

KERN COUNTY BOARD OF EDUCATION

BOARD BYLAWS

UNIFORM COMPLAINT POLICY

As a LEA, KCSOS recognizes that it has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs. Early resolution of complaints whenever possible is encouraged. To resolve complaints which may require a more formal process, the uniform system of complaint processes specified in 5 CCR 4600-4670 and the accompanying administrative regulation are hereby adopted.

The LEA's uniform complaint procedures (UCP) shall be used to investigate and resolve the following complaints:

1. Any complaint alleging LEA violation of applicable state or federal law or regulations governing adult education programs, after school education and safety programs, migrant education, career technical and technical education and training programs, child care and development programs, child nutrition programs, special education programs, consolidated categorical aid programs, and any other LEA-implemented program which is listed in Education Code 64000(a). (5 CCR 4610.)
2. Any complaint alleging the occurrence of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) against any student, employee, or other person participating in LEA programs and activities including, but not limited to, those programs or activities funded directly by or that receive or benefit from any state financial assistance, based on the person's actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, immigration status, ethnic group identification, age, religion, marital, pregnancy, or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code 200 or 220, Government Code 11135, or Penal Code 422.55, or based on his/her association with a person or group with one or more of these actual or perceived characteristics. (5 CCR 4610.)
3. Any complaint alleging LEA noncompliance with the requirement to provide reasonable accommodation to a lactating student on school campus to express breast milk, breast feed an infant child, or address other breast feeding-related needs of the student. (Education Code 222.)
4. Any complaint alleging LEA noncompliance with the prohibition against requiring students to pay fees, deposits, or other charges for participation in educational activities. (5 CCR 4610.)

5. Any complaint alleging LEA noncompliance with legal requirements related to the implementation of the local control and accountability plan. (Education Code 52075.)
6. Any complaint, by or on behalf of any student who is a foster youth, alleging LEA noncompliance with any legal requirement applicable to the student regarding placement decisions, the responsibilities of the LEA's educational liaison to the student, the award of credit for coursework satisfactorily completed in another school or LEA, school transfer, or the grant of an exemption from LEA-imposed graduation requirements. (Education Code 48853, 48853.5, 49069.5, 51225.1, 51225.2.)
7. Any complaint, by or on behalf of a homeless student as defined in 42 USC 11434a, alleging LEA noncompliance with any requirement applicable to the student regarding the award of credit for coursework satisfactorily completed in another school or LEA or the grant of an exemption from LEA-imposed graduation requirements. (Education Code 51225.1, 51225.2.)
8. Any complaint, by or on behalf of a former juvenile court school student who transfers into the LEA after his/her second year of high school, alleging LEA noncompliance with any requirement applicable to the student regarding the award of credit for course work satisfactorily completed in the juvenile court school or the grant of an exemption from LEA-imposed graduation requirements. (Education Code 51225.1, 51225.2.)
9. Any complaint alleging LEA noncompliance with the requirements of Education Code 51228.1 and 51228.2 that prohibit the assignment of a student to a course without educational content for more than one week in any semester or to a course the student has previously satisfactorily completed, without meeting specified conditions. (Education Code 51228.3.)
10. Any complaint alleging LEA noncompliance with the physical education instructional minutes requirement for students in elementary school. (Education Code 51210, 51223.)
11. Any complaint alleging retaliation against a complainant or other participant in the complaint process or anyone who has acted to uncover or report a violation subject to this policy.
12. Any other complaint as specified in a LEA policy
13. To reiterate: The following are all programs and activities that are subject to the UCP:
 - Adult Education
 - After School Education and Safety
 - Agricultural Vocational Education

- American Indian Education Centers and Early Childhood Education Program Assessments
- Bilingual Education
- California Peer Assistance and Review Programs for Teachers
- Career Technical and Technical Education; Career Technical; Technical Training
- Career Technical Education
- Child Care and Development
- Child Nutrition
- Compensatory Education
- Consolidated Categorical Aid
- Course Periods without Educational Content
- Economic Impact Aid
- Education of Pupils in Foster Care, Pupils who are Homeless, and former Juvenile Court Pupils now enrolled in a school district
- English Learner Programs
- Every Student Succeeds Act / No Child Left Behind (Titles I–VII)
- 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 Safety Plans
- Special Education
- State Preschool
- Tobacco-Use Prevention Education

Alternative dispute resolution (ADR) can, depending on the nature of the allegations, offer a process to reach a resolution to the complaint that is acceptable to all parties. ADR such as 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 sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. The use of ADR shall be consistent with state and federal laws and regulations.

The LEA shall protect all complainants from retaliation. In investigating complaints, the confidentiality of the parties involved shall be protected as required by law. For any complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the identity of the complainant, and/or the subject of the complaint if he/she is different from the complainant, shall be kept confidential when appropriate and as long as the integrity of the complaint process is maintained.

When an allegation that is not subject to the UCP is included in a UCP complaint, the LEA shall refer the non-UCP allegation to the appropriate staff or agency and shall investigate and, if appropriate, resolve the UCP-related allegation(s) through the LEA's UCP.

The LEA shall provide training to LEA staff to ensure awareness and knowledge of current law and related requirements, including the steps and timelines specified in this policy and the accompanying administrative regulation.

The LEA shall maintain records of all UCP complaints and the investigations of those complaints in accordance with applicable law and LEA policy.

Non-UCP Complaints

The following complaints shall not be subject to the LEA's UCP but shall be referred to the specified agency: (5 CCR 4611.)

1. Any complaint alleging child abuse or neglect shall be referred to the County Department of Social Services, the County Protective Services Division, and the appropriate law enforcement agency.
2. Any complaint alleging health and safety violations by a child development program shall, for licensed facilities, be referred to the Department of Social Services and shall, for licensing-exempt facilities, be referred to the appropriate Child Development regional administrator.
3. Any complaint alleging employment discrimination shall be sent to the California Department of Fair Employment and Housing and the compliance officer shall notify the complainant by first class mail of the transfer.
4. Any complaint alleging fraud shall be referred to the California Department of Education.

In addition, the LEA's Williams Uniform Complaint Procedures shall be used to investigate and resolve any complaint 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, or teacher vacancies and misassignments. (Education Code 35186.)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination
 222 Reasonable accommodations; lactating students
 8200-8498 Child care and development programs
 8500-8538 Adult basic education
 18100-18203 School libraries
 32289 School safety plan, uniform complaint procedures
 35186 Williams uniform complaint procedures
 48853-48853.5 Foster youth
 48985 Notices in language other than English
 49010-49013 Student fees
 49060-49079 Student records
 49069.5 Rights of parents

49490-49590 Child nutrition programs
 51210 Courses of study grades 1-6
 51223 Physical education, elementary schools
 51225.1-51225.2 Foster youth, homeless children, and former juvenile court
 school students; course credits; graduation requirements
 51228.1-51228.3 Course periods without educational content
 52060-52077 Local control and accountability plan, especially:
 52075 Complaint for lack of compliance with local control and accountability plan
 requirements
 52160-52178 Bilingual education programs
 52300-52490 Career technical education
 52500-52616.24 Adult schools
 54400-54425 Compensatory education programs
 54440-54445 Migrant education
 54460-54529 Compensatory education programs
 56000-56867 Special education programs
 59000-59300 Special schools and centers
 64000-64001 Consolidated application process
 GOVERNMENT CODE
 11135 Nondiscrimination in programs or activities funded by state
 12900-12996 Fair Employment and Housing Act
 PENAL CODE
 422.55 Hate crime; definition
 422.6 Interference with constitutional right or privilege
 CODE OF REGULATIONS, TITLE 2
 11023 Harassment and discrimination prevention and correction
 CODE OF REGULATIONS, TITLE 5
 3080 Application of section
 4600-4687 Uniform complaint procedures
 4900-4965 Nondiscrimination in elementary and secondary education programs
 UNITED STATES CODE, TITLE 20
 1221 Application of laws
 1232g Family Educational Rights and Privacy Act
 1681-1688 Title IX of the Education Amendments of 1972
 6301-6577 Title I basic programs
 6801-7014 Title III language instruction for limited English proficient and immigrant
 students
 7101-7184 Safe and Drug-Free Schools and Communities Act
 7201-7283g Title V promoting informed parental choice and innovative programs
 7301-7372 Title V rural and low-income school programs
 12101-12213 Title II equal opportunity for individuals with disabilities
 UNITED STATES CODE, TITLE 29
 794 Section 504 of Rehabilitation Act of 1973
 UNITED STATES CODE, TITLE 42
 2000d-2000e-17 Title VI and Title VII Civil Rights Act of 1964, as amended
 2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964
 6101-6107 Age Discrimination Act of 1975
 CODE OF FEDERAL REGULATIONS, TITLE 28

35.107 Nondiscrimination on basis of disability; complaints
CODE OF FEDERAL REGULATIONS, TITLE 34
99.1-99.67 Family Educational Rights and Privacy Act
100.3 Prohibition of discrimination on basis of race, color or national origin
104.7 Designation of responsible employee for Section 504
CODE OF FEDERAL REGULATIONS, TITLE 34
106.8 Designation of responsible employee for Title IX
106.9 Notification of nondiscrimination on basis of sex
110.25 Notification of nondiscrimination on the basis of age

Management Resources:

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS
PUBLICATIONS

Dear Colleague Letter: Title IX Coordinators, April 2015

Questions and Answers on Title IX and Sexual Violence, April 2014

Dear Colleague Letter: Bullying of Students with Disabilities, August 2013

Dear Colleague Letter: Sexual Violence, April 2011

Dear Colleague Letter: Harassment and Bullying, October 2010

Revised Sexual Harassment Guidance: Harassment of Students by School
Employees, Other Students, or Third Parties, January 2001

U.S. DEPARTMENT OF JUSTICE PUBLICATIONS

Guidance to Federal Financial Assistance Recipients Regarding Title VI

Prohibition Against National Origin Discrimination Affecting Limited English
Proficient Persons, 2002

WEB SITES

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

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

Family Policy Compliance Office: <http://familypolicy.ed.gov>

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

U.S. Department of Justice: <http://www.justice.gov>