



Uniform Complaint Procedures

Santa Rosa City Schools

- ▶ *Adapted from California Department of Education Presentation

Purpose

To gain an understanding of

1. UCP Overview

- a) UCP history and purpose
- b) UCP definition and scope
- c) Non-categorical complaints
- d) Importance of UCP training
- e) UCP process summary

2. Complaint Processing

- a) Identifying and sorting a complaint
- b) Complainant and LEA responsibilities
- c) Frequently occurring issues

3. Appeal Processing

- a) Appellant, LEA and CDE responsibilities
- b) Frequently occurring issues

4. Pupil Fee Complaints

- a) Regulatory history and purpose
- b) Legal definitions
- c) Key questions and issues

5. UCP Regulatory Compliance Monitoring

- a) Legal requirements
- b) UCP documents
- c) Implementation procedures and timelines



SRCS UCP Responsibilities

Human Resources

- a) UCP Intake and Assignment
- b) UCP Complaints regarding staff
- c) UCP Monitoring
- d) UCP Reporting

Sites and Programs

- a) Communicate UCP Complaint to HR
- b) Complete investigation as appropriate

Business Services

- a) Complaints regarding buildings, property, “safe, secure and warm”
- b) Pupil Fee Complaints

Student Support Services

- a) Complaints regarding categorical areas
- b) Complaints regarding student behavior and wellness

Teaching and Learning

- a) Complaints regarding student learning
- b) Complaints regarding student materials and resources

History and Purpose

- The UCP Title 5 Regulations were approved by the California State Board of Education (SBE) in 1991.
- The Regulations describe the process for filing, investigating and resolving a complaint regarding an alleged violation, by a local agency, of federal or state law or regulations governing educational programs, including allegations of unlawful discrimination.

What is the UCP?

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- The UCP is a **process**, not a program.
- UCP is a uniform system of complaint processing for specified programs or activities that receive state or federal funding.
- The UCP strives to resolve problems at the local level but allows some issues that have not been resolved to be appealed to the State level.

UCP Scope

- Educational Equity complaints (unlawful discrimination, harassment, intimidation, or bullying of a protected group)
- “Williams” complaints
- Complaints regarding unlawful pupil fees
- Federal Categorical Aid Programs
- State Categorical Aid Programs with Remaining Allocations in 2014–2015
- Local Control Funding Formula/Local Control Accountability Plan (LCFF/LCAP)

Non-Categorical Complaints

- **Pupil Fee Complaints**
- **Williams Complaints** (handled at the local level and by School Facilities and Transportation Services Division (SFTSD) at CDE)
- **Educational Equity (discrimination, harassment, intimidation and bullying) Complaints** (handled by the Office of Equal Opportunity (OEO) at CDE)
- **Local Control Funding Formula/Local Control Accountability Plan (LCFF/LCAP) Fiscal Complaints** (handled School Fiscal Services Division (SFSD) at CDE)
- **Local Control Funding Formula/Local Control Accountability Plan (LCFF/LCAP)** (handled by Local Agency Systems Support Division (LSSD) at CDE)

Not in UCP Scope

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- ▶ Hiring and Evaluation of Staff
- ▶ Pupil Classroom Assignments
- ▶ Student Records, Grades, Advancement and Retention
- ▶ Student Discipline
- ▶ Graduation Requirements
- ▶ Homework Policies and Practices
- ▶ Use of General Education Funds
- ▶ Dress Codes and School Uniforms (may fall into Pupil Fee scope if requiring students to provide their own)
- ▶ Provision of Core Curricula Subjects
- ▶ Common Core
- ▶ Public Meeting Laws (Greene Act, Brown Act)

Note: LEAs can use the UCP to process their local complaints. However, this does **not** mean the issues fall under UCP scope.

Importance of UCP Training

- The California Legislature is more aware of the UCP and is increasingly utilizing this framework in new laws.
- The number of complaints and appeals is rising.
- The number of allegations per complaint/appeal are also increasing.
- Some complainants file repeat or multiple complaints/appeals regarding allegations which may have been already adjudicated by the CDE.
- The complexity of complaints/appeals is higher (e.g. involving multiple offices or departments with potential for duplication, contradictions, etc.) than before.
- Incorrect handling of complaints can lead to lawsuits (also rising), public discontent, and media exposure, and may impact LEA funding.

UCP Process Summary (Categorical Programs)

- **How to file:** In writing, with signature (unless anonymous filing is legally allowed)
- **Where/with whom the complaint is originally filed:**

Usually, school principal or LEA superintendent. See local school or LEA's complaint procedures.
- **Who can file:**

Any individual, including a person's duly authorized representative or an interested third party, public agency, or organization alleging violation of federal or state laws or regulations (for definitions, consult the LEA's legal counsel).

UCP Process Summary (Categorical Programs)

- **Complaint Timelines:**
 - **Filing:** if no statute of limitations is legally established, it is generally accepted that there is a 3 year statute of limitation on complaints. This arises from the fact that LEAs are only required to keep records for 3 years with regards to categorical program funds. Consult your legal counsel for further guidance on this issue.
 - **Response:** LEA must respond within 60 days. This time period may be extended with the written consent of the complainant.

UCP Process Summary (Categorical Programs)

- **Qualify for appeal?** Yes, if allegations are in scope
- **Where to appeal:** CDE (various programs/offices)
- **How to appeal:** The complainant shall comply with the appeal requirements of 5 CCR sections 4632 and 4687):
 - In writing, with signature (unless law allows anonymity)
 - Must identify the basis for the appeal by stating
 - ✓ which facts are incorrect, or
 - ✓ which law is being misapplied
 - Appeal packet must contain a copy of the original complaint and the LEA's decision
- **Appeal Timelines:**
 - **Filing:** Must file within 15 days of the school or LEA's final decision or the date the decision was otherwise due
 - **Response:** CDE must respond within 60 days unless appellant agrees to extension (if legally allowed).

Identifying a Complaint

- It is the LEA's responsibility to determine if a communication is a complaint and whether it is formal or informal
- Sometimes, formal UCP complaints are mistaken for comments or suggestions for improvements, and are handled informally
- Knowing that a formal UCP complaint has been received is crucial for proper handling

Identifying a Complaint


- Complaints are written.
- It is not a legal requirement for complaints to be submitted on specific forms, even if required by your local complaint procedures.
- Most complaints are signed but, when legally allowed, they can be anonymous (i.e. pupil fees).

Sample of an Inaccurate UCP complaint form

UCP  1

Name _____

Date _____

Person(s) the complaint is filed against _____  2

Problem _____

Identifying a Complaint

- The complainant may or may not specify the complaint falls under the UCP
- There may be multiple issues in a single complaint or the issues may not be clear-cut
- Mediation is a possible avenue to use in LEA handling of the complaint

Categorical Program Complaint Exercise 1

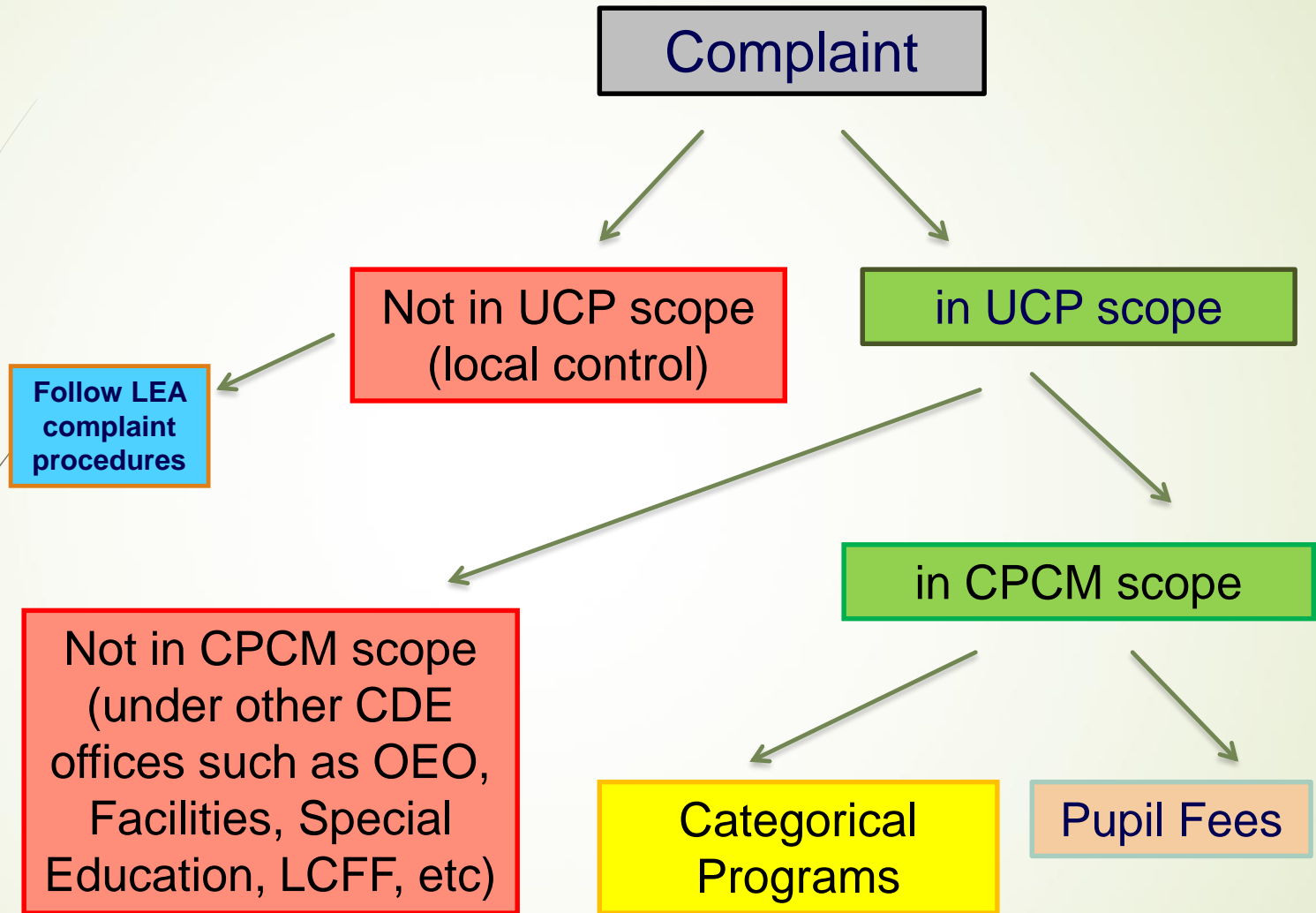
An email in Spanish is sent to a school principal. There is a sender's name and address at the bottom. It states, after translation: "I asked the teacher why English Learner support is not being given to my son since the beginning of the school year. The teacher said the EL teacher is being hired right now. EL support is essential to achieve the proper educational development that is appropriate for his level; the lack of understanding of the English Language causes my son to fall behind, due to the lack of EL support. I ask that the school provide the required EL support it is supposed to and be transparent in documenting how the services are provided on a regular basis."

Categorical Program Complaint Exercise 2

A letter is sent to the school which states, "I am very angry. My daughter was incorrectly placed in the ELD program due to the wording of the home language survey. I want to opt out of ELD services for my child and the District says they must provide ELD services and she has to be pulled out of class to receive the services."

Nature of Complaints

- ▶ The nature of the complaint determines how it is handled upon receipt and also at the appeal level:
 - ▶ How, where, and when the complaint was originally filed
 - ▶ Complaint timelines (filing, response)
 - ▶ Qualify for an appeal? (Yes/No)
 - ▶ How, where, and when to appeal
- ▶ Regardless of the nature of the complaint, it must be filed locally, except under limited circumstances.



UCP Complaint Process

- ▶ **Complainant's responsibilities:**
 - ▶ Receive, review, and adhere to the LEA's complaint procedures.
 - ▶ Submit a written and signed complaint which alleges a specific violation of law [5 CCR Section 4600(d)].
 - ▶ Provide the investigator with documents and evidence related to the allegations in the complaint.

UCP Complaint Process

- ▶ **LEA's responsibilities:**
 - ▶ Ensure compliance with federal and state regulations
 - ▶ Create a uniform system for receiving and processing complaints
 - ▶ Adopt complaint policies and procedures consistent with 5 CCR sections 4600-4687

UCP Complaint Process

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- ▶ **LEA's responsibilities:**
 - ▶ Annually notify specific parties of the complaint procedures.
 - ▶ Designate a knowledgeable staff member to be responsible for receiving, investigating, and resolving complaints.
 - ▶ Conducting and documenting a complete investigation.
 - ▶ Issue a written investigative report, which contains all of the legal requirements, to the complainant within 60 **calendar** days from receipt of the complaint

UCP Complaint Process

► LEA's responsibilities:

The written Decision must include

- 1) The findings of fact based on the evidence gathered
- 2) Conclusion of law
- 3) Disposition of the complaint
- 4) The rationale for such a disposition
- 5) Corrective actions if any are warranted
- 6) Notice of the complainant's right to appeal the LEA's Decision to CDE
- 7) Procedures to be followed for initiating an appeal to CDE

UCP Complaint Process

- ▶ **LEA's responsibilities:**
 - ▶ Request and obtain a written extension of the 60 day time frame, if needed.
 - ▶ Adhere to any self-imposed corrective actions and document the LEA's actions.

UCP Complaint Process

- ▶ **LEA's responsibilities:**
 - ▶ Protect complainants from retaliation.
 - ▶ In cases of discrimination, harassment, or bullying, protect the confidentiality of the complainant and the facts related to the case.
 - ▶ Provide the complainant an opportunity to present the complaint and evidence or information leading to evidence to support the allegations.

Common Issues in Complaint Processing

- Deficiencies in LEA tracking of complaints and appeals
- Failure of LEA to follow its local complaint process
- LEA does not properly conduct and document investigations
- LEA does not issue a Decision that has all the required elements within the legally-established timeframe
- Deficiencies in LEA internal training
- LEA fails to present data to the CDE when requested

Frequently Occurring Issues which may lead to appeals

- Failure of LEA to have policies, forms or notices that meet requirements
- Failure of LEA to respond to the complainant within 60 calendar days or get the necessary extension
- Failure of LEA to conduct and document a proper investigation
- Failure of LEA to provide the complainant an opportunity to provide evidence
- Failure of LEA to address all allegations in the original complaint on final report

UCP Appeal Process

Appellant responsibilities:

- Specify the basis for the Appeal of the Decision and whether the **facts are incorrect and/or the law** is misapplied
- Submit a complete appeal packet
- Supply the CDE with any evidence that was supplied to the LEA investigator during the investigation.

UCP Appeal Process

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LEA responsibilities:

- ▶ Respond in a timely manner to requests from the CDE.
- ▶ Provide a complete packet of requested materials to the CDE upon receiving the Notification of Appeal (NOA) letter.
- ▶ Provide the CDE access to records and other information as requested.
- ▶ Have a knowledgeable compliance officer. If necessary, the LEA may seek legal counsel.

Frequent Procedural Allegations

- Failure of the LEA to investigate or properly document the investigation
- Incomplete decisions (lacking the required elements)
- Failure to respond to the complainant within 60 **calendar** days
- Not providing the appellant a chance to provide evidence
- Not addressing all original allegations

Frequently Occurring Issues

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- Failure of LEA to respond to the CDE's NOA
- LEA's incomplete response to the CDE's NOA
- LEAs incorrectly defining the allegations when processing complaints
- Failure of LEA legal staff to send their investigation files to the CDE when requested—**this is NOT attorney-client privileged material!**
- Failure of LEA to address 3rd party/proxy issues correctly for categorical complaints
- Failure of LEA to identify original complaints or appeals (i.e. emails, without signatures, etc.)

Pupil Fee Regulations

History and Purpose

- On September 29, 2012, Governor Jerry Brown signed into law AB 1575, Pupil Fees, which restates existing law **prohibiting a school from requiring a pupil to pay a fee, deposit or other charge not specifically authorized by law, for participation in an educational activity**
- AB 1575 provides that a complaint regarding pupil fees may be filed with the principal of a school under the Uniform Complaint Procedures (CA Education Code Sections 49010–49013)
- Local policies and procedures were established on or before March 1, 2013
- Regulations took effect on January 1, 2014.

Pupil Fee-Related Legal Definitions

(California Education Code Sections 49010–49013)

- ▶ 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.**

Pupil Fee-Related Legal Definitions

(California Education Code Sections 49010–49013)

- “(d) If a public school finds **merit in a complaint**, or the department finds **merit in an appeal, the public school shall provide a remedy to all affected** pupils, parents, and guardians that, where applicable, includes reasonable efforts by the public school to ensure full reimbursement to all affected pupils, parents, and guardians, subject to procedures established through regulations adopted by the state board.”
- “**Reasonable efforts**” means a public school’s good faith attempts 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”

Critical Questions

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- ▶ Is the activity offered by a school, school district, charter school or county office of education?
- ▶ Is the activity an integral, fundamental part of education?
- ▶ Is the fee charged as a condition for registering or a condition for participation in a class or extracurricular activity?

Crucial Differences in the Pupil Fee vs. Categorical Program Complaint Processes

- **Who can file:**
 - Anonymous filing is allowed.
- **Where to file:**
 - Can be filed with a school principal or LEA designee.
- **Complaint Timelines:**
 - **Filing:** within one year of the date the alleged fee was imposed.
 - **Response:** District must respond within 60 days. **Non-extendable.**
- **Appeal Timelines:**
 - **Response:** CDE must respond within 60 days. **Non-extendable.**

Key Concerns

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- ▶ Correct identification of pupil fee complaints
- ▶ 60-day timeline not eligible for extension
- ▶ Non-compliant websites and handouts
- ▶ LEA compliance with “reasonable efforts”
- ▶ Public Records Act requests may be involved. Be sure you know how to handle them!

Avoiding Corrective Action

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- ▶ Conduct a thorough, unbiased investigation
- ▶ For each finding of fact that leads to a conclusion of law, you must provide documentation proving that fact. This includes the conclusion that the pupil fee law was not violated.
- ▶ When CPCM calls your LEA and requests additional information or evidence supporting your findings of fact, do not delay in providing it. The 60-day deadline is not extendable and CPCM will issue the Decision based on the information that is available.

UCP Regulatory Compliance Monitoring Legal Requirements

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MONITORING INSTRUMENT ITEM REPORT

Uniform Complaint Procedures 2014–15

II. GOVERNANCE AND ADMINISTRATION II-UCP 01: Policies and Procedures

Updated 05/01/2014 by Administrator Administrator

SEA Status	In Progress
LEA Status	In Progress
Comments by SEA	
Comments by LEA	
Compliance Indicators	<p>II-UCP 1. The LEA adopted uniform complaint procedures (UCP) for all specified programs, unlawful pupil fees, and provides civil rights guarantees. (34 Code of Federal Regulations [CFR] §§ 300.510-511; California Education Code [EC] §§ 200, 220, 234.1, 262.3, 49010-49013; Government Code [GC] §§ 11135, 11138; Penal Code [PC] § 422.55; 5 CCR § 4600–4687.)</p> <p>1.0 Local educational agency (LEA) policies and procedures were adopted by the LEA's governing board and include the following:</p> <p>(a) A list of all programs and activities implemented by the district that are subject to the UCP. (5 CCR § 4610.)</p> <p>(b) A statement that the LEA will investigate all allegations of unlawful discrimination, harassment, intimidation or bullying against any protected group as identified in Education Code section 200 and 220 and Government Code section 11135, including any actual or perceived characteristics as set forth in Penal Code 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 conducted by the LEA, which is funded directly by, or that receives or benefits from any state financial assistance. (GC § 11135, EC §§ 200, 220, 234.1, 5 CCR § 4610, PC § 422.55.)</p> <p>(c) A statement that the LEA shall have the primary responsibility to insure compliance with applicable state and federal laws and regulations. (5 CCR § 4620.)</p> <p>(d) A statement that the local agency shall investigate complaints alleging failure to comply with applicable state and federal laws and regulations including, but not limited to, allegations about discrimination, harassment, intimidation, bullying and noncompliance with laws relating to pupil fees for participation in an educational activity and seek to resolve those complaints in accordance with the LEA's Uniform Complaint Procedures (EC §§ 234.1, 49010; 5 CCR § 4610, 4620–4621.)</p> <p>(e) A statement that if a public school finds merit in a pupil fees complaint the public school shall provide a remedy to all affected pupils, parents, and guardians that where applicable includes reasonable efforts by the public school to ensure full reimbursement to all affected pupils, parents, and guardians, subject to procedures established through regulations adopted by the state board (EC 49013(c)).</p> <p>(f) A statement ensuring that the LEA will attempt in good faith by engaging 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. (5 CCR § 4600(u))</p> <p>(g) A statement ensuring that the complainants are protected from retaliation and that the identity of a complainant alleging discrimination, harassment, intimidation or bullying will remain confidential as appropriate. (EC § 234.1; 5 CCR § 4621.)</p> <p>(h) A statement identifying the person(s), employee(s), or agency position(s), or unit(s) responsible for receiving complaints, investigating complaints and ensuring LEA compliance. (5 CCR § 4621.)</p> <p>(i) A statement ensuring the person(s), employee(s), position(s) or unit(s) responsible for compliance and/or investigations shall be knowledgeable about the law/programs that he/she is assigned to investigate. (5 CCR § 4621.)</p> <p>(j) A statement ensuring annual dissemination of a written notice of the LEA's complaint procedures to students, employees, parents or guardians of its students, school and district advisory committees, appropriate private school officials or representatives, and other interested parties that includes information regarding unlawful pupil fees. (EC § 234.1, 49013; 5 CCR § 4622.)</p> <p>(k) A statement advising complainants of the right to pursue civil law remedies under state or federal discrimination, harassment, intimidation or bullying laws. (EC § 234.1; 5 CCR § 4622.)</p> <p>(l) A statement that a pupil fees complaint may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance with laws relating to pupil fees. (EC § 49013(b))</p> <p>(m) A statement that a pupil fee complaint shall be filed no later than one year from the date the allegation</p>

← All legal requirements for the Uniform Complaint Procedures are included in the UCP instrument posted to CAIS (California Accountability and Improvement System) and the Compliance Monitoring web pages from CDE

UCP Documents

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The six UCP documents meet the federal and state laws, statutes and regulations:

UCP 1: UCP Policy and Procedures

UCP 2: UCP Annual Notice

UCP 3: Implementation

UCP 4: Williams Complaints Policy and Procedures

UCP 5: Williams Complaints Classroom Notice

UCP 6: Williams Complaints Form

UCP Policy and Procedures

The LEA has adopted Uniform Complaint Procedures for all specified programs, pupil fees violations, local control and accountability plan noncompliance, and provides civil rights guarantees.

UCP Annual Notice

The LEA annually notifies, in writing, its students, employees, parents/guardians, advisory committee members, private school officials, and other interested parties of the LEA's Uniform Complaint Procedures process.

Implementation

The LEA must investigate and seek to resolve complaints, in accordance with the UCP procedures adopted by their governing board, alleging:

- a violation by the LEA of a federal or state law or regulation governing the programs listed in the California Code of Regulations, Title 5
- discrimination, harassment, intimidation, and/or bullying
- charging pupil fees for participation in an educational activity
- evidence or information leading to evidence to support an allegation of noncompliance with the requirements of the Local Control and Accountability Plan.

Williams Complaints Policies and Procedures

The LEA is required to have local policies and procedures that enable Williams Complaints to be handled through its governing-board approved UCP process in accordance with the California Code of Regulations, Title 5, to resolve Williams Complaints regarding alleged deficiencies related to:

- instructional materials
- teacher vacancy or misassignment
- the condition of a facility that is not maintained in a clean or safe manner or in good repair

Williams Complaints Classroom Notice

The LEA provided a UCP process in accordance with the California Code of Regulations, Title 5, to resolve Williams Complaints by posting a Williams Complaints Classroom Notice notifying parents, guardians, pupils, and teachers in each classroom in each school in each district regarding alleged deficiencies related to:

- instructional materials
- facility conditions
- teacher vacancy or misassignment

Williams Complaint Form

- The LEA's Williams Complaints Form must be available at all school sites.
- The Williams Complaints Form must identify deficiencies related to:
 - Textbooks and instructional materials
 - Conditions of facilities
 - Teacher vacancy or misassignment

Consequences of Failing to Comply with UCP

- ▶ 5 CCR 4670 (a)
 1. The withholding of all or part of the local agency's relevant state or federal fiscal support in accordance with state or federal statute or regulation;
 2. Probationary eligibility for future state or federal support, conditional on compliance with specified conditions;
 3. Proceeding in a court of competent jurisdiction for an appropriate order compelling compliance.

SRCS UCP Resources

- Srcschools.org web site
- UCP shared Google drive
- UCP Manual