Alum Rock Union ESD
Board Policy
Uniform Complaint Procedures

BP 1312.3
Community Relations

The Board of Trustees 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 After School Education and Safety programs; child nutrition programs; compensatory education; 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

   (cf. 3553 - Free and Reduced Price Meals)
   (cf. 3555 - Nutrition Program Compliance)
   (cf. 5148.2 - Before/After School Programs)
   (cf. 5148.3 - Preschool/Early Childhood Education)

   (cf. 6171 - Title I Programs)
   (cf. 6174 - Education for English Learners)

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)

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 5145.3 - Nondiscrimination/Harassment)
(cf. 5145.7 - Sexual Harassment)

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)

(cf. 5146 - Married/Pregnant/Parenting Students)

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 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)

(cf. 3260 - Fees and Charges)
(cf. 3320 - Claims and Actions Against the District)

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)

(cf. 0460 - Local Control and Accountability Plan)
(cf. 3100 - Budget)

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)

(cf. 0420 - School Plans/Site Councils)

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)

(cf. 6173.1 - Education for Foster Youth)

9. Any complaint alleging district noncompliance with the physical education instructional minutes requirement (Education Code 51210, 51222, 51223)

(cf. 6142.7 - Physical Education and Activity)

10. Complaints regarding the noncompliance of a license-exempt California State Preschool Program (CSPP) with health and safety standards specified in Health and Safety Code 1596.7925 and related state regulations (Education Code 8235.5; Health and Safety Code 1596.7925)

11. 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

12. Any other complaint as specified in district policy

The Board recognizes that alternative dispute resolution (ADR) can, depending on the nature of the allegations, offer a process for resolving a complaint in a manner that is acceptable to all parties. An ADR process 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.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information) (cf. 5125 - Student Records) (cf. 9011 - Disclosure of Confidential/Privileged Information)

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 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.

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.

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 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, uniform complaint procedures
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, especially:
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
52060-52077  Local control and accountability plan, especially:
52075  Complaint for lack of compliance with local control and accountability plan
requirements
52200-52262  Career technical education
52500-52616.24  Adult schools
54400-54425  Compensatory education programs
54440-54445  Migrant education
54460-54529  Compensatory 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
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
Application of laws
Family Educational Rights and Privacy Act
Title IX of the Education Amendments of 1972
Title I Improving the Academic Achievement of the Disadvantaged
Title III language instruction for limited English proficient and immigrant students
Section 504 of Rehabilitation Act of 1973
UNITED STATES CODE, TITLE 29
Section 504 of Rehabilitation Act of 1973
UNITED STATES CODE, TITLE 42
Title VI and Title VII Civil Rights Act of 1964, as amended
Title IX of the Civil Rights Act of 1964
Age Discrimination Act of 1975
Title II equal opportunity for individuals with disabilities
Nondiscrimination on basis of disability; complaints
Family Educational Rights and Privacy Act
Prohibition of discrimination on basis of race, color or national origin
Designation of responsible employee for Section 504
Designation of responsible employee for Title IX
Notification of nondiscrimination on basis of sex
Notification of nondiscrimination on the basis of age

Management Resources:
CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS
Uniform Complaint Procedure 2020-21 Program Instrument
Sample UCP Board Policies and Procedures
U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS
Dear Colleague Letter, September 22, 2017
Dear Colleague Letter: Title IX Coordinators, April 2015
Dear Colleague Letter: Responding to Bullying of Students with Disabilities, October 2014
Dear Colleague Letter: Harassment and Bullying, October 2010
Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001
U.S. DEPARTMENT OF JUSTICE PUBLICATIONS
WEB SITES
CSBA: http://www.csba.org
California Department of Education: http://www.cde.ca.gov
Family Policy Compliance Office: https://www2.ed.gov/policy/gen/guid/fpco
U.S. Department of Justice: http://www.justice.gov

Policy
ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT
adopted: July 2, 2013 San Jose, California
Revised: September 12, 2019
Revised: September 10, 2020