Community Relations

UNIFORM COMPLAINT PROCEDURES

Complaint Procedures

Complaints alleging a student was subject to bullying that is not based on the student’s actual or perceived protected status, shall be addressed in compliance with Board Policy/Administrative Regulation 5131.2 – Bullying.

(cf. 5131.2 - Bullying)

Complaints alleging a student was subject to conduct meeting the definition of “sexual harassment” set forth in the Title IX of the Education Amendments of 1972 (34 C.F.R. § 106.30), as defined in Board Policy 5145.7 – Sexual Harassment, shall be addressed in accordance with Administrative Regulation 5145.71 – Title IX Sexual Harassment Complaint Procedures.

(cf. 5145.7 - Sexual Harassment)
(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

All other complaints asserting allegations regarding any of the subjects identified in Board Policy 1312.3 – Uniform Complaint Procedures, shall be addressed in accordance with the procedures set forth in this regulation.

(cf. 5145.3 - Nondiscrimination/Harassment/Intimidation/Bullying)

Legal Compliance Specialist

The following individual is responsible for receiving complaints subject to this regulation, coordinating the District’s response to complaints, and ensuring the District’s compliance with state and federal civil rights laws:

Kanitra Lopez
Legal Compliance Specialist/Title IX Coordinator
Human Resources Department
9510 Elk Grove-Florin Road
Elk Grove, CA 95624
T: (916) 686-7795 ext. 67159
E: legalcompliance@egusd.net

The Legal Compliance Specialist will coordinate efforts to address each complaint in a manner consistent with the procedures stated herein. The Legal Compliance Specialist may designate a
qualified individual, including a site administrator, to investigate and resolve the complaint. The Legal Compliance Specialist or designee shall ensure the complainant understands who is responsible for investigating or otherwise resolving their complaint.

The Legal Compliance Specialist or designee shall not be assigned to a complaint in which they have a bias or conflict of interest that would prohibit them from fairly investigating or resolving the complaint.

Any complaint that is made against the Legal Compliance Specialist or that raises a concern about the Legal Compliance Specialist’s ability to address the complaint fairly and without bias, may be filed with the Superintendent or designee who shall determine how the complaint will be investigated or otherwise processed.

The Legal Compliance Specialist or designee shall ensure that employees assigned to investigate and resolve complaints receive training and are knowledgeable about the laws and programs at issue in the complaint to which they are assigned. Training provided to such employees shall cover current state and federal laws and regulations governing the program, applicable processes for investigating and resolving complaints, including those alleging unlawful discrimination, harassment, intimidation, bullying or related retaliation, applicable standards for reaching decisions on complaints, and appropriate corrective measures. Assigned employees may have access to legal counsel as deemed necessary by the Superintendent, the Legal Compliance Specialist, or their respective designees.

Supportive Measures

The Legal Compliance Specialist or designee shall determine whether supportive measures are necessary at the outset, during, and/or after the investigation, for the purpose of addressing the alleged conduct and ensuring a safe educational and/or work environment for all.

Supportive measures will be implemented on a case by case basis and shall be offered to both the complainant(s) and respondent(s), as appropriate. Any supportive measures adopted to address unlawful discrimination, harassment, intimidation, bullying, or related retaliation shall be designed to preserve equal access to the District’s programs or activities without unreasonably burdening the other involved party. The supportive measures shall remain in place until the Legal Compliance Specialist or designee determines that they are no longer necessary.

(cf. 5131.2 - Bullying)
(cf. 5145.3 - Nondiscrimination/Harassment/Intimidation/Bullying)
(cf. 5145.7 - Sexual Harassment)
(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)
Filing of Complaint

1. Definition of “Complainant”

“Complainant” means any person, including a person’s duly authorized representative or an interested third party, public agency, or organization, who submits a complaint containing allegations falling within the scope of the UCP.

A complaint alleging unlawful discrimination, harassment, intimidation, or bullying may only be filed by a person who is alleged to have personally suffered unlawful discrimination, harassment, intimidation, or bullying, or by that person’s duly authorized representative. However, nothing precludes a person who believes any specific class of persons has been subject to discrimination, harassment, intimidation, or bullying from submitting a complaint alleging the same.

2. Anonymous Complaints

Complaints may be submitted anonymously. However, it is within the discretions of the Legal Compliance Specialist or designee to determine whether the anonymous complaint states sufficient facts to allow the District to conduct a thorough and complete investigation into the alleged conduct. If the anonymous complaint fails to do so, the anonymous complaint may be dismissed.

3. Statute of Limitations

Complaints alleging discrimination, harassment, intimidation, bullying, or related retaliation falling within the scope of the UCP, must be submitted to the Legal Compliance Specialist or designee no later than six (6) months from the date the alleged discrimination, harassment, intimidation, bullying, or related retaliation occurred, or the date the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation, bullying, or related retaliation. However, the time for filing such a complaint may be extended by up to ninety (90) calendar days, by the Legal Compliance Specialist or designee, upon receipt of a written request from the complainant setting forth good cause for the extension. A response to the request for an extension of time shall be provided to the Complainant in writing.

All other complaints falling within the scope of the UCP, must be filed within one (1) year of the date the complainant knew or should have known of the alleged conduct. For complaints relating to Local Control and Accountability Plans (“LCAP”), the date of the alleged violation is the date when the reviewing authority approves the LCAP or annual update that was adopted by the District.
4. **Form of Complaint**

To the extent possible, complaints should be submitted to the Legal Compliance Specialist or designee in writing and signed by the complainant. If the complainant is unable to put the complaint in writing, due to conditions such as disability or illiteracy, the Legal Compliance Specialist or designee shall assist the complainant in memorializing the allegations. Failure to submit a complaint in writing, does not, by itself, negate the District’s duty to process the complaint.

Oral reports of discrimination, harassment, intimidation, bullying, or related retaliation may be submitted to any District employee. District employees who receive such oral reports shall share the report with their direct supervisor, Legal Compliance Specialist, or Title IX Coordinator, as appropriate.

Every effort shall be taken to memorialize the oral report. Doing so shall not be interpreted to be the filing of a formal written complaint by the individual making the report, unless so requested by the reporting individual. If the reporting individual does not want to file a formal written complaint, does not want to be identified, or does not give names of the individuals alleged to have engaged in the conduct at issue, the District may still have a duty to respond in some way depending on the seriousness of the allegations and the risk of future harm to the student or others (for example, the notification of other District administration, law enforcement or Child Protective Services). However, the extent to which these concerns can be investigated and/or responded to may be limited given the lack of information made available to the District. The Legal Compliance Specialist or Title IX Coordinator, as appropriate, or their respective designees, shall determine the proper means of processing the oral report.

5. **Notice of Complaint**

The complainant(s) shall receive written confirmation of receipt of the complaint. Similarly, the respondent(s) shall receive written notification that a complaint has been filed.

6. **Prohibition of Retaliation**

The District shall ensure that complainant(s) are protected from retaliation. While absolute anonymity cannot be guaranteed, the District shall ensure that the identity of a complainant alleging unlawful discrimination, harassment, intimidation, bullying, or related retaliation remains confidential where appropriate and to the extent possible.

**Informal Resolution**

The District encourages early resolution of complaints whenever possible.
The Legal Compliance Specialist or designee may discuss with the complainant(s) and respondent(s) the possibility of resolving the complaint using an informal resolution process. Such discussion shall include the notification to both the complainant(s) and respondent(s) of the following:

1. Each party must voluntarily consent to participate in an informal resolution process in order for it to be utilized;

2. Each party has a right to the informal resolution process at any time; and

3. Each party must voluntarily agree to make any involved mediator a party to relevant confidential information.

An informal resolution process shall not be offered or used to resolve any complaint involving an allegation of sexual assault or where there is a reasonable risk that either party would feel compelled to participate.

If the parties each voluntarily agree to participate in an informal resolution process, the Legal Compliance Specialist or designee shall make all arrangements for the same. The Legal Compliance Specialist or designee shall ensure that the use of an informal resolution process is consistent with state and federal laws and regulations.

If the informal resolution process does not resolve the problem within the parameters of law, the Legal Compliance Specialist or designee shall proceed with an investigation of the complaint. The use of informal resolution process shall extend the timelines for investigating and resolving the complaint, should the Legal Compliance Specialist or designee determine an extension of time is necessary and reasonable.

**Investigation of a Complaint**

The investigation shall include an opportunity for the complainant and/or the complainant’s representative to present evidence or information in support of the allegations contained in the complaint. Such evidence or information may be presented at any time during the investigation.

Likewise, the investigation shall include an opportunity for the respondent and/or the respondent’s representative to present evidence or information in support of a defense to the allegations contained in the complaint. Such evidence or information may be presented at any time during the investigation.

In addition to the above, the investigator shall interview all available witnesses who may have knowledge of information relevant to the allegations contained in the complaint.
UNIFORM COMPLAINT PROCEDURES (continued)

The investigator shall also collect all available documents, including but not limited to witness statements, emails, photographs, and videos relevant to the allegations contained in the complaint. The investigator may visit any reasonably accessible location where the alleged conduct is alleged to have taken place.

At appropriate intervals, the investigator or designee shall inform both parties of the status of the investigation.

Refusal by the complainant to provide the investigator with documents or other evidence related to the allegations contained 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. Similarly, a respondent’s refusal to provide the investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or engagement in any other obstruction of the investigation may result in a finding, based on evidence collected, that a violation has occurred and in the imposition of a remedy in favor of the complainant.

Investigation Findings Letters¹

The investigator shall issue written investigation findings (Investigation Findings Letter) to the complainant and respondent within sixty (60) calendar days from the date of the receipt of the complaint, unless the complainant agrees to an extension of time in writing.

The Investigation Findings Letter shall be based on the evidence and shall contain the following elements:

1. Findings of fact based on the evidence gathered;

2. Conclusion(s) providing a clear determination as to each allegation as to whether the District is in compliance with relevant law;

3. If the alleged conduct is sustained, corrective actions including in the case of complaints related to subsections (a)(1), (J), (K), and (L) of Education Code section 33315, or as otherwise required by law, a remedy to all affected pupils, parents, and guardians. With respect to a pupil fees complaint, corrective actions shall include, a remedy that comports with Education Code section 49013(d) and section 4600(t);

4. Notice of the complainant’s right to appeal the LEA Investigation Report to the CDE; and

¹ Note that California Code of Regulations, title 5, sections 4600 et al., uses the term “Investigation Report.” For purposes of this regulation, “Investigation Report” and “Investigation Findings Letter” are synonymous.
**UNIFORM COMPLAINT PROCEDURES (continued)**

5. Procedures to be followed for initiating an appeal to the CDE.

For complaints alleging unlawful discrimination, harassment, or related retaliation, based on state law, the Investigation Report shall also include a notice to the complainant that:

1. The complainant may pursue available civil law remedies outside of the District’s complaint procedures, including seeking assistance from mediation centers or public/private interest attorneys, sixty (60) calendar days after the filing of an appeal with CDE.

2. The sixty (60) days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law.

3. Complaints alleging discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the U.S. Department of Education, Office for Civil Rights at www.ed.gov/ocr within 180 days of the alleged discrimination.

**Corrective Actions**

When a complaint is found to have merit, the Legal Compliance Specialist or designee may adopt any appropriate corrective action permitted by law. Appropriate corrective actions that focus on the larger school or District environment may include, but are not limited to:

1. Actions to reinforce District policies;

2. Training for faculty, staff, and students;

3. Updates to school policies; or

4. School climate surveys.

For complaints involving unlawful discrimination (including bullying based on a protected class), harassment (including sexual harassment), or related retaliation, appropriate remedies that may be offered to the victim but not communicated to the respondent may include, but are not limited to, the following:

1. Counseling

2. Academic support

3. Health services
UNIFORM COMPLAINT PROCEDURES (continued)

4. Assignment of an escort to allow the victim to move safely about campus

5. Information regarding available resources and how to report similar incidents or retaliation

6. Separation of the victim from any other individuals involved, provided the separation does not penalize the victim

7. Restorative practices

8. Follow-up inquiries to ensure that the conduct has stopped and there has been no retaliation

9. Determination of whether any past actions of the victim that resulted in discipline were related to the treatment the victim received and described in the complaint

For complaints involving unlawful discrimination (including bullying based on a protected class), harassment (including sexual harassment), or related retaliation, appropriate corrective actions that focus on a student respondent may include, but are not limited to, the following:

1. Transfer from a class or school, as permitted by law

2. Parent/guardian conference

3. Education regarding the impact of the conduct on others

4. Positive behavior support

5. Referral to a student success team

6. Denial of participation in extracurricular or co-curricular activities or other privileges as permitted by law

7. Disciplinary action, such as suspension or expulsion, as permitted by law

When an employee is found to have committed unlawful discrimination (including bullying based on a protected class), harassment (including sexual harassment), or related retaliation, the District shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

For any complaint involving allegations of unlawful discrimination (including bullying based on a protected class), harassment (including sexual harassment), or related retaliation, regardless of
UNIFORM COMPLAINT PROCEDURES (continued)

whether the allegations are substantiated, the District may also consider training and other interventions for the larger school community to ensure that students, staff, and parents/guardians understand the types of behavior that constitute unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), that the District does not tolerate it, and how to report and respond to it.

If the District finds merit in any other UCP complaint, the District shall provide an appropriate remedy to the affected pupils, parents, and guardians, which in the case of pupil fees, also includes reasonable efforts by the District to ensure full reimbursement to all affected pupils, parents, and guardians subject to procedures established through regulations adopted by the state board.

Appeals to the California Department of Education (CDE)

Only complaints listed in Title 5 of the California Code of Regulation section 4610 may be appealed to the CDE.

A complainant may appeal the investigator’s findings to the CDE within thirty (30) calendar days of the date of the Investigation Report.

In the appeal, the complainant must specify and explain the basis for the appeal, including at least one of the following:

1. The District failed to follow its complaint procedures;

2. The Investigation Report lacked material findings of fact necessary to reach a conclusion of law;

3. The material findings of fact in the Investigation Report were not supported by substantial evidence;

4. The legal conclusions in the Investigation Report were inconsistent with the law; and/or

5. The corrective actions fail to provide a proper remedy.

The appeal shall be sent to the CDE with a copy of the original complaint and a copy of the District’s Investigation Report.

Upon notification by CDE that the complainant has appealed the District’s Investigation Report, the Legal Compliance Specialist or designee shall forward the following documents to CDE within ten (10) calendar days:
UNIFORM COMPLAINT PROCEDURES (continued)

1. A copy of the original complaint;

2. A copy of the written Investigation Report;

3. 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;

4. A report of any action taken to resolve the complaint;

5. A copy of the District’s UCP; and

6. Other relevant information requested by CDE.