

# West Contra Costa USD

## Board Policy

### Uniform Complaint Procedures

#### BP 1312.3

#### Community Relations

This policy and the corresponding administrative regulation contain rules and instructions about the filing, investigation, and resolution of a Uniform Complaint Procedures (UCP) complaint. UCP complaints include any complaint brought forth by a complainant alleging a failure by the West Contra Costa Unified School District to comply with federal or state laws or regulations governing educational programs, including allegations of unlawful discrimination (such as harassment, intimidation or bullying based on any of the protected classes stated herein) and non-compliance with laws relating to pupil fees and the District's Local Control and Accountability Plan (LCAP). A complainant, for purposes of this policy, is any individual, including a person's duly authorized representative or an interested third party, public agency, or organization who files a written complaint that is governed by this policy.

(cf. 5145.7 - Sexual Harassment)

(cf. 5145.3 - Nondiscrimination/Harassment/Intimidation/Bullying)

(cf. 5131.2 - Bullying)

The Board encourages early resolution of complaints whenever possible. To resolve complaints that cannot be resolved through an informal process, the Board adopts the uniform system of complaint processes specified in 5 CCR sections 4600-4670 and described herein.

The District shall establish an office entitled District Ombudsperson, who will report to the Superintendent, for the purpose of fair, objective and timely responses to complaints. The District shall protect all complainants from retaliation. In investigating complaints, the confidentiality of the parties involved shall be protected as required by and to the extent permitted by law. For any complaint alleging unlawful discrimination or retaliation (such as discriminatory harassment, intimidation, or bullying), the Superintendent or District Ombudsperson or designee shall keep the identity of the complainant confidential when appropriate and as long as the integrity of the complaint process is maintained.

#### Complaints Subject to the UCP

The District's UCP shall be used to investigate and resolve the following complaints brought forth by any complainant, which include all complaints related to the matters addressed in Education Code section 33315(a)(1) and as indicated below:

1. Any complaint alleging District violation of state or federal law or regulations governing the following programs and activities that are implemented by the District, including: adult education programs; 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 consolidated categorical aid program which are listed in Education Code section 64000(a), including: programs for tobacco use prevention;

bilingual education programs; compensatory education programs; California peer assistance and review programs for teachers; school safety and violence prevention programs.

2. Any complaint, filed by a student or a student's duly authorized representative, alleging the occurrence of unlawful discrimination against any student, employee or other person participating in District programs and activities, including, but not limited to, those programs and activities funded directly by or that receive benefit from any state financial assistance.

Unlawful discrimination includes, but is not limited to, discriminatory harassment, intimidation, or bullying based on the person's actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, immigration status, ethnic group identification, age, religion, marital status, pregnancy, parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code sections 200 or 220, Government Code section 11135, or Penal Code section 422.55, or based on the person's association with a person or group with one or more of these actual or perceived characteristics.

Complaints and allegations that, if true, would meet the definition of "sexual harassment" under Title IX of the Education Amendments of 1972 (Title IX), must be addressed in a manner that complies with the applicable Title IX regulations, codified at 34 C.F.R. Part 106, and the UCP. To accomplish this, these complaints should be processed in accordance with AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.

3. Any complaint alleging District noncompliance with the requirement to provide reasonable accommodation to a lactating student on school campus to express breast milk, breastfeed an infant child, or address other breastfeeding-related needs of the student

4. Any complaint alleging District noncompliance with the prohibition against requiring students to pay fees, deposits, or other charges for participation in educational activities.

5. Any complaint alleging District noncompliance with legal requirements related to the implementation of the local control and accountability plan.

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

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

7. Any complaint, by or on behalf of a homeless student, as defined in 42 U.S.C. section 11434a, a former juvenile court school student, a child of a military family, as defined in Education Code section 49701, a student who is a migratory child, as defined in Education Code 54441(a), or a newly arrived immigrant student participating in a "Newcomer Program" as

defined in Education Code section 51225.2(a)(6), who transfers into the District after his/her second year of high school, alleging District noncompliance with any requirement applicable to the student regarding the award of credit for coursework satisfactorily completed in another school or District or the grant of an exemption from Board-imposed graduation requirements.

8. Any complaint alleging District noncompliance with the requirements of Education Code sections 51228.1 and 51228.2 that prohibit the assignment of a student in grades 9-12 to a course without educational content for more than one week in any semester or to a course the student has previously satisfactorily completed, without meeting specified conditions.

9. Any complaint alleging District noncompliance with the physical education instructional minutes requirement for students in grades 1 to 6.

10. Any complaint alleging retaliation against a complainant or other participant in the complaint process or anyone who has acted to uncover or report a violation subject to this policy.

11. Any other complaint as specified in a District policy. However, only complaints listed in Title 5 California Code of Regulation section 4610 may be appealed to the California Department of Education pursuant to the corresponding administrative regulation.

12. Any other state or federal education program the State Superintendent of Public Instruction deems appropriate or necessary.

#### Non-UCP Allegations and Complaints

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 for further processing.

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

1. Allegations of child abuse or neglect shall be referred to County Department of Social Services (DSS), Protective Services Division or appropriate law enforcement agency.
2. Health and safety complaints regarding licensed facilities operating a Child Development Program shall be referred to the Department of Social Services (DSS).
3. Any complaint alleging unlawful discrimination, sexual harassment or related retaliation in employment shall be processed in accordance with Board Policy 4030 - Nondiscrimination in Employment, Board Policy and Administrative Regulation 4119.11 - Sexual Harassment, and/or Administrative Regulation 4119.12 – Title IX Sexual Harassment Complaint Procedures, and they shall be referred to the California Department of Fair Employment and Housing (DFEH), as is applicable or required. The complainant shall be notified in writing in a timely manner of any DFEH transferal.

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 Administrative Regulation 1312.4 - Williams Uniform Complaint Procedures.

These procedures do not apply to complaints related to special education programs, which are governed by Title 34 Code of Federal Regulations sections 300.151 through 300.153 and by Title 5 California Code of Regulation section 3080 et seq.

These procedures do not apply to complaints regarding child nutrition programs, which are governed by Title 34 Code of Federal Regulations sections 210.19(a)(4), 215.1(a), 220.13(c), 225.11(b), 226.6(n) and 250.15(d) and by Title 5 California Code of Regulation section 15580 et seq.

### Notice and Record Keeping

The Superintendent or District Ombudsperson shall provide the Board with quarterly updates about the state of complaints in the District.

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

The Superintendent or District Ombudsperson or designee shall maintain records of each complaints and subsequent related actions, including steps taken during the investigations and all information required for compliance with 5 CCR 4600 et seq.

### Legal Reference:

#### EDUCATION CODE

200-262.4 Prohibition of discrimination

8200-8498 Child care and development programs

8500-8538 Adult basic education

18100-18203 School libraries

32280-32289 School safety plan, uniform complaint procedures

35186 Williams uniform complaint procedures

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, former juvenile court school students, military-connected students, migrant students, and newly arrived immigrant students; course credits; graduation requirements

51226-51226.1 Career technical education

51228.1-51228.3 Course periods without educational content

52060-52077 Local control and accountability plan, especially:

52075 Complaint for lack of compliance with local control and accountability plan requirements

52300-52462 Career technical education

52500-52616.24 Adult schools  
54400-54425 Compensatory education programs  
54440-54445 Migrant education  
54460-54529 Compensatory education programs  
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  
12900-12996 Fair Employment and Housing Act  
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  
CODE OF REGULATIONS, TITLE 2  
11023 Harassment and discrimination prevention and correction  
CODE OF REGULATIONS, TITLE 5  
3080 Applicability of uniform complaint procedures to complaints regarding students with disabilities  
4600-4670 Uniform complaint procedures  
4680-4687 Williams uniform complaint procedures  
4900-4965 Nondiscrimination in elementary and secondary education programs  
UNITED STATES CODE, TITLE 20  
1221 Application of laws  
1232g Family Educational Rights and Privacy Act  
1681-1688 Title IX of the Education Amendments of 1972  
6301-6576 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 Rehabilitation Act of 1973  
UNITED STATES CODE, TITLE 42  
2000d-2000e-17 Title VI and Title VII Civil Rights Act of 1964, as amended  
2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964  
6101-6107 Age Discrimination Act of 1975  
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  
106.8 Designation of responsible employee for Title IX  
106.9 Notification of nondiscrimination on basis of sex  
110.25 Notification of nondiscrimination on the basis of age

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS  
Uniform Complaint Procedure 2020-21 Program Instrument

Sample UCP Board Policies and Procedures

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

Dear Colleague Letter, September 22, 2017

Dear Colleague Letter: Title IX Coordinators, April 2015

Dear Colleague Letter: Responding to Bullying of Students with Disabilities, October 2014

Dear Colleague Letter: Harassment and Bullying, October 2010

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

U.S. DEPARTMENT OF JUSTICE PUBLICATIONS

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

WEB SITES

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

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

Family Policy Compliance Office: <https://www2.ed.gov/policy/gen/guid/fpc>

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

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

Policy WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT

adopted: November 7, 2007 Richmond, California

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revised: October 17, 2018

revised: February 26, 2020

revised: November 4, 2020