

Article **Community Relations**

Number **1312.3**

Title **Uniform Complaint Procedures**

BoardPolicy

Regulation

Exhibit

SubTopic **Community Relations**

Reference

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/offices/OCR>

Management Resources

Legal Reference:

EDUCATION CODE

200-262.3 Prohibition of discrimination

8200-8498 Child care and development programs

8500-8538 Adult basic education 18100-18179 School libraries

48431.6 Academic progress and counseling review program

48985 Notices in language other than English

49060-49079 Student records

49490-49590 Child nutrition programs

52000-52049.1 School improvement programs

52160-52178 Bilingual education programs

52300-52499.6 Vocational education

52500-52616.24 Adult schools

52800-52870 School-based coordinated programs

54000-54041 Economic impact aid programs

54100-54145 Miller-Unruh Basic Reading Act

54400-54425 Compensatory education programs

54440-54445 Migrant education

54460-54529 Compensatory education programs

56000-56885 Special education programs

59000-59300 Special schools and centers

62000-62008 Evaluation and sunseting of programs

Adopted: June 3, 2004

Revised: February 7, 2008
November 15, 2007

CSBA Date: January 2006

District Goal: Quality Education for All

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The Governing Board recognizes that the district is primarily responsible for complying with applicable state and federal laws and regulations governing educational programs. The district shall investigate complaints alleging failure to comply with applicable state and federal laws and regulations and/or alleging discrimination and shall seek to resolve those complaints in accordance with the procedures set out in Sections 4600-4687 of the Title 5 Regulations and in accordance with the policies and procedures of the governing board. (5 CCR 4620)

The district shall follow uniform complaint procedures when addressing complaints alleging unlawful discrimination against any protected group as identified under Education Code 200 and 220 and Government Code 11135, including actual or perceived sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability, or age, or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics in any district program or activity that receives or benefits from state financial assistance. (5 CCR 4610) (AR 1312.3)

Uniform complaint procedures shall also be used when addressing complaints alleging failure to comply with state and/or federal laws in adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and career technical and technical training programs, child care and development programs, nutrition services, and special education programs. (5 CCR 4610) (AR 1312.3)

Complaints 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, and teacher vacancies and misassignments, shall be investigated pursuant to the district's Williams uniform complaint procedure (AR 1312.4).

Complaints related to post-grade twelve intensive services and instruction (AB 347) for students who have not passed CAHSEE in one or both subjects shall be investigated pursuant to the district's uniform complaint procedure.

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

The Board acknowledges and respects every individual's right to privacy. Discrimination complaints shall be investigated in a manner that protects the confidentiality of the parties and the integrity of the process. This may include keeping the identity of the complainant confidential, as appropriate and except to the extent necessary to carry out the investigation or proceedings, as determined by the Superintendent or designee, on a case-by-case basis.

The Board prohibits any form of retaliation against any complainant in the complaint process, including but not limited to a 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 Assistant Superintendent, Human Relations shall be designated as the responsible staff position for receiving complaints with regards to AR 1312.3 and AR 1312.4.

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Management Resources

Adopted: December 10, 1998

Revised: December 31 2007
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June 3, 2004

CSBA Date: March 2002

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Uniform Complaint Procedures

A. Compliance Officers

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

Assistant Superintendent, Human Resources
SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT
1651 16th Street
Santa Monica, CA 90404
310-450-8338

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

B. Notifications

The Superintendent or designee shall meet the notification requirements of the Code of Regulations, Title 5, Section 4622, including the annual dissemination of district complaint procedures and information about available appeals, civil law remedies and conditions under which a complaint may be taken directly to the California Department of Education. The superintendent or designee shall ensure that complainants understand that they may pursue other remedies, including actions before civil courts or other public agencies. 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. (5 CCR 4622)

When 15 percent or more of the students in the school speak a primary language other than English, all notices to parents or guardians regarding the complaint procedures are written in the student's primary language in addition to English.

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

The above notification shall state that complainants may seek help from agencies such as legal assistance agencies, local mediation centers or the county office of education.

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
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
 - 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

C. 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. 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 4632.

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. (5 CCR 4630)

The complainant has the responsibilities to receive and read the annual written notice of Uniform Complaint Procedure from the district, follow steps of the district Uniform Complaint Procedure, and to put the complaint in writing.

A complaint alleging unlawful discrimination 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 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 unlawful discrimination. (5 CCR 4630) The Uniform Complaint Form is available online as 1312.3 Exhibit.

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)

Step 2: Mediation

Within three days of receiving the complaint, the compliance officer may informally discuss with the complainant the possibility of using mediation. If the complainant agrees to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a discrimination complaint, 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.

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. (5 CCR 4631)

Step 3: Investigation of Complaint

The district's responsibilities are: to investigate and report to complainant within 60 days (may include mediation), give complainant an opportunity to present relevant information, prepare and forward written report of decision to complainant, and provide written report which advises complainant of 15-day appeal rights to CDE and how to file such an appeal.

The compliance officer is encouraged to hold an investigative meeting within five days of receiving the complaint or an unsuccessful attempt to mediate the complaint. This 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 shall have an opportunity to present the complaint and evidence or information leading to evidence to support the allegations in the complaint. Parties to the dispute may discuss the complaint and question each other or each other's witnesses. (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)

Step 4: Response

Within 60 days of receiving the complaint unless the complainant agrees in writing to an extension of time, 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. (Title 5, 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 as required by law. If it is not feasible to write this report in the complainant's primary language, the district shall arrange a meeting at which a community member will interpret it for the complainant.

The report shall include:

1. The findings, based on the evidence gathered, conclusion of law and disposition of the complaint, including corrective actions, if any. (5 CCR 4631)
2. The rationale for the above disposition (5 CCR 4631)
3. Notice of the complainant's right to appeal the district's decision within 15 days to the CDE and procedures to be followed for initiating such an appeal (5 CCR 4631)
4. For appeal with the CDE before pursuing civil law remedies (Education Code 262.3)

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

D. 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 days of receiving the district's decision.

When appealing to the CDE, the complainant must specify the basis for the appeal of the district's 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 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.

E. 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 discrimination complaints, however, a complainant must wait until 60 days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies. The moratorium does not apply to injunctive relief and is applicable only if the district has appropriately, and in a timely manner, apprised the complainant of his/her right to file a complaint in accordance with 5 CCR 4622.

Copies of the district's complaint procedures shall be available free of charge.

BOARD POLICY: 1312.3 Uniform Complaint Procedures

LAST BOARD ACTION: Revised November 15, 2007

CSBA DATE: January 2006

APPROVAL:

SUPERINTENDENT: Tim Walker, Deputy Superintendent for Dianne Talarico

DATE: 12/31/07

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Management Resources

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The Uniform Complaint Form may be downloaded by selecting the Possible Additional PDF Detail, above.