
CLOVIS UNIFIED SCHOOL DISTRICT

SCHOOL COMMUNITY RELATIONS

Community Relations

UNIFORM COMPLAINT PROCEDURES REGARDING PROGRAMS/DISCRIMINATION

PURPOSE: To establish uniform complaint procedures for certain state and federal programs and unlawful discrimination.

The Board recognizes that the District has primary responsibility for insuring that it complies with state and federal laws and regulations governing educational programs. The District shall follow Uniform Complaint Procedures pursuant to state regulations when addressing complaints alleging unlawful discrimination, harassment, intimidation and bullying or failure to comply with the law regarding the following:

1. Adult Basic Education
2. Consolidated Categorical Aid Programs
3. Migrant Education
4. Career Technical and Technical Education and Career Technical Training Programs
5. Child Care and Development Programs
6. Child Nutrition Programs
7. Special Education Programs
8. Federal School Safety Plan Requirements
9. Student Fees
10. Local Control and Accountability Plans (LCAP)
11. Foster Youth
12. Homeless Youth
13. Reasonable Accommodation to Nursing Mothers
14. Assignment to Course without Educational Content or to Course Previously Satisfactorily Completed (without meeting certain requirements)
15. Elementary Physical Education Instructional Minutes

The District shall also follow the Uniform Complaint Procedure when addressing complaints of unlawful discrimination, harassment, intimidation and bullying on the basis of any of the grounds or actual or perceived characteristics identified in Education Code section 220 or Penal Code section 422.55, or any other bases provided by law, 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 District, which is funded directly by, or that receives or benefits from any state financial assistance. The District shall investigate and seek to resolve complaints at the local level.

The District's Uniform Complaint Procedure does not apply to the following types of complaints:

1. Complaints regarding materials used in the instruction of pupils (see Board Policy No. 3306, Reconsideration of Learning Resources)
2. Complaints regarding alleged deficiencies related to instructional materials, the conditions of a facility that is not maintained in a clean or safe manner or in good repair, teacher vacancies

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or misassignments, and the provision of intensive instruction and services to students who have not passed one or both parts of the high school exit examination after the completion of grade 12 (see Board Policy No. 9211, Uniform Complaint Procedures Regarding Areas Included in Williams Settlement)

3. Employee complaints alleging sexual harassment (see Board Policy No. 6301, Sexual Harassment)
4. Pupil complaints alleging sexual harassment (see Board Policy/Administrative Regulation No. 2111, Sexual Harassment), and
5. Complaints by the public regarding District personnel and practices (*see Board Policy No. 9207, Formal Complaints Regarding District Personnel and Practices*).

Discrimination issues involving Title IX of the Educational Amendments of 1972 shall be referred to the U. S. Office of Civil Rights (OCR). Title IX complaints shall only be referred to the OCR if there is no state discrimination law or regulation at issue. Unless otherwise negotiated through a memorandum of understanding/agreement, a preliminary inquiry and/or investigation concerning these complaints shall be conducted by OCR. The complainant shall be notified by certified mail if the complaint has been transferred to OCR by the Superintendent.

Complaints concerning special education programs shall be addressed in accordance with the regulations and procedures of the Special Education Local Planning Area (SELPA). However, the SELPA's complaint procedure must comply with the Uniform Complaint Procedures outlined in this policy.

Complaints concerning student fees or LCAPs may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance with the applicable legal requirements governing student fees or LCAPs.

The Board prohibits retaliation in any form for the filing of a complaint, the reporting of instances of discrimination, harassment, intimidation or bullying, or for participation in complaint procedures. Such participation shall not in any way affect the status, grades, or work assignments of the complainant. For allegations of retaliation based on the filing of a complaint, the District also shall follow the Uniform Complaint Procedures.

The Board acknowledges and respects pupil and employee rights to privacy. Complaints shall be investigated in a manner that protects these rights. The identity of any complainant alleging discrimination, harassment, intimidation, retaliation or bullying shall be kept confidential as appropriate and permitted by law.

The Superintendent or designee shall ensure that employees designated to receive and investigate complaints are knowledgeable about the laws and programs for which they are responsible. Such employees may have access to legal counsel as determined by the Superintendent or designee.

Responsibilities of Complainant

The Complainant:

1. Shall receive the District Complaint Procedures.

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2. Shall file the Complaint in writing and follow the steps in the District Complaint Procedures Administrative Regulation.
3. May appeal to the state agency for resolution if he/she is dissatisfied with the decision of the District.
4. May appeal to the State Superintendent of Public Instruction if the complainant is dissatisfied with the determination of the state agency.

Responsibilities of the District

The District:

1. Shall designate a staff member to be responsible for complaint resolution.
2. Shall develop complaint procedures consistent with *California Code of Regulations, Title 5, sections 4600-4670*.
3. Shall inform pupils, employees, parents/guardians, the district advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties at least annually of approved Uniform Complaint Procedures, including the opportunity to appeal the District's decision or to seek civil law remedies, including, but not limited to, injunctions, restraining orders, or other court orders which may be available to complainant. The District will make this information available by publication in its informational materials, including the Student and Parent Rights and Responsibilities Handbook given to each pupil upon registration in the District and at the beginning of each school year. This information shall also be available on the District's web site at www.cusd.com. Notification to appropriate private school officials or representatives shall be given at the annual consultation meeting between CUSD and private school officials.
4. Shall resolve the complaint through an informal complaint process or through the formal complaint procedures by completing an investigation and a written report within 60 calendar days of receipt of a formal complaint. The time period for completion may be extended by written agreement of the complainant.

The District's decision shall be written in English and in the language of the complainant whenever feasible or as required by law.

5. Shall submit, on notification of an appeal, information requested by the California State Department of Education (CDE):
 - a. The original complaint.
 - b. A copy of the District's decision.
 - c. A summary of the nature and extent of the investigation conducted by the District, if not covered in the District's decision.
 - d. A copy of the investigation file, including but not limited to, all notes, interviews and documents submitted by the parties or gathered by the investigator.
 - e. A report of any action taken to resolve the complaint.

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- f. A copy of the Uniform Complaint Procedures.
 - g. Such other relevant information as the CDE may require.
6. May appeal to the State Superintendent of Public Instruction if the District is dissatisfied with the state agency's decision.

LEGAL REFERENCES:

Education Code 200-262.3 Prohibition of discrimination
Education Code section 32289 complaint of non-compliance with school safety planning
Education Code 49060-49079 Student Records
Education Code 52075 Local Control Accountability Plan (LCAP) and Education Code 49010-49013 Student Fees
Education Code 48853, 48853.5, 49069.5, 51225.1, and 51225.2 Homeless and Foster Youth
Education Code 51228.1, 51228.2 and 51228.3 Repeat of Previously Taken Course and Assignment to Course without Educational Content
Education Code 51210 and 51223 Elementary Physical Education Minutes
Education Code 222 Lactating Pupil
Code of Regulations Title 5 3080 Application of section 4600-4671
Code of Regulations Title 5 4600-4671 Uniform Complaint Procedures
Government Code 950-950.8 Actions against public employees
Government Code 54957-54957.8 Closed Sessions
Title VI, Civil Rights Act of 1964
Title IX, Education Amendments of 1972
Section 504, Rehabilitation Act of 1973
Code of Federal Regulations 200.74 and Part 300
General Education Provisions Act, 20 U.S.C. 1221 et seq., especially:
Family Education and Privacy Rights Act, 20 U.S.C. 1232g

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SCHOOL COMMUNITY RELATIONS

Community Relations

UNIFORM COMPLAINT PROCEDURES REGARDING PROGRAMS/DISCRIMINATION

In accordance with Board Policy and law, uniform complaint procedures shall be used when addressing complaints alleging failure to comply with state and/or federal laws in adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and career technical and technical training programs, child care and development programs, child nutrition programs, federal school safety plan requirements, non-compliance with laws relating to pupil fees, and special education programs.

The District shall also follow uniform complaint procedures when addressing complaints alleging unlawful discrimination, harassment, intimidation and bullying against any protected group as identified under the law including actual or perceived sex, sexual orientation, gender expression, gender identity, gender, ethnic group identification, race, ethnicity, ancestry, nationality, national origin, religion, color, or mental or physical disability, or age, 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 District program or activity that receives or benefits from state financial assistance.

If the District finds merit in a pupil fees complaint the District shall provide a remedy to all affected pupils, parents, and guardians that where applicable includes reasonable efforts by the District to ensure full reimbursement to all affected pupils, parents, and guardians, subject to procedures established through regulations adopted by the state board.

The Board acknowledges and respects every individual's right to privacy. The District ensures that the complainants are protected from retaliation and discrimination, harassment, intimidation and bullying complaints shall be investigated in a manner that protects the confidentiality of the parties and the integrity of the process. This may include keeping the identity of the complainant confidential, as appropriate and except to the extent necessary to carry out the investigation or proceedings, as determined by the Superintendent or designee, on a case-by-case basis.

The Governing Board designates the following Responsible District Officer to receive uniform complaints and ensure District compliance with law:

Associate Superintendent, School Leadership
Clovis Unified School District
1450 Herndon Avenue
Clovis, CA 93611-0599
(559) 327-9000

The Governing Board ensures that the Responsible District Officer is knowledgeable about the law and/or programs that he/she is assigned to investigate.

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A. NOTIFICATIONS

The Superintendent or designee shall meet the notification requirements of the Code of Regulations, Title 5, Section 4622, including the annual dissemination of District complaint procedures that includes information regarding unlawful pupil fees and information about available appeals, civil law remedies, including, but not limited to, injunctions, restraining orders, or other court orders which may be available to complainants and conditions under which a complaint may be taken directly to the California Department of Education. Such notification to pupils, employees, parent/guardians, the district advisory committee, school advisory committees, and other interested parties shall be included in the Student and Parent Rights and Responsibilities Handbook given to each CUSD pupil upon registration in the District and at the beginning of each school year. This information is also available on the District's web site at www.cusd.com. Notification to appropriate private school officials or representatives shall be given at the annual consultation meeting between CUSD and private school officials. Complainants also have the right to pursue civil law remedies under state or federal discrimination, harassment, intimidation, or bullying laws.

An investigation of alleged program violations or unlawful discrimination, harassment, intimidation or bullying shall be initiated by filing a complaint not later than six months from the date the alleged unlawful discrimination, harassment, intimidation or bullying, or within six months of the date the complainant first obtained knowledge of the facts of the alleged unlawful discrimination, harassment, intimidation or bullying unless the time for filing is extended by the Superintendent, upon written request by the complainant setting forth the reasons for the extension request. Such extension by the Superintendent shall be made in writing. The period for filing may be extended by the Superintendent for good cause for a period not to exceed 90 days following the expiration of the six-month period. The Superintendent shall respond immediately upon receipt of a request for an extension.

B. DEFINITIONS

1. *Complaint:* A complaint is a written and signed statement alleging a violation of federal or state law or regulation, which may include an allegation of unlawful discrimination.
2. *Complainant:* Any person, including any parent/guardian of a pupil, public agency, or organization who files a written complaint alleging violation of federal or state laws or regulations, including allegations of unlawful discrimination in programs and activities funded by the State or receiving any financial assistance from the State or allegations of unlawful financial assistance from the State.
3. *Appeal:* An appeal is a request made in writing by a complainant for reconsideration or reinvestigation of a complaint at a level higher than the source of a preceding decision unsatisfactory to the complainant.

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C. COMPLAINT PROCEDURES

The following procedures shall be used to address all complaints which allege that the District has violated federal or state laws or regulations governing educational programs including allegations of unlawful discrimination in programs and activities funded directly by the State or receiving any financial assistance for the State. The timeline for filing a complaint and/or an appeal to the District's decision is outlined in the complaint flow chart. See Exhibit No. 9208 (2).

The Associate Superintendent, School Leadership shall maintain a record of each complaint and subsequent related actions, including all information required for compliance with the California Code of Regulations, Title 5, Section 4633.

1. Informal Resolution

The purpose of the informal complaint process is to allow an individual who believes there has been a program violation or he/she has been discriminated against to resolve the issue through a consultation process at the site level rather than the formal complaint process provided by this Regulation.

When an individual feels there has been a program violation or that he/she has been discriminated against, he/she should contact the principal or department head who shall separately counsel the complainant and the alleged offender and outline possible options for informal resolution of the complaint. If informal resolution of the complaint is achieved, the complainant's decision not to proceed with the filing of a formal complaint shall be obtained in writing, after the complainant receives and reviews the formal complaint procedures. A copy of this resolution shall be forwarded to the Responsible District Officer (Associate Superintendent, School Leadership).

If informal resolution of the complaint cannot be achieved within thirty (30) calendar days of the contact by complainant, the complainant shall be provided with the copy of this policy and regulation, and shall be informed of the right to file a formal written complaint with the Associate Superintendent, School Leadership under this procedure.

2. Formal Complaint

- a. Any individual, public agency or organization may file a written complaint of alleged noncompliance with the Associate Superintendent, School Leadership.
- b. If a complainant is unable to put a complaint in writing due to conditions such as illiteracy or other handicaps, District staff shall help the complainant to file the complaint.
- c. The formal written complaint should state the name of the complainant, the date of the complaint, the names(s) of any witnesses, a detailed statement of the circumstances constituting the alleged violation or discrimination, and the requested remedy.
- d. A pupil fees complaint may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance with laws relating to pupil fees.

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3. Notice to Parties

Within ten (10) calendar days of receipt of a written complaint, or as soon thereafter as possible, the Associate Superintendent, School Leadership or other designated employee, or outside investigator(s), shall:

- a. meet with the complainant if necessary to obtain clarification of the individual's written complaint;
- b. inform the alleged offender of the nature of the complaint;
- c. provide a copy of the District's uniform complaint policy and these procedures to the alleged offender; and
- d. advise the complainant and alleged offender that the complaint and the investigation including written reports and other written statements will be handled as confidentially as possible, consistent with a thorough investigation and appropriate disposition of the matter and current state and federal confidentiality and disclosure laws.

4. Investigation

The Associate Superintendent, School Leadership shall conduct, or cause to be conducted, a thorough, objective, and equitable investigation of the complaint or designate appropriate individuals for that purpose. The investigation of complaints may be assigned to other staff or to outside persons or organizations. The investigation should, if at all possible, be commenced within fourteen (14) calendar days of receiving the written complaint or as soon thereafter as possible. An outside investigator or investigators may, subject to Superintendent or designee authorization, be engaged depending on the nature and scope of the allegations. The term investigator includes neutral fact finders or other professionals knowledgeable about the law/programs that he/she is assigned to investigate.

The investigator(s) shall consult with all individuals reasonably believed to have relevant information, including the complainant and any witnesses to the conduct, and victims of similar conduct, if any, that the investigator(s) reasonably believes may exist. All complainants and/or representatives will be provided an opportunity to present evidence or information.

The 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.

The refusal by the District 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

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violation has occurred and may result in the imposition of a remedy in favor of the complainant.

When determining whether the alleged discriminatory conduct constitutes a violation, the investigator should consider the totality of the circumstances including, as appropriate, but not limited to:

- a. The nature of the alleged misconduct or violation
- b. How often the alleged misconduct or violation occurred
- c. Whether there were past incidents or continuing patterns of misconduct or violation

5. Investigation Report and Decision

Within sixty (60) calendar days of receiving the formal complaint, unless due to the nature and complexity of the evidence or the unavailability of relevant witnesses additional time is required and the complainant agrees in writing to an extension, the Associate Superintendent, School Leadership shall communicate in writing the District's final administrative decision to the complainant and the alleged offender. The District's final administrative decision shall include at least the following:

- a. the findings of fact based on the evidence gathered,
- b. conclusion of law,
- c. disposition of the complaint,
- d. the rationale for such a disposition,
- e. corrective actions, if any are warranted,
- f. notice of the complainant's right to appeal the District's decision to the State Department of Education, and
- g. the procedures to be followed for initiating an appeal to the California Department of Education.

The District's final administrative decision shall be provided in English. If the complainant speaks a primary language other than English, the District shall also provide the decision in the complainant's primary language whenever feasible or when required by law.

6. Appeal Procedures

If a complainant or an alleged offender is not satisfied with the results of the District's final administrative decision, the complainant or alleged offender may, within fifteen (15) calendar days, submit a written appeal to the State Department of Education. The party appealing the decision shall specify the reasons for the appeal and whether the facts are incorrect and/or the law is misapplied.

The appeal should include a copy of the complaint and the District's final administrative decision. Copies of all appeals shall be given to all other complainants and alleged offenders.

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7. Remedial Actions

If the investigation reveals there is reasonable cause to believe that a violation or discrimination has occurred, the District shall take appropriate action to ensure that the violation or discrimination ceases and will not recur. Depending upon the totality of the circumstances, appropriate action may include, but is not limited to:

- a. Staff training
- b. Program modification
- c. Employee counseling
- d. Employee discipline (as a matter of law, employee discipline is confidential and cannot be shared with the complainant)

Remedial action should be designed to further the goals of ending the discrimination, of deterring similar future misconduct and of remedying the effects of the discrimination.

Discrimination shall be deemed to constitute just and reasonable cause for employee discipline and shall be deemed to be insubordination and a violation and refusal to obey the school laws of California or reasonable regulations for the good governance of the District.

D. RELATIONSHIP TO OTHER ENFORCEMENT MECHANISMS

The District's discrimination policies and procedures are intended to supplement, and not replace, any applicable state and federal laws and regulations. For example, a complainant who believes he or she has been discriminated or retaliated against for complaining about discrimination may file a complaint with the agencies referenced below. A complainant may request that other state and federal governmental agencies investigate complaints of discrimination by filing a complaint with the State Department of Education and the Office of Civil Rights. Employees may also file complaints with the Department of Fair Employment and Housing and the Equal Employment Opportunity Commission.

California Department of Education
1430 N Street
Sacramento, California 95814
(916) 319-0797

Office of Civil Rights
50 United Nations Place, Room 239
San Francisco, California 94102
(415) 556-4275

Fair Employment and Housing
Fresno District Office
1320 East Shaw Avenue, Suite 150
Fresno, California 93710
(559) 445-5373

Equal Employment Opportunity Commission
2300 Tulare Street, Suite 215
Fresno, California 93721
(559) 487-5793

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Revised: 01/14/09
Revised: 10/14/09 (Responsible District Officer title change)
Revised: 11/10/10 (Address for EOC updated)
Revised: 03/06/12 (Titles)
Revised: 02/27/13
Revised: 03/12/14
Revised: 04/02/14

Education Code 200-262.3 Prohibition of discrimination
Education Code section 32289 complaint of non-compliance with school safety planning
Education Code 49060-49079 Student Records
Education Code 49010-49013 Student Fees
Code of Reg Title 5 3080 Application of section 4600-4671
Code of Reg Title 5 4600-4671 Uniform Complaint Procedures
Government Code 950-950.8 Actions against public employees
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Title VI, Civil Rights Act of 1964
Title IX, Education Amendments of 1972
Section 504, Rehabilitation Act of 1973
34 Code of Federal Regulations 200.74 and Part 300
General Education Provisions Act, 20 U.S.C. 1221 et seq., especially:
Family Education and Privacy Rights Act, 20 U.S.C. 1232g