

~~Mt. Diablo USD~~

~~Administrative Regulation~~

~~Uniform Complaint Procedures~~

~~AR 1312.3~~

~~Community Relations~~

~~Except as the Governing Board may otherwise specifically provide in other Board policies, the Uniform Complaint Procedures (UCP) shall be used only to investigate and resolve complaints alleging violations of federal or state laws or regulations including but not limited to, allegations of discrimination, harassment, intimidation, or bullying, or noncompliance with laws relating to all programs and activities implemented by the district that are subject to the UCP, as specified in accompanying Board Policy 1312.3.~~

~~(cf. 1312.1—Complaints Concerning District Employees)~~

~~(cf. 1312.2—Complaints Concerning Instructional Materials)~~

~~(cf. 1312.4—Williams Uniform Complaint Procedures)~~

~~(cf. 4031—Complaints Concerning Discrimination in Employment)~~

~~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.~~

~~(Education Code 234.1) If 15 percent or more of students enrolled in a particular district school speak a single primary language other than English, the district's policy, regulation, forms, and notices concerning uniform complaint procedures shall be translated into that language. In all other instances, the district shall ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency. (Education Code 234.1, 48985)~~

~~(cf. 5145.6—Parental Notifications)~~

~~Compliance Officers~~

~~The following compliance officer shall receive and investigate complaints and shall ensure district compliance with law:~~

~~Executive Director, Instructional Support~~

~~1936 Carlotta Drive~~

~~Concord, CA 94519~~

~~Phone: (925) 682-8000, Ext. 4016~~

~~The compliance officer who receives a complaint may assign another compliance officer to investigate and resolve the complaint. The compliance officer shall promptly notify the complainant if another compliance officer is assigned to the complaint.~~

~~In no instance shall a compliance officer be assigned to a complaint in which he/she has a bias or conflict of interest that would prohibit him/her from fairly investigating or resolving the complaint. Any complaint against or implicating a compliance officer may be filed with the Superintendent or designee.~~

The Superintendent or designee shall ensure that employees designated to investigate complaints are knowledgeable about the laws and programs for which they are responsible. Training provided to such designated employees shall include current state and federal laws and regulations governing the program, applicable processes for investigating and resolving complaints including those involving alleged unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), applicable standards for reaching decisions on complaints, and appropriate corrective measures. Designated employees may have access to legal counsel as determined by the Superintendent or designee.

(cf. 4331—Staff Development)

(cf. 9124—Attorney)

The compliance officer or, if necessary, any appropriate administrator shall determine whether interim measures are necessary during and pending the results of an investigation. If interim measures are determined to be necessary, the compliance officer or the administrator shall consult with the Superintendent, the Superintendent's designee, or, if appropriate, the site principal to implement, if possible, one or more of the interim measures. The interim measures may remain in place until the compliance officer determines that they are no longer necessary or until the district issues its final written decision, whichever occurs first.

Notifications

The Superintendent or designee shall annually provide written notification of the district's uniform complaint procedures, including information regarding unlawful student fees, Local Control Accountability Plan (LCAP) requirements, and allegations of discrimination, harassment, intimidation, or bullying to students, employees, parents/guardians, school and district advisory committee members, school advisory committees, appropriate private school officials or representatives, and other interested parties. (Education Code 262.3, 49013; 52075; 5; CCR 4622)

(cf. 0420—School Plans/Site Councils)

(cf. 0460—Local Control and Accountability Plan)

(cf. 1220—Citizen Advisory Committees)

(cf. 3260—Fees and Charges)

(cf. 4112.9/4212.9/4312.9—Employee Notifications)

(cf. 5145.6—Parental Notifications)

The annual notification and complete contact information of the compliance officer(s) may be posted on the district web site.

(cf. 1113—District and School Web Sites)

(cf. 1114—District Sponsored Social Media)

The notice shall:

1. Identify the person(s), position(s), or unit(s) responsible for receiving 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

~~3. Advise the complainant of the appeal process, including, if applicable, 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, such as the U.S. Department of Education's Office for Civil Rights (OCR) in cases involving unlawful discrimination (such as discriminatory harassment, intimidation, or bullying).~~

~~4. Include statements that:~~

~~a. The district has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs.~~

~~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. A complaint alleging unlawful discrimination, harassment, intimidation, or bullying must be filed not later than six months from the date it occurred, or six months from the date the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation, or bullying. The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension.~~

~~d. A student enrolled in a public school shall not be required to pay a fee for his/her participation in an educational activity that constitutes an integral fundamental part of the district's educational program, including curricular and extracurricular activities.~~

~~e. The Board is required to adopt and annually update the LCAP in a manner that includes meaningful engagement of parents/guardians, students, and other stakeholders in the development and/or review of the LCAP.~~

~~f. The complainant has a right to appeal the district's decision to the CDE by filing a written appeal within 15 calendar days of receiving the district's decision.~~

~~g. The appeal to the CDE must include a copy of the complaint filed with the district and a copy of the district's decision.~~

~~h. Copies of the district's uniform complaint procedures are available free of charge.~~

Procedures

All complaints shall be investigated and a written report issued to the complainant resolved within 60 calendar days from the date of the district's receipt of the complaint unless the complainant agrees in writing to an extension of the timeline. (5 CCR 4631)

Compliance officers shall maintain a record of each complaint and subsequent related actions,

including all information required for compliance with 5 CCR 4631 and 4633.

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. However, the compliance officer shall keep all complaints or allegations of retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) confidential except when disclosure is necessary to carry out the investigation, take subsequent corrective action, conduct ongoing monitoring, or maintain the integrity of the process. (5 CCR 4630, 4964)

Step 1: Filing of Complaint

Any individual, public agency, or organization may file a written complaint of the district's alleged noncompliance with federal or state laws or regulations governing educational programs. (5 CCR 4630) A statement that the LEA complaint will be investigated and a written report issued to the complainant within 60 days from the date of the receipt of the complaint, unless the complainant agrees in writing to an extension of time. (EC § 234.1; 5 CCR § 4631.)

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 months from the date when the alleged discrimination, harassment, intimidation, or bullying occurred, or six 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 90 calendar days. (5 CCR 4630)

A complaint alleging noncompliance with the law regarding the prohibition against requiring students to pay student fees, deposits, and charges or any requirement related to the LCAP may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance. (Education Code 49013) A complaint about a violation of the prohibition against the charging of unlawful student fees may be filed with the principal of the school or the Superintendent or designee. However, any such complaint shall be filed no later than one year from the date the alleged violation occurred. (Education Code 49013, 52075; 5 CCR 4630)

If the district finds merit in a complaint regarding pupil fees, the LCAP, the education of pupil in foster care, pupils who are homeless, and former juvenile court pupils now enrolled in a school district, reasonable accommodations to a lactating pupil, course periods without educational content (grades 9-12th) or physical education instructional minutes (grades 1-6th), the public school or LEA shall provide a remedy. In the case of complaints of education of pupil in foster care, pupils who are homeless, and former juvenile court pupils now enrolled in a school district, reasonable accommodations to a lactating pupil, and course periods without educational content, the remedy shall go to the affected pupil. In the case of complaints regarding pupil fees, physical education minutes, and LCAP, the remedy shall go to all affected pupils and parents/guardians. (5 CCR4600(u).)

When a complaint alleging unlawful discrimination (such as discriminatory harassment,

intimidation, or bullying) is filed anonymously, the compliance officer shall pursue an investigation or other response as appropriate, depending on the specificity and reliability of the information provided and the seriousness of the allegation. When the complainant or alleged victim of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) requests confidentiality, the compliance officer shall inform him/her that the request may limit the district's ability to investigate the conduct or take other necessary action. When honoring a request for confidentiality, the district shall nevertheless take all reasonable steps to investigate and resolve/respond to the complaint consistent with the request.

The complaint shall be presented to the compliance officer who shall maintain a log of complaints received, providing each with a stamped copy of the date the complaint was received. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, district staff shall assist him/her in the filing of the complaint. (5 CCR 4600)

Step 2: Investigation of Complaint

Within 10 calendar days of receiving the complaint, the compliance officer shall provide the complainant and/or his/her representative an opportunity to present evidence or information to support the allegations in the complaint. The compliance officer also shall collect all documents and interview all witnesses with information pertinent to the complaint.

In conducting the investigation, the compliance officer shall collect all available documents and review all available records, notes, or statements related to the complaint, including any additional evidence or information received from the parties during the course of the investigation. He/she shall individually interview all available witnesses with information pertinent to the complaint, and may visit any reasonably accessible location where the relevant actions are alleged to have taken place. To investigate a complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the compliance officer shall interview the alleged victim(s), any alleged offenders, and other relevant witnesses privately, separately, and in a confidential manner. As necessary, additional staff or legal counsel may conduct or support the investigation.

A complainant's refusal to provide the district's 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 allegation

In accordance with law, refusal by the district to provide the investigator with access to records and other information related to the allegation in the complaint or to otherwise fail, refuse to cooperate or, in any way, obstruct 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. (5 CCR 4631)

The compliance officer shall apply a "preponderance of the evidence" standard in determining the veracity of the factual allegations in a complaint. This standard is met if the allegation is more likely to be true than not.

Step 3: Response

Within 30 calendar days of receiving the complaint, the compliance officer shall prepare and

send to the complainant a written report of the district's investigation and decision, as described in Step #4 below. If the complainant is dissatisfied with the compliance officer's decision, he/she may, within five business days, file his/her complaint in writing with the Board.

The Board may consider the matter at its next regular Board meeting or at a Special Board Meeting convened in order to meet the 60 day time limit within which the complaint must be answered. The Board may decide not to hear the complaint, in which case the compliance officer's decision shall be final.

If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 60 calendar days of the district's initial receipt of the complaint or within the time period that has been specified in a written agreement with the complainant. (5 CCR 4631)

Step 4: Final Written Decision

The district's decision on how it will resolve the complaint shall be in writing and sent to the complainant. (5 CCR 4631) In consultation with district legal counsel, information about the relevant part of a decision may be communicated to a victim who is not the complainant and to other parties that may be involved in implementing the decision or affected by the complaint, as long as the privacy of the parties is protected.

The district's decision shall be written in English and, when required by Education Code 48985, in the complainant's primary language. In all other instances, the district shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

For all complaints, the decision shall include: (5 CCR 4631)

1. The findings of fact based on the evidence gathered. In reaching a factual determination, the following factors may be taken into account:
 - a. Statements made by any witnesses
 - b. The relative credibility of the individuals involved
 - c. How the complaining individual reacted to the incident
 - d. Any documentary or other evidence relating to the alleged conduct
 - e. Past instances of similar conduct by any alleged offenders
 - f. Past false allegations made by the complainant
2. The conclusion(s) of law
3. Disposition of the complaint
4. Rationale for such disposition

For complaints of retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the disposition of the complaint shall include a determination for each allegation as to whether retaliation or unlawful discrimination has occurred.

The determination of whether a hostile environment exists may involve consideration of the following:

- a. How the misconduct affected one or more students' education
- b. The type, frequency, and duration of the misconduct

- ~~e. The relationship between the alleged victim(s) and offender(s)~~
- ~~d. The number of persons engaged in the conduct and at whom the conduct was directed~~
- ~~e. The size of the school, location of the incidents, and context in which they occurred~~
- ~~f. Other incidents at the school involving different individuals~~

~~5. Corrective actions, including any actions that have been taken or will be taken to address the allegations in the complaint and including, with respect to a student fees complaint, a remedy that conforms with Education Code 49013 and 5 CCR 4600~~

~~For complaints of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the notice may, as required by law, include:~~

- ~~a. The corrective actions imposed on the individual found to have engaged in the conduct that relate directly to the subject of the complaint~~
- ~~b. Individual remedies offered or provided to the subject of the complaint~~
- ~~c. Systemic measures the school has taken to eliminate a hostile environment and prevent recurrence~~

~~6. Notice of the complainant's right to file a written appeal of the district's decision to the complaint regarding all specified state and federal education programs subject to UCP within 15 calendar days to the California Department of Education and procedures to be followed for initiating such an appeal.~~

~~The decision may also include follow-up procedures to prevent recurrence or retaliation and for reporting any subsequent problems.~~

Civil Law Remedies

~~For complaints alleging unlawful discrimination based on state law (such as discriminatory harassment, intimidation, and bullying), the decision shall also include a notice to the complainant that:~~

- ~~1. He/she may pursue available civil law remedies under state or federal discrimination, harassment, intimidation, and bullying laws outside of the district's complaint procedures, including seeking assistance from mediation centers or public/private interest attorneys, 60 calendar days after the filing of an appeal with the CDE. (Education Code 262.3)~~
- ~~2. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law. (Education Code 262.3)~~
- ~~3. Complaints alleging discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the U.S. Department of Education, Office for Civil Rights at www.ed.gov/ocr within 180 days of the alleged discrimination.~~

~~If investigation of a complaint results in discipline to a student or an employee, the decision shall simply state that effective action was taken and that the student or employee was informed of district expectations. The report shall not give any further information as to the nature of the disciplinary action.~~

Corrective Actions

When a complaint is found to have merit, the compliance officer shall adopt any appropriate corrective action permitted by law. Appropriate corrective actions that focus on the larger school or district environment may include, but are not limited to, actions to reinforce district policies; training for faculty, staff, and students; updates to school policies; or school climate surveys. For complaints involving retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), appropriate corrective actions that focus on the victim may include, but are not limited to, the following:

1. Counseling
2. Academic support
3. Health services
4. Assignment of an escort to allow the victim to move safely about campus
5. Information regarding available resources and how to report similar incidents or retaliation
6. Separation of the victim from any other individuals involved, provided the separation does not penalize the victim
7. Restorative justice
8. Follow-up inquiries to ensure that the conduct has stopped and there has been no retaliation
9. Determination of whether any past actions of the victim that resulted in discipline were related to the treatment the victim received and described in the complaint

For complaints involving retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), appropriate corrective actions that focus on a student offender may include, but are not limited to, the following:

1. Transfer from a class or school as permitted by law
2. Parent/guardian conference
3. Education regarding the impact of the conduct on others
4. Positive behavior support
5. Referral to a student success team
6. Denial of participation in extracurricular or co-curricular activities or other privileges as permitted by law
7. Disciplinary action, such as suspension or expulsion, as permitted by law

The district may also consider training and other interventions for the larger school community to ensure that students, staff, and parents/guardians understand the types of behavior that constitute unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), that the district does not tolerate it, and how to report and respond to it.

If a complaint alleging noncompliance with the laws regarding student fees, deposits, other charges, or any requirement related to the LCAP is found to have merit, the district shall provide a remedy to all affected students and parents/guardians, subject to procedures established by regulation of the State Board of Education. (Education Code 49013, 52075)

For complaints alleging noncompliance with the laws regarding student fees, the district shall attempt in good faith, by engaging in reasonable efforts, to identify and fully reimburse all

~~affected students and parents/guardians who paid the unlawful student fees within one year prior to the filing of the complaint. (Education Code 49013; 5 CCR 4600)~~

~~Appeals to the California Department of Education~~

~~If dissatisfied with the district's decision, the complainant may appeal in writing to the California Department of Education. (Education Code 49013; 5 CCR 4632)~~

~~The complainant shall file his/her appeal within 15 calendar days of receiving the district's decision and the appeal 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. (5 CCR 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: (5 CCR 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~~
- ~~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 uniform complaint procedures~~
- ~~7. Other relevant information requested by the CDE~~

~~The CDE may directly intervene in a complaint without waiting for action by the district when one of the conditions listed in 5 CCR 4650 exists, including when the district has not taken action within 60 calendar days of the date the complaint was filed with the district. (5 CCR 4650)~~

~~Regulation MT. DIABLO UNIFIED SCHOOL DISTRICT~~

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