

Albany 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 shall be used to investigate and resolve only complaints specified in BP 1312.3.

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.

- (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)

Compliance Officers

The District designates the individuals below as the employees responsible for coordinating the District's response to complaints and for complying with state and federal civil rights laws. These individuals also serve as the compliance officers specified in AR 5145.3 - Nondiscrimination/Harassment as the responsible employees to handle complaints regarding sex discrimination. These individuals shall receive and coordinate the investigation of complaints and shall ensure district compliance with law.

- (cf. 5145.3 – Nondiscrimination/Harassment)
- (cf. 5145.7 – Sexual Harassment)

Superintendent, Director III – Educational & Student Services or designee
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Alternatively, a Uniform Complaint form may be filed with the Albany Unified School District Board of Education President if the complaint pertains to the Superintendent. The Board President may choose to consult the District's attorney in order to investigate said complaint.

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

In no instance shall a compliance officer be designated to investigate a complaint if he/she is mentioned in the complaint or has a conflict of interest that would prohibit him/her from fairly investigating the complaint. Any complaint filed 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 receive training and are knowledgeable about the laws and programs that they are assigned to investigate. Training provided to such designated employees shall include current state and federal laws and regulations governing the program, applicable processes for investigating complaints, including those involving alleged discrimination, applicable standards for reaching decisions on complaints, and appropriate corrective measures. Employees designated to investigate complaints 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 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 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; 5 CCR 4622)

(cf. 0420 - School Plans/Site Councils)
(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 Superintendent or designee shall ensure that all students and parents/guardians, including students and parents/guardians with limited English proficiency, have access to the relevant information provided in the district's policy, regulation, forms, and notices concerning the UCP.

The annual notification and complete contact information of the compliance officers shall be posted on the district web site and provided through district-supported social media.

The Superintendent or designee shall make available copies of the District's uniform complaint procedures free of charge. (5 CCR 4622)

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 pursuant to Education Code 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, such as the U.S. Department of Education's Office for Civil Rights (OCR) in cases involving unlawful discrimination.
4. Include statements that:
 - a. The District is primarily responsible to ensure compliance with 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 retaliation, unlawful discrimination, or bullying must be filed not later than six months from the date it occurred, or six months from the date the complainant first obtains knowledge of the facts of the alleged discrimination. 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 a local control and accountability plan (LCAP), in a manner that includes meaningful engagement of

parents/guardians, students, and other stakeholders in the development and/or review of the LCAP.

(cf. 0460 - Local Control and Accountability Plan)

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

(cf. 5145.6 - Parental Notifications)

Procedures

All UCP-related complaints shall be investigated and resolved within 60 calendar days 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 steps taken during the investigation and all information required for compliance with 5 CCR 4631 and 4633.

All parties involved in allegations shall be notified when a complaint is filed, and when a decision or ruling is made. However, the compliance officer shall keep all complaints or allegations of retaliation, unlawful discrimination, 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 alleged noncompliance with federal or state laws or regulations governing consolidated categorical aid programs, career technical education programs, child care and development programs, child nutrition programs, and special education programs by the District. (5 CCR 4630)

A complaint alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying shall be initiated no later than six months from the date when the alleged discrimination, occurred, or six months from the date when the complainant first obtained knowledge of the facts of the alleged discrimination. A complaint may be filed only by a person who alleges that he/she personally suffered unlawful discrimination, or by a person who believes that an individual or any specific class of individuals has been subjected to it. 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)

When a complaint alleging unlawful discrimination 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 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 will nevertheless take all reasonable steps to investigate and respond to the complaint consistent with the request.

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, 52075)

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 assist him/her in the filing of the complaint. (5 CCR 4600)

Mediation

Within three business days after the compliance officer receives the complaint, he/she may informally discuss with all the parties the possibility of using mediation. 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 an allegation of sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. If the parties agree to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a complaint alleging retaliation, unlawful discrimination, or bullying, the compliance officer shall ensure that all parties agree to make the mediator a party to relevant confidential information. The compliance officer shall also notify all parties of the right to end the informal process at any time.

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.

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. If mediation is successful and the complaint is withdrawn, then the District shall

take only the actions agreed to through the mediation. If mediation is unsuccessful, the District shall then continue with subsequent steps specified in this administrative regulation.

Step 2: Investigation of Complaint

Within 10 business days of receiving the complaint, the compliance officer shall provide the complainant and/or his/her representative an opportunity to present the complaint and evidence, or information leading to evidence, to support the allegations in the complaint. The compliance officer also shall collect and/or review all documents and individually interview all available witnesses with information pertinent to the complaint. To resolve a complaint alleging retaliation, unlawful discrimination, 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. (5 CCR 4631)

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. (5 CCR 4631)

The District's refusal to provide the investigator with access to records and/or other information related to the allegation in the complaint, or its failure or refusal to cooperate in the investigation or its engagement 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. (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 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 in the language of the complainant whenever feasible or as required by law.

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; and
- f. Past false allegations made by the complainant.

2. The conclusion(s) of law;

3. Disposition of the complaint; and

4. Rationale for such disposition.

For complaints of retaliation or unlawful discrimination, including 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;
- c. 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;
and
- f. Other incidents at the school involving different individuals.

5. Corrective action(s), if any are warranted to address the allegations in the complaint. In the case of a complaint about student fees, the remedy must comply with Education Code 49013 and 5 CCR 4600.

For complaints of unlawful discrimination, including 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 appeal the District's decision within 15 calendar days to the CDE and procedures to be followed for initiating such an appeal

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

1. He/she may pursue available civil law remedies 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.

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, unlawful discrimination, 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; and/or
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, unlawful discrimination, 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; and/or
7. Disciplinary action, such as suspension or expulsion, as permitted by law,

If a complaint alleging noncompliance with the laws regarding student fees, deposits, and 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. (Education Code 49013, 52075)

For complaints alleging noncompliance with the laws regarding student fees, such remedies, where applicable, shall include reasonable efforts to ensure full reimbursement to affected students and parents/guardians. (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 CDE within 15 calendar 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. (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 the complaint without waiting for action by the District when one of the conditions listed in 5 CCR 4650 exists, including cases in which the District has not taken action within 60 days of the date the complaint was filed with the District.

Regulation ALBANY UNIFIED SCHOOL DISTRICT
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