



Huntington Beach Union High School District Board Policies and Administrative Regulations

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 4600-4670 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). Programs and activities that are implemented by our district and subject to the UCP in which we receive state or federal funding are:

Adult Education, Agricultural Vocational Education, American Indian Education Centers, Bilingual Education, California Peer Assistance and Review Programs for Teachers, Career Technical and Technical Education, Career Technical and Technical Training, Career Technical Education, Compensatory Education, Consolidated Categorical Aid, Course Periods Without Educational Content, Economic Impact Aid, Education of Pupils in Foster Care and Pupils who are Homeless, Every Student Succeeds Act / No Child Left Behind, Local Control Accountability Plans, Migrant Education, Pupil Fees, Reasonable Accommodations to a Lactating Pupil, School Safety Plans, After School Education and Safety, Physical Education Instructional Minutes, Tobacco – Use Prevention Education, and Special Education.

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.

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.

Uniform Complaint Procedures (continued)

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

The HBUHSD complaint will be investigated and a written report issued to the complainant within 60 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. Conclusion of law.
3. Disposition of the complaint.
4. The rationale for such a disposition.
5. Corrective actions, if any are warranted.
6. Notice of the complainant's right to appeal the HBUHSD's Decision to the California Department of Education.
 - a. A complainant may appeal the HBUHSD's Decision of a UCP complaint regarding all specified federal and state educational programs subject to the UCP2.
7. Procedures to be followed for initiating an appeal to the California Department of Education.
 - a. To appeal the HBUHSD's UCP Complaint Decision the complainant must file a written appeal within 15 days of receiving the Decision to the California Department of Education (CDE). This appeal to the CDE must fully explain the basis for the appeal, stating how the facts of the HBUHSD's Decision are incorrect and/or the law is misapplied.
 - b. The appeal shall be sent with (1) a copy of the locally filed complaint; and (2) a copy of the Decision.

Complainants have the right to pursue civil law remedies under state or federal discrimination, harassment, intimidation or bullying laws.

Uniform Complaint Procedures (continued)

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

1. Any complaint alleging district violation of applicable state or federal law or regulations governing adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and training programs, child care and development programs, child nutrition programs, and special education programs. (5 CCR 4610)
2. Any complaint alleging the occurrence of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) against any person in district 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, ethnic group identification, age, religion, marital 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, including any actual or perceived characteristics as set forth in Penal Code section 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) in any program or activity conducted by the HBUHSD, which is funded directly by, or that received benefits from any state financial assistance.
3. Any complaint alleging district noncompliance with the requirement to provide reasonable accommodation to a lactating student on school campus to express breast milk, breastfeed an infant child, or address other breastfeeding-related needs of the student. (Education Code 222)
4. Any complaint alleging district 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 district noncompliance with legal requirements related to the implementation of the LCAP. (Education Code 52075)
6. Any complaint, by or on behalf of any student who is a foster youth, alleging district noncompliance with any legal requirement applicable to the student regarding placement decisions, the responsibilities of the district's educational liaison to the student, the award of credit for coursework satisfactorily completed in another school or district, school transfer, or the grant of an exemption from Board-imposed graduation requirements. (Education Code 48853, 48853.5, 49069.5, 51225.1, 51225.2)

Uniform Complaint Procedures (continued)

7. Any complaint, by or on behalf of a homeless student as defined in 42 USC 11434a, alleging district noncompliance with any requirement applicable to the student regarding the award of credit for coursework satisfactorily completed in another school or district or the grant of an exemption from Board-imposed graduation requirements. (Education Code 51225.1, 51225.2)
8. Any complaint alleging district 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)
9. 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.
10. Any other complaint as specified in a district policy.

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 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 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@hbuhdsd.edu

Uniform Complaint Procedures (continued)

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.

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.

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 or neglect shall be referred to the County Department of Social Services, the County Protective Services Division, or 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 Department of Social Services and shall, for licensing-exempt facilities, be referred to the appropriate Child Development regional administrator.
3. Employment discrimination, harassment, intimidation or bullying complaints shall be sent to the State Department of Fair Employment and Housing.
4. Allegations of fraud shall be referred to the Legal, Audits and Compliance Branch in the California Department of Education.

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.

Uniform Complaint Procedures
Pupil Fees (continued)

3. A purchase that a pupil is required to make to obtain materials, supplies, equipment, or clothes association 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 and/or an LCAP complaint may be filed anonymously 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 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).

If the HBUHSD finds merit in a pupil fee, LCAP, and/or Course Period without Educational Content complaint, the HBUHSD shall provide a remedy. Specifically, in Course Period without Educational Content complaints, the remedy shall go to all affected pupils, parents and guardians, which in the case of pupil fees, also includes reasonable efforts by the HBUHSD to ensure full reimbursement to all affected pupils, parents and guardians subject to procedures established through regulations adopted by the state board.

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.

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)

Uniform Complaint Procedures (continued)

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
51225.1-51225.2 Foster youth and homeless children; 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
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

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 5

3080 Application of section
4600-4687 Uniform complaint procedures
4900-4965 Nondiscrimination in elementary and secondary education programs

Legal Reference: (continued)

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

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

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

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

Legal Reference: (continued)

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

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Revised: 10-8-13
Revised: 9-13-16