

**KERN COUNTY SUPERINTENDENT OF SCHOOLS**

**COMMUNITY RELATIONS**

**UNIFORM COMPLAINT POLICY AND PROCEDURES**

Kern County Superintendent of Schools  
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**UNIFORM COMPLAINT PROCEDURES**

This document contains rules and instructions about the filing, investigation, and resolution of a Uniform Complaint Procedures (UCP) complaint regarding an alleged violation by the Kern County Superintendent of Schools of federal or state laws or regulations governing educational programs.

This document presents information about how we process UCP complaints concerning particular programs or activities that are subject to the UCP.

A UCP complaint is a written and signed statement alleging violation of federal or state laws or regulations, which may include an allegation of unlawful discrimination, harassment, intimidation, or bullying. A signature may be handwritten, typed (including in an email), or electronically generated. Some complaints may be filed anonymously. A UCP complaint filed on behalf of an individual student may only be filed by that student or that student's duly authorized representative.

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, or bullying in programs and activities funded directly by the state or receiving any financial assistance from the state.

If the complainant is unable to put the complaint in writing, due to a disability or illiteracy, we shall assist the complainant in the filing of the complaint.

The Kern County Superintendent of Schools developed the UCP process with policies and procedures adopted by the Superintendent.

According to state and federal codes and regulations, the programs and activities subject to the UCP are:

- Accommodations for Pregnant and Parenting Pupils
- Adult Education
- After School Education and Safety
- Agricultural Career Technical Education
- Career technical and technical education and career technical and technical training programs
- Childcare and development programs
- Compensatory Education
- Consolidated categorical aid programs
- Course Periods without Educational Content
- Discrimination, harassment, intimidation, or bullying against any protected group as identified under Education Code sections 200 and 220 and Government Code section 11135, including any actual or perceived characteristic 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 an educational institution, as defined in Education Code section 210.3, that is funded directly by, or that receives or benefits from, any state financial assistance.
- Educational and graduation requirements for pupils in foster care, pupils who are homeless, pupils from military families, pupils formerly in juvenile court now enrolled in a school district, pupils who are migratory, and pupils participating in a newcomer program.
- Every Student Succeeds Act
- Local Control and Accountability Plans (LCAP)
- Migrant Education
- Physical Education Instructional Minutes
- Pupil Fees
- Reasonable Accommodations to a Lactating Pupil
- Regional Occupational Centers and Programs
- School Plans for Student Achievement
- School Site Councils
- State Preschool
- State Preschool Health and Safety Issues in LEAs Exempt from Licensing
- Any other state or federal educational program the State Superintendent of Public Instruction (SSPI) or designee deems appropriate.

The programs and activities subject to the UCP which the Kern County Superintendent of Schools operates are:

- Community Schools
- Court Schools
- State Pre-Schools
- Early Childhood Development Program
- Special Education Programs
- Valley Oaks Charter School
- Camp KEEP

- Migrant Education Region V

The following complaints shall be referred to the specified agencies for appropriate resolution and are not subject to the UCP complaint procedures set forth in this document:

- Allegations of child abuse shall be referred to the Kern County Department of Human Services, Child Protective Services; Bakersfield Police Department; or the Kern County Sheriff's Department.
- Health and safety complaints regarding licensed facilities operating a Child Development Program shall be referred to the Kern County Community Connection for Childcare or the California State Department of Social Services, Childcare Licensing.
- Employment discrimination complaints shall be sent to the State Department of Fair Employment and Housing (DFEH). The complainant shall be notified in writing in a timely manner of any DFEH transferal.

## **RESPONSIBILITIES OF THE KERN COUNTY SUPERINTENDENT OF SCHOOLS**

We shall have the primary responsibility to ensure compliance with applicable state and federal laws and regulations. We shall investigate and seek to resolve, in accordance with the approved UCP process, complaints alleging failure to comply with applicable state and federal laws and regulations including, but not limited to, allegations of discrimination, harassment, intimidation, or bullying or noncompliance with laws relating to all programs and activities we implement that are subject to the UCP.

## **UCP ANNUAL NOTICE**

We disseminate on an annual basis the UCP Annual Notice which is a written notice of the approved UCP complaint procedures to all students, employees, parents, or guardians of its students, school, and district advisory committee members, appropriate private school officials, or representatives, and other interested parties.

This notice may be made available on our website and shall include the following:

- Information regarding allegations about discrimination, harassment, intimidation, or bullying;
- List of all federal and state programs within the scope of the UCP;
- Title of the position whose occupant is responsible for processing complaints, and the identity(ies) of the person(s) currently occupying that position;
- Statement that the occupant responsible for processing complaints is knowledgeable about the laws and programs that they are assigned to investigate;
- Statement that in order to identify appropriate subjects of state preschool health and safety issues pursuant to section 1596.7925 of the Health and Safety Code a notice, separate from the UCP Annual Notice, shall be posted in each California state preschool program classroom in each school in the local educational agency notifying parents, guardians, pupils, and teachers of (1) the health and safety requirements under Title 5 of the California Code of Regulations apply to California state preschool programs pursuant

to Health and Safety Code section 1596.7925; and (2) the location at which to obtain a form to file a complaint.

## **FILING UCP COMPLAINTS**

All UCP complaints shall be filed no later than one year from the date the alleged violation occurred.

Complaints within the scope of the UCP are to be filed with the person responsible for processing complaints:

Assistant Superintendent – Student Support  
Kern County Superintendent of Schools Office  
1300 17<sup>th</sup> Street CITY CENTRE  
Bakersfield, California 93301-4533  
Telephone: (661) 636-4037  
E-mail: lobucher@kern.org

Pupil fees include a purchase that pupil is required to make to obtain materials, supplies, equipment, or clothes associated with an educational activity.

A pupil fees complaint may be filed with the principal of a school or with our Superintendent or their designee. A pupil fees complaint may be filed anonymously, that is, without an identifying signature, if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance.

For complaints relating to LCAP, the date of the alleged violation is the date when the reviewing authority approves the LCAP or annual update we adopted. An LCAP complaint may be filed anonymously, that is, without an identifying signature, if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance.

We advise complainants of the right to pursue civil law remedies that may be available under state or federal discrimination, harassment, intimidation, or bullying laws, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may also be available to complainants.

## **INVESTIGATING UCP COMPLAINTS**

The UCP complaint investigation is our administrative process for the purpose of gathering data regarding the complaint. We provide an opportunity for complainants and/or representatives to present evidence or information.

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 Kern County Superintendent of Schools 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 ensure that complainants are protected from retaliation.

We investigate all allegations of unlawful discrimination, harassment, intimidation, or bullying against any protected group. Unlawful discrimination, harassment, intimidation, or bullying complaints 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.

## **UCP COMPLAINT RESOLUTION**

We will thoroughly investigate the UCP complaint and issue a written Investigation Report to the complainant within 60 calendar days from the date of receipt of the complaint, unless the complainant agrees in writing to an extension of time.

This Investigation Report will contain the following elements:

- Findings of fact based on the evidence gathered;
- Conclusion that provides a clear determination for each allegation as to whether we are in compliance with the relevant law;
- Corrective actions if we find merit in a complaint:
  - For complaints regarding Pupil Fees, LCAP, Physical Education Instructional Minutes, or Course Periods without Educational Content, the remedy shall go to all affected pupils, parents, and guardians;
  - For all other complaints within the scope of the Uniform Complaint Procedures the remedy shall go to the affected pupil;
  - With respect to a Pupil Fees complaint, corrective actions shall include reasonable efforts to ensure full reimbursement to all pupils, parents, and guardians who paid a pupil fee within one year prior to the filing of the complaint;
- A notice of the complainant's right to appeal our Investigation Report to the Department of Education (CDE); and
- The procedures to be followed for initiating an appeal to the CDE.

## **UCP COMPLAINT APPEAL PROCESS**

An appeal is a written and signed request by the complainant to CDE seeking review of an LEA Investigation Report that was issued in response to a properly filed complaint. A signature may be handwritten, typed (including in an email), or electronically generated.

The complainant may appeal our Investigation Report of a UCP complaint to CDE by filing a written appeal within 30 calendar days of the date. In order to request an appeal, the complainant must specify and explain the basis for the appeal, including at least one of the following:

- Kern County Superintendent of Schools failed to follow its complaint procedures, and/or
- Investigation Report lacks material findings of fact necessary to reach a conclusion of law, and/or
- Material findings of fact in the Investigation Report are not supported by substantial evidence, and/or
- Legal conclusion in the Investigation Report is inconsistent with the law, and/or
- In a case in which we were found in noncompliance, the corrective actions fail to provide a proper remedy.

The appeal shall be sent with: (1) a copy of the locally filed complaint; and (2) a copy of the LEA Investigation Report.

All complaints and responses are public records.

### **UCP REQUIREMENTS REGARDING STATE PRESCHOOL HEALTH AND SAFETY ISSUES PURSUANT TO HEALTH AND SAFETY CODE SECTION 1596.7925**

To file a UCP complaint regarding a state preschool health and safety issue pursuant to Health and Safety Code section 1596.7925, the complainant must file with the preschool program administrator or their designee in the Kern County Superintendent of Schools.

A state preschool health and safety issues complaint about problems beyond the authority of the preschool program administrator shall be forwarded in a timely manner, but not to exceed 10 working days to our official for resolution.

A state preschool health and safety issue complaint may be filed anonymously. A complainant who identifies themselves is entitled to a response if they indicate that a response is requested. A complaint form shall include a space to mark to indicate whether a response is requested. If Education Code section 48985 is otherwise applicable, the response, if requested, and our Investigation Report shall be written in English and the primary language in which the complaint was filed.

A complaint form for a state preschool health and safety issue shall specify the location for filing a complaint. A complainant may add as much text to explain the complaint as they wish. When investigating a UCP state preschool health and safety issue, the preschool program administrator or the designee of the Superintendent shall make all reasonable efforts to investigate any problem within his or her authority, and investigations shall begin within 10 calendar days of the receipt of the complaint. A valid complaint shall be remedied within a

reasonable time period, but not to exceed 30 working days from the date the complaint was received. The resolution of the complaint shall be reported to the complainant within 45 working days of the initial filing. If the preschool program administrator makes this report, he or she shall also report the same information in the same timeframe to the designee of the Superintendent.

## **FILING AN APPEAL REGARDING UCP STATE PRESCHOOL HEALTH AND SAFETY ISSUES**

A complainant not satisfied with the resolution of the preschool program administrator or the designee of the Superintendent has the right to describe the complaint to the Superintendent or a representative designated by the Superintendent. A complainant will not be precluded from filing an appeal to the SSPI if the complainant does not file a local appeal.

A complainant who is not satisfied with the resolution proffered by the preschool program administrator or the designee of the Superintendent has the right to file an appeal to the SSPI within 30 calendar days of the date of the Investigation Report.

The complainant shall comply with the same appeal requirements of California Code of Regulations, tit. 5, section 4632 as in the section above “UCP Complaint Appeal Process.”

The complainant shall include a copy of the Investigation Report and specify and explain the basis for the appeal, including at least one of the following:

- the preschool program administrator or the designee of our Superintendent failed to follow its complaint procedures, and/or
- the Investigation Report lacks material findings of fact necessary to reach a conclusion of law, and/or
- material findings of fact in the Investigation Report are not supported by substantial evidence, and/or
- the legal conclusion in the Investigation Report is inconsistent with the law, and/or
- if the preschool program is found noncompliant, the corrective actions fail to provide a proper remedy.

The SSPI or his or her designee shall comply with the requirements of California Code of Regulations, tit. 5, section 4633 and shall provide a written Investigation Report for our agency to the State Board of Education describing the basis for the complaint, our response to the state preschool health and safety issues pursuant to a Health and Safety Code section 1596.7925 complaint and its remedy or proposed remedy and, as appropriate, a proposed remedy for the issue described in the complaint, if different from our agency’s remedy.

We shall report summarized data on the nature and resolution of all UCP state preschool health and safety issue complaints on a quarterly basis to the County Superintendent of Schools and our board. The summaries shall be publicly reported on a quarterly basis at a regularly scheduled meeting of our board. The report shall include the number of complaints by general subject area with the number of resolved and unresolved complaints.

*LEGAL REFERENCES:*

*20 U.S.C. section 6301, et seq.*

*34 C.F.R. section 106.8*

*34 C.F.R. section 299.10–13*

*Educ. Code sections 200, 201, 210.1, 210.3, 220, 221.1, 222, 234.1, 260, 3031, 8200–8498, 8235.5, 8235–8239.1, 8261, 8482–8484.65, 8500–8538, 17002(d), 17592.72, 33126(b)(5)(A), 33126(b)(5)(B), 33315, 35161, 35186, 46015, 48645.7, 48853, 48853.5, 48987, 49010–49013, 49069.5, 49531, 49556, 51210, 51222, 51223, 51225.1-3, 51228.1–51228.3, 52059, 52075, 52300–52462, 52334.7, 52355, 52451, 52460–52462, 52500–52617, 54440–54445, 54445, 56100(a), 56100(j), 60010, 64001, 65000*

*Gov't Code sections 11135, 11136*

*Penal Code section 422.55*

*C.C.R., tit. 5, sections 4600–4640, 4690–4694*

*History: Policy adopted 3/26/08; revised 8/4/09, 11/22/11, 3/13/13, 10/8/13, 6/17/14, 8/24/15, 9/15/15, 8/17/17, 6/5/18 (SP 4100), 7/17/18, 11/20/23, 7/1/26*