



January 2015

Policy Brief

Guide to Complaint Procedures

Districts and county offices of education are accountable for providing a safe, nondiscriminatory school environment and complying with state and federal laws and regulations. When concerns are expressed by students, parents/guardians, staff or others, most concerns will ideally be addressed informally at the lowest level or through alternative dispute resolution procedures such as mediation. In the event that an informal or alternative dispute resolution process is not used to resolve the complaint, governing boards and superintendents must ensure that formal complaint processes are in place to receive, investigate and resolve concerns in a timely and thorough manner.

State (and to some extent federal) law and regulations mandate the adoption of uniform complaint policies and procedures, consistent with the procedures specified in 5 CCR 4600-4670, to address allegations of discrimination, bullying, improper charging of student fees, violations of state and federal laws governing educational programs, noncompliance with Local Control and Accountability Plan (LCAP) requirements and retaliation against a complainant. As described in CSBA's sample BP/AR 1312.3 - Uniform Complaint Procedures, these procedures must:

- » Identify one or more compliance officers (i.e., person(s), position(s) or unit(s) responsible for receiving and investigating complaints)
- » Provide for annually disseminating a written notice of the uniform complaint procedures to students, employees, parents/guardians, the district advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties
- » Allow complaints regarding student fees or the LCAP to be filed anonymously
- » Adhere to the timelines required by law for investigating and resolving complaints

- » Provide information about the complainant's right to appeal the decision to the California Department of Education or, if applicable, pursue remedies before civil courts or other public agencies

Even for some complaints that are not legally subject to uniform complaint procedures (such as nondiscriminatory bullying), CSBA still recommends the use of uniform complaint procedures to investigate and resolve the complaint in order to ensure consistent implementation by district staff. It is not always easy or possible for staff to know at the time of the incident whether a student was bullied because of his/her actual or perceived membership in a legally protected class.

For all remaining complaints that are not subject to uniform complaint procedures, districts and county offices are sometimes required to follow other procedures as specified in law. For instance, the procedures described in AR 1312.4 - Williams Uniform Complaint Procedures must be used to address any complaint related to insufficiency 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. Other complaints (e.g., child abuse, fraud) are referred to other agencies. In those instances when complaint procedures are not specified in law, local processes may be developed to provide a consistent approach for resolving complaints regarding employees, the content of instructional materials, employment discrimination or other matters.

The following chart provides a reference guide to the various complaint procedures that are required by law or may be established locally. Refer to the CSBA sample board policy or administrative regulation listed below for information about notifications, timelines, appeal processes and other requirements related to each type of complaint.

Type of complaint/ allegation	Who may file	Complaint procedure	Other related policies/ regulations
Complaints Regarding Treatment of Students			
Discrimination or bullying of a student by another student or employee, based on specified actual or perceived student characteristics or association with a person or group with those characteristics	Student who alleges he/she personally suffered discrimination or bullying A person who believes that an individual or any specific class of individuals has been subjected to discrimination or bullying	BP/AR 1312.3 - Uniform Complaint Procedures	BP 0410 - Nondiscrimination in District Programs and Activities BP 5131.2 - Bullying BP/AR 5145.3 - Nondiscrimination/ Harassment BP/AR 5145.7 - Sexual Harassment
Abuse or neglect of a student by an employee, volunteer or other person	Student, Parent/guardian, Any mandated reporter	Refer to law enforcement, county welfare department or county probation department in accordance with BP 5141.4 - Child Abuse Prevention and Reporting	
Complaints Regarding Employment Discrimination			
Discrimination against employee or job applicant	Affected employee or job applicant	AR 4031 - Complaints Concerning Discrimination in Employment As applicable, complaint also may be filed with California Department of Fair Employment and Housing or Equal Employment Opportunity Commission	BP 4030 - Nondiscrimination in Employment
Complaints Regarding Employees			
Any complaint regarding the performance or conduct of an employee	Student, Parent/guardian, Employee	BP 1312.1 - Complaints Concerning District Employees Individuals with first-hand knowledge of misconduct by certificated personnel also may file a complaint with the Commission on Teacher Credentialing	
Sexual misconduct, other employee misconduct	Individuals with first-hand knowledge of misconduct	As applicable, file complaint with the Commission on Teacher Credentialing	AR 4117.7/4317.7 - Employment Status Reports

Complaints Regarding District Programs/Activities			
Violation of law or regulations governing special education, adult education, career technical education, child care and development program, migrant education, nutrition program or other categorical program	Any individual, Public agency, Organization	BP/AR 1312.3 - Uniform Complaint Procedures	BP 3555 - Nutrition Program Compliance BP/AR 5148 - Child Care and Development BP/AR 6159 - Individualized Education Program BP/AR 6171 - Title I Programs BP/AR 6175 - Migrant Education Program BP/AR 6178 - Career Technical Education BP/AR 6200 - Adult Education
Improper charging of student fees, deposits or other charges to participate in educational activities	Student, Parent/guardian, Employee	BP/AR 1312.3 - Uniform Complaint Procedures	BP/AR 3260 - Fees and Charges
Violation of requirements for Local Control and Accountability Plan	Student, Parent/guardian, Employee	BP/AR 1312.3 - Uniform Complaint Procedures	BP/AR 0460 - Local Control and Accountability Plan
Special education due process complaint — problem related to the initiation of, or change in, a student’s identification, assessment or educational placement in special education, or the provision of a free appropriate public education to the student	Parent/guardian, Student who is an emancipated minor or ward or dependent of the court with no available parent/guardian or surrogate, District, Attorney for one of the parties	BP/AR 6159.1 - Procedural Safeguards and Complaints for Special Education	BP/AR 6159 - Individualized Education Program BP/AR 6164.4 - Identification and Evaluation of Individuals for Special Education
Concern regarding content or use of instructional materials	Student, Parent/guardian, Employee, District resident	BP/AR 1312.2 - Complaints Concerning Instructional Materials	BP/AR 6161.1 - Selection and Evaluation of Instructional Materials BP 6161.11 - Supplementary Instructional Materials BP 6163.1 - Library Media Centers BP 6144 - Controversial Issues
Insufficiency of textbooks or other instructional materials	Student, Parent/guardian, Employee	AR/E 1312.4 - Williams Uniform Complaint Procedures	BP/AR 6161.1 - Selection and Evaluation of Instructional Materials
Teacher vacancies or misassignments	Student, Parent/guardian, Employee	AR/E 1312.4 - Williams Uniform Complaint Procedures	BP/AR 4112.2 - Certification BP/AR 4113 - Assignment

Complaints Regarding Health and Safety			
Condition of school facilities, including conditions that pose a threat to health and safety of students or staff or a restroom that has not been cleaned, maintained or kept open	Student, Parent/guardian, Employee	AR/E 1312.4 - Williams Uniform Complaint Procedures	BP/AR 3514 - Environmental Safety BP 3517 - Facilities Inspection
Health and safety violations in child development program	Any person	For licensed facilities, refer complaint to California Department of Social Services For license-exempt facilities, refer complaint to appropriate child development regional administrator	BP/AR 5148 - Child Care and Development
Complaints Regarding Financial Improprieties			
Fraud	Any person	Refer complaint to California Department of Education	BP/AR 3400 - Management of District Assets/Accounts
Complaints Regarding Retaliation			
Retaliation against a complainant or other participant in complaint process	Any complainant or participant in a complaint	BP/AR 1312.3 - Uniform Complaint Procedures	BP 4119.1/4219.1/4319.1 - Civil and Legal Rights BP 4144/4244/4344 - Complaints

Resources

CSBA

www.csba.org

California Department of Education

www.cde.ca.gov/re/cp

California Department of Fair Employment and Housing

www.dfeh.ca.gov

California Department of Social Services

www.cclcd.ca.gov/PG408.htm

Commission on Teacher Credentialing

www.ctc.ca.gov/educator-discipline/public.html

Equal Employment Opportunity Commission

www.eeoc.gov/employees/charge.cfm

U.S. Department of Agriculture, Food and Nutrition Service, Office of Civil Rights

www.fns.usda.gov/civil-rights

U.S. Department of Education, Office for Civil Rights

www2.ed.gov/about/offices/list/ocr