



# Huntington Beach Union High School District Board Policies and Administrative Regulations

## PROPOSED REVISION

BP 1312.3  
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### Community Relations

### Uniform Complaint Procedures

The Governing Board recognizes that the district has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs. The Board encourages the early, informal resolution of complaints whenever possible and appropriate. To resolve complaints which cannot be resolved through such informal process, the Board adopts the uniform system of complaint processes specified in 5 CCR 4600-4640, 4690-4694 and the accompanying administrative regulation.

A Uniform Complaint Procedure (UCP) 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 or charging pupil fees for participation in an educational activity or noncompliance with the requirements of our Local Control Accountability Plan (LCAP). 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; Child Care 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 sections 200 and 220 and Section 11135 of the Government Code, including any actual or perceived characteristic as set forth in Section 422.55 of the Penal Code, 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 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; and any other state or federal educational program the State Superintendent of Public Instruction (SSPI) of the California Department of Education (CDE) or designee deems appropriate.

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Uniform Complaint Procedures (continued)

The district shall investigate and seek to resolve, in accordance with the HBUHSD's UCP, complaints alleging failure to comply with applicable state and federal laws and regulations including, but not limited to, allegations of discrimination, harassment, intimidation, bullying or noncompliance with laws relating to all programs and activities implemented by the district that are subject to UCP. Complainants have the right to pursue civil law remedies under state or federal discrimination, harassment, intimidation or bullying laws.

Complaints concerning unlawful discrimination, harassment, intimidation or bullying complaints shall be filed no later than six (6) months from the date the alleged discrimination, harassment, intimidation or bullying occurred, or six (6) months from the date the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation or bullying. All other UCP complaints shall be filed not later than one (1) year from the date the alleged violation occurred.

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

The Superintendent or designee shall ensure that the district staff responsible for compliance and/or investigations shall be knowledgeable about the laws/programs that they have been assigned to investigate. The following person is responsible for receiving and investigating complaints and ensuring our compliance:

Assistant Superintendent  
Educational Services Division  
5832 Bolsa Avenue, Huntington Beach, CA 92649  
(714) 903-7000  
distgroupedservices@hbuhsd.edu

Provisions to the Complainant:

HBUHSD will 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 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

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Uniform Complaint Procedures (continued)

based on evidence collected that a violation has occurred and may result in the imposition of a remedy in favor of the complainant.

Investigation of UCP Complaints:

The HBUHSD complaint will be investigated and a written report issued to the complainant within 60 calendar days from the date of the receipt of the complaint, unless the complainant agrees in writing to an extension of time. The report will contain the following elements:

1. The findings of fact based on the evidence gathered.
2. A conclusion of law that provides a clear determination for each allegation as to whether the district is in compliance with the relevant law.
3. Corrective action if the district finds merit in a complaint:
  - a. If the HBUHSD finds merit in a pupil fee, LCAP, Physical Education Instructional Minutes, and/or Course Period without Educational Content complaint, the remedy shall go to all affected pupils, parents and guardians.
  - b. With respect to a pupil fees complaint, corrective actions shall include a remedy where in good faith, by engaging in reasonable efforts, an attempt to identify and provide full reimbursement to all affected pupils, parents and guardians who paid a pupil fee within one year prior to the filing of the complaint, subject to procedures established through regulations adopted by the state board.
  - c. For all other complaints within the scope of the Uniform Complaint Procedures, the remedy shall go to the affected pupil.
4. Notice of the complainant's right to appeal the HBUHSD Investigation Report to the California Department of Education.
5. Procedures to be followed for initiating an appeal to the California Department of Education.
  - a. To appeal the HBUHSD's UCP Investigation Report the complainant must file a written appeal within 30 days of receiving the Investigation Report to the California Department of Education (CDE). In order to request an appeal, the complainant must specify and explain the basis for the appeal, including at least one of the following:
    - i. District failed to follow complaint procedures, and/or
    - ii. the Investigation Report lacks material finding of fact necessary to reach a conclusion of law, and/or
    - iii. the material findings of fact in the Investigation Report are not supported by substantial evidence, and/or
    - iv. the legal conclusion in the Investigation Report is inconsistent with the law, and/or
    - v. in a case in which the District found noncompliance, the corrective actions fail to provide a proper remedy.
  - b. The appeal shall be sent with (1) a copy of the locally filed complaint; and (2) a copy of the Investigation Report.

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The Board recognizes that 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 Superintendent or designee shall ensure that the use of ADR is consistent with state and federal laws and regulations.

The Superintendent or designee shall maintain records of all UCP complaints and the investigations of those complaints. All such records shall be destroyed in accordance with applicable state law and district policy.

### Pupil Fees

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 education 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, 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 of 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.

Pupil fees complaints may be filed with the principal of the school or with the Superintendent or his/her designee. Pupil fees complaints 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. Pupil fees complaints shall be filed no later than one (1) year from the date the alleged violation occurred. The HBUHSD 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 filing of the complaint.

### Local Control Accountability Plan (LCAP)

The LCAP is an important component of the Local Control Funding Formula (LCFF), the revised school finance system that overhauled how California funds its K-12 schools. Under the

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### Uniform Complaint Procedures (continued)

LCFF, we are required to prepare an LCAP, which describes how we intend to meet annual goals for our pupils, with specific activities to address state and local priorities identified pursuant to Education Code Section 52060(d). LCAP complaints 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 related to the 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.

Annual dissemination of a written notice of the HBUHSD's complaint procedures will be made available to all students, employees, parents or guardians of students, school and district advisory committee members, appropriate private school officials or representatives, and other interested parties that includes information regarding allegations about discrimination, harassment, intimidation, or bullying. This notice may be made available on our website and shall include the following:

1. information regarding allegations about discrimination, harassment, intimidation, or bullying;
2. the list of all federal and state programs within the scope of the UCP;
3. the title of the position whose occupant is responsible for processing complaints, and the identity(ies) of the person(s) currently occupying that position, if known; and
4. a statement that the occupant responsible for processing complaints is knowledgeable about the laws and programs that they are assigned to investigate.

### Non-UCP Complaints

When an allegation that is not subject to the UCP is included in a UCP complaint, the district 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 district's UCP.

In addition, the district's Williams Uniform Complaint Procedures, AR 1312.4, 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

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222	Reasonable accommodations; lactating students
8200-8498	Child care and development programs
8500-8538	Adult basic education
18100-18203	School libraries
32280-32289	School safety plan, uniform complaint procedures
33315, 64000-64001	Consolidated application process
35186	Williams uniform complaint procedures
46015	Accommodations for pregnant and parenting pupils
48853-48853.5	Foster youth
48985	Notices in language other than English
49010-49013	Student fees
49060-49079	Student records
49069.5	Records of foster youth
49490-49590	Child nutrition programs
49701	Interstate Compact on Educational Opportunity for Military Children
51210, 51222, 21334	Physical education instructional minutes
51225.1-51225.2	Foster youth and homeless children; course credits; graduation requirements
51228.1-51228.3	Course periods without educational content
52059.5	Statewide system of support
52300-52334.7	Regional occupational centers and programs
52059	Every Student Succeeds Act
52060-52077	Local control and accountability plan
52075	Complaint for lack of compliance with local control and accountability plan requirements
52160-52178	Bilingual education programs
52300-52490	Career technical education
52460-52462	Agricultural career technical education
52500-52617	Adult schools
52800-52870	School-based program coordination
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; school plans for student achievement
65000	Schoolsite councils
<u>GOVERNMENT CODE</u>	
11135	Nondiscrimination in programs or activities funded by state
12900-12996	Fair Employment and Housing Act

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Uniform Complaint Procedures (continued)

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

3200-3205 Special education compliance complaints

4600-4687 Uniform complaint procedures, Williams uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

15580-15584 Child nutrition programs complaint procedures

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

6801-6871 Title III language instruction for limited English proficient and immigrant students

UNITED STATES CODE, TITLE 29

794 Section 504 of Rehabilitation Act of 1973

UNITED STATES CODE, TITLE 42

11431-11435 McKinney-Vento Homeless Assistance Act

12101-12213 Americans with Disabilities Act

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

106.1-106.82 Nondiscrimination on the basis of sex in education programs

106.30 Discrimination on the basis of sex in education programs and activities; definitions

106.44 Recipient's response to sexual harassment

106.45 Grievance process for formal complaints of sexual harassment

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

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Uniform Complaint Procedures (continued)

Management Resources:

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

Part 1: Questions and Answers Regarding the Department's Title IX Regulations, January 2021

Questions and Answers on the Title IX Regulations on Sexual Harassment, July 2021

Dear Colleague Letter: Title IX Coordinators, April 2015

Dear Colleague Letter: Responding to Bullying of Students with Disabilities, October 2014

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/about/offices/list/ocr>

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

Policy

Adopted: 11-10-92

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Revised: 12-10-02

Revised: 7-20-04

Revised: 11-18-08

Revised: 4-14-09

Revised: 3-12-13

Revised: 10-8-13

Revised: 9-13-16

Revised: 9-19-23