

# West Contra Costa USD

## Administrative Regulation

### Uniform Complaint Procedures

AR 1312.3

#### Community Relations

Except as the Governing Board may otherwise specifically provide in other District policies, these Uniform Complaint Procedures (UCP) shall be used to investigate and resolve only the complaints specified in BP 1312.3.

#### Compliance Officer/Title IX Coordinator

The District designates the individual/position identified below as responsible for receiving complaints subject to these procedures, coordinating the District's response to complaints, and ensuring the District's compliance with state and federal civil rights laws. The individual/position identified below also serves as the compliance officer specified in AR 5145.3 – Nondiscrimination, Harassment, Intimidation & Bullying, and the Title IX Coordinator specified in AR 5145.7 – Sexual And Gender-Based Harassment.

Rhonda Haney

Director, Office of Educational Equity/Title IX Coordinator

1108 Bissell Avenue

Richmond, CA 94801

Phone: (510) 307-4538

rhaney@wccusd.net

If the complaint includes allegations of sexual harassment, the Compliance Officer/Title IX Coordinator will determine whether the complaint should be processed under AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.

(cf. 5145.71 Title IX Sexual Harassment Complaint Procedures)

The Compliance Officer/Title IX Coordinator will coordinate efforts to address each complaint in a manner consistent with the procedures stated herein. The Compliance Officer/Title IX Coordinator may designate a qualified individual, including a site administrator, to investigate and resolve the complaint. The Compliance Officer/Title IX Coordinator and/or designee shall ensure the complainant understands who is responsible for investigating or otherwise resolving their complaint.

In no instance shall the Compliance Officer/Title IX Coordinator or designee be assigned to a complaint in which they have a bias or conflict of interest that would prohibit the fair investigation or resolution of the complaint. Any complaint against the Compliance Officer/Title IX Coordinator or that raises a concern about the Compliance Officer/Title IX Coordinator'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 or otherwise processed.

The Superintendent, Compliance Officer/Title IX Coordinator, 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 to which they are assigned. Training provided to such employees shall cover current state and federal laws and regulations governing the program, applicable processes for investigating and resolving complaints, including those alleging unlawful discrimination sexual harassment, or related retaliation, applicable standards for reaching decisions on complaints, and appropriate corrective measures. Assigned employees may have access to legal counsel as determined by the Superintendent, Compliance Officer/Title IX Coordinator, or designee.

### Supportive Measures

The Compliance Officer/Title IX Coordinator or designee, in consultation with the Compliance Officer/Title IX Coordinator, as necessary, shall determine whether supportive measures are necessary during and pending the result of an investigation to stop the alleged discrimination and ensure that all students have access to the educational program and a safe school environment. Supportive measures will be implemented on a case by case basis and shall be offered to both complainant and respondent, as appropriate. Any supportive measures adopted to address unlawful discrimination, sexual harassment or related retaliation shall be designed to preserve equal access to the District's educational program or activity without unreasonably burdening the other involved party. The supportive measures shall remain in place until the compliance officer determines that they are no longer necessary or until the District issues its Investigation Report, described below, whichever occurs first.

### Notifications

The District's UCP policy and administrative regulation shall be posted in all District schools and offices, including staff lounges and student government meeting rooms, as well as on the District's website. (Education Code § [234.1](#)) It shall include the name and title of the person responsible for processing complaints. It shall also advise the parties of the appeal rights and civil law remedies that may be available to them.

In, addition, the Superintendent or designee shall annually provide written notification of the District's UCP to students, employees, parents/guardians of District students, District advisory committee members, school advisory committee members, appropriate private school officials or representatives, and other interested parties. (5 CCR § [4622](#))

### Required Statements Regarding Complaint Procedures

Specific statements summarizing the complaint procedures which are required by the CDE are set forth below.

1. The District has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs.
2. The complaint review shall be completed within 60 calendar days from the date of receipt of the complaint unless the complainant agrees in writing to an extension of the timeline.
3. A complaint alleging unlawful discrimination (as well as sexual harassment or related retaliation) must be filed not later than six months from the date it occurred, or six months from the date the complainant first obtained knowledge of the facts of the alleged unlawful discrimination, sexual harassment or related retaliation. The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension.
4. Complaints should be filed in writing and signed by the complainant. If a complainant is unable to put their complaint in writing, for example, due to conditions such as a disability or illiteracy, District staff shall assist in the filing of the complaint.
5. If a complaint is not filed in writing but the District receives notice of any allegation that is subject to the UCP, the District shall take affirmative steps to investigate and address the allegations, in a manner appropriate to the particular circumstances.
6. If the allegation involves unlawful discrimination, sexual harassment or related retaliation, or bullying, and the investigation determines that discrimination has occurred, the District will take steps to prevent recurrence of any discrimination and correct any discriminatory effects on the complainant, and on others, if appropriate.
7. A student enrolled in a public school shall not be required to pay a fee for his/her participation in an educational activity that constitutes an integral fundamental part of the District's educational program, including curricular and extracurricular activities.
8. The Board is required to adopt and annually update the LCAP in a manner that includes meaningful engagement of parents/guardians, students, and other stakeholders in the development and/or review of the LCAP.
9. A foster youth shall receive information about educational rights related to his/her educational placement, enrollment in and checkout from school, as well as the responsibilities of the District liaison for foster youth to ensure and facilitate these requirements and to assist the student in ensuring proper transfer of his/her credits, records, and grades when he/she transfers between schools or between the District and another District.
10. A foster youth, homeless student, former juvenile court school student, child of a military family, migratory student, or newly arrived immigrant student participating in a "Newcomer Program" who transfers into a District high school or between District high schools shall be notified of the District's responsibility to:

a. Accept any coursework or part of the coursework that the student has satisfactorily completed in another public school, juvenile court school, or a nonpublic, nonsectarian school or agency, and to issue full or partial credit for the coursework completed.

b. Not require the student to retake any course or a portion of a course which has been satisfactorily completed in another public school, juvenile court school, or a nonpublic, nonsectarian school or agency.

c. If the student has completed their second year of high school before the transfer, provide the student information about District-adopted coursework and Board-imposed graduation requirements from which they may be exempted pursuant to Education Code section 51225.1.

11. The complainant has a right to appeal the District's Investigation Report to CDE by filing a signed written appeal within 30 calendar days of the date of the District's Investigation Report.

12. The appeal to CDE must include a copy of the complaint filed with the District and a copy of the District's Investigation Report, described below.

13. Copies of the UCP, the District's annual notifications, complete contact information of the Compliance Officer/Title IX Coordinator, and information related to Title IX as required pursuant to Education Code section 221.61 shall be available free of charge and are also available on the District's website at the following link: [\[INSERT LINK\]](#)

The Superintendent, Compliance Officer/Title IX Coordinator, 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, forms, and notices concerning the UCP.

If 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 the UCP shall be translated into that language, in accordance with Education Code 234.1 and 48985. In all other instances, the District shall ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

### Filing of Complaint

The complaint shall be presented to the Compliance Officer/Title IX Coordinator or designee 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. A complaint filed on behalf of an individual student may only be filed by that student or that student's authorized representative, and cannot be filed by other parties. For more information on the processing of oral complaints that allege or express a concern of unlawful discrimination, sexual harassment or

related retaliation, see below. Additionally, for any oral complaint concerning bullying see BP 5131.2 - Bullying.

If the complainant is unable to put the complaint in writing, due to conditions such as disability or illiteracy, the District shall assist the complainant in the filing of the complaint.

All parties involved in the allegations shall be notified when a complaint is filed and when a decision is made. However, the Compliance Officer/Title IX Coordinator or designee shall keep all complaints or allegations of unlawful discrimination, sexual harassment or related retaliation, and bullying confidential except when disclosure is necessary to carry out the investigation, take subsequent corrective action, conduct ongoing monitoring, or maintain the integrity of the process.

The District ensures that complainants are protected from retaliation.

a. Complaints Alleging Unlawful Discrimination, Sexual Harassment and Bullying

A complaint alleging unlawful discrimination, sexual harassment or related retaliation, bullying, shall be filed no later than six months from the date the alleged unlawful discrimination, sexual harassment or related retaliation occurred, or six months from the date the complainant first obtained knowledge of the facts of the alleged unlawful discrimination, sexual harassment or related retaliation. However, the time for filing an unlawful discrimination, sexual harassment or related retaliation complaint may be extended by up to 90 calendar days, by the Superintendent, Compliance Officer/Title IX Coordinator, or designee for good cause, upon receipt of written request from the complainant setting forth the reasons for the extension.

The complaint shall be filed by a student who alleges that they have personally suffered unlawful discrimination, sexual harassment or related retaliation, or bullying, or by that student's duly authorized representative.

When the complainant/alleged victim of unlawful discrimination, sexual harassment or related retaliation, or bullying, requests confidentiality, the Compliance Officer/Title IX Coordinator, and/or designee shall inform the complainant/victim that the request may limit the District's ability to investigate the conduct or take other necessary action, and the District must assess whether it is possible for to honor the request for confidentiality, which still ensuring the safety of all students.

When a complaint alleging unlawful discrimination, sexual harassment or related retaliation, or bullying is filed anonymously, the Compliance Officer/Title IX Coordinator or designee may pursue an investigation or respond otherwise, as deemed appropriate, depending on the specificity and reliability of the information provided and the seriousness of the allegation.

(cf. Bullying- BP 5131.2)

b. Complaints Alleging Noncompliance with Student Fees and the LCAP

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 complaint about a violation of the prohibition against the charging of unlawful student fees may be filed with the principal of the school or with the Superintendent or designee. Any such complaint shall be filed no later than one year from the date the alleged violation occurred.

c. **Complaints Alleging Violations of Laws or Regulations Regarding Specified Programs**

A complaint alleging District violation of applicable state or federal law or regulations governing specified programs may be filed by any individual, public agency, or organization. These complaints may concern adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education training programs, child care and development programs, migrant child education, juvenile court schools, school safety plans, deficiencies related to state preschool health and safety issues for a California state preschool program, and any other District-implemented state categorical program that is not funded through the local control funding formula pursuant to Education Code section 64000(a).

Informal Resolution

The Compliance Officer/Title IX Coordinator or designee may discuss with all the parties to a complaint the possibility of using informal resolution. However, informal resolution shall not be offered or used to resolve any complaint involving an allegation of sexual assault by a student against an employee or where there is a reasonable risk that a party would feel compelled to participate. If the parties voluntarily agree to informal resolution, the Compliance Officer/Title IX Coordinator or designee shall make all arrangements for this process. The Compliance Officer/Title IX Coordinator or designee shall ensure that the use of an informal process is consistent with state and federal laws and regulations.

Before initiating the informal resolution of a complaint alleging unlawful discrimination, sexual harassment or related retaliation, or bullying, the Compliance Officer/Title IX Coordinator or designee shall ensure that all parties agree to make any involved mediator a party to relevant confidential information. The Compliance Officer/Title IX Coordinator or designee shall also notify all parties of the right to end the informal process at any time prior to the conclusion of a District's investigation.

If the informal resolution process does not resolve the problem within the parameters of law, the Compliance Officer/Title IX Coordinator or designee shall proceed with an investigation of the complaint. The use of informal resolution shall extend the District's timelines for investigating and resolving the complaint should the Compliance Officer/Title IX Coordinator or designee determine an extension of time is necessary and reasonable. If informal resolution is unsuccessful, the District shall then continue with subsequent steps specified herein.

Investigation of Complaint

During the investigation each party and/or the party's representative shall be provided an opportunity to present to the Compliance Officer/Title IX Coordinator or designee any 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.

In conducting the investigation, the Compliance Officer/Title IX Coordinator or designee 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/Title IX Coordinator or designee shall individually interview all available witnesses with information pertinent to the complaint, as is deemed necessary and appropriate, and may visit any reasonably accessible location where the relevant actions are alleged to have taken place. At appropriate intervals, the Compliance Officer/Title IX Coordinator or designee shall inform both parties of the status of the investigation.

To investigate a complaint alleging unlawful discrimination, sexual harassment or related retaliation, or bullying, the Compliance Officer/Title IX Coordinator or designee 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.

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. Similarly, a respondent's refusal to provide the District 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. 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 violation has occurred and may result in the imposition of a remedy in favor of the complainant.

In accordance with BP 5131.2 - Bullying, if during the investigation it is determined that a complaint is about nondiscriminatory bullying, the Compliance Officer/Title IX Coordinator or designee shall inform the complainant and shall take all necessary actions to resolve the complaint. An Investigation Report, outlined below, will not be issued.

#### Investigation Report

A UCP complaint will be investigated and an Investigation Report will be issued to the complainant and respondent within 60 calendar days from the date of the receipt of the complaint, unless the complainant agrees in writing to an extension of time.

Information about the relevant part of the Investigation Report may also be communicated to other parties who may be involved in implementing the Investigation Report or are affected by the complaint, as long as the privacy of the parties is protected. In a complaint alleging unlawful discrimination, sexual harassment or related retaliation, notice of the District's Investigation Report to the victim shall include information about any sanction to be imposed upon the respondent that relates directly to the 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, then the Investigation Report shall also be translated into that language. In all other instances, the District shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

The Investigation Report shall be based on the evidence and will contain the following elements:

1. The findings of fact based on the evidence gathered, which may take into account: witness statements; the relative credibility of individuals involved; how the complaining individual reacted to the incident; any documentary or other evidence relating to the alleged conduct; past instances of similar conduct by alleged offenders; and past false allegations made by the complainant.
2. The conclusion(s) providing a clear determination as to each allegation as to whether the District is in compliance with relevant law.

For complaints of unlawful discrimination, sexual harassment or related retaliation, the Investigation Report shall include a determination for each allegation as to whether unlawful discrimination (including bullying based on a protected class), sexual harassment or related retaliation has occurred.

The determination of whether an unlawful hostile environment exists may involve consideration of: the manner in which the misconduct affected one or more students' education; the type, frequency, and duration of the misconduct; the relationship between the alleged victim(s) and offender(s); the number of persons engaged in the conduct and at whom the conduct was directed; the size of the school, location of the incidents, and context in which they occurred; and other incidents at the school involving different individuals.

3. Corrective action(s), if any are warranted, including any actions that have been taken or will be taken to address the allegation(s) in the complaint and including, with respect to a student fees complaint, a remedy that comports with Education Code section 49013 and 5 CCR section 4600.

For complaints of unlawful discrimination (including bullying based on a protected class), sexual harassment or related retaliation, the Investigation Report may, as required by law, include: the corrective actions imposed on the respondent; individual remedies offered or provided to the complainant or another person who was the subject of the complaint, but this

information should not be shared with the respondent; and systemic measures the school has taken to eliminate a hostile environment and prevent recurrence.

4. Notice of the complainant's right to appeal the District's Investigation Report to the CDE within 30 calendar days of the date of the District's Investigation Report, except when UCP has been used to address a complaint not described in section 4610(b).

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.

5. Procedures to be followed for initiating an appeal to the 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, sexual harassment or related retaliation, based on state law, 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, 60 calendar days after the filing of an appeal with CDE.

2. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law.

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](http://www.ed.gov/ocr) within 180 days of the alleged discrimination.

### Corrective Actions

When a complaint is found to have merit, the Compliance Officer/Title IX Coordinator or designee may 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 unlawful discrimination (including bullying based on a protected class), sexual harassment or related retaliation, 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; and/or
9. Determination of whether any past actions of the victim that resulted in discipline were related to the treatment the victim received and described in the complaint.

For complaints involving unlawful discrimination (including bullying based on a protected class), sexual harassment or related retaliation, appropriate corrective actions that focus on a student respondent 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;
5. Referral to a student success team;
6. Denial of participation in extracurricular or co-curricular activities or other privileges as permitted by law; and/or
7. Disciplinary action, such as suspension or expulsion, as permitted by law.

When an employee is found to have committed unlawful discrimination (including bullying based on a protected class), sexual harassment or related retaliation, the District shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

For any complaint involving allegations of unlawful discrimination (including bullying based on a protected class), sexual harassment or related retaliation, regardless of whether the allegations are substantiated, 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 the District finds merit in any other UCP complaint, the District shall provide an appropriate remedy to the 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.

#### Appeals to the California Department of Education (CDE)

To appeal the Decision the complainant must file a written appeal within 30 calendar days of the date of the Investigation Report (5 CCR 4632). In order to request an appeal, the complainant must specify and explain the basis for the appeal, including at least one of the following:

1. The District failed to follow its complaint procedures;
2. The Investigation Report lacks material findings of fact necessary to reach a conclusion of law;
3. The material findings of fact in the Investigation Report are not supported by substantial evidence;
4. The legal conclusion in the Investigation Report is inconsistent with the law; and/or
5. The corrective actions fail to provide a proper remedy.

The appeal shall be sent to the CDE with a copy of the original locally filed complaint, and a copy of the District's Investigation Report.

Upon notification by CDE that the complainant has appealed the District's Investigation Report, the Superintendent, Compliance Officer/Title IX Coordinator, or designee shall forward the following documents to CDE within 10 days:

1. A copy of the original complaint;
2. A copy of the written Investigation Report;
3. A summary of the nature and extent of the investigation conducted by the District, if not covered by the Investigation Report;
4. 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;

5. A report of any action taken to resolve the complaint;
6. A copy of the District's complaint procedure, including the UCP and, if relevant, the Title IX Grievance Procedure; and
7. Other relevant information requested by CDE.

Regulation WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT

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