

# **UNIFORM COMPLAINT PROCEDURES**

## **Policy of the Board of Education**

The Governing Board recognizes that the District has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs. The District shall investigate complaints alleging failure to comply with such laws and/or alleging unlawful discrimination, harassment, intimidation, or bullying and shall seek to resolve those complaints in accordance with the District's uniform complaint procedures.

The District shall use the uniform complaint procedures to resolve any complaint alleging unlawful discrimination, harassment, intimidation, or bullying in District programs and activities based on actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, ethnic group identifications, age, religion, marital or 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, Penal Code 422.55, or Government Code 11135, or based on association with a person or group with one or more of these actual or perceived characteristics.

- (cf. BP 300.27 – Nondiscrimination/Harassment)
- (cf. BP 300.63 – Nondiscrimination in District Programs and Activities)
- (cf. BP 500.38 – Sexual Harassment)
- (cf. BP 500.49 – Nondiscrimination in Employment)
- (cf. BP 601.2 – Bullying)
- (cf. BP 601.13 – Nondiscrimination, Harassment, Bullying and Threats)

Uniform complaint procedures shall also be used when addressing complaints alleging the District's failure to comply with prohibition against requiring students to pay fees, deposits, or other charges for participation in educational activities, the requirements for the development and adoption of a school safety plan, and state and/or federal laws in consolidated categorical aid programs, migrant education, preschool and early childhood education, child nutrition programs, and special education programs.

- (cf. BP 300.13 – Complaints Against District Employees)
- (cf. BP 300.31 – School-Based Program Coordination)
- (cf. BP 300.35 – Legal Actions Against the School District)
- (cf. BP 300.44 – School Safety Plan)
- (cf. BP 400.28 – Education for English Language Learners)
- (cf. BP 400.38 – Complaints Concerning Instructional Materials)
- (cf. BP 400.47 – Preschool/Early Childhood Education)
- (cf. BP 603.7 – Child Abuse and Neglect Reporting Procedures)
- (cf. BP 604.4 – Fees and Charges)
- (cf. BP 606.9 – Individualized Education Program)
- (cf. BP 1000.3 – Free and Reduced Price Meals)

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## **Policy of the Board of Education**

The District's Williams Uniform Complaint Procedures, AR 605.13, shall be used to investigate and resolve any complaint related to the following:

1. Sufficiency of textbooks or instructional materials
2. Emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff
3. Teacher vacancies and misassignments

(cf. BP 605.13 – Williams Uniform Complaint Procedures)

The Board prohibits any form of retaliation against any complainant in the complaint process, including, but not limited to, the complainant's filing of a complaint or the reporting of instances of discrimination. Such participation shall not in any way affect the status, grades, or work assignments of the complainant.

The Board recognizes that a neutral mediator can often suggest a compromise that is agreeable to all parties in a dispute. In accordance with uniform complaint procedures, whenever all parties to a complaint agree to try resolving their problem through mediation, the Superintendent or designee shall initiate that process. The Superintendent or designee shall ensure that the results are consistent with state and federal laws and regulations.

The Board encourages the early, informal resolution of complaints at the site level whenever possible.

The Board acknowledges and respects student and employee rights to privacy. In investigating complaints, the confidentiality of the parties involved and the integrity of the process shall be protected. As appropriate for any complaint alleging discrimination, harassment, intimidation, or bullying, the Superintendent or designee may keep the identity of a complainant confidential to the extent that the investigation of the complaint is not obstructed.

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

(cf. BP 605.7 – Pupil Records)

(cf. BP 100.51 – Disclosure of Confidential/Privileged Information)

The Board intends for the Superintendent or designee to receive, investigate, and resolve complaints to ensure District compliance with law, board policy, and administrative regulations. The Board does not intend to hear cases where the complainant is dissatisfied with the District's decision. The Superintendent or designee's decision shall be considered final. However, the Board may decide to hear an appeal if the complainant provides sufficient information to establish a factual base that the complaint was not resolved within the parameters of law, policy, or procedures. An agreement in writing with the complainant may be necessary to extend the timelines for investigating and resolving the processing of complaints should the Board decide to hear an appeal (Title 5, California Code of Regulations, Section 4631).

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## Policy of the Board of Education

### **Legal Reference:**

#### **EDUCATION CODE**

|               |   |
|---------------|---|
| 200-262.4     | Prohibition of discrimination                   |
| 8200-8498     | Child care and development programs             |
| 18100-18203   | School libraries                                |
| 32289         | School safety plan, uniform complaint procedure |
| 35186         | Williams uniform complaint procedure            |
| 41500-41513   | Categorical education block grants              |
| 48985         | Notices in language other than English          |
| 49060-49079   | Pupil records                                   |
| 49490-49590   | Child nutrition programs                        |
| 52160-52178   | Bilingual education programs                    |
| 52300-52499.6 | Vocational education                            |
| 52800-52870   | School-based coordinated programs               |
| 54000-54028   | Economic impact aid programs                    |
| 54100-54145   | Miller-Unruh Basic Reading Act                  |
| 54460-54529   | Compensatory education programs                 |
| 54440-54445   | Migrant education                               |
| 56000-56885   | Special education programs                      |
| 59000-59300   | Special schools and centers                     |
| 64000-64001   | Consolidated application process                |

#### **CODE OF REGULATIONS, TITLE 5**

|           |   |
|-----------|---|
| 3080      | Application of section  |
| 4600-4687 | Uniform complaint procedures  |
| 4900-4965 | Nondiscrimination in elementary and secondary education programs receiving state financial assistance |

#### **PENAL CODE**

|       |   |
|-------|---|
| 422.6 | Interference with constitutional right or privilege |
|-------|---|

#### **UNITED STATES CODE, TITLE 20**

|            |  |
|------------|--|
| 1681       | Title IX of the Education Amendments of 1972   |
| 6301-6577  | Title I basic programs   |
| 6601-6777  | Title II preparing and recruiting high quality teachers and principals               |
| 6801-6871  | 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   |

#### **UNITED STATES CODE, TITLE 29**

|     |   |
|-----|---|
| 794 | Section 504 of the Rehabilitation Act of 1973 |
|-----|---|

#### **UNITED STATES CODE, TITLE 42**

|               |   |
|---------------|---|
| 2000d-2000d-7 | Title VI, Civil Rights Act of 1964                |
| 12131         | Title II, Americans with Disabilities Act of 1990 |
| 6102          | Age Discrimination Act of 1975                    |

# **UNIFORM COMPLAINT PROCEDURES**

## **Policy of the Board of Education**

Revision Approved: February 28, 1984  
Revision Approved: October 28, 2003  
Revision Approved: December 11, 2007  
Revision Approved: April 22, 2008  
Revision Approved: October 27, 2009  
Revision Approved: September 24, 2013

# UNIFORM COMPLAINT PROCEDURES

## Administrative Regulations

Except as the Governing Board may otherwise specifically provide in other Board policies, the uniform complaint procedures shall be used only to investigate and resolve complaints alleging violations of federal or state laws or regulations governing specific educational programs, the prohibition against requiring students to pay fees, deposits, or other charges for participating in educational activities, and unlawful discrimination, harassment, intimidation, or bullying, as specified in accompanying Board policy.

(cf. BP 300.13 – Complaints Concerning District Employees)  
(cf. BP 400.38 – Complaints Concerning Instructional Materials)  
(cf. BP 500.49 – Nondiscrimination in Employment)  
(cf. BP 605.3 – Uniform Complaint Procedures)  
(cf. BP 605.13 – Williams Uniform Complaint Procedures)

The District's uniform complaint procedures policy and administrative regulation shall be posted in all District schools and offices, including staff lounges and student government meeting rooms. If fifteen (15) percent or more of students enrolled in a particular District school speak a single primary language other than English, the District's policy, regulation, forms, and notices concerning uniform complaint procedures shall be translated into that language (Education Code 234.1, 48985).

## Compliance Officers

The Governing Board designates the following compliance officer(s) to receive and investigate complaints and to ensure District compliance with law:

Human Resource Administrator  
Bakersfield City School District  
1300 Baker Street  
Bakersfield, California 93305  
Telephone: (661) 631-4663

The Superintendent or designee shall ensure that employees designated to investigate complaints are knowledgeable about the laws and programs for which they are responsible. Such employees may have access to legal counsel as determined by the Superintendent or designee.

## Notifications

The Superintendent or designee shall annually provide written notification of the District's uniform complaint procedures to students, employees, parents/guardians, the District advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties (Education Code 262.3, 49013; Title 5, California Code of Regulations, Section 4622).

(cf. BP 300.55 – Citizen Advisory Committees)  
(cf. BP 300.56 – Parental Notifications)  
(cf. BP 300.64 – School Plans/Site Councils)

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

The notice shall:

1. Identify the person(s), position(s), or unit(s) responsible for processing complaints;
2. Advise the complainant of any civil law remedies that may be available to him/her under state or federal discrimination laws, if applicable, including, but not limited to, injunctions or restraining orders;
3. Advise the complainant of the appeal process pursuant to Education Code Section 262.3, including the complainant's right to take a complaint directly to the California Department of Education (CDE) or to pursue remedies before civil courts or other public agencies.
4. Include statements that:
  - a. The District is primarily responsible for compliance with state and federal laws and regulations;
  - b. 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;
  - c. An unlawful discrimination complaint must be filed not later than six months from the date the alleged discrimination occurs, or six months from the date the complainant first obtains knowledge of the facts of the alleged discrimination;
  - d. The complainant has a right to appeal the District's decision to the CDE by filing a written appeal within 15 days of receiving the District's decision; and
  - e. The appeal to the CDE must include a copy of the complaint filed with the District and a copy of the District's decision.
  - f. Copies of the District's uniform complaint procedures are available free of charge.

(cf. BP 300.56 –Parental Notifications)

## **Procedures**

The following procedures shall be used to address all complaints which allege that the District has violated federal or state laws or regulations governing educational programs. All complaints shall be investigated and resolved within sixty (60) calendar days of the District's receipt of the complaint (Title 5, California Code of Regulations, Section 4631). Compliance officers shall maintain a record of each complaint and subsequent related actions, including all information required for compliance with Title 5, California Code of Regulations, Section 4631 and 4633.

# UNIFORM COMPLAINT PROCEDURES

## Administrative Regulations

All parties involved in allegations shall be notified when a complaint is filed, when a complaint meeting or hearing is scheduled, and when a decision or ruling is made.

### **Step 1: Filing of Complaint**

Any individual, public agency or organization may file a written complaint of alleged noncompliance by the District (Title 5, California Code of Regulations, Section 4630).

A complaint concerning unlawful discrimination, harassment, intimidation, or bullying may be filed only by a person who alleges that he/she personally suffered unlawful discrimination, harassment, intimidation, or bullying or by a person who believes that an individual or any specific class of individuals has been subjected to it. The complaint shall be initiated no later than six (6) months from the date when the alleged discrimination, harassment, intimidation, or bullying occurred, or six (6) months from the date when the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation, or bullying. However, upon written request by the complainant, the Superintendent or designee may extend the filing period for up to ninety (90) calendar days (Title 5, California Code of Regulations, Section 4630).

A complaint alleging noncompliance with the law regarding the prohibition against requiring students to pay student fees, deposits, and charges may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance (Education Code 49013).

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

If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, District staff shall help him/her in filing the complaint (Title 5, California Code of Regulations, Section 4600).

### **Step 2: Mediation**

Within three (3) business days of receiving the complaint, the compliance officer may informally discuss with all the parties the possibility of using mediation. If the parties agree to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a complaint alleging discrimination, harassment, intimidation, or bullying, the compliance officer shall ensure that all parties agree to make the mediator a party to related confidential information.

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

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The use of mediation shall not extend the District's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time (Title 5, California Code of Regulations, Section 4631).

### **Step 3: Investigation of Complaint**

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

The complainant and/or his/her representative and the District's representatives shall have an opportunity to present the complaint and evidence or information leading to evidence to support the allegations in the complaint (Title 5, California Code of Regulations, Section 4631).

In accordance with law, a complainant's refusal to provide the District's investigator with documents or other evidence related to the allegations in the complaint, or his/her failure or refusal to cooperate in the investigation or his/her engagement in any other obstruction of the investigation, may result in the dismissal of the complaint because of a lack of evidence to support the allegation (Title 5, California Code of Regulations, Section 4631).

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

### **Step 4: Response**

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

### **Step 5: Final Written Decision**

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

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

1. The findings of fact based on the evidence gathered



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2. The conclusion(s) of law
3. Disposition of the complaint
4. Rationale for such disposition
5. Corrective actions, if any are warranted
6. Notice of the complainant's right to appeal the District's decision within fifteen (15) days to the CDE and procedures to be followed for initiating such an appeal

In addition, any decision concerning a discrimination, harassment, intimidation, or bullying complaint based on state law shall include a notice that the complainant must wait until sixty (60) calendar days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies (Education Code 262.3).

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

If a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges is found to have merit, the District shall provide a remedy to all affected students and parents/guardians, which, where applicable, shall include reasonable efforts to ensure full reimbursement to them (Education Code 49013).

## **Appeals to the California Department of Education**

If dissatisfied with the District's decision, the complainant may appeal in writing to the CDE within fifteen (15) days of receiving the District's decision. When appealing to the CDE, the complainant shall specify the basis for the appeal of the decision and whether the facts are incorrect and/or the law has been misapplied. The appeal shall be accompanied by a copy of the locally filed complaint and a copy of the District's decision (Title 5, California Code of Regulations, Section 4632).

Upon notification by the CDE that the complainant has appealed the District's decision, the Superintendent or designee shall forward the following documents to the CDE (Title 5, California Code of Regulations, Section 4633):

1. A copy of the original complaint
2. A copy of the decision
3. A summary of the nature and extent of the investigation conducted by the District, if not covered by the decision

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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 procedures
7. Other relevant information requested by the CDE

The CDE may directly intervene in the complaint without waiting for action by the District when one of the conditions listed in Title 5, California Code of Regulations, Section 4650 exists; including cases in which the District has not taken action within sixty (60) days of the date the complaint was filed with the District.

## **Civil Law Remedies**

A complainant may pursue available civil law remedies outside of the District's complaint procedures. Complainants may seek assistance from mediation centers or public/private interest attorneys. Civil law remedies that may be imposed by a court include, but are not limited to, injunctions and restraining orders.

For complaints alleging discrimination, harassment, intimidation, and bullying based on state law, a complainant must wait until sixty (60) days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies, provided the District has appropriately and in a timely manner apprised the complainant of his/her right to file a complaint in accordance with Title 5, California Code of Regulations, Section 4622. The moratorium does not apply to injunctive relief and to discrimination complaints based on federal law (Education Code 262.3).

## **Allegations of Federal Law or Regulations Violations**

For discrimination complaints arising under federal law, such complaints may be made at any time to the United States Department of Education, Office for Civil Rights.

### **Legal Reference:**

#### **EDUCATION CODE**

|             |   |
|-------------|---|
| 200-262.4   | Prohibition of discrimination                   |
| 8200-8498   | Child care and development programs             |
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## Administrative Regulations

### **Legal Reference (Continued):**

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|               |                                   |
|---------------|-----------------------------------|
| 52160-52178   | Bilingual education programs      |
| 52300-52499.6 | Vocational education              |
| 52800-52870   | School-based coordinated programs |
| 54000-54028   | Economic impact aid programs      |
| 54100-54145   | Miller-Unruh Basic Reading Act    |
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| 7201-7283g | Title V promoting informed parental choice and innovative programs                   |
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#### **UNITED STATES CODE, TITLE 29**

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#### **UNITED STATES CODE, TITLE 42**

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| 2000d-2000d-7 | Title VI, Civil Rights Act of 1964                |
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Revision Approved: October 28, 2003

Revision Approved: December 11, 2007

Revision Approved: April 22, 2008

Revision Approved: October 27, 2009

Administratively Approved