

Morgan Hill USD

Board Policy

Uniform Complaint Procedures

BP 1312.3

Community Relations

The Governing Board recognizes that the district has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs. ~~The Board encourages the early, informal resolution of complaints whenever possible and appropriate.~~ To resolve complaints which ~~cannot be resolved through such informal~~ may require a more formal process, the Board ~~shall adopt~~ adopts the uniform system of complaint processes specified in 5 CCR 4600-4670 and the accompanying administrative regulation.

~~This document contains rules and instructions about the filing, investigation and resolution~~ Complaints Subject to UCP

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

Uniform Complaint Procedures (UCP)1. Any complaint regarding an alleged ~~alleging district violation by of applicable state or federal or state laws or regulations governing educational programs~~ any program subject to the UCP which is offered by the district, including non-compliance with laws relating to pupil fees and our Local Control and Accountability Plan (LCAP).

~~A UCP complaint is a written and signed statement by a complainant alleging a violation of federal or state laws or regulations, which may include an allegation of unlawful discrimination, harassment, intimidation, bullying or charging pupil fees for participation in an educational activity or non-compliance with the requirements of our LCAP. A complainant is any individual, including a person's duly authorized representative or an interested third party, public agency, or organization who files a written complaint alleging violation of federal or state laws or regulations, including allegations of unlawful discrimination, harassment, intimidation, bullying and non-compliance with laws relating to pupil fees or non-compliance with the requirements of our LCAP. If the complainant is unable to put the complaint in writing, due to a disability or illiteracy, we shall assist the complainant in the filing of the complaint.~~

~~The district shall have the primary responsibility to ensure compliance with applicable state and federal laws and regulations.~~

~~The district shall investigate and seek to resolve, in accordance with our UCP process, any complaints alleging failure to comply with applicable state and federal laws and regulations including, but not limited to, allegations of discrimination, harassment, intimidation, or bullying or noncompliance with laws relating to all programs and activities that are subject to the UCP.~~

Programs and activities subject to UCP are:

~~Adult Education~~

~~adult education programs; After School Education and Safety~~

~~Agricultural Vocational Education~~

~~programs; agricultural career technical education; American Indian Education Centers & Early Childhood Education Program Assessments~~

~~Bilingual Education~~

~~education centers and early childhood education program assessments; bilingual education; California Peer Assistance and Review Programs for Teachers~~

~~Career Technical and Technical Education Career Technical Education (State)~~

~~Child Care and Development~~

~~Child Nutrition~~

~~Compensatory Education~~

~~Consolidated Categorical Aid~~

~~Course Periods without Educational Content (grades 9-12)~~

~~programs for teachers; state career technical and technical education, career technical, and technical training programs; federal career technical education; child care and development programs; child nutrition programs; compensatory education; consolidated categorical aid programs; Economic Impact Aid~~

~~Education of Pupils in Foster Care, Pupils who are Homeless, and former Juvenile Court Pupils now enrolled in a school district~~

~~English Learner Programs~~

~~; the federal Every Student Succeeds Act/No Child Left Behind (Titles I-VII)~~

~~Local Control Accountability Plan Migrant Education~~

~~Physical Education Instructional Minutes (grades 1-6)~~

~~Pupil Fees~~

~~Reasonable Accommodations to a Lactating Pupil Education; Career Technical; migrant education; Regional Occupational Centers and Technical Training (Federal) Programs~~

~~School Safety Plans~~

~~Special Education~~

~~Programs; school safety plans; special education programs; California State Preschool~~

~~Programs; Tobacco-Use Prevention Education programs; and any other district-implemented state categorical program that is not funded through the local control funding formula pursuant to Education Code 64000~~

(cf. 3553 - Free and Reduced Price Meals)

(cf. 3555 - Nutrition Program Compliance)

~~(cf. 5131.62 - Tobacco)~~

~~(cf. 5141.4 - Child Abuse Prevention and Reporting)~~

(cf. 5148 - Child Care and Development)

(cf. 5148.2 - Before/After School Programs)

~~(cf. 5148.3 - Preschool/Early Childhood Education)~~

(cf. 6159 - Individualized Education Program)

(cf. 6171 - Title I Programs)

(cf. 6174 - Education for English Learners)

(cf. 6175 - Migrant Education Program)

(cf. 6178 - Career Technical Education)

(cf. 6178.1 - Work-Based Learning)

(cf. 6178.2 - Regional Occupational Center/Program)

(cf. 6200 - Adult Education)

2. Any complaint, by a student, employee, or other person participating in a district program or activity, The district's uniform complaint procedures (UCP) shall be used to investigate and resolve the following complaints:

~~The district developed the Uniform Complaint Procedures (UCP) process with policies and procedures adopted by our Governing Board.~~

~~Any complaint~~ alleging the occurrence of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) ~~against any student, employee, or other person participating in~~ district programs and activities, including, ~~but not limited to, in~~ those programs or activities funded directly by or that receive or benefit from any state financial assistance, 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 ~~or 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 200 or 220, Government Code 11135, or Penal Code 422.55, or based on his/her the person's association with a person or group with one or more of these actual

or perceived characteristics (5 CCR 4610)

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

13. 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 (Education Code 222)

(cf. 5146 - Married/Pregnant/Parenting Students)

4. Any complaint alleging district noncompliance with requirements to provide a pregnant or parenting student the accommodations specified in Education Code 46015, including those related to the provision of parental leave, right of return to the school of previous enrollment or to an alternative education program, if desired, and possible enrollment in school for a fifth year of instruction to enable the student to complete state and Board-imposed graduation requirements (Education Code 46015)

5. Any complaint alleging district noncompliance with the prohibition against requiring students to pay fees, deposits, or other charges for participation in educational activities (5 CCR 4610)

(cf. 3260 - Fees and Charges)

(cf. 3320 - Claims and Actions Against the District)

6. Any complaint alleging district noncompliance with ~~legal~~applicable requirements of Education Code 52060-52077 related to the implementation of the local control and accountability plan, including the development of a local control funding formula budget overview for parents/guardians (Education Code 52075)

(cf. 0460 - Local Control and Accountability Plan)

(cf. ~~6173.13~~100 - Budget)

7. Any complaint alleging noncompliance with requirements related to the development of a school plan for student achievement or the establishment of a school site council, as required for the consolidated application for specified federal and/or state categorical funding (Education Code 64000-64001, 65000-65001)

(cf. ~~4~~0420 - School Plans/Site Councils)

8. Any complaint, by or on behalf of a ~~homeless~~ student who is a foster youth as defined in ~~42 USC 11434a~~Education Code 51225.2, alleging district noncompliance with any 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, or country; school or records transfer; or the grant of an exemption from Board-imposed graduation requirements ~~(Education Code 51225.1, 51225.2)~~

~~5. 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. (Education Code 48853, 48853.5, 49069.5, 51225.1, 51225.2)~~

~~(cf. cf. 6173.1 - Education for ~~Homeless Children~~ Foster Youth)~~

9. Any complaint, by or on behalf of a ~~former juvenile court school~~ student who transfers into the district after ~~his/her~~ the second year of high school and is a homeless child or youth as defined in 42 USC 11434a, a former juvenile court school student currently enrolled in the district, a child of a military family as defined in Education Code 49701, or a migrant student as defined in Education Code 54441, or by or on behalf of an immigrant student participating in a newcomer program as defined in Education Code 51225.2 in the third or fourth year of high school, alleging district noncompliance with any requirement applicable to the student regarding the ~~award of credit for coursework satisfactorily completed in the juvenile court school or the~~ grant of an exemption from Board-imposed graduation requirements ~~(Education Code 51225.1, 51225.2)~~

(cf. 6173 - Education for Homeless Children)

(cf. 6173.2 - Education of Children of Military Families)

(cf. 6173.3 - Education ~~offor~~ Juvenile Court School Students)

710. Any complaint, by or on behalf of a student who is a homeless child or youth as defined in 42 USC 11434a, a former juvenile court school student, a child of a military family as defined in Education Code 49701, a migrant child as defined in Education Code 54441, or a newly arrived immigrant student who is participating in a newcomer program as defined in Education Code 51225.2, alleging district noncompliance with requirements for the award of credit for coursework satisfactorily completed in another school, district, or country (Education Code 51225.2)

11. Any complaint alleging district noncompliance with the requirements of Education Code 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 ~~specifies~~specified conditions. (Education Code 51228.3)

(cf. 6152 - Class Assignment)

12. Any complaint alleging district noncompliance with the physical education instructional minutes requirement for students in elementary school. (Education Code 51210, 51223)

(cf. 6142.7 - Physical Education and Activity)

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

14. Any other complaint as specified in a district policy

The Board recognizes that alternative dispute resolution (ADR) can, depending on the nature of the allegations, offer a process to reach a resolution to the complaint that is acceptable to all parties. -ADR such as mediation; may be offered to resolve complaints that involve more than one student and no adult.- However, mediation shall not be offered or used to resolve any complaint involving sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. -The Superintendent or designee shall ensure that the use of ADR is consistent with state and federal laws and regulations.

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 ~~he/she is~~ different from the complainant, confidential when appropriate and as long as the integrity of the complaint process is maintained.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

(cf. 5125 - Student Records)

(cf. 9011 - Disclosure of Confidential/Privileged Information)

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.

~~The following is responsible for receiving and investigating complaints and ensuring compliance:~~

~~Assistant Superintendent of Human Resources
15600 Concord Circle
Morgan Hill, CA 95037
(408) 201-6015~~

~~The person or office responsible for compliance and investigations is knowledgeable about the laws and programs assigned to investigate.~~

~~The district will investigate all allegations of unlawful discrimination, harassment, intimidation or bullying against any protected group as identified in Education Code 200 and 220 and Government Code 11135, including any actual or perceived characteristics as set forth in Penal Code 422.55 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 we conduct, which is funded directly by, or that receives or benefits from any state financial assistance.~~

~~Unlawful discrimination, harassment, intimidation or bullying complaints shall be filed no later than six months from the date the alleged discrimination, harassment, intimidation or bullying occurred, or six months from the date the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation or bullying.~~

The Superintendent 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.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

The Superintendent or designee shall maintain a record of each complaint and subsequent related actions, including steps taken during the investigation and all information required for compliance with 5 CCR 4631 and 4633.

(cf. 3580 - District Records)

~~The district ensures annual dissemination of a written notice of the complaint procedures to all students, employees, parents or guardians of its students, school and district advisory committee members, appropriate private school officials or representatives, and other interested parties that includes information regarding allegations about discrimination, harassment, intimidation, or bullying.~~

~~The UCP Annual Notice shall also include information regarding the requirements of Education Code 49010 through 49013 relating to pupil fees and information regarding the requirements of Education Code 52075 relating to the LCAP.~~

~~Our UCP Annual Notice shall be in English and in the primary language, pursuant to section 48985 of the Education Code, or mode of communication of the recipient of the notice.~~

~~We advise complainants of the right to pursue civil law remedies under state or federal discrimination, harassment, intimidation or bullying laws.~~

~~If the district finds merit in a complaint regarding Pupil Fees, Local Control and Accountability Plans (LCAP), Education of Pupils in Foster Care, Pupils who are Homeless, and former Juvenile Court Pupils now enrolled in our school district, Reasonable Accommodations to a Lactating Pupil, Course Periods without Educational Content (grades nine through twelve), and Physical Education Instructional Minutes (grades one through eight), we shall provide a remedy. In the case of complaints regarding Course Periods without Educational Content, Reasonable Accommodations to a Lactating Pupil, and Education of Pupils in Foster Care, Pupils who are Homeless, and former Juvenile Court Pupils now enrolled in our school district, the remedy shall~~

~~go to the affected pupil. In the case of complaints regarding Pupil Fees, Physical Education Instructional Minutes and LCAP, the remedy shall to go all affected pupils and parents/guardians.~~

~~A pupil fees complaint may be filed with the principal of a school or our superintendent or his or her designee.~~

~~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 pupil fees complaint shall be filed no later than one year from the date the alleged violation occurred.~~

~~The district ensures an attempt shall be made in good faith to engage in reasonable efforts to identify and fully reimburse all pupils, parents and guardians who paid a pupil fee within one year prior to the filing of the complaint.~~

~~The district will provide an opportunity for complainants and/or representatives to present evidence or information.~~

~~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.~~

~~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.~~

~~The complaint will be investigated and a written report with a decision will be issued to the complainant by the district within 60 days from the date of the receipt of the complaint, unless the complainant agrees in writing to an extension of time.~~

~~This report will contain the following elements:~~

- ~~i. — The findings of fact based on the evidence gathered.~~
- ~~ii. — Conclusion of law.~~
- ~~iii. — Disposition of the complaint.~~
- ~~iv. — The rationale for such a disposition.~~
- ~~v. — Corrective actions, if any are warranted.~~
- ~~vi. — Notice of the complainant's right to appeal our Decision to the CDE.~~
- ~~vii. — Procedures to be followed for initiating an appeal to CDE.~~

~~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.~~

~~A complainant may appeal the decision of a UCP complaint regarding all specified federal and state educational programs subject to the UCP.~~

~~To appeal a UCP complaint Decision the complainant must file a written appeal within 15 days of receiving the Decision to CDE. This appeal to the CDE must fully explain the basis for the appeal, stating how the facts of our Decision are incorrect and/or the law is misapplied.~~

~~In addition the appeal shall be sent to CDE with: (1) a copy of the original locally filed complaint; and (2) a copy of the decision of this original locally filed complaint.~~

~~Non-UCP Complaints~~ Non-UCP Complaints

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

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

(cf. 5141.4 - Child Abuse 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 and shall, for licensing-exempt facilities, be referred to the appropriate Child Development regional administrator.

3. Any complaint alleging fraud shall be referred to the Legal, Audits and Compliance Branch of the California Department of Education.

4. — Any complaint alleging fraud employment discrimination or harassment shall be ~~referred~~ investigated and resolved by the district in accordance with the procedures specified in AR 4030 - Nondiscrimination in Employment, including the right to file the complaint with the California Department of Fair Employment and Housing.

~~In addition, the district's Williams Uniform Complaint Procedures, AR 1312.4, shall be used to investigate and resolve any~~ ***Note: In addition, Education Code 8235.5, as added by AB 1808, authorizes the use of Williams uniform complaint procedures to address any complaints alleging violations of health and safety requirements applicable to California State Preschool Programs (Education Code 8235-8239.1) that are exempt from licensing pursuant to Health and Safety Code 1596.792.***

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, or health and safety violations in any license-exempt California State Preschool Program shall be investigated and resolved in accordance with the procedures in AR 1312.4 - Williams Uniform Complaint Procedures. (Education Code 8235.5, 35186)

(cf. 1312.4 - 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 procedures

33380-33384 California Indian Education Centers

35186 Williams uniform complaint procedures

~~44500~~

~~47606-47606.5~~

~~47607.3~~

44500-44508 California Peer Assistance and Review Program for Teachers

46015 Parental leave for students

48853-48853.5 Foster youth

48985 Notices in language other than English

49010-~~49013~~49014 Student fees

49060-49079 Student records, especially:

49069.5 Rights Records of ~~parents~~foster youth

49490-49590 Child nutrition programs

49701 Interstate Compact on Educational Opportunity for Military Children

51210 Courses of study grades 1-6

51223 Physical education, elementary ~~schools~~schools

51225.1-51225.2 Foster youth, homeless children ~~and~~, 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-~~51228.5~~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

52160-52178 Bilingual education programs

52300-~~52490~~52462 Career technical education

52500-52616.~~424~~ Adult schools

54000-54029 Economic Impact Aid

54400-54425 Compensatory education programs

54440-54445 Migrant education

54460-54529 Compensatory education programs

56000-~~56867~~56865 Special 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
~~104420~~HEALTH AND SAFETY CODE
1596.792 California ~~Health~~Child Day Care Act; general provisions and ~~Safety Code~~definitions
300, 309, 6021596.7925 California ~~Welfare~~Child Day Care Act; health and ~~Institutions~~
Codesafety regulations
104420 Tobacco-Use Prevention Education
 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 Application of section~~
3080 Applicability of uniform complaint procedures to complaints regarding students with disabilities
 4600-~~4687~~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-~~6577~~6576 Title I ~~basic programs~~Improving the Academic Achievement of the Disadvantaged
 6801-7014 Title III language instruction for limited English proficient and immigrant students
~~7101-7184 Safe and Drug-Free Schools and Communities Act~~
 7201-7283g Title V promoting informed parental choice and innovative programs
~~7301-7372 Title V rural and low-income school programs~~
~~12101-12213 Title II equal opportunity for individuals with disabilities~~
 UNITED STATES CODE, TITLE 29
 794 Section 504 of Rehabilitation Act of 1973
 UNITED STATES CODE, TITLE 42
 2000d-2000e-17 Title VI and Title VII Civil Rights Act of 1964, as amended
 2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964
 6101-6107 Age Discrimination Act of 1975
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

~~CODE OF FEDERAL REGULATIONS TITLE 34~~

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

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

~~Questions and Answers on Title IX and Sexual Violence, April 2014~~

Dear Colleague Letter: Responding to Bullying of Students with Disabilities, ~~August~~
2013October 2014

Dear Colleague Letter: ~~-Sexual Violence, April 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 ~~JSUTICE~~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: ~~-http://familypolicy~~<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 MORGAN HILL UNIFIED SCHOOL DISTRICT~~

~~adopted: December 5, 2017 Morgan Hill, California~~ (5/17 3/18) 3/19