

FRANKLIN-MCKINLEY SCHOOL DISTRICT
Uniform Complaint Procedures

UNIFORM COMPLAINT PROCEDURE GUIDELINES

I. BACKGROUND

The UCP complaint is a written statement alleging discrimination, harassment, intimidation, and/or bullying of a student based on the actual or perceived categories set forth in Penal Code §422.5 and Education Code §220 which includes actual or perceived sex, sexual orientation, gender, gender identity, gender expression, race or ethnicity, ethnic group identification, ancestry, nationality, national origin, religion, color, mental or physical disability, 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 program or activity it conducts or to which it provides significant assistance, or a violation of a federal or state law or regulation.

A UCP complaint must be filed by way of the Uniform Complaint Procedures as written in *Title 5* of the *California Code of Regulations* §§4600-4687. Issues that may involve filing a complaint using the UCP are under various state and federal programs that use categorical funds. The local agency is PRIMARILY responsible for compliance with federal and state laws and regulations.

A pupil shall not be required to pay a pupil fee for participation in an educational activity, unless the charge for such a fee is specifically authorized by law and does not violate Education Code §49011. A pupil fee complaint shall be filed no later than one year from the date the alleged violation occurred.

Copies of this local educational agency's complaint procedures shall be available free of charge and are also posted on the district's web site. A complaint of noncompliance should be filed first with the principal of the school under the UCP. A complainant not satisfied with the decision of the school may appeal the decision to the District's UCP Coordinator and shall receive a written appeal decision within 60 days of receipt of the complainant's appeal request. A complaint that a school district has not complied with the requirements of the LCAP may be filed using the UCP. (Education Code §52075). LCAP requirements are found in Education Code §§52060-52076. On July 1, 2013, Assembly Bill 97 was signed by Governor Brown enacting the LCFF. As part of LCFF, school districts, county offices of education and charter schools are required to develop, adopt, and annually update a three-year LCAP using the State Board of Education template. The LCAP is required to identify annual goals, specific actions geared toward implementing those goals, and must measure progress for student subgroups across multiple performance indicators based on eight priorities set by the State. The priorities must be aligned to the district's spending plan. The LCAP must be approved before the annual district budget can be adopted. Once the budget and LCAP are adopted at the local level the plan will be reviewed by the County superintendent to ensure alignment of projected spending toward goals and services. The following are the eight State priorities:

1. Providing all students access to fully credentialed teachers, instructional materials that align with state standards, and safe facilities.
2. Implementation of California's academic standards, including the Common Core State Standards in English language arts and math, Next Generation Science Standards, English language development, history social science, visual and performing arts, health education and physical education standards.
3. Parent involvement and participation, so the local community is engaged in the decision-making process and the educational programs of students.
4. Improving student achievement and outcomes along multiple measures, including test scores, English proficiency and college and career preparedness.
5. Supporting student engagement, including whether students attend school or are chronically absent.
6. Highlighting school climate and connectedness through a variety of factors, such as suspension and expulsion rates and other locally identified means.
7. Ensuring all students have access to classes that prepare them for college and careers, regardless of what school they attend or where they live.
8. Measuring other important student outcomes related to required areas of study, including physical education and the arts.

In addition to these eight areas, a district may also identify and incorporate in its plan goals related to its own local priorities. The Board of Education is required to establish a parent advisory committee and District English Learner Advisory Committee (DELAC) to provide advice to the Board of Education and the superintendent regarding the LCAP. DELACs are required if the enrollment of a school district includes at least 15% English learners and the district enrolls at least 50 pupils who are English learners. PACs shall include parents or legal guardians of low income students, English learner students, and foster youth.

Each district is required to consult with its teachers, principals, administrators, other school personnel, local bargaining units, parents, and pupils in developing the LCAP. As part of this consultation process, districts must present their proposed plans to the PAC and ELPAC. The advisory committees can review and comment on the proposed plan. Districts must respond in writing to the comments of the PAC and ELPAC.

Districts are also required to notify members of the public that they may submit written comments regarding the specific actions and expenditures proposed in the LCAP. Districts are also required to hold at least two public hearings to discuss and adopt (or update) their LCAPs. The district must first hold at least one hearing to solicit recommendations and comments from the public regarding expenditures proposed in the plan. It then must adopt (or officially update) the LCAP at a subsequent hearing. The district is required to post on the school district website the LCAP approved by the Board of Education and any updates or revisions to the LCAP.

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II. UNIFORM COMPLAINT PROCEDURES PROCESS JURISDICTION

A. Complaints Under the Jurisdiction of the District's UCP Process:

1. Discrimination, Harassment, Intimidation, and/or Bullying

- a. Employee to student
- b. Student to student
- c. Third party to student

2. Various Programs that Use Categorical Funds

- a. Adult Education
- b. Consolidated Categorical Aid
- c. Migrant Education
- d. Career Technical/Technical Education/Technical Training
- e. Child Care and Development
- f. Child Nutrition
- g. Special Education

3. Unauthorized Charging of Pupil Fees* for Educational Activities

- a. A District pupil shall not be required to pay a pupil fee for participation in an educational activity.
- b. All supplies, materials, and equipment needed to participate in educational activities shall be provided to pupils free of charge.

* "Pupil fee" means a fee, deposit, or other charge imposed on pupils, or a pupil's parents or guardians, in violation of California Education Code §49011 and §5 of Article IX of the California Constitution.

4. Failure to Comply with Legal Requirements Pertaining to LCAP

B. Complaints Not Under the Jurisdiction of the District's UCP Process:

1. Allegations of employment/work, employee-to-employee and/or student-to-employee discrimination, harassment, intimidation, and/or bullying may be referred to the State & Federal Projects and Assessment Department at 408.283.6048.

2. Allegations of suspected child abuse shall be referred to the Santa Clara County Department of Children and Family Services or the appropriate city or county law enforcement agency, as applicable.

3. Allegations of fraud shall be referred to the Office of the Inspector General.

4. Personnel action complaints shall be referred to the responsible administrator in the division, branch, or department.

5. Health and Safety complaints regarding a Child Development Program shall be referred to the Department of Social Services, for licensed facilities.

6. Bullying complaints not based on protected classes may be referred to the school's Principal/Designee.

III. RELATED DEFINITIONS

Title 5, California Code of Regulations provides the following definitions:

A. **Appeal:** A request made in writing to a level higher than the original reviewing level by an aggrieved party requesting reconsideration or a reinvestigation of the lower adjudicating body's decision.

B. **Complainant:** An individual, including a person's duly authorized representative or an interested third party, public agency, or organization who files a written complaint alleging a violation of federal or state laws or

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regulations, including allegations of discrimination in programs and activities funded directly by the state or receiving any financial assistance from the state.

C. Complaint: A written and signed statement alleging a violation of federal or state laws or regulations, which may include an allegation of discrimination, harassment, intimidation and/or bullying. If the complainant is unable to put the complaint in writing, due to conditions such as a disability or illiteracy, the public agency shall assist the complainant in the filing of the complaint.

D. Complaint Investigation: Administrative process used by the District, the California Department of Education (CDE) or local educational agency for the purpose of gathering data regarding the complaint.

E. Complaint Procedure: An internal process used by the CDE or local educational agency to process and resolve complaints.

F. Compliance Agreement: An agreement or plan, following a finding of District noncompliance with state laws and regulations, which has been developed by the District and approved by the CDE to resolve a noncompliance issue.

G. Days: Calendar days, unless designated otherwise.

H. Direct State Intervention: The steps taken by the CDE to initially investigate complaints or effect compliance.

I. Local Agency: A school district governing board or a local public or private agency which receives direct or indirect funding or any other financial assistance from the state to provide any school programs or activities or special education or related services.

J. Mediation: A problem-solving activity whereby a third party assists the parties to the dispute in resolving the complaint.

K. State Mediation Agreement: A written, voluntary agreement, approved by the CDE, which is developed by the parties to the dispute, which resolves the allegations of the complaint.

IV. NOTIFICATION – DISSEMINATION

A. Employees: This “Uniform Complaint Procedures” Bulletin is to be provided to all District employees on an annual basis at the beginning of each school year.

B. Students: The District’s formal complaint procedures are provided in the “Parent Student Handbook,” and/or the first-day registration packet, which all schools are required to distribute annually to every student upon their first enrollment into any District school and at the beginning of each subsequent school year.

C. Parents and/or Guardians: Notification of the District’s formal complaint procedures will be provided in the “First Day” packet or at the time of enrollment in the District.

D. District/School Advisory Committees/Other Interested Parties: The “Uniform Complaint Procedures (UCP)” notice brochure is used to provide the required annual distribution of information regarding the District’s formal complaint procedures to District/School Advisory Committees, as well as other interested parties.

V. CONFIDENTIALITY AND NON-RETALIATION

Complaints shall be handled in a confidential manner to respect the privacy of all parties to the fullest extent possible. Every effort shall be made to limit the distribution of information to those persons with a need to know within the confines of the District’s reporting procedures and investigative process.

The District prohibits retaliation in any form for the filing of a complaint or an appeal, reporting instances of non-compliance, discrimination, harassment, intimidation, and/or bullying, or for participation in the complaint-filing or investigation process. These confidentiality and non-retaliation requirements extend to all parties involved.

VI. FORMAL COMPLAINT PROCEDURES

A. Complaint Filing

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1. Any individual, public agency or organization may file a written complaint, alleging a matter which, if true, would constitute a violation by the District of federal or state laws or regulations governing the programs and activities as well as allegations of discrimination, harassment, intimidation, and/or bullying identified in the General Information section of this document.
2. Any parent/guardian/individual/organization has the right to file a written complaint of discrimination, harassment, intimidation, and/or bullying within six months from the date the alleged incident occurred or the complainant first obtained knowledge of the facts of the alleged incident.
3. A complaint may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance.
4. A complainant who makes a verbal complaint shall be referred to the administrator/designee who will assist any person with a disability or unable to prepare a written complaint.
5. The complainant will submit a written complaint to:

Tracy Rohlfig, Director
State & Federal Projects and Assessment
Franklin-McKinley School District
645 Wool Creek Drive
San Jose, California 95112
Telephone: 408.283.6048

This individual/office shall be considered the representative of the District for purposes of receiving and coordinating responses to complaints and correspondence related to this policy. The District ensures the District administrator/designee assigned to investigate complaints is knowledgeable about the laws/programs that he/she is assigned to investigate and is responsible for compliance. In addition, the District administrator/designee responsible for providing a written report should be a person trained in the UCP investigative process. As such, this designee must have knowledge of federal and state laws and regulations pertaining to UCP.

6. The District shall include an opportunity for the complainant, or the complainant's representative, or both, to present the complaint(s) and evidence or information leading to evidence to support the allegations of non-compliance with state and federal laws and/or regulations. Refusal by the complainant to provide the 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 allegations.

Refusal by the District to provide the investigator with access to records and/or other information related to the allegation 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 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.

B. Complaint Receipt

The District administrator/designee shall:

1. Acknowledge receipt of the complaint and will review the complaint to determine whether it meets the criteria for filing under the procedures or falls within the exceptions listed in the General Information section.
2. Inform the complainant of the District policy and appeal procedures in those instances when a complaint may be filed directly with the State Superintendent of Public Instruction or another appropriate state or federal agency.
3. Determine whether the complainant and the District representative will participate in mediation to resolve the complaint prior to formal investigation. If the complainant agrees to the mediation, the complainant must be informed that the mediation process may be terminated at any time and may proceed directly to an investigation. Mediation may not extend the timeline for investigation and resolution to the complaint unless the complainant agrees, in writing, to the extension.
4. Determine whether a discrimination, harassment, intimidation, and/or bullying complaint has been filed within six months from the date the alleged incident occurred or the date the complainant first obtained knowledge of the facts of the alleged incident. Confidentiality of complaints alleging discrimination, harassment, intimidation, and/or bullying will be observed to the maximum extent possible.
5. Deny the discrimination, harassment, intimidation, and/or bullying complaint if it has not been filed in a timely manner, and notify the complainant of the right to appeal to the State Superintendent of Public Instruction for an extension of time in which to file the complaint.
6. Refer the complaint for investigation to the appropriate District office/division/branch.

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7. Ensure that, within 60 days of receipt of the written complaint, the complaint has been resolved and/or investigated and that a written report of findings is issued to the complainant. The written report of the investigative findings must contain the allegation(s), method of investigation, policy, findings, conclusion(s), and corrective action(s), if applicable.
8. Obtain an extension of time, if appropriate, in order to conduct the investigation.

C. Complaint Timeline

1. Each complaint shall be resolved and a written report of investigative findings issued within 60 days of the receipt of the written complaint unless the complainant agrees in writing to an extension of time.
2. If the complainant agrees to mediation, it may not extend the timeline for investigation and resolution of the complaint unless the complainant agrees, in writing, to the extension.

D. Complaint Investigation

Each complaint shall be investigated by the appropriate District office division/department. The District office division/department shall:

1. Adhere to a 30 day timeline to request additional information from the complainant as necessary, conduct the investigation, and prepare the final written report of findings.
 2. Provide an opportunity for the complainant and/or the complainant's representative and the District's representative to present information that is relevant to the complaint during the mediation or investigative process. Refusal by the complainant to provide the 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 allegations.
3. Obtain statements from other individuals who were witnesses or can provide relevant information concerning the alleged violation.
4. Review documents that may provide information relevant to the alleged violation. When necessary, request clarification on specific issues of the complaint from other District offices (e.g., Parent Community Services Branch, Federal and State Education Programs Branch, Division of Special Education, etc.).
 5. Have access to applicable District records and/or other information related to the allegation(s) in the complaint. District units or staff who refuse or otherwise fail to cooperate in the investigation or engage in any other obstruction of the investigation, may cause 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.
6. Prepare a written report (in English and in the language of the complainant) of the investigative findings which contains the following elements:
 - a. The findings of fact based on the evidence gathered
 - b. Conclusion of law
 - c. Disposition of the complaint
 - d. The rationale for the disposition
 - e. Corrective actions, if any, that are warranted
 - f. Notice of the complainant's right to appeal the District's decision to the CDE
 - g. Procedures to be followed for initiating an appeal to the CDE
7. Within 30 days of receipt of the complaint, forward a draft of the written report of investigative findings to the EECO for review and final disposition.

E. Complaint Response

1. The UCP Coordinator will complete and provide the closing letter, along with the written report of investigative findings, to the complainant and to the appropriate administrator/designee.
 2. The closing letter provided to the complainant includes the assurance that the District will not tolerate retaliation against the complainant for opposing District actions, reporting, or threatening to report such actions or for the complainant's participation in an investigation of District actions.
3. The closing letter provided to the complainant also includes notice of the complainant's right to appeal the District's decision. ESC decisions regarding programs listed in the General Information section may be appealed within 15 days to the EECO and/or to the CDE.

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VII. APPEALS

A. Appeals of ESC or District Decisions Regarding Allegations of Discrimination, Harassment, Intimidation, and/or Bullying

1. Appeals of ESC decisions and/or findings involving allegations of discrimination, harassment, intimidation, and/or bullying may be filed in writing within 15 days to the District's EECO. a.

A written appeal of the ESC decisions and/or findings may be directed to:

Tracy Rohlfing, Director
State & Federal Projects and Assessment
Franklin-McKinley School District
645 Wool Creek Drive
San Jose, California 95112
Telephone: 408.283.6048

- b. The complainant shall specify the reason(s) for appealing the decision and include a copy of the ESC decision. The ESC will provide the EECO investigator with access to records and/or other information related to the allegation in the complaint and information obtained as part of the ESC's investigation into the allegation. A final written letter of findings will be provided to the complainant of the disposition of the appeal and rationale for the disposition.

2. Appeals of District decisions and/or findings regarding allegations of discrimination, harassment, intimidation, and/or bullying listed in this document may be appealed to the CDE's Office of Equal Opportunity by filing a written appeal within 15 days after receiving the District's decision.

- a. The written appeal should specify the reason(s) for appealing the decision and include a copy of the District's decision.

- b. Appeals of District decisions regarding allegations of discrimination, harassment, intimidation, and/or bullying may be sent to:

California Department of Education
Office for Equal Opportunity
1430 N Street, Suite 4206
Sacramento, CA 95814

B. Appeals of District Decisions Regarding Educational Program Complaints Appeals of District decisions and/or findings regarding educational programs listed in this document (found in Section 2 – Uniform Complaint Procedures Process Jurisdiction) may be appealed to the CDE's Categorical Programs Complaints Management by filing a signed written appeal within 15 days after receiving the District's decision

1. The written appeal should specify the reason(s) for appealing the decision and include a copy of the District's decision.

2. Appeals of District decisions regarding educational program complaints should be sent to:

Office of General Counsel
California Department of Education
Categorical Programs Complaints Management Office
1430 N Street, Suite 6408

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Sacramento, CA 95814

C. Appeals of District Decisions Regarding Special Education Compliance Appeals of District decisions and/or findings regarding special education compliance may be filed with the CDE's Special Education Division by sending a written appeal within 15 days after receiving the District's decision

1. The written appeal should specify the reason(s) for appealing the decision and include a copy of the District's decision.
2. Appeals of District decisions regarding special education compliance should be sent to:

California Department of Education
Procedural Safeguards Referral Service
1430 N Street, Suite 2401
Sacramento, CA 95814

D. Appeals of District Decisions Regarding Pupil Fees and Legal Requirements pertaining to LCAP Appeals of District decisions and/or findings regarding pupil fees and legal requirements pertaining to LCAP may be filed with the CDE by sending a written appeal within 15 days after receiving the District's decision

1. The written appeal should specify the reason(s) for appealing the decision and include a copy of the District's decision.
2. Appeals of District decisions regarding pupil fees and legal requirements pertaining to LCAP should be sent to:

VIII. CIVIL REMEDIES

California Department of Education
1430 N Street
Sacramento, CA 95814

Pursuant to California Education Code §262.3, persons who have filed a complaint, under the UCP, should be advised that civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders may also be available to them under California or federal discrimination, harassment, intimidation and/or bullying laws.

AUTHORITY: This is the policy of the District Superintendent of Schools. The following legal standard is applied to this policy: *California Code of Regulations, Title 5, §§4600 - 4687*

ASSISTANCE: For further information or assistance: Department of State & Federal Projects and Assessment – 408.283.6048 - Tracy Rohlifing, Director

ATTACHMENTS:

- Attachment A- UCP Complaint Form – English
- Attachment B- UCP Complaint Form – Spanish
- Attachment C - UCP Complaint Form – Vietnam

tC - UCP Complaint Form – Vietnamese



**Franklin-McKinley
School District**
PREPARING ALL CHILDREN AS GLOBAL LEARNERS

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