

## **COMMUNITY RELATIONS**

### **Uniform Complaint Procedure**

The Governing Board of the Berryessa Union School District recognizes that it has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs. The district shall investigate complaints alleging failure to comply with applicable state and federal laws and regulations and/or alleging discrimination, harassment, intimidation and/or bullying, and seek to resolve those complaints in accordance with the procedures set out in 5 CCR 4600- 4687 and in accordance with the policies and procedures of the County Board. The district shall follow uniform complaint procedures when addressing complaints alleging unlawful discrimination, harassment, intimidation, and/or bullying against any protected group as identified in Education Code section 200 and 220 and in Government Code section 11135, including any actual or perceived characteristics as set forth in Penal Code section 422.55 or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics in any program or activity conducted by the district, which is funded directly by, or that receives or benefits from any state financial assistance. (Government Code 11135; Education Code 200, 220, 234.1; 5 CCR 4610; Penal Code 422.55)

Uniform complaint procedures shall also be used when addressing complaints alleging failure to comply with state and/or federal laws concerning:

- After School Education and Safety
- California Peer Assistance and Review Programs for Teachers
- Child Care and Development
- Child Nutrition
- Compensatory Education
- Consolidated Categorical Aid
- Education of Pupils in Foster Care and Pupils who are Homeless
- Every Student Succeeds Act / No Child Left Behind
- Physical Education Instructional Minutes
- Pupil Fees
- Reasonable Accommodations to a Lactating Pupil
- School Safety Plans
- Special Education
- Tobacco-Use Prevention Education
- Local Control Funding Formula (LCFF) including the implementation of the Local Control and Accountability Plan (LCAP). (5 CCR 4610)

An LCAP complaint may be filed anonymously if the complaint provided evidence or information leading to evidence to support an allegation of noncompliance.

Uniform complaint procedures shall also be used when addressing complaints alleging violations pertaining to K-12 pupil fees where it is prohibited for a pupil who is enrolled in a K-12 public school to be required to pay a pupil fee for participation in a K-12 educational activity, as defined and/or specified in Assembly Bill 1575 (Education Code 49011-49013).

## Pupil Fees

A pupil enrolled in a district school shall not be required to pay a pupil fee for participation in an educational activity.

All of the following requirements apply to the prohibition identified above:

All supplies, materials, and equipment needed to participate in educational activities shall be provided to pupils free of charge.

A fee waiver policy shall not make a pupil fee permissible.

The district shall not establish a two-tier educational system by requiring a minimal educational standard and also offering a second, higher educational standard that pupils may only obtain through payment of a fee or purchase of additional supplies that the school district or school does not provide.

The district shall not offer course credit or privileges related to educational activities in exchange for money or donations of goods or services from a pupil or a pupil's parents or guardians, and a school district or school shall not remove course credit or privileges related to educational activities, or otherwise discriminate against a pupil, because the pupil or the pupil's parents or guardians did not or will not provide money or donations of goods or services to the school district or school.

The district shall not prohibit the solicitation of voluntary donations of funds or property, voluntary participation in fundraising activities, or district schools, and other entities from providing pupils prizes or other recognition for voluntarily participating in fundraising activities.

This is declarative of existing law and shall not be interpreted to prohibit the imposition of a fee, deposit, or other charge otherwise allowed by law.

A complaint of noncompliance with the requirements of this pupil fee law may be filed with the principal of a school under the Uniform Complaint Procedures set forth in Chapter 5.1 (5 CCR 4600) of Division 1.

A pupil fees complaint and/or an LCAP complaint may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance with laws relating to pupil fees. (Education Code 49013(b), 52075(b))

A pupil fee complaint shall be filed no later than one year from the date the alleged violation occurred. (5 CCR 4630(c)(2))

A complainant not satisfied with the District's decision may appeal the decision to the California Department of Education and shall receive a written appeal decision within 60 days of the department's receipt of the appeal.

If the district finds merit in a complaint, or the California Department of Education finds merit in an appeal, the district shall provide a remedy to all affected pupils, parents, and guardians that, where applicable, includes reasonable efforts to ensure that the district will attempt in good faith by engaging in reasonable efforts to identify and fully reimburse all pupils, parents, and guardians who paid a pupil fee within one year prior to the filing of the complaint. (5CCR 4600(u))

Information regarding the requirements of this pupil fee law shall be included in the annual notification distributed to pupils, parents and guardians, employees, and other interested parties pursuant to 5 CCR 4622.

The district shall establish local policies and procedures to implement the provisions of this law. (Education Code 49011-49013)

The district shall have the primary responsibility to insure compliance with applicable state and federal laws and regulations. (5 CCR 4620)

The district shall investigate complaints alleging failure to comply with applicable state and federal laws and regulations and/or alleging discrimination, harassment, intimidation and/or bullying, and seek to resolve those complaints in accordance with the district's Uniform Complaint Procedures. (5 CCR 4610, 4620, and 4621)

The Board of Trustees designates the following compliance officers to receive and investigate complaints and ensure district compliance with law:

**Personnel related:**

Assistant Superintendent of Personnel  
1376 Piedmont Rd.  
San Jose, CA 95132  
(408) 923-1856

**Student related:**

Director of Special Education and Student Services  
1376 Piedmont Rd.  
San Jose, CA 95132  
(408) 923-1841

The Assistant Superintendent of Personnel shall ensure that employees designated to investigate complaints are knowledgeable about the laws and programs for which they are responsible. Such employees may have access to legal counsel as determined by the Superintendent or designee.

The Assistant Superintendent of Personnel shall meet the notification requirements of 5 CCR 4622, including the annual dissemination of the district complaint procedures and information about available appeals, civil law remedies and conditions under which a complaint may be taken directly to the California Department of Education. The Assistant Superintendent of Personnel shall ensure that complainants understand that they may pursue other remedies, including actions before civil courts or other public agencies.

There will be annual dissemination of a written notice of the district's complaint procedures to students, employees, parents or guardians of its students, school and district advisory committees, appropriate private school officials or representatives, and other interested parties. (5 CCR 4622)

Additionally, the district shall use uniform complaint procedures to address complaints regarding insufficiency of instructional materials, emergency or urgent facilities conditions that pose a threat to the health and safety of pupils or staff, and/or teacher vacancy or misassignment issues as provided in AR 1312.4.

(cf. 0410 - Nondiscrimination in District Programs and Activities)  
(cf. 0420.2 - School Improvement Program)  
(cf. 0430 - Comprehensive Local Plan for Special Education)  
(cf. 0450 - Comprehensive Safety Plan)  
(cf. 1312.1 - Complaints Concerning District Employees)  
(cf. 1312.2 - Complaints Concerning Instructional Materials)  
(cf. 1312.4 - Williams Uniform Complaint Procedures)  
(cf. 3553 - Free and Reduced -Price Meals)  
(cf. 4031 - Complaints Concerning Discrimination in Employment)  
(cf. 5141.4 - Child Abuse Prevention and Reporting)  
(cf. 5148 - Child Care and Development)  
(cf. 6159 - Individualized Education Program)  
(cf. 6171 - Title I Programs)  
(cf. 6174 - Education for English Language Learners)  
(cf. 52075 - Local Control and Accountability Plans)

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

Upon receipt of a written complaint from an individual, public agency or organization, uniform complaint procedures shall be initiated. The Superintendent or designee shall distribute full information about these procedures.

Refusal by the complainant to provide the investigator with documents or other evidence related to the allegations in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstructions of the investigation, may result in the dismissal of the complaint because of lack of evidence to support the allegations. (5 CCR 4631)

Refusal by the district to provide the investigator with access to records and/or other information related to the allegation in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation, may result in a finding based on evidence collected that a violation has occurred and may result in the imposition of a remedy in favor of the complainant. (5 CCR 4631)

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

Complainants will receive written acknowledgement identifying the person(s), employee(s), or agency positions(s), or unit(s) responsible for receiving complaints, investigating complaints and ensuring district compliance. The written acknowledgement will also include a statement that ensures that such person(s), employee(s), position(s), or unit(s) responsible for compliance and/ or investigation shall be knowledgeable about the laws/programs that he/she is assigned to investigate. (5 CCR 4621, 4631)

Complainants have the right to pursue civil law remedies under state or federal discrimination, harassment, intimidation or bullying laws, if applicable. (5 CCR 4622)

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

discrimination, harassment, intimidation or bullying. (5 CCR 4630)

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

The report will contain the following elements: (5 CCR 4631):

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

The district ensures that complainants are protected from retaliation and that the identity of a complainant alleging discrimination, harassment, intimidation and/or bullying will remain confidential as appropriate.

The Board of Trustees acknowledges and respects every individual's right to privacy. Discrimination, harassment, intimidation and/or bullying complaints shall be investigated in a manner that protects the confidentiality of the parties and the facts. This includes keeping the identity of the complainant confidential except to the extent necessary to carry out the investigation or proceedings, as determined by the Superintendent or designee on a case-by-case basis. (5 CCR 4621)

The Board of Trustees prohibits retaliation in any form for participation in complaint procedures, including but not limited to the filing of a complaint or the reporting of instances of discrimination, harassment, intimidation and/or bullying. Such participation shall not in any way affect the status, grades or work assignments of the complainant.

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

(cf. 9011 - Disclosure of Confidential/Privileged Information)

The Board of Trustees recognizes that a neutral mediator can often suggest a compromise that is agreeable to all parties in a dispute. In accordance with uniform complaint procedures, whenever all parties to a complaint agree to try resolving their problem through mediation, the Superintendent or designee shall initiate mediation. The Superintendent or designee shall ensure that mediation results are consistent with state and federal laws and regulations.

The complainant shall comply with the appeal requirements of 5 CCR 4632.

Legal Reference: Education Code

200-262.4 Prohibition of discrimination

8200-8498 Child care and development programs

18100-18203 School libraries

32289 School safety plan, uniform complaint procedures

35186 Williams uniform complaint procedures

41500-41513 Categorical education block grants

48985 Notices in language other than English

49010-49013 Student fees

49060-49079 Student records

49490-49590 Child nutrition programs

52075 - Local Control and Accountability Plans

52800-52870 School-based program coordination

54400-54425 Compensatory education programs

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

3080 Application of section

4600-4687 Uniform complaint procedures

4900-4965 Non-discrimination in elementary and secondary education programs

UNITED STATES CODE, TITLE 20

6301-6577 Title I basic programs

6601-6777 Title II preparing and recruiting high quality teachers and principals

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

Management Resources: 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>

Adopted: 9-13-16