



Pathway to the Future

Berryessa Union School District
1376 Piedmont Road
San Jose, CA 95132
(408) 932-1800

Uniform Complaint Procedures (UCP)

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

This document presents information about how we process UCP complaints concerning particular programs or activities in which we receive state or federal funding. A UCP complaint is a written and signed statement by a complainant alleging a violation of federal or state laws or regulations, which may include an allegation of unlawful discrimination, harassment, intimidation, bullying or charging pupil fees for participation in an educational activity or non-compliance with the requirements of our LCAP. A complainant is any individual, including a person's duly authorized representative or an interested third party, public agency, or organization who files a written complaint alleging violation of federal or state laws or regulations, including allegations of unlawful discrimination, harassment, intimidation, bullying and non-compliance with laws relating to pupil fees or non-compliance with the requirements of our LCAP. If the complainant is unable to put the complaint in writing, due to a disability or illiteracy, we shall assist the complainant in the filing of the complaint.

Programs and activities that are implemented by our district and subject to the UCP in which we receive state or federal funding are:

After School Education and Safety; Early Childhood Education Program Assessments, 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; Local Control Accountability Plans (including Charter Schools as described in *EC* §§ 47606.5 and 47607.3); Physical Education Instructional Minutes; Pupil Fees; Reasonable Accommodations to a Lactating Pupil; School Safety Plans; Special Education; and Tobacco - Use Prevention Education.

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

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

2. Health and safety complaints regarding a Child Development Program shall be referred to Dept of Social Services for licensed facilities, and to the appropriate Child Development regional administrator for licensing-exempt facilities.
3. Employment discrimination, harassment, intimidation or bullying complaints shall be sent to the State Dept of Fair Employment and Housing (DFEH).
4. Allegations of fraud shall be referred to the Legal, Audits and Compliance Branch in the California Department of Education (CDE).

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

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

1. A fee charged to a pupil as a condition for registering for school or classes, or as a condition for participation in a class or an extracurricular activity, regardless of whether the class or activity is elective or compulsory, or is for credit.
2. A security deposit, or other payment, that a pupil is required to make to obtain a lock, locker, book, class apparatus, musical instrument, clothes, or other materials or equipment.
3. A purchase that a pupil is required to make to obtain materials, supplies, equipment, or clothes associated with an educational activity.

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

The responsibilities of Berryessa Union School District

We have the primary responsibility to insure compliance with applicable state and federal laws and regulations. We shall investigate complaints alleging failure to comply with applicable state and federal laws and regulations including, but not limited to, allegations of discrimination, harassment, intimidation, bullying or noncompliance with laws relating to all programs and activities implemented by the district that are subject to the UCP.

We shall ensure annual dissemination of the written notice of our complaint procedures to students, employees, parents or guardians of its students, school and district advisory committees member, appropriate private school officials or representatives, and other interested parties that includes information regarding unlawful pupil fees and LCAP requirements.

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

Our UCP Annual Notice shall also include information regarding the requirements of Education Code sections 49010 through 49013 relating to pupil fees and information regarding the requirements of Education Code section 52075 relating to the LCAP.

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

The following is responsible for receiving and investigating complaints and ensuring our compliance:

Name or title: Director Of Student Services
Unit or office: Student Services Department
Address: 1376 Piedmont Road, San Jose, CA 95132
Phone: 408-923-1820

The above, responsible for compliance and investigations, is knowledgeable about the laws and programs assigned to investigate.

We will investigate all allegations of unlawful discrimination, harassment, intimidation or bullying against any protected group as identified in Education Code section 200 and 220 and Government Code section 11135, including any actual or perceived characteristics as set forth in Penal Code section 422.55 or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics in any program or activity conducted by the agency, which is funded directly by, or that receives or benefits from any state financial assistance.

An unlawful discrimination, harassment, intimidation and bullying complaint 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.

The time for filing a discrimination, harassment, intimidation or bullying complaint may be extended in writing by our district superintendent or his or her designee, upon written request by the complainant setting forth the reasons for the extension. The period for filing a discrimination, harassment, intimidation or bullying complaint may be extended by our superintendent or his or her designee for good cause for a period not to exceed 90 calendar days following the expiration of the six month time period. Our superintendent shall respond immediately upon a receipt of a request for extension.

The complaint shall be filed by one who alleges that he or she has personally suffered unlawful discrimination, harassment, intimidation, and bullying or by one who believes an individual or any specific class of individuals has been subjected to discrimination, harassment, intimidation, and bullying prohibited by this part.

We ensure that complainants are protected from retaliation.

An investigation of a discrimination, harassment, intimidation, and bullying complaint shall be conducted in a manner that protects confidentiality of the parties and maintains the integrity of the process.

Complainants are advised of the right to pursue civil law remedies under state or federal discrimination, harassment, intimidation or bullying laws. Civil law remedies, including, injunctions, restraining orders, or other remedies or orders may also be available at any time.

If we find merit in a pupil fees, LCAP, and/or a Course Period without Educational Content complaint, we 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 us to ensure full reimbursement to all affected pupils, parents and guardians subject to procedures established through regulations adopted by the state board.

We submitted our UCP policies and procedures to our local governing board or authorized designee for approval and adoption .

Filing a complaint with the Berryessa *Union School District*

Except for Williams complaints regarding instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of pupils or staff, and teacher vacancies or misassignments, and complaints that allege discrimination, harassment, intimidation, and bullying, any individual, public agency or organization may file a written complaint with our district superintendent or his or her designee alleging a matter which, if true, would constitute a violation by our agency of federal or state law or regulation governing a program. A pupil fees complaint may be filed with the principal of a school.

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

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

We 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.

The investigation shall provide an opportunity for the complainant, or the complainant's representative, or both, to present evidence or information.

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

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

Except for Williams complaints and pupil fees complaints, a UCP complaint will be investigated and a written report (also known as the Decision) 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.

We shall issue a Decision based on the evidence and will contain the following elements:

- (i) the findings of fact based on the evidence gathered,
- (ii) conclusion of law,
- (iii) disposition of the complaint,
- (iv) the rationale for such disposition,
- (v) corrective actions, if any are warranted,
- (vi) notice of the complainant's right to appeal our agency Decision to the CDE,
 - We shall inform the complainant of his or her right to appeal the agency Decision to CDE and
 - The complainant may appeal our Decision of a UCP complaint regarding all specified federal and state educational programs subject to the UCP.
- (vii) procedures to be followed for initiating an appeal to the CDE.
 - To appeal our UCP Complaint Decision the complainant must file a written appeal within 15 days of receiving the Decision to the California Department of Education (CDE). This appeal to the CDE must fully explain the basis for the appeal, stating how the facts of the agency's Decision are incorrect and/or the law is misapplied.
 - The appeal shall be sent with (1) a copy of the locally filed complaint and (2) a copy of the Decision.

Nothing in this document shall prohibit anyone involved in the complaint from utilizing alternative methods to resolve the allegations, such as mediation. Nor are we prohibited from resolving complaints prior to the formal filing of a written complaint. Mediation is a problem solving activity whereby a third party assists the parties to the dispute in resolving the complaint.

Copies of these Uniform Complaint Procedures shall be available free of charge.

Federal and State Laws cited:

20 United States Code [USC] § 6301 et seq.

34 Code of Federal Regulations [CFR] §§ 299.11 & 300.510-511

California Education Code [EC] §§ 200, 220, 222, 234.1 - 234.5, 262.3, 8200 - 8493, 8500 - 8538, 32280 - 32289; 33380 - 33385, 35186, 44500, 47606 - 47606.5, 47607.3, 48204, 48645.5, 48853, 48853.5, 48985, 49010 - 49013, 49069.5, 49490 - 49570, 51210, 51223, 51225.1, 51225.2, 51226 - 51226.1, 51228.1 - 51228.3, 52059, 52060 - 52075, 52160, 52300 - 52480, 52500 - 52616.4, 52800, 54100, 54440 - 54445, 56000 - 56865, 59000 - 59300, 64000 (a)

California Government Code [GC] §§ 11135, 11138

California Health and Safety Code [HSC] § 104420

California Penal Code [PC] § 422.55

California Welfare and Institutions Code [WIC] §§ 300, 309, 602

California Code of Regulations [CCR] Title 5 §§ 4600-4687