

# **Board Policy**

## **Uniform Complaint Procedures**

BP 1312.3

### **Community Relations**

#### **OAK GROVE SCHOOL DISTRICT**

## **Uniform Complaint Procedures (UCP) Policies and Procedures**

Oak Grove School District  
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San Jose, CA 95119  
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[www.ogsd.net](http://www.ogsd.net)

Adopted by our Governing Board or authorized designee (here and after “the board”) on March 12, 2020.

### **Uniform Complaint Procedures (UCP)**

This document contains rules and instructions about the filing, investigation and resolution of a Uniform Complaint Procedures (UCP) complaint regarding an alleged violation by Oak Grove School District of federal or state laws or regulations governing educational programs, including non-compliance with laws relating to pupil fees and our Local Control and Accountability Plan (LCAP).

This document presents information about how we process UCP complaints concerning particular programs or activities that are subject to the UCP.

A UCP complaint is a written and signed statement by a complainant alleging a violation of federal or state laws or regulations, which may include an allegation of unlawful discrimination, harassment, intimidation, bullying or charging pupil fees for participation in an educational activity or non-compliance with the requirements of our LCAP.

A complainant is any individual, including a person's duly authorized representative or an interested third party, public agency, or organization who files a written complaint alleging violation of federal or state laws or regulations, including allegations of unlawful discrimination, harassment, intimidation, bullying and non-compliance with laws relating to pupil fees or non-compliance with

the requirements of our LCAP.

If the complainant is unable to put the complaint in writing, due to a disability or illiteracy, we shall assist the complainant in the filing of the complaint.

### **The Responsibilities of Oak Grove School District**

We shall have the primary responsibility to ensure compliance with applicable state and federal laws and regulations.

We shall investigate and seek to resolve, in accordance with our UCP process, any complaints alleging failure to comply with applicable state and federal laws and regulations including, but not limited to, allegations of discrimination, harassment, intimidation, or bullying or noncompliance with laws relating to all programs and activities implemented by the Oak Grove School District that are subject to the UCP.

The Oak Grove School District developed the Uniform Complaint Procedures (UCP) process with policies and procedures adopted by our board.

According to state and federal codes and regulations, the programs and activities subject to the UCP are:

- Accommodations for Pregnant and Parenting Pupils
- Adult Education
- After School Education and Safety \*
- Agricultural Career Technical Education
- Career Technical and Technical Education; Career Technical; Technical Training (State)
- Career Technical Education (Federal)
- Child Care and Development \*
- Compensatory Education \*
- Course Periods without Educational Content
- Education Of Pupils In Foster Care, Pupils Who Are Homeless, Former Juvenile Court Pupils Now Enrolled In A School District, and Pupils Of Military Families\*
- Every Student Succeeds Act / No Child Left Behind (Titles I–VII) \*
- Local Control and Accountability Plans (LCAP) \*
- Migrant Education \*
- Physical Education Instructional Minutes \*
- Pupil Fees \*
- Reasonable Accommodations to a Lactating Pupil
- Regional Occupational Centers and Programs

- School Plans For Student Achievement \*
- School Safety Plans \*
- School Site Councils \*
- State Preschool
- State Preschool Health And Safety Issues In LEAs Exempt From Licensing

The programs and activities subject to the UCP in which the Oak Grove School District implements are marked with an \* symbol.

The following complaints shall be referred to other agencies for appropriate resolution and are not subject to our UCP process set forth in this document unless these procedures are made applicable by separate interagency agreements:

Allegations of child abuse shall be referred to County Department of Social Services (DSS), Protective Services Division or appropriate law enforcement agency.

Health and safety complaints regarding a Child Development Program shall be referred to the Department of Social Services for licensed facilities, and to the appropriate Child Development regional administrator for licensing-exempt facilities.

Employment discrimination, harassment, intimidation or bullying complaints shall be sent to the State Department of Fair Employment and Housing (DFEH).

Allegations of fraud shall be referred to the Legal, Audits and Compliance Branch in the California Department of Education (CDE).

### **Pupil Fees**

A pupil fee is a fee, deposit, or other charge imposed on pupils, or a pupil's parents or guardians, in violation of state codes and constitutional provisions which require educational activities to be provided free of charge to all pupils without regard to their families' ability or willingness to pay fees or request special waivers. Educational activities are those offered by a school, school district, charter school, or county office of education that constitute a fundamental part of education, including, but not limited to, curricular and extracurricular activities.

A pupil fee includes, but is not limited to, all of the following:

A fee charged to a pupil as a condition for registering for school or classes, or as a condition for participation in a class or an extracurricular activity, regardless of whether the class or activity is elective or compulsory, or is for credit.

A security deposit, or other payment, that a pupil is required to make to obtain a lock, locker, book, class apparatus, musical instrument, clothes, or other materials or equipment.

A purchase that a pupil is required to make to obtain materials, supplies, equipment, or clothes

associated with an educational activity.

### **The Local Control Accountability Plan**

The LCAP is an important component of the Local Control Funding Formula (LCFF), the revised school finance system that overhauled how California funds its K-12 schools. Under the LCFF we are required to prepare an LCAP, which describes how we intend to meet annual goals for our pupils, with specific activities to address state and local priorities identified pursuant to California Education Code (EC) Section 52060(d).

### **The UCP Annual Notice**

We ensure annual dissemination of a written notice of our complaint procedures to all students, employees, parents or guardians of its students, school and district advisory committee members, appropriate private school officials or representatives, and other interested parties that includes information regarding allegations about discrimination, harassment, intimidation, or bullying.

Our UCP Annual Notice shall also include information regarding the requirements of *EC* Section 49010 through 49013 relating to pupil fees and information regarding the requirements of *EC* Section 52075 relating to the LCAP.

Our UCP Annual Notice shall be in English and in the primary language, pursuant to section 48985 of the Education Code, or mode of communication of the recipient of the notice.

In order to identify appropriate subjects of state preschool health and safety issues, we also have a notice that is posted in each California state preschool program classroom in each school notifying parents, guardians, pupils, and teachers of (1) the health and safety requirements under Title 5 of the *California Code of Regulations* that apply to California state preschool programs pursuant to *HSC* section 1596.7925 and (2) where to get a form for a state preschool health and safety issues complaint.

### **Filing UCP Complaints**

#### **When Filing Pupil Fees UCP Complaints**

A pupil fees complaint may be filed with the principal of a school or our superintendent or their designee.

A pupil fees complaint and/or an LCAP complaint may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance.

A pupil fees complaint shall be filed no later than one year from the date the alleged violation occurred.

## **When Filing State Preschool Health and Safety Issues UCP Complaints**

UCP complaints regarding state preschool health and safety issues pursuant to *HSC* section 1596.7925 shall include the following statements:

File with the preschool program administrator or their designee.

A state preschool health and safety issues complaint pursuant to *HSC* section 1596.7925 about problems beyond the authority of the preschool program administrator shall be forwarded in a timely manner, but not to exceed 10 working days to the appropriate local educational agency official for resolution.

A state preschool health and safety issues complaint pursuant to *HSC* section 1596.7925 may be filed anonymously. A complainant who identifies themselves is entitled to a response if he or she indicates that a response is requested. A complaint form shall include a space to mark to indicate whether a response is requested. If Section 48985 of the *Education Code* is otherwise applicable, the response, if requested, and report shall be written in English and the primary language in which the complaint was filed.

A complaint form for a state preschool health and safety issue pursuant to *HSC* section 1596.7925 shall specify the location for filing a complaint. A complainant may add as much text to explain the complaint as he or she wishes.

## **When Filing All UCP Complaints**

We will provide an opportunity for complainants and/or representatives to present evidence or information.

Refusal by the complainant to provide the investigator with documents or other evidence related to the allegations in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation, may result in the dismissal of the complaint because of a lack of evidence to support the allegations.

Refusal by the Oak Grove School District to provide the investigator with access to records and/or other information related to the allegation in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation, may result in a finding based on evidence collected that a violation has occurred and may result in the imposition of a remedy in favor of the complainant.

The complaint will be investigated and a written report with a decision will be issued to the complainant by us within 60 days from the date of the receipt of the complaint, unless the complainant agrees in writing to an extension of time.

This report will contain the following elements:

- i. The findings of fact based on the evidence gathered.
- ii. Conclusion of law.

- iii. Disposition of the complaint.
- iv. The rationale for such a disposition.
- v. Corrective actions, if any are warranted.
- vi. Notice of the complainant's right to appeal our Decision to the CDE.
- vii. Procedures to be followed for initiating an appeal to CDE.

The preschool program administrator or the designee of the district superintendent shall (1) make all reasonable efforts to investigate any problem within their authority. Investigations shall begin within 10 days of the receipt of the complaint and (2) remedy a valid complaint within a reasonable time period, but not to exceed 30 working days from the date the complaint was received and report to the complainant the resolution of the complaint within 45 working days of the initial filing. If the preschool program administrator makes this report, he or she shall also report the same information in the same timeframe to the designee of the district superintendent.

### **UCP Complaint Investigation**

The staff member, position, or unit responsible to receive and investigate UCP complaints and ensure our compliance in our agency is -

Name or title: Dr. Ivan Chaidez, Assistant Superintendent, Human Resources  
Office: Oak Grove School District  
Address: 6578 Santa Teresa Blvd San Jose, CA 95119  
Phone: (408) 227.8300, x 100289  
Electronic mail address: [ichaidez@ogsd.net](mailto:ichaidez@ogsd.net)

The staff member, position, or unit responsible to receive and investigate UCP complaints and ensure our compliance in our agency is knowledgeable about the laws and programs assigned to investigate.

The Oak Grove School District will investigate all allegations of unlawful discrimination, harassment, intimidation or bullying against any protected group as identified in *EC* Section 200 and 220 and Government Code (*GC*) Section 11135, including any actual or perceived characteristics as set forth in Penal Code (*PC*) Section 422.55 or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics in any program or activity we conduct, which is funded directly by, or that receives or benefits from any state financial assistance.

Unlawful discrimination, harassment, intimidation or bullying complaints shall be filed no later than six months from the date the alleged discrimination, harassment, intimidation or bullying occurred, or six months from the date the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation or bullying.

All complainants are protected from retaliation.

We advise complainants of the right to pursue civil law remedies under state or federal discrimination, harassment, intimidation or bullying laws.

### **UCP Complaint Resolution**

If Oak Grove School District finds merit in a complaint regarding Pupil Fees; Local Control and Accountability Plan (LCAP); and/or Physical Education Instructional Minutes (grades one through eight), the remedy shall to go all affected pupils and parents/guardians.

If we find merit in a complaint regarding Reasonable Accommodations to a Lactating Pupil; Course Periods without Educational Content (grades nine through twelve); and/or Education of Pupils in Foster Care, Pupils who are Homeless, former Juvenile Court Pupils now enrolled in a school district, and pupils in military families, the public school or LEA shall provide a remedy to the affected pupil.

We ensure an attempt shall be made in good faith to engage in reasonable efforts to identify and fully reimburse all pupils, parents and guardians who paid a pupil fee within one year prior to the filing of the complaint.

We shall report summarized data on the nature and resolution of all state preschool health and safety issues complaints on a quarterly basis to the county superintendent of schools and our board.

The summaries shall be publicly reported on a quarterly basis at a regularly scheduled meeting of our board.

The report shall include the number of complaints by general subject area with the number of resolved and unresolved complaints.

We are aware that all complaints and responses are public records.

### **UCP Complaint Appeal Process**

An appeal is a request made in writing to a level higher than the original reviewing level by an aggrieved party requesting reconsideration or a reinvestigation of the lower adjudicating body's decision.

A complainant may appeal our Decision of a UCP complaint to the State Superintendent of Public Instruction (SSPI) or their designee at the CDE (here and after known as SSPI) regarding all specified federal and state educational programs subject to the UCP.

To appeal our Decision of all UCP complaints except State Preschool Health and Safety Issues the complainant must file a written appeal within 15 days of receiving the Decision to the SSPI.

To appeal our Decision of State Preschool Health and Safety Issues only the complainant must file a

written appeal within 30 days of receiving the Decision to the SSPI.

This appeal to the CDE must fully explain the basis for the appeal, stating how the facts of our Decision are incorrect and/or the law is misapplied.

In addition the appeal shall be sent to CDE with:

1. A copy of the original locally filed complaint; and
2. A copy of our Decision of this original locally filed complaint.

A complainant not satisfied with the resolution of the preschool program administrator or the designee of the district superintendent has the right to describe the complaint to our board at a regularly scheduled hearing.

The SSPI shall comply with the requirements of 5 *CCR* section 4633 and shall provide an Investigation Report to the State Board of Education describing the basis for the complaint, our response to the state preschool health and safety issues complaint and its remedy or proposed remedy.

### **Federal and State Laws Cited:**

20 *United States Code (U.S.C.)* section 6301 et seq.

34 *Code of Federal Regulations (CFR)* sections 299.11

California *Education Code (EC)* sections 200, 220, 222, 234.1-234.5, 262.3, 8235.5, 8200–8493; 8500–8538, 32280–32289; 33315; 35186, 46015, 47606–47606.5, 47607.3, 48645.5, 48645.7, 48853, 48853.5, 48985, 49010-49013, 49069.5, 51210, 51223, 51225.1, 51225.2, 51228.1–51228.3, 52060-52075, 52300–52462, 52500–52616.4, 54440–54445, 64001, 65000.

California *Government Code (GC)* sections 11135, 17581.6(f).

California *Penal Code (PC)* section 422.55.

California *Welfare and Institutions Code (WIC)* sections 300