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Assistant Superintendent
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MEMORANDUM

November 1, 2021

TO: All District Staff

FROM: Michael Shepherd, Assistant Superintendent Human Resources

RE: Santa Rosa City Schools, Statement of Non-Discrimination and Section 504

Pursuant to a resolution agreement with the U. S. Department of Education, Office for Civil Rights, the District is sending this memorandum to ensure compliance as well as to remind ourselves about our desires to strongly provide a safe school environment that allows all students equal access to and opportunities in the district's academic, extracurricular, and other educational support programs, services, and activities. The Board prohibits, at any district school or school activity, unlawful discrimination, including discriminatory harassment, intimidation, and bullying, targeted at any student by anyone, based on the student's actual or perceived race, color, ancestry, nationality, national origin, immigration status, ethnic group identification, ethnicity, 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 association with a person or group with one or more of these actual or perceived characteristics. This policy shall apply to all acts related to school activity or to school attendance occurring within a district school, and to acts which occur off campus or outside of school-related or school-sponsored activities but which may have an impact or create a hostile environment at school.

Title II of the Americans with Disabilities Act, Amendments Act (Title II) and Section 504 of the Rehabilitation Act of 1973 ("Section504"), school districts are required to identify students with disabilities and ensure that they receive educational and related services required by law. To fulfill this obligation, Santa Rosa City Schools ("District") administrators and staff must identify and refer for evaluation any student who has a condition that may qualify as a disability. The District must then determine the student's eligibility for special education and related services, and develop an appropriate placement and accommodations. This memorandum describes the District's legal obligations, policies, and procedures for the identification, evaluation, and placement of students under Title II and Section 504.

I. District's Obligation Under Section 504

Section 504 requires the District to provide to all qualified students with disabilities a free appropriate public education ("FAPE"). (34 C.F.R. § 104.33(a).) An "appropriate education" includes regular and/or special education and related aids and services designed to meet the individual needs of the student with a disability as adequately as non-disabled students' needs are met. (34 C.F.R. § 104.33(b).) Additionally, Section 504 requires that students are educated in the least restrictive environment. (34 C.F.R. § 104.34.)

To provide a FAPE, the District must identify and evaluate students with disabilities and determine whether they require special education or related services. (34 C.F.R. § 104.35.) If special education or related services are necessary to meet a student's educational needs, the District must develop a plan including an appropriate placement, services, and/or accommodations. (34 C.F.R. § 104.33(b).)

II. Role of Section 504 Coordinator

Each school site has a designated Section 504 Coordinator who is assigned to address questions, concerns, and all matters pertaining to Section 504. The Section 504 Coordinator is responsible for, but not limited to, the logistical umbrella of the site's Section 504 program. The logistical umbrella, with support and actions from the student's Section 504 Team includes the processes, evaluation, eligibility, appropriate accommodations/modifications, implementation, practices, and reevaluation/annual review so that the intent of Section 504, protecting the civil rights of individuals with disabilities, is maintained.

The District also maintains a Section 504 Compliance Coordinator who is available to provide assistance and information. The District 504 Compliance Coordinator, together with the site Section 504 Coordinator, work on resource development, background information, policies and procedures, and all related protocols.

III. Identification of Students With Disabilities

a. Definition of Disability

Under Title II and Section 504, a student is generally considered to have a disability, and potentially eligible to receive a FAPE, if he or she has a physical or mental impairment which substantially limits one or more major life activities. (34 C.F.R. § 104.3(j); see also 28 C.F.R. § 35.108(a).)

A physical or mental impairment means: 1) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems; or 2) any mental or psychological disorder. (28 C.F.R. § 35.108(b); 34 C.F.R. § 104.3(j)(2)(i).) Examples of physical or mental impairments that may constitute disabling conditions include, but are not limited to, diabetes; heart disease; intellectual disability; specific learning disability; emotional or mental illness; HIV/AIDS; drug or alcohol addiction; tuberculosis; and attention deficit disorder (ADD or ADHD). (28 C.F.R. § 35.108(b).)

Under Title II, major life activities include, but are not limited to, self-care, performing manual tasks, seeing, hearing, eating, sleeping, walking, sitting, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, writing, communicating, interacting with others, working, and the operations of major bodily functions. (28 C.F.R. § 35.108(c)(l).) Similarly, under Section 504, major life activities include, but are not limited to, caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. (34 C.F.R. § 104.3G)(2)(ii).)

An impairment is considered "substantially limiting" when it impedes a person's ability to perform an activity as compared to most people in the general population. The "substantially limiting" standard is construed broadly and requires only a basic showing of limitation; it does not require the impairment to significantly or severely restrict the individual from performing the activity. (28 C.F.R. § 35.108(c).) Factors to consider in determining whether a student's impairment may be "substantially limiting" include:

1. The nature and severity of the impairment;
2. The duration or expected duration of the impairment; and
3. The permanent, long-term impact or expected impact of the impairment.

(See, e.g., *Snowflake (AZ) Unified School District* (1998) 102 LRP 38676.)

District staff should be aware of students' mental and physical impairments, and consider whether such impairments substantially limit any major life activity, so as to qualify as a disability under Section 504 and/or Title II.

b. Referral for Evaluation for Special Education Services

The District's procedure for identifying students with disabilities utilizes referrals from parents/guardians, teachers, appropriate professionals, and others. Referrals must be made according to the following procedures:

1. Any student may be referred for consideration of eligibility as a disabled student under Section 504.
2. Referrals may be made by individuals with knowledge of the student's needs and/or educational programming, including teachers, other staff members, parents, student success teams, community agency, etc.
3. Referrals may be made to the Principal or 504 Coordinator at any time.

Examples

Although it will depend on the specific circumstances for each student, some academic and behavior concerns possibly triggering a duty to refer a student for evaluation may include:

- Decline in grades and/or work completion;
- Information that the student is or may be diagnosed with impairments or conditions such as ADD/ADHD, diabetes, anxiety, depression, specific learning disability, etc.;
- Change in attendance habits;
- Inability to meet grade-level standards;
- Inability to participate in class activities and required curriculum;
- Exhibition of maladaptive and/or antisocial behaviors; and
- Inconsistent attitude and/or demeanor.

If a staf member suspects a student may have a disability and may need special education or related services, he or she must refer the student for an evaluation. Prior to making the referral, a staff member may consider resources of the regular education program, and utilize them where appropriate. However, the referral should not be unduly delayed by attempts at utilizing general education resources. For example, although the Student Study Team ("SST") process may be followed to attempt general education interventions where appropriate, SST members should be aware that information gathered during the SST meeting could trigger an immediate obligation to refer a student for an evaluation.

Upon receipt of a referral for evaluation, the Principal or 504 Coordinator must promptly convene a meeting of a multidisciplinary 504 team to consider the referral and determine whether an evaluation of the student is appropriate. A 504 team consists of a group of individuals knowledgeable about the student, the meaning of the evaluation data, and the placement options. (34 C.F.R. § 104.35(c).) The team's determination should be based on a review of the student's school records, including academic and nonacademic areas of the school program; consultation with the student's teacher(s), other professionals, and the parent/guardian, as appropriate; and analysis of the student's needs.

c. Initial Evaluation for Special Education Services

If the 504 team finds that a student needs or is believed to need special education and/or related services under Section 504, the District must conduct an evaluation of the student prior to initial placement and before any significant change in placement. (34 C.F.R. § 104.35(a).) If the 504 team determines that an evaluation is unnecessary, it must inform the parents/guardians of this decision and of the procedural safeguards as described below.

Upon receipt of a determination that an evaluation is appropriate, the evaluation process will be completed within a reasonable timeframe. The District will ensure that in conducting evaluations:

- Tests and evaluation materials are validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the test producer's instructions;
- Tests and evaluation materials include those tailored to assess specific areas of educational need and not merely those designated to provide a single intelligence quotient; and
- Tests are selected and administered so as best to ensure that the results accurately reflect the student's aptitude or achievement level, or other factors the tests purports to measure, rather than reflecting any impaired sensory manual, or speaking skills, as applicable. (34 C.F.R. § 104.35(b).)

Because an appropriate evaluation is necessary to the determination of a student's placement, Student Success Team meetings may not be used in lieu of conducting an evaluation.

d. Eligibility Determination

Upon completion of the evaluation, the District must convene a Section 504 eligibility meeting to determine whether the student is a student with disability and, if so, his/her educational needs.

The meeting should include persons knowledgeable about the student, including parent/guardians, teachers, members of the assessment team, the Section 504 coordinator, the school psychologist, the school nurse, and any other appropriate individuals. (34 C.F.R. § 104.35(c).) As described above, to determine whether the student is eligible for special education or related services under Section 504, the team should determine whether results of the evaluation demonstrate that the student's impairment limits a major life activity. Importantly, "learning" is not the only major life activity to consider. Under Section 504, a student may qualify as disabled even if his or her disability does not limit learning.

IV. Response to a Student with a Disability

a. Placement

If a student is determined to be eligible for services under Section 504, the team will meet to develop a written accommodation plan specifying placement, accommodations, and supplementary aids and services necessary to ensure that the student receives a FAPE. The parents/guardians are entitled to participate in the meeting and are provided an opportunity to examine all relevant records. A copy of the student's accommodation plan should be kept in his/her student record. The student's teachers, and any other staff who provide services to the student, shall be informed of the plan's requirements. The written 504 Plan should include the following:

1. A description of the identified disability that substantially limits a major life activity;
2. A description of how the disability needs to be addressed in relation to the educational setting and extracurricular activities;
3. The special education, related services, or accommodations designed by the team to address the student's needs; and
4. Names of individuals responsible for ensuring the accommodations are implemented.

The student should be placed in the regular educational environment, unless the District can demonstrate

that the use of supplementary aids and services will be insufficient to allow the student to succeed in that environment. If the team determines the regular educational environment to be inappropriate, it should determine what alternative placement is the least restrictive environment, and place the student with students who are not disabled to the maximum extent appropriate to his/her individual needs. (34 C.F.R. § 104.34.)

If a student is determined eligible, special education and related services may potentially include special education provided in or outside of the general education classroom; related services such as speech-language therapy, occupational therapy, physical therapy, adapted physical education, or counseling/guidance services; and/or various accommodations or modifications, including but not limited to shortened assignments, extra time on tests, preferential seating, etc.

If the 504 team determines that no services are necessary for the student, the record of the meeting should reflect that the student was not identified as a disabled person under Section 504, and state the basis for the decision that no special services are presently needed. Additionally, the District should maintain clear documentation showing its determination of eligibility and services was based on an analysis of the student's unique needs and utilized information from a variety of sources.

b. Procedural Safeguards

Under Section 504, the Superintendent or designee must ensure District compliance with law, including providing the students and their parents/guardians with applicable procedural safeguards and required notifications. (34 C.F.R. § 104.7.) Information regarding the Section 504 Procedural Safeguards must also be provided to parents when the District has made any determination regarding: (1) whether to evaluate a student, (2) whether a student is eligible under Section 504, and (3) what services will be provided to a disabled student under Section 504.

District has designated the following individual to coordinate its efforts to comply with the requirements of law, Board policy, and administrative regulation pertaining to the implementation of Section 504:

Section 504 (All Students):
Dr. Kimberlee Armstrong, Associate Superintendent of Educational Services
211 Ridgway Avenue
Santa Rosa, CA 95401
(707) 890-3800 x 80302
karmstrong@srcs.k12.ca.us

Section 504 (All Employees):
Michael Shepherd, Assistant Superintendent of Human Resources
211 Ridgway Avenue
Santa Rosa, CA 95401
(707) 890-3800 ext. 80602
rjackson@srcs.k12.ca.us

Santa Rosa City Schools

Board Policy
Nondiscrimination/Harassment

BP 5145.3
Students

This policy shall apply to all acts constituting unlawful discrimination or harassment related to school activity or to school attendance occurring within a district school, and to acts which occur off campus or outside of school-related or school-sponsored activities but which may have an impact or create a hostile environment at school.

The Board of Education desires to provide a safe school environment that allows all students equal access to and opportunities in the district's academic, extracurricular, and other educational support programs, services, and activities. The Board prohibits, at any district school or school activity, unlawful discrimination, including discriminatory harassment, intimidation, and bullying, targeted at any student by anyone, based on the student's actual or perceived race, color, ancestry, nationality, national origin, immigration status, ethnic group identification, ethnicity, 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 association with a person or group with one or more of these actual or perceived characteristics.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 5131 - Conduct)

(cf. 5131.2 - Bullying)

(cf. 5137 - Positive School Climate)

(cf. 5145.7 - Sexual Harassment)

(cf. 5145.9 - Hate-Motivated Behavior)

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

(cf. 6164.6 - Identification and Education Under Section 504)

Unlawful discrimination, including discriminatory harassment, intimidation, or bullying, may result from physical, verbal, nonverbal, or written conduct based on any of the categories listed above. Unlawful discrimination also occurs when prohibited conduct is so severe, persistent, or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity; creates an intimidating, threatening, hostile, or offensive educational environment; has the effect of substantially or unreasonably interfering with a student's academic performance; or otherwise adversely affects a student's educational opportunities.

Unlawful discrimination also includes disparate treatment of students based on one of the categories above with respect to the provision of opportunities to participate in school programs or activities or the provision or receipt of educational benefits or services.

The Board also prohibits any form of retaliation against any individual who reports or participates in the reporting of unlawful discrimination, files or participates in the filing of a complaint, or investigates or participates in the investigation of a complaint or report alleging unlawful discrimination. Retaliation complaints shall be investigated and resolved in the same manner as a discrimination complaint.

The Superintendent or designee shall facilitate students' access to the educational program by publicizing the district's nondiscrimination policy and related complaint procedures to students, parents/guardians, and employees. In addition, the Superintendent or designee shall post the district's policies prohibiting discrimination, harassment, intimidation, and bullying and other required information on the district's web site in a manner that is easily accessible to parents/guardians and students, in accordance with law and the accompanying administrative regulation.

The Superintendent or designee shall provide training and/or information on the scope and use of the policy and complaint procedures and take other measures designed to increase the school community's understanding of the requirements of law related to discrimination. The Superintendent or designee shall regularly review the implementation of the district's nondiscrimination policies and practices and, as necessary, shall take action to remove any identified barrier to student access to or participation in the district's educational program. The Superintendent or designee shall report the findings and recommendations to the Board after each review.

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 1330 - Use of Facilities)

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

(cf. 6145 - Extracurricular and Cocurricular Activities)

(cf. 6145.2 - Athletic Competition)

(cf. 6164.2 - Guidance/Counseling Services)

Regardless of whether a complainant complies with the writing, timeline, and/or other formal filing requirements, all complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying, shall be investigated and prompt action taken to stop the discrimination, prevent recurrence, and address any continuing effect on students.

Students who engage in unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, in violation of law, Board policy, or administrative regulation shall be subject to appropriate consequence or discipline, which may include suspension or expulsion when the behavior is severe or pervasive as defined in Education Code 48900.4. Any employee who permits or engages in prohibited discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, shall be subject to disciplinary action, up to and including dismissal.

(cf. 4118 - Dismissal/Suspension/Disciplinary Action)

(cf. 4119.21/4219.21/4319.21 - Professional Standards)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

(cf. 5145.2 - Freedom of Speech/Expression)

Record-Keeping

The Superintendent or designee shall maintain a record of all reported cases of unlawful discrimination, including discriminatory harassment, intimidation, or bullying, to enable the district to monitor, address, and prevent repetitive prohibited behavior in district schools.

(cf. 3580 - District Records)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

48900.3 Suspension or expulsion for act of hate violence

48900.4 Suspension or expulsion for threats or harassment

48904 Liability of parent/guardian for willful student misconduct

48907 Student exercise of free expression

48950 Freedom of speech

48985 Translation of notices

49020-49023 Athletic programs

49060-49079 Student records

51500 Prohibited instruction or activity

51501 Prohibited means of instruction

60044 Prohibited instructional materials

CIVIL CODE

1714.1 Liability of parents/guardians for willful misconduct of minor

GOVERNMENT CODE

11135 Nondiscrimination in programs or activities funded by state

PENAL CODE

422.55 Definition of hate crime

422.6 Crimes, harassment

CODE OF REGULATIONS, TITLE 5

432 Student record

4600-4670 Uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

UNITED STATES CODE, TITLE 20

1681-1688 Title IX of the Education Amendments of 1972

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

35.107 Nondiscrimination on basis of disability; complaints

CODE OF FEDERAL REGULATIONS, TITLE 34

99.31 Disclosure of personally identifiable information

100.3 Prohibition of discrimination on basis of race, color or national origin

104.7 Designation of responsible employee for Section 504

104.8 Notice

106.8 Designation of responsible employee for Title IX

106.9 Notification of nondiscrimination on basis of sex

110.25 Prohibition of discrimination based on age

COURT DECISIONS

Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567

Flores v. Morgan Hill Unified School District, (2003) 324 F.3d 1130

Management Resources:

CSBA PUBLICATIONS

Updated Legal Guidance: Protecting Transgender and Gender Nonconforming Students Against Sex Discrimination, March 2017

CALIFORNIA OFFICE OF THE ATTORNEY GENERAL PUBLICATIONS

Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues, April 2018

FIRST AMENDMENT CENTER PUBLICATIONS

Public Schools and Sexual Orientation: A First Amendment Framework for Finding Common Ground, 2006

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016

Dear Colleague Letter: Title IX Coordinators, April 2015

Resolution Agreement Between the Arcadia Unified School District, U.S. Department of Education, Office for Civil Rights, and the U.S. Department of Justice, Civil Rights Division, (2013) OCR 09-12-1020, DOJ 169-12C-70

Dear Colleague Letter: Harassment and Bullying, October 2010

Notice of Non-Discrimination, Fact Sheet, August 2010

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES PUBLICATIONS

Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, August 2003

WEB SITES

CSBA: http://www.csba.org

California Department of Education: http://www.cde.ca.gov

California Office of the Attorney General: http://oag.ca.gov

California Safe Schools Coalition: http://www.casafeschools.org

First Amendment Center: http://www.firstamendmentcenter.org

U.S. Department of Education, Office for Civil Rights: http://www.ed.gov/about/offices/list/ocr

Policy SANTA ROSA CITY SCHOOLS

adopted: January 10, 2019 Santa Rosa, California

revised: October 28, 2020

Santa Rosa City Schools

Administrative Regulation
Nondiscrimination/Harassment

AR 5145.3
Students

The district designates the individual(s) identified below as the employee(s) responsible for coordinating the district's efforts to comply with applicable state and federal civil rights laws and to answer inquiries regarding the district's nondiscrimination policies. The individual(s) shall also serve as the compliance officer(s) specified in AR 1312.3 - Uniform Complaint Procedures as the responsible employee to handle complaints alleging unlawful discrimination targeting a student, including discriminatory harassment, intimidation, or bullying, based on the student's actual or perceived race, color, ancestry, nationality, national origin, immigration status, ethnic group identification, ethnicity, age, religion, marital status, pregnancy, parental status, physical or mental disability, medical condition, sex, sexual orientation, gender, gender identity, gender expression, genetic information, or any other legally protected status or association with a person or group with one or more of these actual or perceived characteristics. The coordinator/compliance officer(s) may be contacted at: (Education Code 234.1; 5 CCR 4621)

Sexual Harassment / Discrimination (All Students):
Dr. Kimberlee Armstrong, Associate Superintendent of Educational Services
211 Ridgway Avenue
Santa Rosa, CA 95401
(707) 890-3800 x 80302
karmstrong@srcs.k12.ca.us

Sexual Harassment / Discrimination (All Employees):
Michael Shepherd, Assistant Superintendent of Human Resources
211 Ridgway Avenue
Santa Rosa, CA 95401
(707) 890-3800 ext. 80602
rjackson@srcs.k12.ca.us

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 5145.7 - Sexual Harassment)

(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

Measures to Prevent Discrimination

To prevent unlawful discrimination, including discriminatory harassment, intimidation, retaliation, and bullying, of students at district schools or in school activities and to ensure equal access of all students to the educational program, the Superintendent or designee shall implement the following measures:

1. Publicize the district's nondiscrimination policy and related complaint procedures, including the coordinator/compliance officer's contact information, to students, parents/guardians, employees, volunteers, and the general public by posting them in prominent locations and providing easy access to them through district-supported communications

2. Post the district's policies and procedures prohibiting discrimination, harassment, student sexual harassment, intimidation, bullying, and cyberbullying, including a section on social media bullying that includes all of the references described in Education Code 234.6 as possible forums for social media, in a prominent location on the district's web site in a manner that is easily accessible to parents/guardians and students (Education Code 234.6)

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 1113 - District and School Web Sites)

(cf. 1114 - District-Sponsored Social Media)

(cf. 5131.2 - Bullying)

(cf. 5145.9 - Hate-Motivated Behavior)

3. Post the definition of sex discrimination and harassment as described in Education Code 230, including the rights set forth in Education Code 221.8, in a prominent location on the district's web site in a manner that is easily accessible to parents/guardians and students (Education Code 234.6)

4. Post in a prominent location on the district web site in a manner that is easily accessible to parents/guardians and students information regarding Title IX prohibitions against discrimination based on a student's sex, gender, gender identity, pregnancy, and parental status, including the following: (Education Code 221.6, 221.61, 234.6)

a. The name and contact information of the district's Title IX Coordinator, including the phone number and email address

b. The rights of students and the public and the responsibilities of the district under Title IX, including a list of rights as specified in Education Code 221.8 and web links to information about those rights and responsibilities located on the web sites of the Office for Equal Opportunity and the U.S. Department of Education's Office for Civil Rights (OCR)

c. A description of how to file a complaint of noncompliance under Title IX, which shall include:

(1) An explanation of the statute of limitations within which a complaint must be filed after an alleged incident of discrimination has occurred and how a complaint may be filed beyond the statute of limitations

(2) An explanation of how the complaint will be investigated and how the complainant may further pursue the complaint, including web links to this information on the OCR's web site

(3) A web link to the OCR complaints form and the contact information for the office, including the phone number and email address for the office

d. A link to the Title IX information included on the California Department of Education's (CDE) web site

5. Post a link to statewide CDE-compiled resources, including community-based organizations, that provide support to youth who have been subjected to school-based discrimination, harassment, intimidation, or bullying and to their families. Such resources shall be posted in a prominent location on the district's web site in a manner that is easily accessible to parents/guardians and students. (Education Code 234.5, 234.6)

6. Provide to students a handbook that contains age-appropriate information that clearly describes the district's nondiscrimination policy, procedures for filing a complaint, and resources available to students who feel that they have been the victim of any such behavior.

7. Annually notify all students and parents/guardians of the district's nondiscrimination policy, including its responsibility to provide a safe, nondiscriminatory school environment for all students, including transgender and gender-nonconforming students. The notice shall inform students and parents/guardians that they may request to meet with the compliance officer to determine how best to accommodate or resolve concerns that may arise from

the district's implementation of its nondiscrimination policies. The notice shall also inform all students and parents/guardians that, to the extent possible, the district will address any individual student's interests and concerns in private.

(cf. 5145.6 - Parental Notifications)

8. Ensure that students and parents/guardians, including those with limited English proficiency, are notified of how to access the relevant information provided in the district's nondiscrimination policy and related complaint procedures, notices, and forms in a language they can understand.

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 nondiscrimination 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 information for parents/guardians with limited English proficiency.

9. Provide to students, employees, volunteers, and parents/guardians age-appropriate training and/or information regarding the district's nondiscrimination policy; what constitutes prohibited discrimination, including discriminatory harassment, intimidation, retaliation, or bullying; how and to whom a report of an incident should be made; and how to guard against segregating or stereotyping students when providing instruction, guidance, supervision, or other services to them. Such training and information shall include details of guidelines the district may use to provide a discrimination-free environment for all district students, including transgender and gender-nonconforming students.

(cf. 1240 - Volunteer Assistance)

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

10. At the beginning of each school year, inform school employees that any employee who witnesses any act of unlawful discrimination, including discriminatory harassment, intimidation, or bullying, against a student is required to intervene if it is safe to do so. (Education Code 234.1)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

11. At the beginning of each school year, inform each principal or designee of the district's responsibility to provide appropriate assistance or resources to protect students from threatened or potentially discriminatory behavior and ensure their privacy rights.

Enforcement of District Policy

The Superintendent or designee shall take appropriate actions to reinforce BP 5145.3 - Nondiscrimination/Harassment. As needed, these actions may include any of the following:

1. Removing vulgar or offending graffiti

(cf. 5131.5 - Vandalism and Graffiti)

2. Providing training to students, staff, and parents/guardians about how to recognize unlawful discrimination, how to report it or file a complaint, and how to respond

3. Disseminating and/or summarizing the district's policy and regulation regarding unlawful discrimination

4. Consistent with laws regarding the confidentiality of student and personnel records, communicating to students,

parents/guardians, and the community the school's response plan to unlawful discrimination or harassment

(cf. 4112.6/4212.6/4312.6 - Personnel Files)

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

(cf. 5125 - Student Records)

5. Taking appropriate disciplinary action against students, employees, and anyone determined to have engaged in wrongdoing in violation of district policy, including any student who is found to have filed a complaint of discrimination that the student knew was not true

(cf. 4118 - Dismissal/Suspension/Disciplinary Action)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

(cf. 6159.4 - Behavioral Interventions for Special Education Students)

Process for Initiating and Responding to Complaints

Students who feel that they have been subjected to unlawful discrimination described above or in district policy are strongly encouraged to immediately contact the compliance officer, principal, or any other staff member. In addition, students who observe any such incident are strongly encouraged to report the incident to the compliance officer or principal, whether or not the alleged victim files a complaint.

Any school employee who observes an incident of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, or to whom such an incident is reported shall report the incident to the compliance officer or principal within a school day, whether or not the alleged victim files a complaint.

Any school employee who witnesses an incident of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, shall immediately intervene to stop the incident when it is safe to do so. (Education Code 234.1)

When a report of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, is made to or received by the principal or compliance officer, the principal or compliance officer shall notify the student or parent/guardian of the right to file a formal complaint in accordance with AR 1312.3 - Uniform Complaint Procedures or, for complaints of sexual harassment that meet the federal Title IX definition, AR 5145.71 - Title IX Sexual Harassment Complaint Procedures. Once notified verbally or in writing, the compliance officer shall begin the investigation and shall implement immediate measures necessary to stop the discrimination and ensure that all students have access to the educational program and a safe school environment. Any interim measures adopted to address unlawful discrimination shall, to the extent possible, not disadvantage the complainant or a student who is the victim of the alleged unlawful discrimination.

Any report or complaint alleging unlawful discrimination by the principal, compliance officer, or any other person to whom a report would ordinarily be made or complaint filed shall instead be made to or filed with the Superintendent or designee who shall determine how the complaint will be investigated.

(cf. 5141.4 - Child Abuse Prevention and Reporting)

Transgender and Gender-Nonconforming Students

Gender identity of a student means the student's gender-related identity, appearance, or behavior as determined from the student's internal sense, whether or not that gender-related identity, appearance, or behavior is different from that traditionally associated with the student's physiology or assigned sex at birth.

Gender expression means a student's gender-related appearance and behavior, whether stereotypically associated with the student's assigned sex at birth. (Education Code 210.7)

Gender transition refers to the process in which a student changes from living and identifying as the sex assigned to the student at birth to living and identifying as the sex that corresponds to the student's gender identity.

Gender-nonconforming student means a student whose gender expression differs from stereotypical expectations.

Transgender student means a student whose gender identity is different from the gender assigned at birth.

The district prohibits acts of verbal, nonverbal, or physical aggression, intimidation, or hostility that are based on sex, gender identity, or gender expression, or that have the purpose or effect of producing a negative impact on the student's academic performance or of creating an intimidating, hostile, or offensive educational environment, regardless of whether the acts are sexual in nature. Examples of the types of conduct which are prohibited in the district and which may constitute gender-based harassment include, but are not limited to:

1. Refusing to address a student by a name and the pronouns consistent with the student's gender identity

2. Disciplining or disparaging a student or excluding the student from participating in activities, for behavior or appearance that is consistent with the student's gender identity or that does not conform to stereotypical notions of masculinity or femininity, as applicable

3. Blocking a student's entry to the restroom that corresponds to the student's gender identity

4. Taunting a student because the student participates in an athletic activity more typically favored by a student of the other sex

5. Revealing a student's transgender status to individuals who do not have a legitimate need for the information, without the student's consent

6. Using gender-specific slurs

7. Physically assaulting a student motivated by hostility toward the student because of the student's gender, gender identity, or gender expression

The district's uniform complaint procedures (AR 1312.3) or Title IX sexual harassment procedures (AR 5145.71), as applicable, shall be used to report and resolve complaints alleging discrimination against transgender and gender-nonconforming students.

Examples of bases for complaints include, but are not limited to, the above list, as well as improper rejection by the district of a student's asserted gender identity, denial of access to facilities that correspond with a student's gender identity, improper disclosure of a student's transgender status, discriminatory enforcement of a dress code, and other instances of gender-based harassment.

To ensure that transgender and gender-nonconforming students are afforded the same rights, benefits, and protections provided to all students by law and Board policy, the district shall address each situation on a case-by-case basis, in accordance with the following guidelines:

1. Right to privacy: A student's transgender or gender-nonconforming status is the student's private information and the district shall only disclose the information to others with the student's prior written consent, except when the disclosure is otherwise required by law or when the district has compelling evidence that disclosure is

necessary to preserve the student's physical or mental well-being. In any case, the district shall only allow disclosure of a student's personally identifiable information to employees with a legitimate educational interest as determined by the district pursuant to 34 CFR 99.31. Any district employee to whom a student's transgender or gender-nonconforming status is disclosed shall keep the student's information confidential. When disclosure of a student's gender identity is made to a district employee by a student, the employee shall seek the student's permission to notify the compliance officer. If the student refuses to give permission, the employee shall keep the student's information confidential, unless the employee is required to disclose or report the student's information pursuant to this administrative regulation, and shall inform the student that honoring the student's request may limit the district's ability to meet the student's needs related to the student's status as a transgender or gender-nonconforming student. If the student permits the employee to notify the compliance officer, the employee shall do so within three school days.

As appropriate given the student's need for support, the compliance officer may discuss with the student any need to disclose the student's transgender or gender-nonconformity status or gender identity or gender expression to the student's parents/guardians and/or others, including other students, teacher(s), or other adults on campus. The district shall offer support services, such as counseling, to students who wish to inform their parents/guardians of their status and desire assistance in doing so.

(cf. 1340 - Access to District Records)

(cf. 3580 - District Records)

2. Determining a Student's Gender Identity: The compliance officer shall accept the student's assertion of gender identity and begin to treat the student consistent with that gender identity unless district personnel present a credible and supportable basis for believing that the student's assertion is for an improper purpose.

3. Addressing a Student's Transition Needs: The compliance officer shall arrange a meeting with the student and, if appropriate, the student's parents/guardians to identify and develop strategies for ensuring that the student's access to educational programs and activities is maintained. The meeting shall discuss the transgender or gender-nonconforming student's rights and how those rights may affect and be affected by the rights of other students and shall address specific subjects related to the student's access to facilities and to academic or educational support programs, services, or activities, including, but not limited to, sports and other competitive endeavors. In addition, the compliance officer shall identify specific school site employee(s) to whom the student may report any problem related to the student's status as a transgender or gender-nonconforming individual, so that prompt action can be taken to address it. Alternatively, if appropriate and desired by the student, the school may form a support team for the student that will meet periodically to assess whether the arrangements for the student are meeting the student's educational needs and providing equal access to programs and activities, educate appropriate staff about the student's transition, and serve as a resource to the student to better protect the student from gender-based discrimination.

4. Accessibility to Sex-Segregated Facilities, Programs, and Activities: When the district maintains sex-segregated facilities, such as restrooms and locker rooms, or offers sex-segregated programs and activities, such as physical education classes, intermural sports, and interscholastic athletic programs, students shall be permitted to access facilities and participate in programs and activities consistent with their gender identity. To address any student's privacy concerns in using sex-segregated facilities, the district shall offer available options such as a gender-neutral or single-use restroom or changing area, a bathroom stall with a door, an area in the locker room separated by a curtain or screen, or use of the locker room before or after the other students. However, the district shall not require a student to utilize these options because the student is transgender or gender-nonconforming. In addition, a student shall be permitted to participate in accordance with the student's gender identity in other circumstances where students are separated by gender, such as for class discussions, yearbook pictures, and field trips. A student's right to participate in a sex-segregated activity in accordance with the student's gender identity shall not render invalid or inapplicable any other eligibility rule established for participation in the activity.

(cf. 6145 - Extracurricular and Cocurricular Activities)

(cf. 6145.2 - Athletic Competition)

(cf. 6153 - School-Sponsored Trips)

(cf. 7110 - Facilities Master Plan)

5. Student Records: A student's legal name or gender as entered on the mandatory student record required pursuant to 5 CCR 432 shall only be changed with proper documentation. When a student presents government-issued documentation of a name and/or gender change or submits a request for a name and/or gender change through the process specified in Education Code 49070, the district shall update the student's records. (Education Code 49062.5, 49070)

(cf. 5125 - Student Records)

(cf. 5125.1 - Release of Directory Information)

(cf. 5125.3 - Challenging Student Records)

6. Names and Pronouns: If a student so chooses, district personnel shall be required to address the student by a name and the pronoun(s) consistent with the student's gender identity, without the necessity of a court order or a change to the student's official district record. However, inadvertent slips or honest mistakes by district personnel in the use of the student's name and/or consistent pronouns will, in general, not constitute a violation of this administrative regulation or the accompanying district policy.

7. Uniforms/Dress Code: A student has the right to dress in a manner consistent with the student's gender identity, subject to any dress code adopted on a school site.

(cf. 5132 - Dress and Grooming)

Regulation SANTA ROSA CITY SCHOOLS

approved: January 10, 2019 Santa Rosa, California

revised: September 9, 2020

Santa Rosa City Schools

Administrative Regulation
Uniform Complaint Procedures

AR 1312.3
Community Relations

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.

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 1312.2 - Complaints Concerning Instructional Materials)
(cf. 1312.4 - Williams Uniform Complaint Procedures)
(cf. 4030 - Nondiscrimination in Employment)

Compliance Officers

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

(cf. 5145.3 - Nondiscrimination/Harassment)
(cf. 5145.7 - Sexual Harassment)

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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 he/she has a bias or conflict of interest that would prohibit him/her from fairly investigating or resolving the complaint. Any complaint against a compliance officer or that raises a concern about the compliance officer's ability to investigate the complaint fairly and without bias shall be filed with the Superintendent or designee who shall determine how the complaint will be investigated.

The Superintendent or designee shall ensure that employees assigned to investigate and resolve complaints receive training and are knowledgeable about the laws and programs at issue in the complaints to which they are assigned. Training provided to such employees shall 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.

(cf. 4331 - Staff Development)
(cf. 9124 - Attorney)

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)

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. The notification shall include information regarding the prohibition of discrimination, harassment, intimidation, and bullying; unlawful student fees; local control and accountability plan (LCAP) requirements; and requirements related to the educational rights of foster youth, homeless students, former juvenile court school students, and children of military families. (Education Code 262.3, 48853, 48853.5, 49010-49013, 49069.5, 51225.1, 51225.2, 52075; 5 CCR 4622)

(cf. 0420 - School Plans/Site Councils)
(cf. 0460 - Local Control and Accountability Plan)
(cf. 1220 - Citizen Advisory Committees)
(cf. 3260 - Fees and Charges)
(cf. 4112.9/4212.9/4312.9 - Employee Notifications)
(cf. 5145.6 - Parental Notifications)
(cf. 6173 - Education for Homeless Children)
(cf. 6173.1 - Education for Foster Youth)
(cf. 6173.2 - Education of Children of Military Families)
(cf. 6173.3 - Education for Juvenile Court School Students)

The notice shall:

1. Identify the person(s), position(s), or unit(s) responsible for receiving complaints

2. Advise the complainant of any civil law remedies that may be available to him/her under state or federal antidiscrimination laws, if applicable

3. Advise the complainant of the appeal process, including, if applicable, the complainant's right to take a complaint directly to the California Department of Education (CDE) or to pursue remedies before civil courts or other public agencies, such as the U.S. Department of Education's Office for Civil Rights (OCR) in cases involving unlawful discrimination (such as discriminatory harassment, intimidation, or bullying).

4. Include statements that:

a. The district has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs.

b. The complaint review shall be completed within 60 calendar days from the date of receipt of the

complaint unless the complainant agrees in writing to an extension of the timeline.

c. A complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) must be filed not later than six months from the date it occurred, or six months from the date the complainant first obtained knowledge of the facts of the alleged unlawful discrimination. The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension.

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

e. If a complaint is not filed in writing but the district receives notice of any allegation that is subject to the UCP, the district shall take affirmative steps to investigate and address the allegations, in a manner appropriate to the particular circumstances.

If the allegation involves retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) and the investigation confirms that discrimination has occurred, the district will take steps to prevent recurrence of discrimination and correct its discriminatory effects on the complainant, and on others, if appropriate.

f. A student enrolled in a public school shall not be required to pay a fee for his/her participation in an educational activity that constitutes an integral fundamental part of the district's educational program, including curricular and extracurricular activities.

g. The Board is required to adopt and annually update the LCAP in a manner that includes meaningful engagement of parents/guardians, students, and other stakeholders in the development and/or review of the LCAP.

h. A foster youth shall receive information about educational rights related to his/her educational placement, enrollment in and checkout from school, as well as the responsibilities of the district liaison for foster youth to ensure and facilitate these requirements and to assist the student in ensuring proper transfer of his/her credits, records, and grades when he/she transfers between schools or between the district and another district.

i. A foster youth, homeless student, former juvenile court school student, or child of a military family who transfers into a district high school or between district high schools as applicable shall be notified of the district's responsibility to:

(1) Accept any coursework or part of the coursework that the student has satisfactorily completed in another public school, juvenile court school, or a nonpublic, nonsectarian school or agency, and to issue full or partial credit for the coursework completed

(2) Not require the student to retake any course or a portion of a course which he/she has satisfactorily completed in another public school, juvenile court school, or a nonpublic, nonsectarian school or agency

(3) If the student has completed his/her second year of high school before the transfer, provide the student information about district-adopted coursework and Board-imposed graduation requirements from which he/she may be exempted pursuant to Education Code 51225.1

j. The complainant has a right to appeal the district's decision to CDE by filing a written appeal within 15 calendar days of receiving the district's decision.

In any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the respondent also shall have the right to file an appeal with CDE in the same manner as the

complainant, if he/she is dissatisfied with the district's decision.

k. The appeal to CDE must include a copy of the complaint filed with the district and a copy of the district's decision.

l. Copies of the district's UCP are available free of charge.

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.

(cf. 1113 - District and School Web Sites)
(cf. 1114 - District-Sponsored Social Media)

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

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

District Responsibilities

All UCP-related complaints shall be investigated and resolved within 60 calendar days of the district's receipt of the complaint unless the complainant agrees in writing to an extension of the timeline. (5 CCR 4631)

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

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

All parties involved in the allegations shall be notified when a complaint is filed and when a decision or ruling is made. However, the compliance officer shall keep all complaints or allegations of retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) confidential except when disclosure is necessary to carry out the investigation, take subsequent corrective action, conduct ongoing monitoring, or maintain the integrity of the process. (5 CCR 4630, 4964)

All complainants shall be protected from retaliation.

Filing of Complaints

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

All complaints shall be filed in writing and signed by the complainant. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, district staff shall assist him/her in the filing of the complaint. (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 the 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 requiring students to pay student fees, deposits, and charges or any requirement related to the LCAP may be filed anonymously if the complaint provides evidence, or information leading to evidence, to support an allegation of noncompliance. A complaint about a violation of the prohibition against the charging of unlawful student fees may be filed with the principal of the school or 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 a person who alleges that he/she personally suffered the unlawful discrimination or by a person who believes that an individual or any specific class of individuals has been subjected to it. The complaint shall be initiated no later than six months from the date when the alleged unlawful discrimination occurred, or six months from the date when the complainant first obtained knowledge of the facts of the alleged unlawful discrimination. The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension. (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 he/she is not the complainant, requests confidentiality, the compliance officer shall inform him/her that the request may limit the district's ability to investigate the conduct or take other necessary action. When honoring a request for confidentiality, the district shall nevertheless take all reasonable steps to investigate and resolve/respond to the complaint consistent with the request.

Mediation

Within three business days after the compliance officer receives the complaint, he/she 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 his/her investigation of the complaint.

The use of mediation shall not extend the district's timelines for investigating and resolving the 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 his/her representative with the opportunity to present the information contained in the complaint to the compliance officer and shall notify the complainant and/or his/her representative of the opportunity to present the compliance officer with any evidence, or information leading to evidence, to support the allegations in the complaint. Such evidence or information may be presented at any time during the investigation.

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

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

A complainant's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or engagement in any other obstruction of the investigation may result in the dismissal of the complaint because of a lack of evidence to support the allegation. Similarly, a respondent's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or engagement in any other obstruction of the investigation may result in a finding, based on evidence collected, that a violation has occurred and in the imposition of a remedy in favor of the complainant. (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 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)

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

Report of Findings

Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant, and respondent if there is one, 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)

The Board may consider the matter at its next regular Board meeting or at a special Board meeting convened in order to meet the 60-day time limit within which the complaint must be answered. When required by law, the matter shall be considered in closed session. The Board may decide not to hear the complaint, in which case the compliance officer's decision shall be final.

If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 60 calendar days of the district's initial receipt of the complaint or within the time period that has been specified in

a written agreement with the complainant. (5 CCR 4631)

In resolving any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying), the respondent also shall be sent the district's decision and, in the same manner as the complainant, may file a complaint with the Board if dissatisfied with the decision.

Final Written Decision

The district's decision on how it will resolve the complaint shall be in writing and shall be sent to the complainant and respondent. (5 CCR 4631)

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

For all complaints, the decision shall include: (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

e. The size of the school, location of the incidents, and context in which they occurred

f. Other incidents at the school involving different individuals

5. Corrective action(s), including any actions that have been taken or will be taken to address the allegations in the complaint and including, with respect to a student fees complaint, a remedy that comports with Education Code 49013 and 5 CCR 4600

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

a. The corrective actions imposed on the respondent

b. Individual remedies offered or provided to the complainant or another person who was the subject of the complaint, but this information should not be shared with the respondent.

c. Systemic measures the school has taken to eliminate a hostile environment and prevent recurrence

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

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

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

1. He/she may pursue available civil law remedies outside of the district's complaint procedures, including seeking assistance from mediation centers or public/private interest attorneys, 60 calendar days after the filing of an appeal with CDE. (Education Code 262.3)

2. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts 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 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

9. Determination of whether any past actions of the victim that resulted in discipline were related to the treatment the victim received and described in the complaint

For complaints involving retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), appropriate corrective actions that focus on a student offender may include, but are not limited to, the following:

1. Transfer from a class or school as permitted by law

2. Parent/guardian conference

3. Education regarding the impact of the conduct on others

4. Positive behavior support

5. Referral to a student success team

6. Denial of participation in extracurricular or co-curricular activities or other privileges as permitted by law

7. Disciplinary action, such as suspension or expulsion, as permitted by law

When an employee is found to have committed retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the district shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

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

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 of a complaint regarding any specified federal or state educational program subject to the UCP may file an appeal in writing with CDE within 15 calendar days of receiving the district's decision. (Education Code 222, 48853, 48853.5, 49013, 49069.5, 51223, 51225.1, 51225.2, 51228.3, 52075; 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, he/she, in the same manner as the complainant, may file an appeal with CDE.

The complainant or respondent 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)

Upon notification by CDE that the complainant or respondent has appealed the district's decision, 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

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 uniform complaint procedures

7. Other relevant information requested by CDE