

# TUSTIN UNIFIED SCHOOL DISTRICT

## COMMUNITY RELATIONS

## POLICY

1312.3

### Uniform Complaint Procedures

The Board of Education 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 early resolution of complaints whenever possible. To resolve complaints which may require a more formal process, the Board adopts the uniform system of complaint processes specified in 5 CCR 4600-4670 and the accompanying administrative regulation.

#### Complaints Subject to UCP

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 laws or regulations governing any program subject to the UCP which is offered by the District, including adult education programs; After School Education and Safety programs; state career technical and technical education, career technical, and technical training programs; federal career technical education; child care and development programs; compensatory education; consolidated categorical aid programs; the federal Every Student Succeeds Act; migrant education; Regional Occupational Centers and Programs; school safety plans; California State Preschool Programs; and any other District-implemented state categorical program that is not funded through the local control funding formula pursuant to Education Code 64000.
2. Any complaint, by a student, employee, or other person participating in a District program or activity, alleging the occurrence of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) in District programs and activities, including in 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, immigration status, ethnic group identification, age, religion, marital status, pregnancy, parental status, physical or mental disability, medical condition, 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, or Penal Code 422.55, or based on the person's association with a person or group with one or more of these actual or perceived characteristics. (5 CCR 4610)
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 requirements to provide a pregnant or parenting student the accommodations specified in Education Code 46015, including those related to the provision of parental leave, right of return to the school of previous enrollment or to

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an alternative education program, if desired, and possible enrollment in school for a fifth year of instruction to enable the student to complete state and Board-imposed graduation requirements. (Education Code 46015)

5. 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)

6. Any complaint alleging District noncompliance with applicable requirements of Education Code 52060-52077 related to the implementation of the local control and accountability plan, including the development of a local control funding formula budget overview for parents/guardians. (Education Code 52075)

7. Any complaint alleging noncompliance with requirements related to the development of a school plan for student achievement or the establishment of a school site council, as required for the consolidated application for specified federal and/or state categorical funding. (Education Code 64000-64001, 65000-65001)

8. Any complaint, by or on behalf of a student who is a foster youth as defined in Education Code 51225.2, alleging District noncompliance with any 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, district, or country; school or records transfer; or the grant of an exemption from Board-imposed graduation requirements. (Education Code 48853, 48853.5, 49069.5, 51225.1, 51225.2)

9. Any complaint, by or on behalf of a student who transfers into the District after the second year of high school and is a homeless child or youth as defined in 42 USC 11434a, a former juvenile court school student currently enrolled in the District, a child of a military family as defined in Education Code 49701, or a migrant student as defined in Education Code 54441, or by or on behalf of an immigrant student participating in a newcomer program as defined in Education Code 51225.2 in the third or fourth year of high school, alleging District noncompliance with any requirement applicable to the student regarding the grant of an exemption from Board-imposed graduation requirements. (Education Code 51225.1)

10. Any complaint, by or on behalf of a student who is a homeless child or youth as defined in 42 USC 11434a, a former juvenile court school student, a child of a military family as defined in Education Code 49701, a migrant child as defined in Education Code 54441, or a newly arrived immigrant student who is participating in a newcomer program as defined in Education Code 51225.2, alleging District noncompliance with requirements for the award of credit for coursework satisfactorily completed in another school, district, or country. (Education Code 51225.2)

11. Any complaint alleging District noncompliance with the requirements of Education Code 51228.1 and 51228.2 that prohibit the assignment of a student in grades 9-12 to a course without educational content for more than one week in any semester or to a course the student has

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previously satisfactorily completed, without meeting specified conditions. (Education Code 51228.3)

12. Any complaint alleging District noncompliance with the physical education instructional minutes requirement for students in elementary school. (Education Code 51210, 51223)

13. 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.

14. 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. For any complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the Superintendent or designee shall keep the identity of the complainant, and/or the subject of the complaint if different from the complainant, confidential when appropriate and as long as the integrity of the complaint process is maintained.

When an allegation that is not subject to 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 Superintendent or designee shall provide training to District staff to ensure awareness and knowledge of current law and requirements related to UCP, including the steps and timelines specified in this policy and the accompanying administrative regulation.

The Superintendent or designee 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.

### Non-UCP Complaints

The following complaints shall not be subject to the District's UCP but shall be referred to the specified agency: (5 CCR 4611)

1. Any complaint alleging child abuse or neglect shall be referred to the County Department

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of Social Services Protective Services Division and 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. Any complaint alleging fraud shall be referred to the Legal, Audits and Compliance Branch of the California Department of Education.

4. Any complaint alleging employment discrimination or harassment shall be investigated and resolved by the District in accordance with the procedures specified in AR 4030 - Nondiscrimination in Employment, including the right to file the complaint with the California Department of Fair Employment and Housing.

5. 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, teacher vacancies and misassignments, or health and safety violations in any license-exempt California State Preschool Program shall be investigated and resolved in accordance with the procedures in AR 1312.4 - Williams Uniform Complaint Procedures. (Education Code 8235.5, 35186)

### Legal Reference:

#### EDUCATION CODE

200-262.4 Prohibition of discrimination

8200-8498 Child care and development programs

8500-8538 Adult basic education

18100-18203 School libraries

32280-32289 School safety plan

35186 Williams uniform complaint procedures

46015 Parental leave for students

48853-48853.5 Foster youth

48985 Notices in language other than English

49010-49014 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 Courses of study grades 1-6

51223 Physical education, elementary schools

51225.1-51225.2 Foster youth, homeless children, former juvenile court school students, military-connected students, migrant students, and newly arrived immigrant students; course credits; graduation requirements

51226-51226.1 Career technical education

51228.1-51228.3 Course periods without educational content

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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  
52300-52462 Career technical education  
52500-52616.24 Adult schools  
54400-54425 Compensatory education programs  
54440-54445 Migrant education  
54460-54529 Compensatory education programs  
56000-56865 Special education programs  
59000-59300 Special schools and centers  
64000-64001 Consolidated application process; school plan for student achievement  
65000-65001 School site councils

## GOVERNMENT CODE

11135 Nondiscrimination in programs or activities funded by state  
12900-12996 Fair Employment and Housing Act

## HEALTH AND SAFETY CODE

1596.792 California Child Day Care Act; general provisions and definitions  
1596.7925 California Child Day Care Act; health and safety regulations

## 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 Applicability of uniform complaint procedures to complaints regarding students with disabilities

4600-4670 Uniform complaint procedures

4680-4687 Williams uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

## 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

6301-6576 Title I Improving the Academic Achievement of the Disadvantaged

6801-7014 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

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

12101-12213 Title II equal opportunity for individuals with disabilities

## CODE OF FEDERAL REGULATIONS, TITLE 28

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- 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

**Date**

- Adopted: 08/10/92
- Revised and Adopted: 06/10/96
- Revised and Adopted: 01/26/04
- Revised and Adopted: 05/12/08
- Revised and Adopted: 08/27/12
- Revised and Adopted: 02/11/13
- Revised and Adopted: 06/09/14
- Revised and Adopted: 08/24/15
- Revised and Adopted: 05/23/16
- Revised and Adopted: 08/22/16
- Revised and Adopted: 10/10/16
- Revised and Adopted: 06/05/17
- Revised and Adopted: 06/25/18
- Revised and Adopted: 06/10/19
- Revised and Adopted: 06/08/20
- Revised and Adopted: 07/27/20

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#### 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 BP 1312.3.

#### Compliance Officers

The District designates the individual(s), position(s), or unit(s) identified below as responsible for coordinating the District's response to complaints and for complying with state and federal civil rights laws. The individual(s), position(s), or unit(s) also serve as the compliance officer(s) specified in AR 5145.3 - Nondiscrimination/Harassment responsible for handling complaints regarding unlawful discrimination (such as discriminatory harassment, intimidation, or bullying). The compliance officer(s) shall receive and coordinate the investigation of complaints and shall ensure District compliance with law.

District Lead Compliance Officer:

Stephanie Yang, Director, Educational Services  
Tustin Unified School District  
300 South C Street  
Tustin, CA 92780  
714-730-7301 Ext. 323  
syang@tustin.k12.ca.us

School Compliance Officers – Elementary Schools:

Katy Sheyka, Principal  
Arroyo Elementary School  
11112 Coronel Rd.  
Santa Ana, CA 92705  
(714)730-7381  
ksheyka@tustin.k12.ca.us

Ashly McNamara, Principal  
Beswick Elementary School  
1362 Mitchell Ave.  
Tustin, CA 92780  
(714)730-7385  
amcnamara@tustin.k12.ca.us

Jackie Christy, Principal  
Benson Elementary School  
12712 Elizabeth Way  
Tustin, CA 92780  
(714)730-7531  
jchristy@tustin.k12.ca.us

Amanda Heineman, Principal  
Estock Elementary School  
14741 North B Street  
Tustin, CA 92780  
(714)730-7390  
aheineman@tustin.k12.ca.us

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Ray Hernandez, Principal  
Guin Foss Elementary School  
18492 Vanderlip Ave.  
Santa Ana, CA 92705  
(714)730-7552  
rhernandez@tustin.k12.ca.us

Rena Fairchild, Principal  
Myford Elementary School  
3181 Trevino Dr.  
Irvine, CA 92602  
(714) 734-1875  
rfairchild@tustin.k12.ca.us

Deanna Parks, Principal  
Heideman Elementary School  
15571 Williams St.  
Tustin, CA 92780  
(714)730-7521  
dparks@tustin.k12.ca.us

Shannon James-Olsen, Principal  
Nelson Elementary School  
14392 Browning Ave.  
Tustin, CA 92780  
(714) 730-7536  
sjamesolsen@tustin.k12.ca.us

Beth Blackman, Principal  
Heritage Elementary School  
15400 Lansdowne Rd.  
Tustin, CA 92782  
(714)430-2066  
ebblackman@tustin.k12.ca.us

Kristy Andre, Principal  
Peters Canyon Elementary School  
26900 Peters Canyon Rd.  
Tustin, CA 92782  
(714)730-7540  
kandre@tustin.k12.ca.us

Deena Vela, Principal  
Hicks Canyon Elementary School  
3817 Viewpark Ave.  
Irvine, CA 92602  
(714)734-1878  
dvela@tustin.k12.ca.us

Sean Lindsay, Principal  
Red Hill Elementary School  
11911 Red Hill Ave.  
Santa Ana, CA 92705  
(714)730-7543  
slindsay@tustin.k12.ca.us

Dustin O'Malley, Principal  
Ladera Elementary School  
2515 Rawlings Way  
Tustin, CA 92782  
(714)730-7505  
domalley@tustin.k12.ca.us

Brooke Carreras, Principal  
Tustin Memorial Academy  
12712 Browning Ave.  
Santa Ana, CA 92705  
(714)730-7546  
bcarreras@tustin.k12.ca.us

Lauren Steinmann, Principal  
Loma Vista Elementary School  
13822 Prospect Ave.  
Santa Ana, CA 92705  
(714) 730-7528  
lsteinmann@tustin.k12.ca.us

Kathi Denny, Principal  
Tustin Ranch Elementary School  
12950 Robinson Dr.  
Tustin, CA 92782  
(714)730-7580  
kdenny@tustin.k12.ca.us



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#### School Compliance Officers – Middle Schools and K – 8 Schools:

Maggie Burdette, Principal  
Columbus Tustin Middle School  
17952 Beneta Way  
Tustin, CA 92780  
(714)730-7352  
mburdette@tustin.k12.ca.us

Tracey Vander Hayden, Principal  
Pioneer Middle School  
2700 Pioneer Road  
Tustin, CA 92782  
(714) 730-7534  
tvanderhayden@tustin.k12.ca.us

Eric Kilian, Principal,  
Hewes Middle School  
13232 Hewes Ave.  
Santa Ana, CA 92705  
(714) 730-7348  
ekilian@tustin.k12.ca.us

Rafael Plascencia, Principal  
Sycamore Magnet Academy  
1402 Sycamore Ave.  
Tustin, CA 92780  
(714) 730-7360  
rplascencia@tustin.k12.ca.us

Mindy Smith, Principal  
Orchard Hills School  
11555 Culver Dr.  
Irvine, CA 92602  
(714) 430-2078  
msmith@tustin.k12.ca.us

Heather Bojorquez, Principal  
Utt Middle School  
13601 Browning Ave.  
Tustin, CA 92780  
(714) 730-7573  
hbojorquez@tustin.k12.ca.us

#### School Compliance Officers – High Schools and 6 – 12 schools

Donnie Rafter, Principal  
Beckman High School  
3588 Bryan Ave.  
Irvine, CA 92602  
(714) 734-2900  
drafter@tustin.k12.ca.us

Michelle England, Principal  
Foothill High School  
19251 Dodge Ave.  
Santa Ana, CA 92705  
(714) 730-7464  
mengland@tustin.k12.ca.us

Tim O'Donoghue, Principal  
Hillview High School  
1701 San Juan Street  
Tustin, CA 92780  
(714) 730-7356  
todonoghue@tustin.k12.ca.us

Jon Tuin, Principal  
Tustin High School  
1171 El Camino Real  
Tustin, CA 92780  
(714) 730-7414  
jtuin@tustin.k12.ca.us

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Jennifer Harrison, Principal  
Legacy Magnet Academy  
15500 Legacy Road  
Tustin, CA 92782  
(714) 430-2088  
jharrison@tustin.k12.ca.us

School Compliance Officers – Alternative Schools, Adult School, and School Readiness

Erick Fineberg, Principal  
Tustin Connect K- 8  
14741 North B Street  
Tustin, CA 92780  
(714) 430-2052  
efineberg@tustin.k12.ca.us

Erick Fineberg, Principal  
Tustin Connect High School  
1151 San Juan Street  
Tustin, CA 92780  
(714) 430-2052  
efineberg@tustin.k12.ca.us

Will Nedderson, Coordinator  
Adult Education  
1701 San Juan Street  
Tustin, CA 92780  
(714) 730-7395  
wnedderson@tustin.k12.ca.us

Lauralee Cabibi, Principal  
School Readiness Programs  
1151 San Juan Street  
Tustin, CA 92780  
(714) 730-7592  
lcabibi@tustin.k12.ca.us

The compliance officer who receives a complaint may assign another compliance officer to investigate and resolve the complaint. The compliance officer shall promptly notify the complainant and respondent, if applicable, if another compliance officer is assigned to the complaint.

In no instance shall a compliance officer be assigned to a complaint in which the compliance officer has a bias or conflict of interest that would prohibit the fair investigation or resolution of 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 cover current 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.

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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. (Education Code 234.1)

In addition, the Superintendent or designee shall annually provide written notification of the District's UCP to students, employees, parents/guardians of District students, District advisory committee members, school advisory committee members, appropriate private school officials or representatives, and other interested parties. (5 CCR 4622)

The notice shall include:

1. A statement that the District is primarily responsible for compliance with federal and state laws and regulations, including those related to prohibition of unlawful discrimination, harassment, intimidation, or bullying against any protected group and all programs and activities that are subject to UCP as identified in the section "Complaints Subject to UCP" in the accompanying Board policy
2. A statement that a complaint regarding student fees or the local control and accountability plan (LCAP) may be filed anonymously if the complainant provides evidence or information leading to evidence to support the complaint
3. A statement that a student enrolled in a public school shall not be required to pay a fee for participation in an educational activity that constitutes an integral fundamental part of the District's educational program, including curricular and extracurricular activities
4. A statement that a complaint regarding student fees must be filed no later than one year from the date the alleged violation occur
5. A statement that the District will post a standardized notice of the educational rights of foster youth, homeless students, former juvenile court school students now enrolled in the District, children of military families, migrant students, and immigrant students enrolled in a newcomer program, as specified in Education Code 48853, 48853.5, 49069.5, 51225.1, and 51225.2, and the complaint process
6. Identification of the responsible staff member(s), position(s), or unit(s) designated to receive complaints
7. A statement that complaints will be investigated in accordance with the District's UCP and a

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written decision will be sent to the complainant within 60 days from the receipt of the complaint, unless this time period is extended by written agreement of the complainant

8. A statement that the complainant has a right to appeal the District's decision to CDE by filing a written appeal, including a copy of the original complaint and the District's decision, within 15 days of receiving the District's decision
9. A statement advising the complainant of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal antidiscrimination laws, if applicable
10. A statement that copies of the District's UCP are available free of charge

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

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.

### 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 in the filing of the complaint. (5 CCR 4600)

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 the programs specified in the accompanying Board policy (item #1 of the section "Complaints Subject to UCP") may be filed by any individual, public agency, or organization. (5 CCR 4630)
2. Any complaint alleging noncompliance with law regarding the prohibition against 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

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unlawful student fees may be filed with the principal of the school or with the Superintendent or designee. However, any such complaint shall be filed no later than one year from the date the alleged violation occurred. (Education Code 49013, 52075; 5 CCR 4630)

3. A complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) may be filed only by persons who allege that they have personally suffered unlawful discrimination or who believe that an individual or any specific class of individuals has been subjected to unlawful discrimination. The complaint shall be initiated no later than six months from the date that the alleged unlawful discrimination occurred, or six months from the date that 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. (5 CCR 4630)
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 not the complainant, requests confidentiality, the compliance officer shall inform the complainant or victim 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.

### Mediation

Within three business days after receiving the complaint, the compliance officer may informally discuss with all the parties the possibility of using mediation. Mediation shall 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 an allegation of sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. If the parties agree to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the compliance officer shall ensure that all parties agree to make the mediator a party to relevant confidential information.

The compliance officer shall also notify all parties of the right to end the informal process at any time.

If the mediation process does not resolve the problem within the parameters of law, the compliance officer shall proceed with an investigation of the complaint.

The use of mediation shall not extend the District's timelines for investigating and resolving the

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complaint unless the complainant agrees in writing to such an extension of time. If mediation is successful and the complaint is withdrawn, then the District shall take only the actions agreed upon through the mediation. If mediation is unsuccessful, the District shall then continue with subsequent steps specified in this administrative regulation.

#### **Investigation of Complaint**

Within 10 business days after the compliance officer receives the complaint, the compliance officer shall begin an investigation into the complaint.

Within one business day of initiating the investigation, the compliance officer shall provide the complainant and/or the complainant's representative with the opportunity to present the information contained in the complaint to the compliance officer and shall notify the complainant and/or 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 available records, notes, or statements related to the complaint, including any additional evidence or information received from the parties during the course of the investigation. The compliance officer 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. (5 CCR 4631)

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

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finding based on evidence collected that a violation has occurred and in the imposition of a remedy in favor of the complainant. (5 CCR 4631)

#### **Timeline for Final Decision**

Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant a written report, as described in the section "Final Written Decision" below, within 60 calendar days of the District's receipt of the complaint. (5 CCR 4631)

For any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying), the respondent shall be informed of any extension of the timeline agreed to by the complainant. The respondent also shall be sent the District's final written decision at the same time it is provided to the complainant.

#### **Final Written Decision**

For all complaints, the District's final written decision shall include: (5 CCR 4631)

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 witnesses
  - b. The relative credibility of the individuals involved
  - c. How the complaining individual reacted to the incident
  - d. Any documentary or other evidence relating to the alleged conduct
  - e. Past instances of similar conduct by any alleged offenders
  - f. 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. The manner in which 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

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- e. The size of the school, location of the incidents, and context in which they occurred
  - f. Other incidents at the school involving different individual
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 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.

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, and bullying), notice of the District's decision to the alleged victim shall include information about any sanction to be imposed upon the respondent that relates directly to the alleged victim.

If the complaint involves a limited-English-proficient student or parent/guardian and the student involved is enrolled in 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 pursuant to Education Code 48985. In all other instances, the District shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

For complaints alleging unlawful discrimination based on state law (such as discriminatory harassment, intimidation, and bullying), the decision 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, 60 calendar days after the filing of an appeal with CDE. (Education Code 262.3)
2. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts



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or to discrimination complaints based on federal law. (Education Code 262.3)

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](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 students; 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

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 cocurricular activities or other privileges as permitted by law
7. Disciplinary action, such as suspension or expulsion, as permitted by law

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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 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.

When a complaint is found to have merit, an appropriate remedy shall be provided to the complainant or other affected person.

However, if a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges, physical education instructional minutes for students in elementary schools, or any requirement related to the LCAP is found to have merit, the District shall provide a remedy to all affected students and parents/guardians subject to procedures established by regulation of the State Board of Education. (Education Code 49013, 51223, 52075)

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 written decision on a complaint regarding any specified federal or state educational program subject to UCP may file an appeal in writing with CDE within 15 calendar days of receiving the District's decision. (5 CCR 4632)

The complainant shall specify the basis for the appeal of the decision and how the facts of the District's decision are incorrect and/or the law has been misapplied. The appeal shall be sent to CDE with a copy of the original locally filed complaint and a copy of the District's decision in that complaint. (5 CCR 4632)

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

Upon notification by CDE that the District's decision has been appealed, the Superintendent or designee shall forward the following documents to CDE: (5 CCR 4633)

1. A copy of the original complaint
2. A copy of the written decision

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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 report of any action taken to resolve the complaint
6. A copy of the District's UCP
7. Other relevant information requested by CDE

**Date**

Effective: 01/26/04  
Revised: 07/31/07  
Revised: 05/12/08  
Revised: 08/27/12  
Revised: 02/11/13  
Revised: 06/09/14  
Revised: 08/24/15  
Revised: 05/23/16  
Revised: 08/22/16  
Revised: 10/10/16  
Revised: 11/14/16  
Revised: 06/05/17  
Revised: 08/28/17  
Revised: 01/11/18  
Revised: 06/10/19  
Revised: 07/29/19  
Revised: 06/08/20  
Revised: 06/22/20



Tustin Unified School District  
UNIFORM COMPLAINT FORM

APPENDIX A  
1312.3

DATE: \_\_\_\_\_  
Name(s) \_\_\_\_\_  
Address \_\_\_\_\_ Zip Code \_\_\_\_\_  
Telephone (Home) \_\_\_\_\_ Other \_\_\_\_\_  
School: \_\_\_\_\_

**TYPE OF UNIFORM COMPLAINT** (Please check below):

**1. \_\_\_\_\_ A violation of federal or state law or regulation governing the following program(s):**

- Adult Education (Ed. Code Sections 8500-8538 and 52500-52616.5)
- After School Education and Safety
- Career Technical Education (Ed. Code Sections 52300 – 52490)
- Child Care and Development (Ed. Code Sections 8200-8493)
- Compensatory Education Programs (Ed. Code Sections 54400 – 54425)
- Consolidated Categorical Aid / School Plan for Student Achievement (Ed. Code Sections 64000-64001)
- Course Periods without Educational Content (Ed. Code Sections 51225.1 – 51225.2)
- Every Student Succeeds Act (ESSA)
- Foster Youth (Ed. Code Sections 48853, 48853.5, 49069.5, 51225.1, 51225.2)
- Homeless Students (Ed. Code Sections 51225.1 and 51225.2)
- Local Control and Accountability Plan (Ed. Code Sections 52060-52077)
- Migrant Education (Ed. Code Sections 54440-54445)
- Military Family Students Education (Ed. Code Section 49701)
- Physical Education, Elementary Schools (Ed. Code Section 51223)
- Regional Occupational Programs
- School Safety Planning (20 U.S.C. Section 7114(d)(7))
- School Site Council (Ed. Code 65000-65001)
- Vocational Education (Ed. Code Sections 52300-52480)

**2. \_\_\_\_\_ Discrimination, harassment (including sexual harassment), intimidation, or bullying against any protected group based on the person's actual or perceived characteristics of:**

- |  |  |
|--|--|
| <input type="checkbox"/> Race or ethnicity           | <input type="checkbox"/> Marital or parental status    |
| <input type="checkbox"/> Color                       | <input type="checkbox"/> Medical condition             |
| <input type="checkbox"/> Ancestry                    | <input type="checkbox"/> Physical or mental disability |
| <input type="checkbox"/> Nationality                 | <input type="checkbox"/> Sex                           |
| <input type="checkbox"/> National origin             | <input type="checkbox"/> Sexual orientation            |
| <input type="checkbox"/> Ethnic group identification | <input type="checkbox"/> Gender                        |
| <input type="checkbox"/> Age                         | <input type="checkbox"/> Gender identity               |
| <input type="checkbox"/> Genetic Information         | <input type="checkbox"/> Gender expression             |
| <input type="checkbox"/> Religion                    |  |
- Association of a person or group with one or more of these actual or perceived characteristics
- Please check if this is a complaint concerning **sexual harassment**.
- Please check if this is a complaint concerning **bullying**.



If so, with whom have you spoken? \_\_\_\_\_ Date: \_\_\_\_\_

What was the **result** of the discussion?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

What **solution or remedy** are you seeking?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I understand that the District may request further information about this matter, and if such information is available, I agree to present it upon request. I also understand that a copy of this complaint may be given to the employee or supervisor against whom the complaint is made (if applicable). I acknowledge that the District prohibits retaliation or harassment against any individual or the child of a parent who submits a complaint.

\_\_\_\_\_  
Signature of Person Filing Complaint

\_\_\_\_\_  
Date

For Uniform Complaints regarding **student-to-student sexual harassment or bullying**, please return this form to the **School Principal**.

**For all other Uniform Complaints**, please return this form to:

**Director, Educational Services**  
Tustin Unified School District  
300 South C Street  
Tustin, CA 92780

=====

FOR OFFICE USE ONLY:

Received by: \_\_\_\_\_ Date Filed: \_\_\_\_\_

Title: \_\_\_\_\_

Effective: 07/27/20