

Book BCSD Board Policies
Section 0600 Students
Title UNIFORM COMPLAINT PROCEDURES
Code 0605.03
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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 District shall investigate complaints alleging failure to comply with such laws and/or alleging unlawful discrimination, harassment, intimidation, or bullying and shall seek to resolve those complaints in accordance with the District's uniform complaint procedures. 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 Title 5, California Code of Regulations, Sections 4600-4670 and the accompanying administrative regulation.

Complaints Subject to UCP

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

1. Accommodations for pregnant and parenting students (Education Code Section 46015)

(cf. BP 603.24 – Married/Pregnant/Parenting Students)

2. Adult education programs (Education Code Sections 8500-8538, 52334.7, & 52500-52617)
3. After School Education and Safety programs (Education Code Sections 8482-8484.65)

(cf. BP 602.09 – Extended Learning Programs)

4. Agricultural career technical education (Education Code Sections 52460-52462)
5. Career technical and technical education and career technical and technical training programs (Education Code Sections 52300-52462)
6. Child care and development programs (Education Code Sections 8200-8498)

(cf. BP 400.47 – Preschool/Early Childhood Education)

7. Compensatory education (Education Code Section 54400)

(cf. BP 400.46 – Title I Programs)

8. Consolidated categorical aid programs (Education Code Section 33315; Title 34, Code of Federal Regulations Sections 299.10-299.12)
9. Course periods without educational content, when students in grades 9-12 are assigned to such courses more than one week in any semester or in a course the student has previously satisfactorily completed, unless specified conditions are met (Education Code Sections 51228.1-51228.3)

(cf. BP 400.01 – Purposes of the Program of Instruction)

10. Discrimination, harassment, intimidation, or bullying against any protected group as identified under sections 200 and 220 and Section 11135 of the Government Code, including any actual or perceived

characteristic as set forth in Section 422.55 of the Penal Code, 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 an educational institution, as defined in Section 210.3, that is funded directly by, or that receives or benefits from, any state financial assistance (Title 5, California Code of Regulations Section 4610)

- (cf. BP 300.13 – Complaints Against District Employees)
- (cf. BP 300.63 – Nondiscrimination in District Programs and Activities)
- (cf. BP 500.38 – Sexual Harassment)
- (cf. BP 500.49 – Nondiscrimination in Employment)
- (cf. BP 500.57 – Sexual Harassment Complaint Procedures)
- (cf. BP 601.06 – Sexual Harassment of or by Students)
- (cf. BP 601.14 – Nondiscrimination/Harassment)
- (cf. BP 606.15 – Sexual Harassment Complaint Procedures)

11. Educational and graduation requirements for students in foster care, homeless students, students from military families, students formerly in a juvenile court school, migrant students, and immigrant students participating in a newcomer program (Education Code Sections 48645.7, 48853, 48853.5, 49069.5, 51225.1, & 51225.2)

- (cf. BP 400.52 – Education for Homeless Children)
- (cf. BP 605.12 – Education of Foster Youths)

12. Every Student Succeeds Act (Education Code Section 52059; Title 20 United States Code Sections 6301 et seq.)

13. Local control and accountability plan (Education Code Section 52075)

- (cf. BP 300.67 – Local Control and Accountability Plan)

14. Migrant education (Education Code Sections 54440-54445)

15. Physical education instructional minutes (Education Code Sections 51210, 51222, & 51223)

- (cf. BP 400.53 – Physical Education)

16. Student fees (Education Code Sections 49010-49013)

- (cf. BP 604.04 – Fees and Charges)

17. Reasonable accommodations to a lactating student (Education Code Section 222)

- (cf. BP 500.13 – Lactation Accommodation)

18. Regional occupational centers and programs (Education Code Sections 52300-52334.7)

19. School plans for student achievement as required for the consolidated application for specified federal and/or state categorical funding (Education Code Section 64001)

- (cf. BP 300.64 – School Plans/Site Councils)

20. School safety plans (Education Code Sections 32280-32289)

- (cf. BP 300.44 – School Safety Plan)

21. School site councils as required for the consolidated application for specified federal and/or state categorical funding (Education Code Section 65000)

22. State preschool programs (Education Code Sections 8235-8239.1)

(cf. BP 400.47 – Preschool/Early Childhood Education)

23. State preschool health and safety issues in license-exempt programs (Education Code Section 8235.5)

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

25. Any other state or federal educational program the Superintendent of Public Instruction or designee deems appropriate

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.

(cf. BB 100.51 – Disclosure or Confidential/Privileged Information)

(cf. BP 300.49 – Unauthorized Release of Confidential/Privileged Information)

(cf. BP 605.07 – Student Records)

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 acceptable to all parties. An ADR process such as mediation or restorative justice may be offered to resolve complaints that involve more than one student and no adult. The use of a neutral mediator and restorative justice practices can, depending on the nature of the allegations, offer a process to reach a resolution to the complaint 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 their problem through mediation or restorative justice practices, the Superintendent or designee shall initiate that process. However, mediation or restorative justice practices 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 Superintendent or designee shall provide training to District staff to ensure awareness and knowledge of current law and requirements related to UCP, including steps and timelines specified in this policy and the accompanying administrative regulation.

The Superintendent or designee shall maintain a record of all UCP complaints and subsequent related actions, including steps taken during the investigation and all information required for compliance with Title 5, California Code of Regulations Sections 4631 and 4633.

(cf. BP 300.11 – District Records)

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.

Non-UCP Complaints

The following complaints shall not be subject to the District's UCP but shall be investigated and resolved by the specified agency or through an alternative process (Title 5, California Code of Regulations, Section 4611):

1. Any complaint alleging child abuse or neglect shall be referred to Kern County Department of Human Services, Child Protective Services (CPS) Division and/or the appropriate law enforcement agency.

(cf. BP 603.07 – Child Abuse Neglect Prevention and Reporting)

2. Any complaint alleging health and safety violations by a child development program shall, for licensed facilities, be referred to Department of Social Services.
3. Any complaint alleging employment discrimination or harassment shall be investigated and resolved by the District in accordance with the procedures specified in Administrative Regulation 500.49 – Nondiscrimination in Employment, including the right to file the complaint with the California Department of Fair Employment and Housing.

(cf. BP 500.49 – Nondiscrimination in Employment)

4. 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, or a due process hearing order shall be submitted to the California Department of Education (CDE) in accordance with AR 606.04 – Procedural Safeguards and Complaints for Special Education (Title 5, California Code of Regulations Sections 3200-3205).

(cf. BP 606.04 – Procedural Safeguards and Complaints for Special Education)

5. 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 1000.08 – Nutrition Program Compliance (Title 5, California Code of Regulations Sections 15580-15584).
6. 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 1000.08 – Nutrition Program Compliance (Title 5, California Code of Regulations Section 15582).
7. 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 shall be investigated and resolved in accordance with AR 605.13 – Williams Uniform Complaint Procedures (Education Code Section 35186).

(cf. AR 605.13 – Williams Uniform Complaint Procedures)

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
32280-32289	School safety plan, uniform complaint procedure
35186	Williams uniform complaint procedure
46015	Parental leave for students
48853-48853.5	Foster youth
48985	Notices in language other than English
49010-49014	Student fees
49060-49079	Student records: especially
49069.5	Records of foster youth
49490-49590	Child nutrition programs
49701	Interstate Compact on Educational Opportunity for Military Children

51210 Courses of study grades 1-6
51222 Physical education, secondary schools
51223 Physical education, elementary schools
51225.1-51225.2 Foster youth, homeless children, and former juvenile court school students; graduation
51226-51226.1 Career technical education
51228.1-51228.3 Course periods without educational content
52059.5 Statewide system of support
52060-52077 Local control and accountability plan, especially:
52075 Complaint for lack of compliance with local control and accountability plan requirements
52300-52499.6 Career Technical education
52500-52616.24 Adult schools
54460-54529 Compensatory education programs
54440-54445 Migrant education
59000-59300 Special schools and centers
64000-64001 Consolidated application process; school plan for student achievement
65000-65001 School site councils

GOVERNMENT CODE

11135 Nondiscrimination in programs or activities funded by state
12900-12966 Fair Employment and Housing Act

CODE OF REGULATIONS, TITLE 2

11023 Harassment and discrimination prevention and correction

CODE OF REGULATIONS, TITLE 5

3080 Application of uniform complaint procedures to complaints regarding students with Disabilities
4600-4670 Uniform complaint procedures
4680-4687 Williams uniform complaint procedures
4690-4694 Complaints regarding health and safety issues in license-exempt preschool programs
4900-4965 Nondiscrimination in elementary and secondary education programs

HEALTH AND SAFETY CODE

1596.792 California Child Day Care Act; general provisions and definitions
1596.7925 California Child Day Care Act; health and safety regulations

PENAL CODE

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

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
6301-6576 Title I Improving the Academic Achievement of the Disadvantaged
6801-7014 Title III language instruction for limited English proficient and immigrant students

UNITED STATES CODE, TITLE 29

794 Section 504 of the Rehabilitation Act of 1973

UNITED STATES CODE, TITLE 42

2000d-2000h-17 Title VI, Civil Rights Act of 1964, as amended
2000h-2000h-6 Title IX of the Civil Rights Act of 1964
6101-6107 Age Discrimination Act of 1975
11431-11435 McKinney-Vento Homeless Assistance Act
12101-12213 Title II equal opportunity for individuals with disabilities

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
106.1-106.82 Nondiscrimination on the basis of sex in education programs, especially:
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

Revision Approved February 28, 1984

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AR 605.03 Uniform Complaint Procedures

Administrative Regulations

Except as the Governing Board may otherwise specifically provide in other Board policies, the uniform complaint procedures shall be used to investigate and resolve only the complaints specified in Board Policy 605.03 – Uniform Complaint Procedures.

(cf. BP 300.13 – Complaints Concerning District Employees)

(cf. BP 400.38 – Complaints Concerning Instructional Materials)

(cf. BP 500.49 – Nondiscrimination in Employment) (cf. BP 605.13 – Williams Uniform Complaint Procedures)

Compliance Officers

The District designates the individual(s) identified below as the employee(s) responsible for coordinating the District's response to complaints and for complying with state and federal civil rights laws. The individual(s) also serve as the compliance officer(s) specified in Administrative Regulation 601.14, Nondiscrimination/Harassment as the responsible employee to handle complaints regarding unlawful discrimination (such as discriminatory harassment, intimidation, or bullying). The individual(s) shall receive and coordinate the investigation of complaints and shall ensure District compliance with law:

(cf. BP 601.06 – Sexual Harassment of or by Students)

(cf. BP 601.14 – Nondiscrimination/Harassment)

(cf. BP 606.15 – Sexual Harassment Complaint Procedures)

Director I, Human Resources
Bakersfield City School District
1300 Baker Street
Bakersfield, California 93305
Telephone: (661) 631-4663
Email: johnstone@bcsd.com

The compliance officer who receives a complaint may assign another compliance officer to investigate and resolve the complaint. The compliance officer shall promptly notify the complainant and respondent, if applicable, if another compliance officer is assigned to the complaint.

In no instance shall a compliance officer be assigned to a complaint in which the compliance officer has a bias or conflict of interest that would prohibit the compliance officer from fairly investigating or resolving the complaint. Any complaint against or implicating a compliance officer, or raises a concern about the compliance officer's ability to investigate the complaint fairly and without bias, shall be filed with the Superintendent or designee who shall determine how the complaint will be investigated.

The Superintendent or designee shall ensure that employees assigned to investigate and resolve complaints receive training and are knowledgeable about the laws and programs at issue in the complaints for which they are assigned. Training provided to such designated employees shall include current state and federal laws and regulations governing the program, applicable processes for investigating and resolving complaints including those involving alleged unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), applicable standards for reaching decisions on complaints, and appropriate corrective measures. Such employees may have access to legal counsel as determined by the Superintendent or designee.

(cf. BP 100.15 – Attorney)

The compliance officer or, if necessary, any appropriate administrator shall determine whether interim measures are necessary during and pending the result of an investigation. If interim measures are determined to be necessary, the compliance officer or the administrator shall consult with the Superintendent or designee, or, if appropriate, the site principal to implement one or more of the interim measures. The interim measures shall remain in place until the compliance officer determines that they are no longer necessary or until the District issues its final written decision, whichever occurs first.

Notifications

The District's uniform complaint procedures (UCP) policy and administrative regulation shall be posted in all District schools and offices, including staff lounges and student government meeting rooms (Education Code Section 234.1).

The Superintendent or designee shall annually provide written notification of the District's uniform complaint procedures, to students, employees, parents/guardians of District students, the District advisory committee members, school advisory committee members, appropriate private school officials or representatives, and other interested parties (Title 5, California Code of Regulations, Section 4622).

(cf. BP 300.55 – Citizen Advisory Committees)

(cf. BP 300.56 – Parental Notifications)

(cf. BP 300.64 – School Plans/Site Councils)

The Superintendent or designee shall make available copies of the District's uniform complaint procedures free of charge (Title 5, California Code of Regulations, Section 4622).

The annual notification and complete contact information of the compliance officer(s) and information related to Title IX as required pursuant to Education Code Section 221.61 shall be posted on the District web site and, if available, provided through District supported social media.

(cf. BP 300.68 – Social Media)

(cf. BP 500.50 – District and School Web Sites)

The Superintendent or designee shall ensure that all students and parents/guardians, including students and parents/guardians with limited English proficiency, have access to the relevant information provided in the District's policy, regulation, forms, and notices concerning the uniform complaint procedures.

If fifteen (15) percent or more of students enrolled in a particular District school speak a single primary language other than English, the District's policy, regulation, forms, and notices concerning uniform complaint procedures shall be translated into that language (Education Code Sections 234.1, 48985). In all other instances, the District shall ensure meaningful access to all relevant uniform complaint procedure information for parents/guardians with limited English proficiency.

The notice shall include:

1. A statement that the District is primarily responsible for compliance with federal and state laws and regulations, including those related to prohibition of unlawful discrimination, harassment, intimidation, or bullying against any protected group and all programs and activities that are subject to UCP as identified in the section "Complaints Subject to UCP" in the accompanying Board policy
2. A statement that a complaint regarding student fees or the local control and accountability plan (LCAP) may be filed anonymously if the complainant provides evidence or information leading to evidence to support the complaint

(cf. BP 300.67 – Local Control and Accountability Plan)

(cf. BP 604.04 – Fees and Charges)

3. A statement that a student enrolled in a public school shall not be required to pay a fee for participation in an educational activity that constitutes an integral fundamental part of the District's educational program, including curricular and extracurricular activities
4. A statement that a UCP complaint must be filed no later than one year from the date the alleged violation occurred
5. A statement that, in the case of a complaint alleging unlawful discrimination, harassment, intimidation, or bullying, a UCP complaint must be filed no later than six months from the date of the alleged conduct or the date the complainant first obtained knowledge of the facts of the alleged conduct

6. A statement that the District will post a standardized notice of the educational rights and graduation requirements for students in foster care, students who are experiencing homelessness, former juvenile court school students now enrolled in the District, students from military families, migrant students, and immigrant students enrolled in a newcomer program, as specified in Education Code Sections 48853, 48853.5, 49069.5, 51225.1, and 51225.2, and the complaint process

(cf. BP 400.52 – Education for Homeless Children)

(cf. BP 605.12 – Education for Foster Youth)

7. A statement that in order to identify appropriate subjects of state preschool health and safety issues pursuant to California Section 1596.7925 of the California Health and Safety Code a notice shall be posted in each California state preschool program classroom in each school in the District notifying parents. Guardians, pupils, and teachers of both of the following:
 - a. The health and safety requirements under Title 5 of the California Code of Regulations apply to California state preschool programs pursuant to California Health and Safety Code Section 1596.7925.
 - b. The location at which to obtain a form to file a complaint. Posting a notice downloadable from the CDE website shall satisfy this requirement.
8. The title of the position whose occupant is responsible for processing complaints, and the identity(ies) of the person(s) currently occupying that position, if known, and a statement that such persons will be knowledgeable about the laws and programs that they are assigned to investigate
9. A statement that complaints will be investigated in accordance with the District's UCP and a written decision will be sent to the complainant within sixty (60) days from the receipt of the complaint, unless this time period is extended by written agreement of the complainant
10. A statement that the complainant has a right to appeal the District's investigation report to CDE for programs within the scope of the UCP by filing a written appeal, including a copy of the original complaint and the District's decision, within 15 days of receiving the District's decision
11. A statement advising the complainant of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal discrimination, harassment, intimidation or bullying laws, if applicable
12. A statement that copies of the District's UCP are available free of charge

(cf. BP 300.56 – Parental Notifications)

Filing of Complaint

The complaint shall be presented to the compliance officer who shall maintain a log of complaints received, providing each with a code number and a date stamp.

All complaints shall be filed in writing and signed by the complainant. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, District staff shall assist in the filing of the complaint (Title 5, California Code of Regulations Section 4600).

All complaints shall be filed in accordance with the following rules, as applicable:

1. A complaint alleging District violation of applicable state or federal law or regulations governing the programs specified in the accompanying Board policy may be filed by any individual, public agency, or organization (Title 5, California Code of Regulations, Section 4630);
2. Any complaint alleging noncompliance with the law regarding the prohibition against student fees, deposits, and charges or any requirement related to the LCAP may be filed anonymously if the complaint provides evidence, or information leading to evidence, to support an allegation of noncompliance. A complaint about a violation of the prohibition against the charging of unlawful student fees may be filed with the principal of the school or the Superintendent or designee (Education Code Sections 49013, 52075);

3. A UCP complaint shall be filed no later than one year from the date the alleged violation occurred. For complaints related to the LCAP, the date of the alleged violation is the date when the County Superintendent of Schools approves the LCAP that was adopted by the Board (Title 5, California Code of Regulations, Section 4630);
4. A complaint concerning unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) may be filed only by persons who alleges having personally suffered unlawful discrimination, a person who believes that any specific class of individuals has been subjected to unlawful discrimination, or a duly authorized representative who alleges that an individual student has been subjected to discrimination, harassment, intimidation, or bullying. The complaint shall be initiated no later than six (6) months from the date when the alleged unlawful discrimination occurred, or six (6) months from the date that the complainant first obtained knowledge of the facts of the alleged unlawful discrimination. The time for filing may be extended for up to ninety (90) days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension (Title 5, California Code of Regulations, Section 4630);
5. When a complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) is filed anonymously, the compliance officer shall pursue an investigation or other response as appropriate, depending on the specificity and reliability of the information provided and the seriousness of the allegation;
6. When the complainant, or alleged victim when not the complainant, of the unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) requests confidentiality, the compliance officer shall inform the complainant or victim that the request may limit the District's ability to investigate the conduct or take other necessary action. When honoring a request for confidentiality, the District shall nevertheless take all reasonable steps to investigate and resolve/respond to the complaint consistent with the request;

Mediation

Within three (3) business days after receiving the complaint, the compliance officer may informally discuss with all the parties the possibility of using mediation. Mediation shall be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint involving an allegation of sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. If the parties agree to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the compliance officer shall ensure that all parties agree to make the mediator a party to related confidential information. The compliance officer shall also notify all parties of the right to end the informal process at any time.

If the mediation process does not resolve the problem within the parameters of law, the compliance officer shall proceed with his/her investigation of the complaint.

The use of mediation shall not extend the District's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time (Title 5, California Code of Regulations, Section 4631). If mediation is successful and the complaint is withdrawn, then the District shall take only the actions agreed upon through the mediation. If mediation is unsuccessful, the District shall then continue with subsequent steps specified in this administrative regulation.

Investigation of Complaint

The compliance officer is encouraged to initiate the investigation within ten (10) days of receiving the complaint or an unsuccessful attempt to mediate the complaint. This communication or meeting shall provide an opportunity for the complainant and/or the complainant's representative to repeat the complaint orally.

The complainant and/or the complainant's representative and the District's representatives shall have an opportunity to present the complaint and evidence or information leading to evidence to support the

allegations in the complaint. Such evidence or information may be presented at any time during the investigation (Title 5, California Code of Regulations, Section 4631).

In conducting the investigation, the compliance officer shall collect all available documents and review all available records, notes, or statements related to the complaint, including any additional evidence or information received from the parties during the course of the investigation. The compliance officer shall individually interview all available witnesses with information pertinent to the complaint, and may visit any reasonably accessible location where the relevant actions are alleged to have taken place. At appropriate intervals, the compliance officer shall inform both parties of the status of the investigation.

To investigate a complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the compliance officer shall interview the alleged victim(s), any alleged offenders, and other relevant witnesses privately, separately, and in a confidential manner. As necessary, additional staff or legal counsel may conduct or support the investigation.

In accordance with law, a complainant's refusal to provide the District's investigator with documents or other evidence related to the allegations in the complaint, or their failure or refusal to cooperate in the investigation or their engagement in any other obstruction of the investigation, may result in the dismissal of the complaint because of a lack of evidence to support the allegation. Similarly, a respondent's refusal to provide the District's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or engagement in any other obstruction of the investigation may result in a finding, based on evidence collected, that a violation has occurred and in the imposition of a remedy in favor of the complainant (Title 5, California Code of Regulations, Section 4631).

In accordance with law, the District shall provide the investigator with access to records and other information related to the allegation in the complaint and shall not in any way obstruct the investigation. Failure or refusal of the District to cooperate in the investigation may result in a finding based on evidence collected that a violation has occurred and in the imposition of a remedy in favor of the complainant (Title 5, California Code of Regulations, Section 4631).

The compliance officer shall apply a "preponderance of the evidence" standard in determining the veracity of the factual allegations in a complaint. This standard is met if the allegation is more likely to be true than not.

Timeline for Investigation Report

Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant a written report of the District's investigation and decision, as described in the section "Investigation Report" below, within sixty (60) calendar days of the District's receipt of the complaint (Title 5, California Code of Regulations, Section 4631).

For any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying), the respondent shall be informed of any extension of the timeline agreed to by the complainant. The respondent also shall be sent the District's investigation report at the same time it is provided to the complainant.

Investigation Report

The District's investigation report shall be written in English and in the language of the complainant whenever feasible or required by law (Education Code Section 48985; Title 5, California Code of Regulations, Section 4631).

In consultation with District legal counsel, information about the relevant part of an investigation report may be communicated to a victim who is not the complainant and to other parties that may be involved in implementing the investigation report or affected by the complaint, as long as the privacy of the parties is protected. In a complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying), notice of the District's investigation report to the alleged victim shall include information about any sanction to be imposed upon the respondent that relates directly to the alleged victim.

If the complaint involves a limited-English-proficient student or parent/guardian and the student involved attends a school at which 15 percent or more of the students speak a single primary language other than English, the investigation report shall also be translated into that language pursuant to Education Code

Section 48985. In all other instances, the District shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

For all complaints, the investigation report shall include (Title 5, California Code of Regulations, Section 4631):

1. The findings of fact based on the evidence gathered.
2. A conclusion providing a clear determination for each allegation as to whether the district is in compliance with the relevant law;
3. Corrective action(s) whenever the District finds merit in the complaint, including, when required by law, a remedy to all affected students and parents/guardians and, for a student fees complaint, a remedy that complies with Education Code Section 49013 and Title 5, California Code of Regulations Section 4600;
4. Notice of the complainant's right to appeal the District's investigation report to CDE, except when the District has used the UCP to address a complaint not specified in Title 5, California Code of Regulations Section 4610;
5. Procedures to be followed for initiating an appeal to CDE.

The investigation report may also include follow-up procedures to prevent recurrence or retaliation and for reporting any subsequent problems.

For complaints alleging unlawful discrimination based on state law (such as discriminatory harassment, intimidation, and bullying), the investigation report shall also include a notice to the complainant that:

1. The complainant may pursue available civil law remedies outside of the District's complaint procedures, including seeking assistance from mediation centers or public/private interest attorneys, sixty (60) calendar days after the filing of an appeal with the California Department of Education (Education Code Section 262.3);
2. The sixty (60) days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law (Education Code Section 262.3);
3. Complaints alleging discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the U.S. Department of Education, Office for Civil Rights at www.ed.gov/ocr within one hundred eighty (180) days of the alleged discrimination.

If an employee or student is disciplined as a result of the complaint, the investigation report shall simply state that effective action was taken and that the employee or student was informed of District expectations. The report shall not give any further information as to the nature of the disciplinary action.

Corrective Actions

When a complaint is found to have merit, the compliance officer shall adopt any appropriate corrective action permitted by law. Appropriate corrective actions that focus on the larger school or District environment may include, but are not limited to, actions to reinforce District policies; training for faculty, staff, and students; updates to school policies; or school climate surveys.

For complaints involving retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), appropriate remedies that may be offered to the victim but not communicated to the respondent may include, but are not limited to, the following:

1. Counseling;
2. Academic support;
3. Health services;
4. Assignment of an escort to allow the victim to move safely about campus;

5. Information regarding available resources and how to report similar incidents or retaliation;
6. Separation of the victim from any other individuals involved, provided the separation does not penalize the victim;
7. Restorative justice;
8. Follow-up inquiries to ensure that the conduct has stopped and there has been no retaliation;

For complaints involving retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), appropriate corrective actions that focus on a student offender may include, but are not limited to, the following:

1. Transfer from a class or school as permitted by law;
2. Parent/guardian conference;
3. Education regarding the impact of the conduct on others;
4. Positive behavior support;
1. Referral to a team for student success;

(cf. BP 603.16 – Multi-tiered System of Support)

6. Denial of participation in extracurricular or co-curricular activities or other privileges as permitted by law;

(cf. BP 400.35 – Extracurricular and Cocurricular Activities)

7. Disciplinary action, such as suspension or expulsion, as permitted by law.

(cf. BP 601.04 – Suspension and Expulsion/Due Process)

(cf. BP 601.07 – Discipline)

When an employee is found to have committed retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the District shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreements.

The District may also consider training and other interventions for the larger school community to ensure that students, staff, and parents/guardians understand the types of behavior that constitute unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), that the District does not tolerate it, and how to report and respond to it.

When a complaint is found to have merit, an appropriate remedy shall be provided to the complainant or other affected person.

If a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges, physical education instructional minutes, courses without educational content, or any requirement related to the LCAP is found to have merit, the District shall provide a remedy to all affected students and parents/guardians subject to procedures established by regulation of the State Board of Education (Education Code Sections 49013, 51222, 51223 and 52075).

For complaints alleging noncompliance with the laws regarding student fees, the District shall attempt in good faith, by engaging in reasonable efforts, to identify and fully reimburse all affected students and parents/guardians who paid the unlawful student fees within one year prior to the filing of the complaint (Education Code Section 49013; Title 5, California Code of Regulations, Section 4600).

Appeals to the California Department of Education (CDE)

Any complainant who is dissatisfied with the District's investigation report on a complaint regarding any specified federal or state educational program subject to UCP may file an appeal in writing with CDE within thirty (30) calendar days of receiving the District's investigation report (Title 5, California Code of Regulations, Section 4632).

The appeal shall be sent to CDE with a copy of the original locally filed complaint and a copy of the district's investigation report for that complaint. The complainant shall specify and explain the basis for the appeal, including as least one of the following: (Title 5, California Code of Regulations, Section 4632)

1. The District failed to follow its complaint procedures.
2. Relative to the allegations of the complaint, the District's investigation report lacks material findings of fact necessary to reach a conclusion of law.
3. The material findings of fact in the District's investigation report are not supported by substantial evidence.
4. The legal conclusion in the District's investigation report is inconsistent with the law.
5. In a case in which the District found noncompliance, the corrective actions fail to provide a proper remedy.

Upon notification by the CDE that the District's investigation report has been appealed, the Superintendent or designee shall forward the following documents to the CDE within ten (10) days of the date of notification (Title 5, California Code of Regulations, Section 4633):

1. A copy of the original complaint;
2. A copy of the District investigation report;
3. A copy of the investigation file including, but not limited to, all notes, interviews, and documents submitted by the parties and gathered by the investigator;
4. A report of any action taken to resolve the complaint;
5. A copy of the District's UCP;
6. Other relevant information requested by the CDE.

If notified by CDE that the District's investigation report failed to address allegation(s) raised by the complaint, the District shall, within twenty (20) days of the notification, provide CDE and the appellant with an amended investigation report that addresses the allegation(s) that were not addressed in the original investigation report. The amended report shall also inform the appellant of the right to separately appeal the amended report with respect to the allegation(s) that were not addressed in the original report.

Health and Safety Complaints in Licensed-Exempt Preschool Programs

Any complaint regarding health or safety issues in a license-exempt California State Preschool Programs (CSPP) program shall be addressed through the procedures described in Title 5, California Code of Regulations Sections 4690-4694.

In each license-exempt CSPP classroom, a notice shall be posted notifying parents/guardians, students, and teachers of the health and safety requirements of Title 5 regulations that apply to CSPP programs pursuant to Health and Safety Code Section 1596.7925 and the location at which to obtain a form to file any complaint alleging noncompliance with those requirements (Education Code Section 8235.5; Title 5, California Code of Regulations Section 4690).

The District's annual UCP notification distributed pursuant to Title 5, California Code of Regulations Section 4622 shall clearly indicate which of its CSPP programs are operating as exempt from licensing and which CSPP programs are operating pursuant to requirements under Title 22 of the Code of Regulations (Title 5, California Code of Regulations Section 4691).

Any complaint regarding specified health or safety issues in a license-exempt CSPP program shall be filed with the preschool program administrator or designee, and may be filed anonymously. The complaint form shall specify the location for filing the complaint and shall contain a space to indicate whether the complainant desires a response to the complaint. If it is determined that the complaint is beyond the authority of the preschool program administrator, the matter shall be forwarded to the Superintendent or designee in a timely manner, not to exceed ten (10) working days, for resolution (Education Code Section 8235.5; Title 5, California Code of Regulations Section 4690).

Investigation of a complaint regarding health or safety issues in a license-exempt CSPP program shall begin within ten (10) days of receipt of the complaint (Education Code Section 8235.5; Title 5, California Code of Regulations Section 4692).

The preschool administrator or designee shall remedy a valid complaint within a reasonable time period not to exceed thirty (30) working days from the date the complaint was received. If the complainant has indicated on the complaint form a desire to receive a response to the complaint, the preschool administrator or Superintendent's designee shall report the resolution of the complaint to the complainant within forty-five (45) working days of the initial filing of the complaint. If the preschool administrator makes this report, the information shall be reported at the same time to the Superintendent or designee. If a complainant is not satisfied with the resolution of a complaint, the complainant has the right to describe the complaint to the Board at a regularly scheduled meeting (Education Code Section 8235.5; Title 5, California Code of Regulations Section 4692).

If a complainant is not satisfied with the resolution of a complaint, the complainant has the right to describe to the Board at a regularly scheduled meeting, and within thirty (30) days of the date of the written report, may file a written appeal of the District's decision to the Superintendent of Public Instruction in accordance with Title 5, California Code Regulations Section 4632 (Education Code Section 8235.5; Title 5, California Code Regulations Sections 4693 & 4694).

On a quarterly basis, the Superintendent or designee shall report summarized data on the nature and resolution of all CSPP health and safety complaints, including the number of complaints by general subject area with the number of resolved and unresolved complaints, to the Board at a regularly scheduled Board meeting and to the County Superintendent of Schools (Title 5, California Code of Regulations Section 4693).

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