy
Uniform Complaint Procedures

BP 1312.3
Community Relations

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 the early, informal resolution of complaints whenever possible and appropriate. To resolve complaints which cannot be resolved through such informal process, the Board shall adopt a uniform system of complaint processes specified in 5 CCR 4600-4670 and the accompanying administrative regulation.

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

1. Any complaint alleging district violation of applicable state or federal law or regulations governing adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and training programs, child care and development programs, child nutrition programs, and special education programs; (5 CCR 4610)

2. Any complaint alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying, in district programs and activities against any person based on his/her actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, ethnic group identification, age, religion, marital 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 in any program or activity conducted by the district, which is funded directly by, or that receives or benefits from any state financial assistance; (Government Code 11135, Education Code 200, 220, 234.1, 52075(e); 5 CCR 4622))

3. Any complaint alleging bullying in district programs and activities that is severe or pervasive physical or verbal conduct that places a student in reasonable fear of harm. Bullying includes cyber-bullying, intimidating, or bullying that is not based on a person’s actual or perceived characteristic of, or association with, a protected class; (as listed above).

4. Any complaint alleging sexual harassment and/or other gender discrimination, in violation of Title IX of the Education Amendments of 1972, California Education Code section 220, or other applicable laws;
5. Any complaint alleging district violation of the prohibition against requiring students to pay fees, deposits, or other charges for participation in educational activities and/or LCAP; (Education Code 234.11, 49010, 5 CCR 4610, 4620-4621, 52075)

6. Any complaint alleging that the district has not complied with legal requirements related to the implementation of the local control and accountability plan; (Education Code 52075)

7. 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;

8. Any complaint alleging that a school is not meeting the minimum Physical Education minutes (400 per 10 school days for high school and 200 minutes per 10 school days for middle school), as required by state law; (Education Code 51210-51212)

9. Any complaint alleging that a school is not allowing lactating students the appropriate time to address the needs related to breast-feeding; (Education Code 220)

10. Any complaint alleging non-compliance with various laws providing education opportunities to foster students; (Education Code 48853, 48853.5, 49069.5, 51225.1, and 51225.2)

11. Any complaint alleging that a school has incorrectly placed a 9th-12th grade student in a course without educational content for more than one week in any semester, other than the acceptable prescribed conditions; (Education Code 51228.1, 51228.2, and 51228.3)

12. Any other complaint as specified in a district policy.

The Board recognizes that alternative dispute resolution (ADR) can, depending on the nature of the allegations, offer a process to reach a resolution to the complaint that is agreeable to all parties. One type of ADR is mediation, which 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 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.

In filing and investigating complaints, the confidentiality of the parties involved shall be protected as required by law. As appropriate for any complaint alleging retaliation, unlawful discrimination, 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.
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 resolve the UCP-related allegation(s) through the district’s UCP.

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

The Superintendent or designee shall maintain records of all UCP complaints and the investigations of those complaints. All such records shall be destroyed in accordance with applicable state law and district policy.

Non-UCP Complaints

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

1. Any complaint alleging child abuse or neglect shall be referred to the County Department of Social Services, the County Protective Services Division, and the appropriate law enforcement agency.

2. Any complaint alleging health and safety violations by a child development program shall, for licensed facilities, be referred to Department of Social Services and shall, for licensing-exempt facilities, be referred to the appropriate Child Development regional administrator.

3. Any complaint alleging employment discrimination shall be sent to the California Department of Fair Employment and Housing and the compliance officer shall notify the complainant by first class mail of the transfer.

4. Any complaint alleging fraud shall be referred to the California Department of Education.

In addition, the district'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. (Education Code 35186)

Legal Reference:
EDUCATION CODE
200-262.4 Prohibition of discrimination
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
48985  Notices in language other than English
49010-49013  Student fees
49060-49079  Student records
49490-49590  Child nutrition programs
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
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
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
WEB SITES
CSBA:  http://www.csba.org
California Department of Education:  http://www.cde.ca.gov
U.S. Department of Education, Office for Civil Rights:  http://www.ed.gov/about/offices/list/ocr

HISTORY/AUTHORIZATION

Adopted:  Resolution #75-17Sp2, May 24, 1977
Amended:  Resolution #76-28Spl, August 9, 1977
Amended:  Resolution #11-13Sp#, January 27, 1981
Amended:  Resolution #32-8Spl, February 22, 1983
Amended:  Resolution #38-10Sp4, August 24, 1993 (P1340 was split into two policies)
Amended:  Resolution #95-25Sp1, June 8, 1999
Amended:  Resolution #210-8Sp1, November 12, 2002
Amended:  Resolution #132-26Sp1, March 12, 2013
Amended:  Resolution #132-26Sp2, September 24, 2013
Amended:  Resolution #148-26Sp2, September 9, 2014