

# LODI UNIFIED SCHOOL DISTRICT

## Rule 1312.3

### Community Relations

### Uniform Complaint Procedures

Except as the Board of Education may otherwise specifically provide in other district policies, these uniform complaint procedures (UCP) shall be used to investigate and resolve only the complaints specified in Board Policy 1312.3.

### **Compliance Officer:**

The district designates the individual identified below as the employee responsible for coordinating the district's response to complaints and for complying with state and civil rights laws. The individual also serves as the compliance officer specified in Board Rule 5145.3 – Nondiscrimination/Harassment as the responsible employee to handle complaints regarding unlawful discrimination (such as discriminatory harassment, intimidation, or bullying). The individual shall receive and coordinate the investigation of complaints and shall ensure district compliance with law.

### **Enrique Avalos, Positive School Climate Coordinator**

1305 E. Vine Street, Lodi California 95240

(209)-331-7976 (209)-331-2245 FAX (209) 331-7981

[eavalos@lodiUSD.net](mailto:eavalos@lodiUSD.net)

In no instance shall a compliance officer be assigned to a complaint in which he/she has a bias or conflict of interest that would prohibit him/her from fairly investigating or resolving the complaint. Any complaint against a compliance officer or that raises a concern about the compliance officer's ability to investigate the complaint fairly and without bias shall be filed with the Superintendent or designee who shall determine how the complaint will be investigated.

The Superintendent 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 complaints to which they are assigned. Training provided to such employees shall include state and federal laws and regulations governing the program, applicable processes for investigating and resolving complaints, including those alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), applicable standards for reaching decisions on complaints, and appropriate corrective measures. Assigned employees may have access to legal counsel as determined by the Superintendent or designee.

The compliance officer or, if necessary, any appropriate administrator shall determine whether interim measures are necessary during and pending the result of an investigation. If interim measures are determined to be necessary, the compliance officer or the administrator shall consult with the Superintendent, the Superintendent's designee, or, if appropriate the site principal to implement one or more interim measures. The interim measures shall remain in place until the compliance officer determines that they are no longer necessary or until the district issues its final written decision, whichever occurs first.

**Notifications:**

The district's UCP policy and administrative regulation shall be posted in all district schools and offices, including staff lounges and student government meeting rooms.

The Superintendent or designee shall annually provide written notification of the district's UCP, including information regarding unlawful student fees, local control and accountability plan (LCAP) requirements, and requirements related to the educational rights of foster youth and homeless students, to students, employees, parents/guardians, the district advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties.

The annual notification, complete contact information of the compliance officer and information related to Title IX as required pursuant to Education Code 221.61 may be posted on the district web site, and, if available, provided through district-supported social media.

The Superintendent or designee shall ensure that all students and parents/guardians, including students and parents/guardians with limited English proficiency, have access to the relevant information provided in the district's policy, regulation, forms, and notices concerning the UCP.

If 15 percent or more of students enrolled in a particular district school speak a single primary language other than English, the district's policy, regulation, forms, and notices concerning the UCP shall be translated into that language, in accordance with Education Code 234.1 and 48985. In all other instances, the district shall ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

The notice shall:

1. Identify the person, position, or unit responsible for receiving complaints;

2. Advise the complainant of any civil law remedies that may be available to him/her under state or federal antidiscrimination laws, if applicable;
3. Advise complainant of the appeal process, including, if applicable, the complainant's right to take a complaint directly to the California Department of Education (CDE) or to pursue remedies before civil courts or other public agencies, such as the U.S. Department of Education's Office for Civil Rights (OCR) in cases involving unlawful discrimination (such as discriminatory harassment, intimidation, or bullying).
4. Include statements that:
  - a. The district has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs.
  - b. The complaint review shall be completed within 60 calendar days from the date of receipt of the complaint unless the complainant agrees in writing to an extension of the timeline.
  - c. A complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) must be filed not later than six months from the date it occurred, or six months from the date the complainant first obtained knowledge of the facts of the alleged unlawful discrimination. The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reason for the extension.
  - d. Complaints should be filed in writing and signed by the complainant. If a complainant is unable to put his/her complaint in writing, for example, due to condition such as a disability or illiteracy, district staff shall assist him/her in the filing of the complaint.
  - e. If a complaint is not filed in writing but the district receives notice of any allegation that is subject to UCP, the district shall take affirmative steps to investigate and address the allegations, in a manner appropriate to the particular circumstances.

If the allegation involves retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) and the investigation reveal that discrimination has occurred, the district will

take steps to prevent recurrence of discrimination and correct its discriminatory effects on the complainant, and on others, if appropriate.

- f. A student enrolled in a public school shall not be required to pay a fee for his/her participation in an educational activity that constitutes an integral fundamental part of the district's educational program, including curricular and extracurricular activities.
- g. The Board is required to adopt and annually update the LCAP in a manner that includes meaningful engagement of parents/guardians, students and other stakeholders in the development and/or review of the LCAP.
- h. A foster youth shall receive information about educational rights related to his/her educational placement, enrollment in and checkout from school, as well as the responsibilities of the district liaison for foster youth to ensure and facilitate these requirements and to assist the student in ensuring proper transfer for his/her credits, records, and grades when he/she transfers between the district and another district.
- i. A foster youth or homeless student who transfers into a district high school or between district high schools shall be notified of the district's responsibility to:
  - i. Accept any coursework or part of the coursework that the student has satisfactorily completed in another public school, juvenile court school, or nonpublic, nonsectarian school or agency, and to issue full or partial credit for the coursework completed
  - ii. Not require the student to retake any course or portion of a course which he/she satisfactorily completed in another public school, juvenile court school, or a nonpublic, nonsectarian school or agency
  - iii. If the student has completed his/her second year of high school before the transfer, provide the student information about district-adopted coursework and Board-imposed graduation requirements form which he/she may be exempted pursuant to Education Code 51225.1
- j. The complainant has a right to appeal the district's decision to the CDE by filing a written appeal within 15 calendar days of receiving the district's decision.

In any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the respondent also shall have the right to file an appeal with the CDE in the same manner as the complainant, if he/she is dissatisfied with the district's decision.

- k. The appeal to the CDE must include a copy of the complaint filed with the district and a copy of the district's decision.
- l. Copies of the district's UCP are available free of charge.

### **District Responsibilities:**

All UCP-related complaints shall be investigated and resolved within 60 calendar days of the district's receipt of the complaint unless the complainant agrees in writing to an extension of the timeline.

For complaints alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the district shall inform the respondent when the complainant agrees to an extension of the timeline for investigating and resolving the complaint.

The compliance officer shall maintain a record of each complaint and subsequent related actions, including steps taken during the investigation and all information required for compliance with 5 CCR 4631 and 4633.

All parties involved in the allegations shall be notified when a complaint is filed and when a decision or ruling is made. However, the compliance officer shall keep all complaints or allegations of retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) confidential except when disclosure is necessary to carry out the investigation, take subsequent corrective action, conduct ongoing monitoring, or maintain the integrity of the process.

### **Filing of Complaints**

The complaint shall be presented to the compliance officer who shall maintain a log of complaints received, providing each with a code number and a date stamp.

All complaints shall be filed in writing and signed by the complainant. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, district staff shall assist him/her in the filing of the complaint.

Complaints shall also be filed in accordance with the following rules, as applicable:

1. A complaint alleging district violation of applicable state or federal law or regulations governing adult education programs, consolidated categorical aid programs, migrant education, career technical education, child care and development programs, child nutrition programs, and special education programs may be filed by any individual, public agency or organization
2. Any complaint alleging noncompliance with law regarding the prohibition against requiring students to pay student fees, deposits, and charges or any requirement related to the LCAP may be filed anonymously if the complaint provides evidence, or information leading to evidence to support an allegation of noncompliance. A complaint about a violation of the prohibition against the charging of unlawful student fees may be filed with the principal of the school or the Superintendent or designee. However, any such complaint shall be filed no later than one year from the date the alleged violation occurred.
3. Any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) may be filed only by a person who alleges that he/she personally suffered the unlawful discrimination or by a person who believes that an individual or any specific class of individuals has been subjected to it. The complaint shall be initiated no later than six months from the date when the alleged unlawful discrimination occurred, or six months from the date when the complainant first obtained knowledge of the facts of the alleged unlawful discrimination. The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension.
4. When a complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) is filed anonymously, the compliance officer shall pursue an investigation or other response as appropriate, depending on the specificity and reliability of the information provided and the seriousness of the allegation
5. When the complainant of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) or the alleged victim, when he/she is not the complainant, requests confidentiality, the compliance officer shall inform him/her that the request may limit the district's ability to investigate the conduct or take other necessary action. When honoring a request for

confidentiality, the district shall nevertheless take all reasonable steps to investigate and resolve/respond to the complaint consistent with the request.

### **Investigation of Complaint**

Within ten business days after the compliance officer receives the complaint, the compliance officer shall begin an investigation into the complaint.

The compliance officer shall provide the complainant and/or his/her representative with the opportunity to present the information contained in the complaint to the compliance officer and shall notify the complainant and/or his/her representative of the opportunity to present the compliance officer with any evidence, or information leading to evidence, to support the allegations in the complaint. Such evidence or information may be presented at any time during the investigation.

In conducting the investigation, the compliance officer shall collect all available documents and review all records, notes or statements related to the complaint, including any additional evidence or information received from the parties during the course of the investigation. He/she shall individually interview all available witnesses with information pertinent to the complaint, and may visit any reasonably accessible location where the relevant actions are alleged to have taken place. At appropriate intervals the compliance officer shall inform both parties of the status of the investigation.

To investigate a complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the compliance officer shall interview the alleged victim(s), any alleged offenders, and other relevant witnesses privately, separately, and in a confidential manner. As necessary, additional staff or legal counsel may conduct or support the investigation.

A complainant's refusal to provide the district's 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 the dismissal of the complaint because of a lack of evidence to support the allegation. Similarly, a respondent's refusal to provide the district's 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.

In accordance with law, the district shall provide the investigator with access to records and other information related to the allegation in the complaint and shall not in any way obstruct the investigation. Failure or refusal of the district to cooperate in 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.

The compliance officer shall apply a “preponderance of evidence” standard in determining the veracity of the factual allegations in complaint. This standard is met if the allegation is more likely to be true than not.

**Report of Findings:**

Unless extended by written agreement with the complainant, a final decision shall be sent to the complainant, and respondent if there is one, a written report, as described in the section “Final Written Decision” within 60 calendar days of the district’s receipt of the complaint.

**Final Written Decision:**

The district’s decision on how it will resolve the complaint shall be in writing and shall be sent to the complainant and respondent.

In consultation with district legal counsel, information about the relevant part of a decision may be communicated to a victim who is not the complainant and to other parties who may be involved in implementing the decision or are affected by the complaint, as long as the privacy of the parties is protected. In a complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), notice of the district’s decision to the alleged victim shall include information about any sanction to be imposed upon the respondent that related directly to the alleged victim.

If the complaint involves a limited-English-proficient student or parent/guardian and the student involved attends a school at which 15 percent or more of the students speak a single primary language other than English, then the decision shall also be translated into that language. In all other instances, the district shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

For all complaints, the decision shall include:

1. The findings of fact based on the evidence gathered. In reaching a factual determination, the following factors may be taken into account:

- a. Statements made by any witness
  - b. The relative credibility of the individuals involved
  - c. How the complaining individual reacted to the alleged conduct
  - d. Past instances of similar conduct by any alleged offenders
  - e. Past false allegations made by the complainant
2. The conclusion(s) of law;
  3. Disposition of the complaint;
  4. Rationale for such disposition;

For complaints of retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the disposition of the complaint shall include a determination for each allegation as to whether retaliation or unlawful discrimination has occurred.

The determination of whether a hostile environment exists may involve consideration of the following:

- a. How the misconduct affected one or more students' education
  - b. The type, frequency, and duration of the misconduct
  - c. The relationship between the alleged victim(s) and offender(s)
  - d. The number of persons engaged in the conduct and at whom the conduct was directed
  - e. The size of the school, location of the incidents, and context in which they occurred
  - f. Other incidents at the school involving different individuals
5. Corrective action(s), including any actions that have been taken or will be taken to address the allegations in the complaint and including, with respect to a student fees complaint, a remedy that comports with Education Code 49013 and 5 CCR 4600;

For complaints of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the decision may, as required by law, include:

- a. The corrective actions imposed on the respondent
- b. Individual remedies offered or provided to the complainant or another person who was the subject of the complaint, but this information should not be shared with the respondent
- c. Systemic measures the school has taken to eliminate a hostile environment and prevent recurrence

6. Notice of the complainant's and respondent's right to appeal the district's decision to the CDE within 15 calendar days, and procedures to be followed for initiating such an appeal.

The decision may also include follow-up procedures to prevent recurrence or retaliation and for reporting any subsequent problems.

For complaints alleging unlawful discrimination based on state law (such as discriminatory harassment, intimidation, or bullying), the decision shall also include a notice to the complainant that:

1. He/she may pursue available civil law remedies outside of the district's complaint procedures, including seeking assistance from mediation centers or public/private interest attorneys, 60 calendar days after the filing of an appeal with the CDE;
2. The 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, Office for Civil rights at [www.ed.gov/ocr](http://www.ed.gov/ocr) within 180 days of the alleged discrimination.

### **Corrective Actions:**

When a complaint is found to have merit, the compliance officer shall 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, actions to reinforce district policies; training for faculty, staff, and student; updates to school policies; or school climate surveys.

For complaints involving retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), 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
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 justice
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 retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), appropriate corrective actions that focus on a student offender 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 retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the district shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

The district may also consider training and other interventions for the larger school community to ensure that students, staff, and parent/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.

When a public school or LEA finds merit in a complaint regarding pupil fees, local control and accountability plans (LCAP), education of pupils in foster care, pupils who are homeless, and former juvenile court pupils now enrolled in a school district, reasonable accommodations to a lactating pupil, course periods without educational content (grades nine through twelve), and physical education instructional minutes (grades one through eight), the public school or LEA shall provide a remedy. In the case of complaints regarding: course periods without educational content, reasonable accommodations to a lactating pupil, and education of pupils in foster care, pupils who are homeless, and former juvenile court pupils now enrolled in a school district, the remedy shall go to the affected pupil. In the case of complaints regarding pupil fees, physical education instructional minutes and LCAP, the remedy shall go to all affected pupils and parents/guardians.

For complaints alleging noncompliance with the laws regarding student fees, the district shall attempt in good faith, by engaging in reasonable efforts, to identify and fully reimburse all affected students and parents/guardians who paid the unlawful student fees within one year prior to the filing of the complaint. (Education Code 49013; 5 CCR 4600)

### **Appeals to the California Department of Education:**

Any complainant who is dissatisfied with the district's final decision may file an appeal in writing with the CDE within 15 calendar days of receiving the district's decision.

When a respondent in any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) is dissatisfied with the district's final written decision, he/she, in the same manner as the complainant, may file an appeal with the CDE.

The complainant or respondent shall specify the basis for the appeal of the decision and whether the facts are incorrect and/or the law has been misapplied. The appeal shall be accompanied by a copy of the locally filed complaint and a copy of the district's decision.

Upon notification by the CDE that the complainant or respondent has appealed the district's decision, the Superintendent or designee shall forward the following documents to the CDE:

1. A copy of the original complaint;
2. A copy of the written decision;
3. A summary of the nature and extent of the investigation conducted by the district, if not covered by the decision;
4. 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;
5. A copy of any action taken to resolve the complaint;
6. A copy of the district's uniform complaint procedures;
7. Other relevant information requested by the CDE.

Rule

approved: 02/03/98

revised: 08/14/98

revised: 01/19/99

revised: 12/11/01 (technical revision)

revised: 11/19/02

revised: 06/03/03 (technical revision)

revised: 08/05/03 (technical revision)

revised: 04/18/06

revised: 09/05/06

revised: 08/04/11 (technical revision)

revised: 12/10/13

revised: 09/02/14

revised: 05/19/15

revised: 04/26/16 (technical revision)

revised: 05/17/16

revised: 11/18/16 (technical revision)

revised: 08/15/17

revised: 05/01/18