

## **Uniform Complaint Procedures (UCP) 2017-2018**

This document contains rules and instructions about the filing, investigation and resolution of a Uniform Complaint Procedures (UCP) complaint regarding an alleged violation by a local educational agency of federal or state laws or regulations governing educational programs, including allegations of unlawful discrimination, harassment, intimidation, bullying and noncompliance with laws relating to pupil fees.

This document presents information about how the Santa Clara County Office of Education processes UCP complaints concerning particular programs or activities in which we receive state or federal funding. A complaint is a written and signed statement by a complainant alleging a violation of federal or state laws or regulations, which may include an allegation of unlawful discrimination, harassment, intimidation, bullying and charging pupil fees for participation in an educational activity. A complainant is any individual, including a person's duly authorized representative or an interested third party, public agency, or organization who files a written complaint alleging violation of federal or state laws or regulations, including allegations of unlawful discrimination, harassment, intimidation, bullying and noncompliance with laws relating to pupil fees. If the complainant is unable to put the complaint in writing, due to a disability or illiteracy, the Santa Clara County Office of Education shall assist the complainant in the filing of the complaint.

Programs and activities that are subject to the UCP in which the Santa Clara County Office of Education receives state or federal funding are:

- Consolidated Categorical Aid Programs
- Migrant Education
- Career Technical Education and Training Programs
- Child Care and Developmental Programs
- Child Nutrition Programs
- Special Education Programs
- Safety Planning Requirements

A pupil fee is a fee, deposit, or other charge imposed on pupils, or a pupil's parents or guardians, in violation of state codes and constitutional provisions which require educational activities to be provided free of charge to all pupils without regard to their families' ability or willingness to pay fees or request special waivers. Educational activities are those offered by a school, school district, charter school, or county office of education that constitute a fundamental part of education, including, but not limited to, curricular and extracurricular activities. A pupil fee includes, but is not limited to, all of the following:

1. A fee charged to a pupil as a condition for registering for school or classes, or as a condition for participation in a class or an extracurricular activity, regardless of whether the class or activity is elective or compulsory, or is for credit.
2. A security deposit, or other payment, that a pupil is required to make to obtain a lock, locker, book, class apparatus, musical instrument, clothes, or other materials or equipment.
3. A purchase that a pupil is required to make to obtain materials, supplies, equipment, or clothes associated with an educational activity.

This document also describes how the Santa Clara County Office of Education will investigate all allegations of unlawful discrimination, harassment, intimidation or bullying against any protected group as identified in Education Code section 200 and 220 and Government Code section 11135, including any actual or perceived characteristics as set forth in Penal Code section 422.55 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 conducted by the LEA, which is funded directly by, or that receives or benefits from any state financial assistance.

The following complaints shall be referred to other agencies for appropriate resolution and are not subject to our UCP process set forth in this document unless these procedures are made applicable by separate interagency agreements:

1. Allegations of child abuse shall be referred to County Dept of Social Services (DSS), Protective Services Division or appropriate law enforcement agency.
2. Health and safety complaints regarding a Child Development Program shall be referred to Dept of Social Services for licensed facilities, and to the appropriate Child Development regional administrator for licensing-exempt facilities.
3. Employment discrimination, harassment, intimidation or bullying complaints shall be sent to the State Dept of Fair Employment and Housing (DFEH).
4. Allegations of fraud shall be referred to the Legal, Audits and Compliance Branch in the California Department of Education (CDE).

### **The responsibilities of the Santa Clara County Office of Education**

The Santa Clara County Office of Education has the primary responsibility to insure compliance with applicable state and federal laws and regulations. We shall investigate complaints alleging failure to comply with applicable state and federal laws and regulations and/or alleging discrimination, harassment, intimidation, bullying and charging pupil fees for participation in an educational activity and seek to resolve those complaints in accordance with our UCP procedures.

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In regards to complaints of noncompliance with laws relating to pupil fees, if the Santa Clara County Office of Education finds merit in a pupil fees complaint we shall provide a remedy to all affected pupils, parents, and guardians where applicable including reasonable efforts by us to ensure full reimbursement to all affected pupils, parents, and guardians, subject to procedures established through regulations adopted by the state board.

The Santa Clara County Office of Education ensures that we will attempt in good faith by engaging in reasonable efforts to identify and fully reimburse all pupils, parents and guardians who paid a pupil fee within one year prior to the filing of the complaint.

The Santa Clara County Office of Education ensures that complainants are protected from retaliation and that the identity of a complainant alleging discrimination, harassment, intimidation, and bullying remain confidential as appropriate. We submitted our UCP (BP 1312.3) policies and procedures to our local governing board for approval and adoption.

The person responsible for receiving and investigating complaints and ensuring our compliance with state and federal laws and regulations is:

Name or title: Steve Olmos, Ed.D., Chief Schools Officer

Unit or office: Student Services Branch

Address: 1290 Ridder Park Drive, San Jose, CA 95131

Phone Number: 408-453-6560

Matters specific to Personnel / Human Resources will be directed to:

Name or title: Philip J. Gordillo, Chief Human Resources Officer

Unit or office: Human Resources Branch

Address: 1290 Ridder Park Drive, San Jose, CA 95131

Phone Number: 408-453-6843

We ensure that the person above, who is responsible for compliance and/or investigations, is knowledgeable about the laws/programs that he/she is assigned to investigate. Complaints of noncompliance with laws relating to pupil fees are filed with a principal of a school.

The Santa Clara County Office of Education ensures annual dissemination of a written notice of the LEA's complaint procedures to students, employees, parents or guardians of its students, school and district advisory committees, appropriate private school officials or representatives, and other interested parties that includes information regarding unlawful pupil fees. The UCP Annual Notice will be provided in writing to all of the six required groups each year and will include information on how to appeal to the CDE. An appeal is a request made in writing to a level higher than the original reviewing level by an aggrieved

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party requesting reconsideration or a reinvestigation of the lower adjudicating body's decision.

Our UCP Annual Notice shall be in English and in the primary language, pursuant to section 48985 of the Education Code, or mode of communication of the recipient of the notice.

The notice shall also include information regarding the requirements of Education Code sections 49010 through 49013 relating to pupil fees. This notice shall be in English, and when necessary, in the primary language, pursuant to Education Code section 48985, or mode of communication of the recipient of the notice.

Copies of LEA complaint procedures shall be available free of charge.

Complainants are advised that civil law remedies, including, injunctions, restraining orders, or other remedies or orders may also be available at any time. Complainants have the right to pursue civil law remedies under state or federal discrimination, harassment, intimidation or bullying laws. We shall make this information available in informational materials.

### **Filing a complaint with the Santa Clara County Office of Education**

Except for Williams Complaints regarding instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of pupils or staff, and teacher vacancies or misassignments, and complaints that allege discrimination, harassment, intimidation, and bullying, any individual, public agency or organization may file a written complaint with our county superintendent of schools or his or her designee alleging a matter which, if true, would constitute a violation by our LEA of federal or state law or regulation governing a program. A complaint of noncompliance with laws relating to pupil fees may be filed with the principal of a school under the Uniform Complaint Procedures and may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance with laws relating to pupil fees.

A pupil fee complaint shall be filed no later than one year from the date the alleged violation occurred.

An unlawful discrimination, harassment, intimidation or bullying complaint shall be filed no later than six months from the date the alleged discrimination, harassment, intimidation or bullying 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 a discrimination, harassment, intimidation or bullying complaint may be extended in writing by our county superintendent of schools or his or her designee, upon written request by the complainant setting forth the reasons for the extension. The period for filing a discrimination, harassment, intimidation or bullying complaint may be extended by

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our county superintendent of schools or his or her designee for good cause for a period not to exceed 90 calendar days following the expiration of the six month time period. Our superintendent shall respond immediately upon receipt of a request for extension.

The complaint shall be filed by one who alleges that he or she has personally suffered unlawful discrimination, harassment, intimidation, and bullying or by one who believes an individual or any specific class of individuals has been subjected to discrimination, harassment, intimidation, and bullying prohibited by this part.

An investigation of a discrimination, harassment, intimidation, and bullying complaint shall be conducted in a manner that protects confidentiality of the parties and maintains the integrity of the process.

Except for Williams Complaints and Pupil Fees complaints, within 60 calendar days from the date of the receipt of the complaint, we shall conduct and complete an investigation of the complaint in accordance with our UCP policies and procedures and prepare a written Decision; also known as a final report. This time period may be extended by written agreement of the complainant.

The investigation 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 Santa Clara County Office of Education 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.

We shall issue a Decision based on the evidence. The Decision shall be in writing and sent to the complainant within 60 calendar days from receipt of the complaint by the local educational agency. The Decision should contain:

- (i) the findings of facts based on the evidence gathered,
- (ii) conclusion of law,
- (iii) disposition of the complaint,
- (iv) the rationale for such disposition,

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- (v) corrective actions, if any are warranted,
- (vi) notice of the complainant's right to appeal our LEA Decision to the CDE, and
- (vii) procedures to be followed for initiating an appeal to the CDE.

Nothing in this document shall prohibit anyone involved in the complaint from utilizing alternative methods to resolve the allegations, such as mediation. Nor are we prohibited from resolving complaints prior to the formal filing of a written complaint. Mediation is a problem solving activity whereby a third party assists the parties to the dispute in resolving the complaint.

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- Federal and State Laws cited:
1. 34 Code of Federal Regulations [CFR] §§ 300.510-511
  2. California Code of Regulations [CCR] Title 5 §§ 4600-4687
  3. California Code of Regulations [CCR] Title 5 § 4610(b)
  4. California Code of Regulations [CCR] Title 5 § 4622
  5. California Code of Regulations [CCR] Title 5 §§ 4630-4631
  6. California Education Code [EC] §§ 200, 220, 262.3
  7. California Education Code [EC] §§ 234 - 234.5
  8. California Education Code [EC] § 35186
  9. California Education Code [EC] § 48985
  10. California Education Code [EC] §§ 49010 - 49013
  11. California Government Code [GC] §§ 11135, 11138
  12. California Penal Code (PC) § 422.55