

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 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 5 CCR 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 the following complaints regarding the following programs and activities:

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

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

2. Adult education programs (Education Code 8500-8538, 52334.7, 52500-52617)

(cf. 6200 - Adult Education)

3. After School Education and Safety programs (Education Code 8482-8484.65)

(cf. 5148.2 - Before/After School Programs)

- ~~1. Any complaint alleging district violation of applicable state or federal laws or regulations governing any program subject to the UCP which is offered by the district, including adult education programs; After School Education and Safety programs; agricultural career technical education; American Indian education centers and early childhood education program assessments; bilingual education; California Peer Assistance and Review 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; the federal Every Student Succeeds Act; migrant education; Regional Occupational Centers and 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.~~

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~~(cf. 3553 – Free and Reduced Price Meals)¶~~
~~(cf. 3555 – Nutrition Program Compliance)¶~~
~~(cf. 5131.62 – Tobacco)¶~~
~~(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)¶~~

4. Agricultural career technical education (Education Code 52460-52462)

5. Career technical and technical education and career technical and technical training programs (Education Code 52300-52462)

(cf. 6178 - Career Technical Education)
(cf. 6178.1 - Work-Based Learning)

6. Child care and development programs (Education Code 8200-8498)

(cf. 5148 - Child Care and Development)

7. Compensatory education (Education Code 54400)

(cf. 6171 - Title I Programs)
~~(cf. 6178.2 – Regional Occupational Center/Program)¶~~
~~(cf. 6200 – Adult Education)¶~~
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8. Consolidated categorical aid programs (Education Code 33315; 34 CFR 299.10-299.12)

9. ~~2. Any complaint, by~~ 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 51228.1-51228.3)

(cf. 6152 - Class Assignment)

~~, employee, or other person participating in a district program or activity, alleging the occurrence of unlawful discrimination (such as discriminatory~~10. Discrimination, harassment, intimidation, or bullying) in district programs and activities, including 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 status, pregnancy, parental status, physical or mental disability, **medical condition**, 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 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)

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~~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 (Education Code 222)~~¶

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

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~~(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)~~

~~11. 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, Educational 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)~~¶

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

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~~(cf. 3260 - Fees and Charges)~~¶

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

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~~6. Any complaint alleging district noncompliance with 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)~~¶

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~~(cf. 0460 - Local Control and Accountability Plan)~~¶

~~(cf. 3100 - Budget)~~¶

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~~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)~~¶

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

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8. ~~Any complaint, by or on behalf of a student who is a in foster youth as defined in 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, district, or country; school or records transfer; or the grant of an exemption from Board-imposed graduation requirements (Education Code 48853, 48853.5, 49069.5, 51225.1, 51225.2)~~¶

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(cf. 6173.1 - Education for Foster Youth)¶

care,¶

9. ~~Any complaint, by or on behalf of a student who transfers into the district after the second year of high school and is a homeless child or youth as defined in 42 USC 11434a, a former students, students from military families, students formerly in a 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 students, and immigrant student students 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 grant of an exemption from Board-imposed graduation requirements (Education Code 51225.1 (Education Code 48645.7, 48853, 48853.5, 49069.5, 51225.1, 51225.2)~~

(cf. 6173 - Education for Homeless Children)

(cf. 6173.1 - Education for Foster Youth)

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

(cf. 6173.3 - Education for Juvenile Court School Students)

12. Every Student Succeeds Act (Education Code 52059; 20 USC 6301 et seq.)

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

(cf. 0460 - Local Control and Accountability Plan)

14. Migrant education (Education Code 54440-54445)

(cf. 6175 - Migrant Education Program)

10. ~~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)~~¶

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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 specified conditions (Education Code 51228.3)~~

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~~(cf. 6152 - Class Assignment)~~

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~~12. Any complaint alleging district noncompliance with the physical~~

~~15. Physical education instructional minutes' requirement for students in elementary school minutes (Education Code 51210, 51222, 51223)~~

(cf. 6142.7 - Physical Education and Activity)

~~13~~16. Student fees (Education Code 49010-49013)

(cf. 3260 - Fees and Charges)

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

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

(cf. 6178.2 - Regional Occupational Center/Program)

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

(cf. 0420 - School Plans/Site Councils)

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

(cf. 0450 - Comprehensive Safety Plan)

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

(cf. 0420 - School Plans/Site Councils)

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

(cf. 5148.3 - Preschool/Early Childhood Education)

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

~~14~~25. Any other complaint as specified in a state or federal educational program the

Superintendent of Public Instruction or designee deems appropriate

The Board recognizes that alternative dispute resolution (ADR) can, depending on the nature of the allegations, offer a process ~~to reach~~ **for resolving a resolution to the complaint in a manner** that is acceptable to all parties. **An ADR process** 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 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 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 Superintendent or designee shall provide training to district staff to ensure awareness and knowledge of current law and 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)

Non-UCP Complaints

The following complaints shall not be subject to the district's UCP but shall be ~~referred to~~ **investigated and resolved by** the specified agency: ~~(5 CCR 4611)~~ **or through an alternative process:**

1. Any complaint alleging child abuse or neglect shall be referred to the County Department of Social Services Protective Services Division ~~and~~ the appropriate law enforcement agency. (5 CCR 4611)

(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.~~ (5 CCR 4611)

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

3. Any complaint alleging employment discrimination or harassment shall be 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.

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 6159.1 - Procedural Safeguards and Complaints for Special Education. (5 CCR 3200-3205)

(cf. 6159.1 - 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 3555 - Nutrition Program Compliance. (5 CCR 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 3555 - Nutrition Program Compliance. (5 CCR 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, 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

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

~~44500-44508 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

49010-49014 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

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

~~52160-52178 Bilingual education programs~~

52300-52462 Career technical education

52500-52616.24 Adult schools

~~54000-54029 Economic Impact Aid~~

54400-54425 Compensatory education programs

54440-54445 Migrant education

54460-54529 Compensatory education programs

~~56000-56865 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

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

~~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 Applicability of uniform complaint procedures to complaints regarding students with disabilities¶~~

3200-3205 Special education compliance complaints

4600-4670 Uniform complaint procedures

4680-4687 Williams uniform complaint procedures

~~4900~~**4690-4694 Complaints regarding health and safety issues in license-exempt preschool programs**

900-4965 Nondiscrimination in elementary and secondary education programs

15580-15584 Child nutrition programs complaint procedures

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

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

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

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

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 Student Privacy Policy Compliance Office:~~

~~<https://www2.ed.gov/policy/gen/guid/fpco/about/offices/list/oepd/sppo>~~

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: April 23, 2019 Morgan Hill, California (3/19 5/20) 12/20~~