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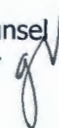


OAKLAND UNIFIED
SCHOOL DISTRICT

Community Schools, Thriving Students

Memo

To Board of Education

From Devin Dillon, Ph.D, Interim Superintendent
Seth Eckstein, Staff Attorney, Office of the General Counsel
Gabriel Valenzuela, Ombudsperson/Title IX Coordinator 

Board Meeting Date May 24, 2017

Subject Amendment to Board Policy BP 1312.3 – Uniform Complaint Procedures

Action Requested Approval of revisions to the Oakland Unified School District Board Policy BP 1312.3 – Uniform Complaint Procedures

Background The revisions to Board Policy 1312.3, address recent legislation that allow persons to file a Uniform Complaint regarding discriminatory harassment, intimidation or bullying as well as reasonable accommodations for lactating students, prohibitions against requiring students to pay fees, deposits or other charges, implementation of the LCAP (Local Control Accountability Act), foster youth placement decisions, awarding credit for homeless youth towards graduation requirements, prohibition of assignment of students to courses with no educational content, and noncompliance with physical education minutes.

Discussion The revisions bring our policy into compliance with state law. The revisions also meet the requirements of California Department of Education (CDE) Federal Program Monitoring compliance review which required that the district update our BP 1312.3: Uniform Complaint Procedures. We utilized the California School Boards Association (CSBA) sample policies for the recommended revisions.

The changes to the policy are shown on the attachments.

Recommendation Approval of modifications to the Oakland Unified School District Board Policy 1312.3: Uniform Complaint Procedures

Fiscal Impact Funding resource: no direct funding implications

Attachments

- Amendments to Board Policy BP 1312.3

OAKLAND UNIFIED SCHOOL DISTRICT
Office of General Counsel
APPROVED FOR FORM & SUBSTANCE

By: 
Attorney at Law

OAKLAND UNIFIED SCHOOL DISTRICT

Board Policy

BP 1312.3
Uniform Complaint Procedures

Community Relations

The Governing Board recognizes that the district has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs. The Board encourages the early, ~~informal~~ resolution of complaints whenever possible ~~and appropriate~~. To resolve complaints which may require a more formal process, cannot be resolved through such informal process, the Board shall adopt the a uniform system of complaint process specified in 5 CCR 4600-4670 and the accompanying administrative regulation.

The district's uniform complaint procedures (UCP) shall be used to investigate and resolve the following complaints:

1. Any complaint alleging district violation of applicable state or federal law or regulation governing adult education programs, agricultural vocational education, after school education and safety programs, migrant education, career technical and technical education and training programs, child care and development programs, state preschool, child nutrition programs, special education programs, consolidated categorical aid programs, bilingual education, programs for English learners, American Indian Education Centers, California Peer Assistance Review Program for Teachers, economic impact aid, Every Student Succeeds Acts (ESSA) – No Child Left Behind (NCLB), regional occupational centers and programs, compensatory education, school safety plans, tobacco- use prevention education (TUPE) and any other district-implemented program which is listed in Education Code 64000(a) migrant education, career technical education and training programs, child care and development programs, child nutrition programs and special education programs. (5 CCR 4610).

(cf. 3553 – Free and Reduced Price Meals)
(cf. 3555 – Nutrition Program Compliance)
(cf. 5141.4 – Child Abuse Prevention and Reporting)
(cf. 5148 – Child Care and Development)
(cf. 5148.2 – Before/After School Programs)
(cf. 6159 – Individualized Education Program)
(cf. 6171 – Title I Programs)

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Board Policy 1312.3: Uniform Complaint Procedures, Revised 5/22/13A, (Amendments 1/27/16A,)
[Pending Board Approval 5/24/17]

(cf. 6174 - Education for English Language Learners)
(cf. 6175 - Migrant Education Program)
(cf. 6178 - Career Technical Education)
(cf. 6178.1 - Work-Based Learning)
(cf. 6178.2 - Regional Occupational Center/ Program)
(cf. 6200- Adult Education)

2. Any complaint alleging the occurrence of unlawful discrimination, including (such as discriminatory harassment, intimidation, or bullying), against any student, employee or other person participating in district programs and activities, including, but not limited to, those programs and activities funded directly by or that receive or benefit from any state financial assistance, based on the person's ~~against any person based upon his/her~~ actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, ethnic group identification, age, religion, marital, or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code 200 or 220, Government Code 11135, or Penal Code 422.5, or based upon his/her association with a person or group with one or more of these actual or perceived characteristics (5 CCR 4610).

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 4030 - Nondiscrimination in Employment)
(cf. 4031 - Complaints Concerning Discrimination in Employment)

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

3. Any complaint alleging district noncompliance with the requirement to provide reasonable accommodation to a lactating student on school campus to express breast milk, breastfeed an infant child, or address other breastfeeding-related needs of the student (Education Code 222)

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

4. Any complaint alleging district noncompliance with the prohibition against requiring students to pay fees, deposits, or other charges for participation in educational activities (5 CCR 4610)

(cf. 3260 - Fees and Charges)

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

5. Any complaint alleging district noncompliance with legal requirements related to the implementation of the Local Control and Accountability Plan (LCAP) (Education Code 52075)

(cf. 0460 - Local Control and Accountability Plan)

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Board Policy 1312.3: Uniform Complaint Procedures, Revised 5/22/13A, (Amendments 1/27/16A,)
[Pending Board Approval 5/24/17]

6. Any complaint, by or on behalf of any student who is a foster youth, alleging district noncompliance with any legal requirement applicable to the student regarding placement decisions, the responsibilities of the district's educational liaison to the student, the award of credit for coursework satisfactorily completed in another school or district, school transfer, or the grant of an exemption from Board-imposed graduation requirements (Education Code 48853, 48853.5, 49069.5, 51225.1, 51225.2).

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(cf. 6173.1 - Education for Foster Youth)

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7. Any complaint, by or on behalf of a homeless student as defined in 42 USC 11434a, alleging district noncompliance with any requirement applicable to the student regarding the award of credit for coursework satisfactorily completed in another school or district or the grant of an exemption from Board-imposed graduation requirements (Education Code 51225.1, 51225.2)

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(cf. 6173 - Education for Homeless Children)

8. Any complaint alleging district noncompliance with the requirements of Education Code sections 51228.1 and 51228.2 that prohibit the assignment of a student to a course without educational content for more than one week in any semester or to a course the student has previously satisfactorily completed, without meeting specified conditions (Education Code 51228.3)

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(cf. 6152 - Class Assignment)

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

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3. Any complaint alleging bullying in district programs and activities, regardless of whether the bullying is based on a person's actual or perceived characteristics or race or ethnicity, color, ancestry, nationality, national origin, ethnic group identification, age, religion, marital or parent status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code 200 or 220, Government Code 11135 or Penal Code 422.55, or based on his/her association with a person or group with one or more of these actual or perceived characteristics.

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(cf. 5131.2 - Bullying)

4. Any complaint alleging district violation of the prohibition against requiring students to pay fees, deposits, or other charges for participation in educational activities (5 CCR 4610).

(cf. 3260 - Fees and Charges)

Board Policy 1312.3: Uniform Complaint Procedures, Revised 5/22/13A, (Amendments 1/27/16A,)
[Pending Board Approval 5/24/17]

(cf. Claims and Actions Against the District)

5. ~~Any complaint alleging that the district has not complied with legal requirements relation to the implementation of the local control accountability plan (Education Code 52075).~~

(cf. 0460—Local Control and Accountability Plan)

10. Any complaints alleging retaliation against a complainant or other participant in the complaint process or anyone who has acted to uncover or report a violation subject to this policy. The Board prohibits any form of retaliation against any complainant in the complaint process. Participation in the complaint process shall not in any way affect the status, grades, or work assignments of the complainant.

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7. 11. Any other complaint as specified in a district policy.

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The Board recognizes that alternative dispute resolution (ADR) can, depending on the nature of the allegations, offer a process to reach a resolution to the complainant that is agreeable to all parties. One type of ADR is mediation, which 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 sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. The Superintendent or designee shall ensure that the use of ADR is consistent with state and federal laws and regulations.

In filing and investigating complaints, the confidentiality of the parties involved shall be protected as required by law. As appropriate for any complaint alleging retaliation, unlawful discrimination, or bullying, the Superintendent or designee shall keep confidential the identity of the complainant and/or the subject of the complaint, if he/she is different from the complainant, as long as the integrity of the complaint process is maintained.

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

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When an allegation that is not the subject to the UCP is included in a UCP complaint, the district shall refer the non-UCP allegation to the appropriate staff or agency and shall investigate and if appropriate, resolve the UCP- related allegations(s) through the district's UCP.

The Superintendent or designee shall provide training to district staff to ensure awareness and knowledge of current law and related requirements, including steps and timelines specified in this policy and the accompanying administrative regulation.

(cf. 4131 – Staff Development)
(cf. 4231 – Staff Development)
(cf. 4331 – Staff Development)

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Board Policy 1312.3: Uniform Complaint Procedures, Revised 5/22/13A, (Amendments 1/27/16A,)
[Pending Board Approval 5/24/17]

The Superintendent or designee shall maintain records of all UCP complaints and the investigation of those complaints in accordance with applicable law and district policy. ~~All such records shall be destroyed in accordance with applicable state law and district policy.~~

(cf. 3580 – District Records)

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Non-UCP Complaints

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

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1. Any complaint alleging child abuse or neglect shall be referred to the County Department of Social Services, the County Protective Services Division, and the appropriate law enforcement agency.
2. Any complaint alleging health and safety violations by a child development program shall, for licensed facilities, be referred to Department of Social Services and shall, for licensing-exempt facilities, be referred to the appropriate Child Development regional administrator.
3. Any complaint alleging fraud shall be referred to the California Department of Education.
4. As per Board Policy 5144.1 – Suspension and Expulsion / Due Process,: As of July 1, -2016, the Superintendent shall develop a complaint form to allow members of the school community and public to raise concerns if restorative justice or another restorative approach is not available at a school site as an alternative to suspension. The complaint form will be available on the District’s website, the District Discipline Office and the District Ombudsperson’s Office. The Ombudsperson shall investigate such complaints and within 90 days of complaint submission develop a plan with the school site for addressing the complaint and provide a written response to the complaining party.

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~~The Board prohibits any form of retaliation against any complainant in the complaint process. Participation in the complaint process shall not in any way affect the status, grades, or work assignments of the complainant.~~

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The Board encourages the early, informal resolution of complaints at the site level whenever possible.

Board Policy 1312.3: Uniform Complaint Procedures, Revised 5/22/13A, (Amendments 1/27/16A,)
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In addition, the district's Williams Uniform Complaint Procedures, AR 1312.4, shall be used to investigate and resolve any complaint related to the sufficiency of textbooks or instructional materials, emergency or urgent facilities conditions that pose a threat to the health and safety of students or staff; or teacher vacancies and misassignments. (Education Code 35186)

(cf. 1312.4 - Williams Uniform Complaint Procedures)

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With the exception of pupil fee complaints, which may be filed withing one (1) year of the alleged violation; all other uniform complaints must be filed no later than six (6) months after the alleged occurrence.

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

222 Reasonable accommodations; lactating students

8200-8498 Child care and development programs

8500-8538 Adult basic education

18100-18203 School libraries

32289 School safety plan, uniform complaint procedures

35186 Williams uniform complaint procedures

48853-48853.5 Foster youth

48985 Notices in language other than English

49010-49013 Student fees

49060-49079 Student records

49069.5 Rights of parents

49490-49590 Child nutrition programs

51210 Courses of study grades 1-6

51223 Physical education, elementary schools

51225.1-51225.2 Foster youth and homeless education; course credits; graduation requirements

51228.1-51228.3 Course periods without educational content

52060-52077 – Local control accountability plan, especially

52075 Complaint for lack of compliance with local control and accountability plan requirements

52160-52178 Bilingual education programs

52300-52490 Career technical education

52500-52616.24 Adult schools

52800-52870 School-based program coordination

54400-54425 Compensatory education programs

54440-54445 Migrant education

54460-54529 Compensatory education programs

56000-56867 Special education programs

59000-59300 Special schools and centers

64000-64001 Consolidated application process

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GOVERNMENT CODE

11135 Nondiscrimination in programs or activities funded by state

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Board Policy 1312.3: Uniform Complaint Procedures, Revised 5/22/13A, (Amendments 1/27/16A,)

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12900-12996 Fair Employment and Housing Act

PENAL CODE

422.55 Hate crime; definition

422.6 Interference with constitutional right or privilege

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CODE OF REGULATIONS, TITLE 5

3080 Application of section

4600-4687 Uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

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UNITED STATES CODE, TITLE 20

1221 Application of laws

1232g Family Educational Rights and Privacy Act

1681-1688 Title IX of the Education Amendments of 1972

6301-6577 Title I basic programs

6801-6871 Title III language instruction for limited English proficient and immigrant students

7101-7184 Safe and Drug-Free Schools and Communities Act

7201-7283g Title V promoting informed parental choice and innovative programs

7301-7372 Title V rural and low-income school programs

12101-12213 Title II equal opportunity for individuals with disabilities

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UNITED STATES CODE, TITLE 29

794 Section 504 of Rehabilitation Act of 1973

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.67 Family Educational Rights and Privacy Act

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

104.7 Designation of responsible employee for Section 504

106.8 Designation of responsible employee for Title IX

106.9 Notification of nondiscrimination on basis of sex

110.25 Notification of nondiscrimination on the basis of age

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Management Resources:

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

Dear Colleague Letter: Title IX Coordinators, April 2015

Questions and Answers on Title IX and Sexual Violence, April 2014

Dear Colleague Letter: Bullying of Students with Disabilities, August 2013

Dear Colleague Letter: Sexual Violence, April 2011

Dear Colleague Letter: Harassment and Bullying, October 2010

Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001

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U.S. DEPARTMENT OF JUSTICE PUBLICATIONS

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Board Policy 1312.3: Uniform Complaint Procedures, Revised 5/22/13A, (Amendments 1/27/16A,)

[Pending Board Approval 5/24/17]

Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 2002

WEB SITES

CSBA: <http://www.csba.org>
California Department of Education: <http://www.cde.ca.gov>
Family Policy Compliance Office: <http://familypolicy.ed.gov>
U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/ocr>
U.S. Department of Justice: <http://www.justice.gov>

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Management Resources:

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATION
Questions and Answers on Title IX and Sexual Violence, April 2014
Dear Colleague Letter: Bullying of Students with Disabilities, August 2013
Dear Colleague Letter, Sexual Violence, April 2011
Dear Colleague Letter, Harassment and Bullying, October 2010
Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students or Third Parties, January 2001

WEB SITES

CSBA: <http://www.csba.org>
California Department of Education: <http://www.cde.ca.gov>
U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr>

11/17/04, 11/18/09A; 10/26/11A; 05/22/13A, ~~A-01/277/16A~~ — Pending Board Approval),
[Pending Board Approval 5/24/17]

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Board Policy 1312.3: Uniform Complaint Procedures, ~~Revised 5/22/13A, (Amendments 1/27/16A,)~~
[Pending Board Approval 5/24/17]

OAKLAND UNIFIED SCHOOL DISTRICT

Board Policy

BP 1312.3

Uniform Complaint Procedures

Community Relations

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(cf. 3553 – Free and Reduced Price Meals)
(cf. 3555 – Nutrition Program Compliance)
(cf. 5141.4 – Child Abuse Prevention and Reporting)
(cf. 5148 – Child Care and Development)
(cf. 5148.2 – Before/After School Programs)
(cf. 6159 – Individualized Education Program)
(cf. 6171 – Title I Programs)
(cf. 6174 – Education for English Language Learners)
(cf. 6175 – Migrant Education Program)
(cf. 6178 – Career Technical Education)
(cf. 6178.1 – Work-Based Learning)
(cf. 6178.2 – Regional Occupational Center/ Program)
(cf. 6200- Adult Education)

Board Policy 1312.3: Uniform Complaint Procedures, 5/22/13A, 1/27/16A, [Pending Board Approval
5/24/17]

2. Any complaint alleging the occurrence of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) against any student, employee or other person participating in district programs and activities, including, but not limited to, those programs and activities funded directly by or that receive or benefit from any state financial assistance, based on the person's actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, ethnic group identification, age, religion, marital, or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code 200 or 220, Government Code 11135, or Penal Code 422.5, or based upon his/her association with a person or group with one or more of these actual or perceived characteristics (5 CCR 4610).

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

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

3. Any complaint alleging district noncompliance with the requirement to provide reasonable accommodation to a lactating student on school campus to express breast milk, breastfeed an infant child, or address other breastfeeding-related needs of the student (Education Code 222)

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

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(cf. 3260 - Fees and Charges)

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

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(cf. 0460 - Local Control and Accountability Plan)

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(cf. 6173.1 - Education for Foster Youth)

7. Any complaint, by or on behalf of a homeless student as defined in 42 USC 11434a, alleging district noncompliance with any requirement applicable to the student regarding the award of

Board Policy 1312.3: Uniform Complaint Procedures, 5/22/13A, 1/27/16A, [Pending Board Approval
5/24/17]

credit for coursework satisfactorily completed in another school or district or the grant of an exemption from Board-imposed graduation requirements (Education Code 51225.1, 51225.2)

(cf. 6173 - Education for Homeless Children)

8. Any complaint alleging district noncompliance with the requirements of Education Code sections 51228.1 and 51228.2 that prohibit the assignment of a student to a course without educational content for more than one week in any semester or to a course the student has previously satisfactorily completed, without meeting specified conditions (Education Code 51228.3)

(cf. 6152 - Class Assignment)

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

(cf. 6142.7 - Physical Education and Activity)

10. Any complaints alleging retaliation against a complainant or other participant in the complaint process or anyone who has acted to uncover or report a violation subject to this policy. The Board prohibits any form of retaliation against any complainant in the complaint process. Participation in the complaint process shall not in any way affect the status, grades, or work assignments of the complainant.
11. Any other complaint as specified in a district policy.

The Board recognizes that alternative dispute resolution (ADR) can, depending on the nature of the allegations, offer a process to reach a resolution to the complainant that is agreeable to all parties. One type of ADR is mediation, which 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 sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. The Superintendent or designee shall ensure that the use of ADR is consistent with state and federal laws and regulations.

In filing and investigating complaints, the confidentiality of the parties involved shall be protected as required by law. As appropriate for any complaint alleging retaliation, unlawful discrimination, or bullying, the Superintendent or designee shall keep confidential the identity of the complainant and/or the subject of the complaint, if he/she is different from the complainant, as long as the integrity of the complaint process is maintained.

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

When an allegation that is not the subject to the UCP is included in a UCP complaint, the district shall refer the non-UCP allegation to the appropriate staff or agency and shall investigate and if

Board Policy 1312.3: Uniform Complaint Procedures, 5/22/13A, 1/27/16A, [Pending Board Approval
5/24/17]

appropriate, resolve the UCP- related allegations(s) through the district's UCP.

The Superintendent or designee shall provide training to district staff to ensure awareness and knowledge of current law and related requirements, including steps and timelines specified in this policy and the accompanying administrative regulation.

(cf. 4131 – Staff Development)

(cf. 4231 – Staff Development)

(cf. 4331 – Staff Development)

The Superintendent or designee shall maintain records of all UCP complaints and the investigation of those complaints in accordance with applicable law and district policy.

(cf. 3580 – District Records)

Non-UCP Complaints

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

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2. Any complaint alleging health and safety violations by a child development program shall, for licensed facilities, be referred to Department of Social Services and shall, for licensing-exempt facilities, be referred to the appropriate Child Development regional administrator.
3. Any complaint alleging fraud shall be referred to the California Department of Education.
4. As per Board Policy 5144.1 – Suspension and Expulsion / Due Process, As of July 1, 2016, the Superintendent shall develop a complaint form to allow members of the school community and public to raise concerns if restorative justice or another restorative approach is not available at a school site as an alternative to suspension. The complaint form will be available on the District's website, the District Discipline Office and the District Ombudsperson's Office. The Ombudsperson shall investigate such complaints and within 90 days of complaint submission develop a plan with the school site for addressing the complaint and provide a written response to the complaining party.

The Board encourages the early, informal resolution of complaints at the site level whenever possible.

In addition, the district's Williams Uniform Complaint Procedures, AR 1312.4, shall be used to investigate and resolve any complaint related to the sufficiency of textbooks or instructional

Board Policy 1312.3: Uniform Complaint Procedures, 5/22/13A, 1/27/16A, [Pending Board Approval

5/24/17]

materials, emergency or urgent facilities conditions that pose a threat to the health and safety of students or staff; or teacher vacancies and misassignments. (Education Code 35186)

(cf. 1312.4 - Williams Uniform Complaint Procedures)

With the exception of pupil fee complaints, which may be filed within one (1) year of the alleged violation; all other uniform complaints must be filed no later than six (6) months after the alleged occurrence.

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination
222 Reasonable accommodations; lactating students
8200-8498 Child care and development programs
8500-8538 Adult basic education
18100-18203 School libraries
32289 School safety plan, uniform complaint procedures
35186 Williams uniform complaint procedures
48853-48853.5 Foster youth 48985 Notices in language other than English
49010-49013 Student fees
49060-49079 Student records
49069.5 Rights of parents
49490-49590 Child nutrition programs
51210 Courses of study grades 1-6
51223 Physical education, elementary schools
51225,1-51225,2 Foster youth and homeless education; course credits; graduation requirements
51228.1-51228.3 Course periods without educational content
52060-52077 Local control accountability plan, especially
52075 Complaint for lack of compliance with local control and accountability plan requirements
52160-52178 Bilingual education programs
52300-52490 Career technical education
52500-52616.24 Adult schools
52800-52870 School-based program coordination
54400-54425 Compensatory education programs
54440-54445 Migrant education
54460-54529 Compensatory education programs
56000-56867 Special education programs
59000-59300 Special schools and centers
64000-64001 Consolidated application process

GOVERNMENT CODE

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

PENAL CODE

422.55 Hate crime; definition
422.6 Interference with constitutional right or privilege

CODE OF REGULATIONS, TITLE 5

Board Policy 1312.3: Uniform Complaint Procedures, 5/22/13A, 1/27/16A, [Pending Board Approval
5/24/17]

3080 Application of section
4600-4687 Uniform complaint procedures
4900-4965 Nondiscrimination in elementary and secondary education programs

UNITED STATES CODE, TITLE 20

1221 Application of laws
1232g Family Educational Rights and Privacy Act
1681-1688 Title IX of the Education Amendments of 1972
6301-6577 Title I basic programs
6801-6871 Title III language instruction for limited English proficient and immigrant students
7101-7184 Safe and Drug-Free Schools and Communities Act
7201-7283g Title V promoting informed parental choice and innovative programs
7301-7372 Title V rural and low-income school programs
12101-12213 Title II equal opportunity for individuals with disabilities

UNITED STATES CODE, TITLE 29

794 Section 504 of Rehabilitation Act of 1973

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.67 Family Educational Rights and Privacy Act
100.3 Prohibition of discrimination on basis of race, color or national origin
104.7 Designation of responsible employee for Section 504
106.8 Designation of responsible employee for Title IX
106.9 Notification of nondiscrimination on basis of sex
110.25 Notification of nondiscrimination on the basis of age

Management Resources:

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

Dear Colleague Letter: Title IX Coordinators, April 2015

Questions and Answers on Title IX and Sexual Violence, April 2014

Dear Colleague Letter: Bullying of Students with Disabilities, August 2013

Dear Colleague Letter: Sexual Violence, April 2011

Dear Colleague Letter: Harassment and Bullying, October 2010

Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001

Management Resources continues: (see next page)

Management Resources: (continued)

U.S. DEPARTMENT OF JUSTICE PUBLICATIONS

Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 2002

WEB SITES

CSBA: <http://www.csba.org>

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

Board Policy 1312.3: Uniform Complaint Procedures, 5/22/13A, 1/27/16A, [Pending Board Approval
5/24/17]

*Family Policy Compliance Office: <http://familypolicy.ed.gov>
U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/ocr>
U.S. Department of Justice: <http://www.justice.gov>*

11/17/04, 11/18/09A; 10/26/11A; 05/22/13A, 1/27/16A , [Pending Board Approval 5/24/17]

Board Policy 1312.3: Uniform Complaint Procedures, 5/22/13A, 1/27/16A, [Pending Board Approval
5/24/17]

OAKLAND UNIFIED SCHOOL DISTRICT
Administrative Regulation

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AR 1312.3
Uniform Complaint Procedures

Community Relations

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Except as the Governing Board may otherwise specifically provide in other Board policies, these **general** uniform complaint procedures (UCP) shall be used only 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+ - ~~Complaints Concerning Discrimination in Employment~~)

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I. Compliance Officers

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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 the AR 5145.3 – Nondiscrimination/Harassment as the responsible employee to handle complaints alleging unlawful discrimination sex (such as discriminatory harassment, intimidation, or bullying). discrimination. The individual(s) shall receive and coordinate the investigation of complaints and shall ensure compliance with the law.

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

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Gabriel Valenzuela
Ombudsperson
Office of the Ombudsperson
-1000 Broadway, 1st Floor, Suite 150

Oakland, California 94607
(510) 879-4281
FAX (510) 879-3678
Email: Gabriel.Valenzuela@ousd.org

The Ombudsperson is responsible for the intake and monitoring of all Uniform Complaints. The Ombudsperson is also responsible for investigating complaints regarding discrimination (filed by a parent or students) as well as Uniform Complaints concerning the program for English Language Learners (ELL) and retaliation for, or interference with, ELL Program advocacy.

As per Board Policy 5144.1 – Suspension and Expulsion / Due Process;: As of July 1, 2016, the Superintendent shall develop a complaint form to allow members of the school community and public to raise concerns, if restorative justice or another restorative approach is not available at a school site as an alternative to suspension. The complaint form will be available on the District’s website, the District Discipline Office and the District Ombudsperson’s Office. The Ombudsperson shall investigate such complaints and within 90 days of complaint submission develop a plan with the school site for addressing the complaint and provide a written response to the complaining party.

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Tara Gard, Aaron Townsend Deputy Chief
Talent Management Division
1000 Broadway, 2nd Floor, Suite 295

Oakland, CA 94608
(510) 879-8852 0159
FAX (510) 879-0228
Email: Tara.GardAaron.Townsend@ousd.org

~~The Deputy Chief of Talent Management or his/her designee, is The EEO/Reasonable Accommodations & Leaves Specialist will be responsible for investigating complaints alleging discrimination in employment in accordance with BP/AR 4030 – Nondiscrimination in Employment and AR 4031-Complaints Concerning Discrimination in Employment. School personnel shall take immediate steps to intervene, when it is safe to do so, and when he or she witnesses an act of discrimination, harassment, intimidation or bullying.~~

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Barbara Parker
Health Services/Section 504 Coordinator
Community Schools & Student Services

1000 Broadway, 1st Floor, Suite 150
Oakland, CA 94607
(510) 879-2365
FAX (510) 879-4605
Email: 504@ousd.k12.ca.us

The Section 504 Coordinator is responsible for coordinating program modifications for students with disabilities covered under Section 504 of the Rehabilitation Act of 1973 and also investigates complaints concerning Section 504.

The compliance officer who received 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 designated to investigate assigned to the complaint.

In no instance shall a compliance officer be designated to investigate a complaint ~~if in which~~ he/she is ~~mentioned in the complaint~~ a subject in the complaint or has a conflict of interest that would prohibit him/her from fairly investigating or resolving the complaint. Any complaint ~~filed against or implicating a compliance officer that raises a concern about the compliance officer's ability to investigate the complaint fairly~~ shall ~~may~~ be filed with the Superintendent or designee who shall determine how the complaint will be investigated.

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Other complaints will be routed to the appropriate school site administrator, department director or to the Superintendent's designee for investigation.

The Superintendent or designee shall ensure that employees ~~designated~~ designated to investigate and resolve complaints receive training and are knowledgeable about the laws and programs for which they are responsible at issue in the complaints to which they are assigned. Training provided to such designated employees shall include 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. Designated Designated employees may have access to legal counsel as determined by the Superintendent or designee.

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[▲] *(cf. 4331 – Staff Development)*
(cf. 9124 - Attorney)

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[▲] The compliance officer or, if necessary, any appropriate administrator shall determine whether interim measures are necessary, during and pending the results 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, if possible, one or more of the interim measures. The interim measures may 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.

II. Notifications

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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 section 234.1)

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The Superintendent or designee shall annually provide written notification of the district's uniform complaint procedures (UCP), including information regarding unlawful student fees, local control and accountability plan (LCAP) requirements, and requirements related to the educational rights of foster youth and homeless students, to students, employees, parents/guardians, the district advisory committee,

school advisory committees, appropriate private school officials or representatives, and other interested parties. (Education Code [sections 262.3, 48853, 48853.5, 49013, 49069.5, 51225.1, 51225.2, 52075 49013](#); 5 CCR 4622)

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(cf. 0420 - School Plans/Site Councils)

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(cf. 0460 - Local Control and Accountability Plan)

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(cf. 1220 - Citizen Advisory Committees)

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(cf. 3260 - Fees and Charges)

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

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(cf. 5145.6 - Parental Notifications)

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(cf. 6173 - Education for Homeless Children)

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(cf. 6173.1 - Education for Foster Youth)

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The annual notification and complete contact information of the compliance officer(s) may be posted on the district web site and, if available, provided through district-supported social media.

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(cf. 1113 - District and School Web Sites)

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(cf. 1114 - District-Sponsored Social Media)

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The Superintendent or designee shall ensure that all students and parent/ 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.

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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 the that language, in accordance with Education Code [sections 234.1 and 438985](#). In all other instances, the district shall ensure meaningful access to all relevant UCP information for parents/ guardians with limited English proficiency.

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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 nondiscrimination 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.a.s. Department of Education's Office for Civil Rights (OCR) in cases involving unlawful discrimination (such as discriminatory harassment, intimidation or bullying).

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4. Include statements that:
- 4.

Administrative Regulation 1312.3: Uniform Complaint Procedures (~~Revised 5/22/13~~ Pending Board Approval 1/27/16 [1/27/16A, 5/24/17 - Pending approval])

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

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a.

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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.

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b.

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A complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) must be filed not later than six (6) 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 reason for the extension.

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c.

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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.

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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 reveals 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 education program, including curricular and extracurricular activities.

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a:

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

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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

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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.

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i. A foster youth or homeless student who transfers into a district high school or between district high schools shall be notified of the district's responsibility to:

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(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

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(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

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(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 section 51225.1

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b.

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

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

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

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III. 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)

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.

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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); ~~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)

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IV. Filing of Complaints

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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.

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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)

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All complaints shall also be filed in accordance with the following rules, as applicable:

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1. A ~~written~~ complaint alleging district violation of applicable state or federal law or regulations governing adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and training programs, child care and development programs, child nutrition programs, and special education programs may be filed by any individual, public agency, or organization. (5 CCR 4630)

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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 (1) year from the date the alleged violation occurred. (Education Code sections 49013, 52075; 5 CCR 4630) (Education Code 49013, 52075)

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3. A complaint alleging unlawful discrimination (~~including~~ discriminatory harassment, intimidation,

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~~or bullying~~), may be filed only by a person who alleges that he/she personally suffered unlawful discrimination or by a person who believes that an individual or any specific class

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of individuals has been subjected to it. ~~The complaint shall be initiated no later than The complaint shall be initiated no later than~~ six months from the date when the alleged discrimination occurred, or six months from the date when the complainant first obtained knowledge of the facts of the alleged 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)

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4. When a complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) ~~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.

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5. When the complainant ~~ant or alleged victim or alleged victim~~ 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 will nevertheless take all reasonable steps to investigate and respond to the complaint consistent with the request.

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6. 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)

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Mediation

V. Mediation

Within ten (10) 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 asexual 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.

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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.

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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 to through the mediation. If mediation is unsuccessful, the district shall then continue with subsequent steps specified in this administrative regulation.

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-Investigation of Complaint

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

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Within five business days 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 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.

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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.

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.

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To resolve a complaint alleging retaliation, unlawful discrimination, or bullying, the compliance officer shall interview the alleged victim(s), any alleged offenders, and other relevant witnesses privately,

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separately, and in a confidential manner. As necessary, additional staff or legal counsel may conduct or support the investigation.

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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)

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(5 CCR 4631)

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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)

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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.

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VII. Report of Findings

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Response

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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 -of the district's investigation and decision, as described in the section "Final Written Decision" below, within 45 calendar days of the district's receipt of the complaint. (5 CCR 4631)

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Level II Appeal

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A complaint not satisfactorily resolved at Level I may be appealed to the Superintendent or designee in writing by the complainant within five (5) calendar days of receipt of the Level I response. The appeal form shall be filed with the Office of the Ombudsperson. The appeal can only include the allegations outlined in the Level I Complaint. New allegations cannot be included in the Level II Appeal.

Upon receiving the appropriately completed appeal form from the complainant, the Superintendent or designee shall:

1. Notify the employee(s) to whom the complaint was directed.
2. Investigate the appeal. This may include the following steps:
 - a. Review the appeal filed by the complainant
 - b. Review documents from the Level I investigation
 - c. Conduct additional interviews as necessary
 - d. Allow both parties to discuss complaint, Level I decision, or question each other, except for discrimination or sexual harassment complaints.
3. Respond in writing to the complainant within ten (10) calendar days after receipt of appeal, including a resolution.
4. Notify the employee(s) of the resolution.

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Except for the Uniform Complaint Procedures categories listed on pages 1-2 (#1, #2) following cases which may be appealed to the CDE, the District's appeal decision shall be final.;

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In resolving any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying), the respondent also shall be sent the district's decision.

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VIII. Final Written Decision

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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 that may be involved in implementing the decision or affected by the complaint, as long as the privacy of the parties is protected.

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

Administrative Regulation 1312.3: Uniform Complaint Procedures (~~Revised 5/22/13 Pending Board Approval 1/27/16~~ [1/27/16A, 5/24/17 – Pending approval])—

English, then the decision shall also be translated into that language. In other 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. ~~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

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For complaints of retaliation or unlawful discrimination ~~(such as including~~ 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.

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The determination of whether a hostile environment exists may involve consideration of the following:

- a. ~~a.~~ How the misconduct affected one or more students' education

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AR 1312.3(1)

Administrative Regulation 1312.3: Uniform Complaint Procedures ~~(Revised 5/22/13 Pending Board Approval 1/27/16 [1/27/16A, 5/24/17 - Pending approval]~~

UNIFORM COMPLAINT PROCEDURES (continued)

- 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

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5. Corrective action(s), to the extent permitted by law, 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.

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For complaints of unlawful discrimination (~~such as, including~~ discriminatory harassment, intimidation, or bullying), the ~~decision notice~~ may, to the extent permitted by law, as required by law, include:

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- a. ~~The corrective actions imposed on the individual found to have engaged in the conduct that related directly to the subject of the complaint. individual found to have engaged in the conduct that relate directly to the subject of the complaint~~
- b. Individual remedies offered or provided to the subject of the complaint.

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

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- ~~6.6.~~ Notice of the complainant's ~~right~~ to appeal the district's ~~decision~~ within 15 calendar days to the CDE and procedures to be followed for initiating such an appeal

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

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For complaints alleging unlawful discrimination based on state law (~~including such as~~ discriminatory harassment, intimidation, and bullying), ~~based on state law~~, 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

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Administrative Regulation 1312.3: Uniform Complaint Procedures (~~Revised 5/22/13 Pending Board Approval 1/27/16 [1/27/16A, 5/24/17 – Pending approval]~~)

calendar days after the filing of an appeal with the CDE. (Education Code [section 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 [section 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.

IX. Corrective Actions

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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 corrective actions that may be offered to the victim, but not communicated to the respondent may include focus on the victim 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.

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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:

~~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

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

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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 (~~including~~ discriminatory harassment, intimidation, or bullying), that the district does not tolerate it, and how to report and respond to it.

~~If a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges 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. (Education Code 49013, 52075)~~

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If a public school or District finds merit in a pupil fees, LCAP and/or Course Period without Educational Content complaint, the public school or District shall provide a remedy. Specifically, in Course Period without Educational Content complaints, the remedy shall go to the affected pupil. In LCAP and pupil fee complaints, the remedy shall go to all affected pupils, parents and guardians, which in the case of pupil fees, also includes reasonable efforts by the public school or District to ensure full reimbursement to all

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affected pupils, parents and guardians subject to procedures established through regulations adopted by the State Board of Education. (Education Code sections 49013, 51228.3(c), 51223, 52075).

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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. Such remedies, where applicable, shall include reasonable efforts to ensure full reimbursement to affected students and parents/guardians. (Education Code sections 49013; 5 CCR 4600)

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X. Appeals to the California Department of Education

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Any complainant who is dissatisfied with the district's final written decision may file an appeal in writing with the CDE within 15 calendar days of receiving the district's decision. (Education Code sections 222, 48853, 48853.5, 49013, 49069.5, 51223, 51225.1, 51225.2, 51228.3, 52075; 5 CCR 4632)

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The complainant shall specify the basis for the appeal of the decision and whether the facts are incorrect and/or the law has been misapplied. The appeal shall be accompanied by a copy of the locally filed complaint and a copy of the district's decision. (5 CCR 4632)

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

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

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Administrative Regulation 1312.3: Uniform Complaint Procedures (Revised 5/22/13 Pending Board Approval 1/27/16 [1/27/16A, 5/24/17 - Pending approval])

6. A copy of the district's uniform complaint procedures
7. Other relevant information requested by the CDE

The CDE may directly intervene in a complaint without waiting for action by the district when one of the conditions listed in 5 CCR 4650 exists, including cases in which the district has not taken action within 60 calendar days of the date the complaint was filed with the district. (5 CCR 4650)

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XI. Civil Law Remedies

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A complainant may pursue available civil law remedies outside of the district's complaint procedures. Complainants may seek assistance from mediation centers or public/private interest attorneys. Civil law remedies that may be imposed by a court include, but are not limited to, injunctions and restraining orders.

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For complaints alleging unlawful discrimination (such as discriminatory, harassment, intimidation, and bullying) based on state law, a complainant shall wait until 60 calendar days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies, provided the district has appropriately and in a timely manner apprised the complainant of his/her right to file a complaint in accordance with 5 CCR 4622. The moratorium does not apply to injunctive relief and to discrimination complaints based on federal law. (Education Code 262.3)

11/17/04A; 11/18/09A; 10/26/11A; 05/22/13A, 01/27/16A, DRAFT 12/13/16A

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OAKLAND UNIFIED SCHOOL DISTRICT
Administrative Regulation

AR 1312.3
Uniform Complaint Procedures

Community Relations

Except as the Governing Board may otherwise specifically provide in other Board policies, these uniform complaint procedures (UCP) shall be used only 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 - Discrimination in Employment)

I. 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 the AR 5145.3 – Nondiscrimination/Harassment as the responsible employee to handle complaints alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying). The individual(s) shall receive and coordinate the investigation of complaints and shall ensure compliance with the law.

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

Gabriel Valenzuela
Ombudsperson
Office of the Ombudsperson
1000 Broadway, 1st Floor, Suite 150Oakland, California 94607
(510) 879-4281
FAX (510) 879-3678
Email: Gabriel.Valenzuela@ousd.org

The Ombudsperson is responsible for the intake and monitoring of all Uniform Complaints. The Ombudsperson is also responsible for investigating complaints regarding discrimination (filed by a parent or students) as well as Uniform Complaints concerning the program for English Language Learners (ELL) and retaliation for, or interference with, ELL Program advocacy.

As per Board Policy 5144.1 – Suspension and Expulsion / Due Process: As of July 1, 2016, the Superintendent shall develop a complaint form to allow members of the school community and public to
Administrative Regulation 1312.3: Uniform Complaint Procedures [1/27/16A, 5/24/17 – Pending approval] 1

raise concerns, if restorative justice or another restorative approach is not available at a school site as an alternative to suspension. The complaint form will be available on the District's website, the District Discipline Office and the District Ombudsperson's Office. The Ombudsperson shall investigate such complaints and within 90 days of complaint submission develop a plan with the school site for addressing the complaint and provide a written response to the complaining party.

Tara Gard, Deputy Chief
Talent Management Division
1000 Broadway, 2nd Floor, Suite 295
Oakland, CA 94608
(510) 879-8852
FAX (510) 879-0228
Email: Tara.Gard@ousd.org

The Deputy Chief of Talent Management or his/her designee, is responsible for investigating complaints alleging discrimination in employment in accordance with BP/AR 4030 – Nondiscrimination in Employment and AR 4031- Complaints Concerning Discrimination in Employment School personnel shall take immediate steps to intervene, when it is safe to do so, and when he or she witnesses an act of discrimination, harassment, intimidation or bullying.

Barbara Parker
Health Services/Section 504 Coordinator
Community Schools & Student Services
1000 Broadway, 1st Floor, Suite 150
Oakland, CA 94607
(510) 879-2365
FAX (510) 879-4605
Email: 504@ousd.k12.ca.us

The Section 504 Coordinator is responsible for coordinating program modifications for students with disabilities covered under Section 504 of the Rehabilitation Act of 1973 and also investigates complaints concerning Section 504.

The compliance officer who received 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 designated to investigate a complaint in which he/she a subject in the complaint or has a conflict of interest that would prohibit him/her from fairly investigating or resolving the complaint. Any complaint that raises a concern about the compliance officer's ability to investigate the complaint fairly shall be filed with the Superintendent or designee who shall determine how the complaint will be investigated.

Other complaints will be routed to the appropriate school site administrator, department director or to the Superintendent's designee for investigation.

The Superintendent or designee shall ensure that employees designated 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 designated employees shall include 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. Designated 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 results 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, if possible, one or more of the interim measures. The interim measures may 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.

II. 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 section 234.1)

The Superintendent or designee shall annually provide written notification of the district's uniform complaint procedures (UCP), including information regarding unlawful student fees, local control and accountability plan (LCAP) requirements, and requirements related to the educational rights of foster youth and homeless students, to students, employees, parents/guardians, the district advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties. (Education Code sections 262.3, 48853.48853.5, 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)

The annual notification and complete contact information of the compliance officer(s) may be posted on the district web site and, if available, provided through district-supported social media.

Administrative Regulation 1312.3: Uniform Complaint Procedures [1/27/16A, 5/24/17 – Pending approval]

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

The Superintendent or designee shall ensure that all students and parent/ 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 sections 234.1 and 438985. In all other instances, the district shall ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

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 nondiscrimination 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 (6) 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 reason 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 reveals 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 education program, including curricular and extracurricular activities.
- g. The Board is required to adopt and annually update the Local Control and Accountability Plan (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 or homeless student who transfers into a district high school or between district high schools 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 section 51225.1

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

III. 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)

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)

IV. 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 adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and training programs, child care and development programs, child nutrition programs, and special education programs 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 (1) year from the date the alleged violation occurred. (Education Code sections 49013, 52075; 5 CCR 4630)
3. A complaint alleging unlawful discrimination (discriminatory harassment, intimidation, or bullying) may be filed only by a person who alleges that he/she personally suffered 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 discrimination occurred, or six months from the date when the complainant first obtained knowledge of the facts of the alleged 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 or alleged victim 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 will nevertheless take all reasonable steps to investigate and respond to the complaint consistent with the request.
6. 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)

V. Mediation

Within ten (10) 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 asexual 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,

Administrative Regulation 1312.3: Uniform Complaint Procedures [1/27/16A, 5/24/17 – Pending approval] 7

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 to through the mediation. If mediation is unsuccessful, the district shall then continue with subsequent steps specified in this administrative regulation.

VI. 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 five business days 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 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.

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.

VII. Report of Findings

Response

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 45 calendar days of the district's receipt of the complaint. (5 CCR 4631)

Level II Appeal

A complaint not satisfactorily resolved at Level I may be appealed to the Superintendent or designee in writing by the complainant within five (5) calendar days of receipt of the Level I response. The appeal form shall be filed with the Office of the Ombudsperson. The appeal can only include the allegations outlined in the Level I Complaint. New allegations cannot be included in the Level II Appeal.

Upon receiving the appropriately completed appeal form from the complainant, the Superintendent or designee shall:

1. Notify the employee(s) to whom the complaint was directed.
2. Investigate the appeal. This may include the following steps:
 - a. Review the appeal filed by the complainant
 - b. Review documents from the Level I investigation
 - c. Conduct additional interviews as necessary

- d. Allow both parties to discuss complaint, Level I decision, or question each other, except for discrimination or sexual harassment complaints.
3. Respond in writing to the complainant within ten (10) calendar days after receipt of appeal, including a resolution.
4. Notify the employee(s) of the resolution.

Except for the Uniform Complaint Procedures categories listed on pages 1-2 (#1, #2) which may be appealed to the CDE, the District's appeal decision shall be final.

In resolving any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying), the respondent also shall be sent the district's decision.

VIII. 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 that may be involved in implementing the decision or affected by the complaint, as long as the privacy of the parties is protected.

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 other 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. How 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), to the extent permitted by law, 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, to the extent permitted by law, as required by law, include:

- a. The corrective actions imposed on the individual found to have engaged in the conduct that related directly to the subject of the complaint.

Individual remedies offered or provided to the subject of the complaint.c.Systemic measures the school has taken to eliminate a hostile environment and prevent recurrence.

6.Notice of the complainant's right to appeal the district's decision within 15 calendar days to the CDE 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 the CDE. (Education Code section 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 section 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.

IX. 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 (discriminatory harassment, intimidation, or bullying), that the district does not tolerate it, and how to report and respond to it.

If a public school or District finds merit in a pupil fees, LCAP and/or Course Period without Educational Content complaint, the public school or District shall provide a remedy. Specifically, in Course Period without Educational Content complaints, the remedy shall go to the affected pupil. In LCAP and pupil fee complaints, the remedy shall go to all affected pupils, parents and guardians, which in the case of pupil fees, also includes reasonable efforts by the public school or District to ensure full reimbursement to all affected pupils, parents and guardians subject to procedures established through regulations adopted by the State Board of Education. (Education Code sections 49013, 51228.3(c), 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 sections 49013; 5 CCR 4600)

X. Appeals to the California Department of Education

Any complainant who is dissatisfied with the district's final written decision may file an appeal in writing with the CDE within 15 calendar days of receiving the district's decision. (Education Code sections 222, 48853, 48853.5, 49013, 49069.5, 51223, 51225.1, 51225.2, 51228.3, 52075; 5 CCR 4632)

The complainant shall specify the basis for the appeal of the decision and whether the facts are incorrect and/or the law has been misapplied. The appeal shall be accompanied by a copy of the locally filed complaint and a copy of the district's decision. (5 CCR 4632)

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

1. A copy of the original complaint
2. A copy of the 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 the CDE

The CDE may directly intervene in a complaint without waiting for action by the district when one of the conditions listed in 5 CCR 4650 exists, including cases in which the district has not taken action within 60 Administrative Regulation 1312.3: Uniform Complaint Procedures [1/27/16A, 5/24/17 – Pending

approval]

calendar days of the date the complaint was filed with the district. (5 CCR 4650)

XI. Civil Law Remedies

A complainant may pursue available civil law remedies outside of the district's complaint procedures. Complainants may seek assistance from mediation centers or public/private interest attorneys. Civil law remedies that may be imposed by a court include, but are not limited to, injunctions and restraining orders.

For complaints alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying) based on state law, a complainant shall wait until 60 calendar days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies, provided the district has appropriately and in a timely manner apprised the complainant of his/her right to file a complaint in accordance with 5 CCR 4622. The moratorium does not apply to injunctive relief and to discrimination complaints based on federal law. (Education Code 262.3)

11/17/04A; 11/18/09A; 10/26/11A; 05/22/13A, 01/27/16A

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OAKLAND UNIFIED
SCHOOL DISTRICT

Community Schools, Thriving Students

Memo

To Board of Education

From Devin Dillon, Ph.D, Interim Superintendent
Seth Eckstein, Staff Attorney, Office of the General Counsel
Gabriel Valenzuela, Ombudsperson/Title IX Coordinator

Board Meeting Date May 24, 2017

Subject Amendment to Board Policy BP 1312.3 – Uniform Complaint Procedures

Action Requested Approval of revisions to the Oakland Unified School District Board Policy BP 1312.3 – Uniform Complaint Procedures

Background The revisions to Board Policy 1312.3, address recent legislation that allow persons to file a Uniform Complaint regarding discriminatory harassment, intimidation or bullying as well as reasonable accommodations for lactating students, prohibitions against requiring students to pay fees, deposits or other charges, implementation of the LCAP (Local Control Accountability Act), foster youth placement decisions, awarding credit for homeless youth towards graduation requirements, prohibition of assignment of students to courses with no educational content, and noncompliance with physical education minutes.

Discussion The revisions bring our policy into compliance with state law. The revisions also meet the requirements of California Department of Education (CDE) Federal Program Monitoring compliance review which required that the district update our BP 1312.3: Uniform Complaint Procedures. We utilized the California School Boards Association (CSBA) sample policies for the recommended revisions.

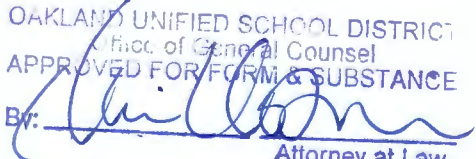
The changes to the policy are shown on the attachments.

Recommendation Approval of modifications to the Oakland Unified School District Board Policy 1312.3: Uniform Complaint Procedures

Fiscal Impact Funding resource: no direct funding implications

Attachments

- Amendments to Board Policy BP 1312.3

OAKLAND UNIFIED SCHOOL DISTRICT
Office of General Counsel
APPROVED FOR FORM & SUBSTANCE
By: 
Attorney at Law