

UNIFORM COMPLAINT PROCEDURES

The Merced County Office of Education (MCOE) recognizes its primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs. The MCOE encourages the early, informal resolution of complaint whenever possible and appropriate. To resolve complaints which cannot be resolved through such informal process, MCOE shall adopt a uniform system of complaint processes specified in 5 CCR 4600-4670 and the accompanying administrative regulation.

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

1. Any complaint alleging the MCOE’s violation of applicable state or federal law or regulations governing adult education, after school education and safety, California peer assistance and review programs for teachers, career technical education, child care and development, child nutrition, compensatory education, consolidated categorical aid, course periods without educational content, 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), migrant education, physical education instructional minutes, pupil fees, reasonable accommodations to lactating pupil, regional occupational centers and programs, school safety plans, special education, tobacco-use prevention education, and any other MCOE-implemented program which is listed in Education Code 64000(a) (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. 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)

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 MCOE programs and activities, including, but not limited to, those programs or 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, pregnancy, or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristics identified in Education Code 200

UNIFORM COMPLAINT PROCEDURES

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 (5 CCR 4610)

(cf. 0410 - Nondiscrimination in MCOE Programs and Activities)
(cf. 5145.3 – Nondiscrimination/Harassment)
(cf. 5145.7 – Sexual Harassment)

3. Any complaint alleging MCOE 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 MCOE 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 MCOE)

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

- a. 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.
- b. 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.
- c. A purchase that a pupil is required to make to obtain materials, supplies, equipment, or clothes associated with an educational activity.

5. Any complaint alleging MCOE noncompliance with legal requirements related to the implementation of the local control and accountability plan (Education Code 52075)

(cf. 0460 - Local Control and Accountability Plan)

6. Any complaint, by or on behalf of any student who is a foster youth, alleging MCOE noncompliance with any legal requirement applicable to the student regarding placement decisions, the responsibilities of the MCOE 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 imposed graduation requirements (Education Code 48853, 48853.5, 49069.5, 51225.1, 51225.2)

(cf. 6173.1 – Education for Foster Youth)

UNIFORM COMPLAINT PROCEDURES

7. Any complaint, by or on behalf of a homeless student as defined in 42 USC 11434a, alleging MCOE 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 imposed graduation requirements (Education Code 51225.1, 51225.2)

(cf. 6173 - Education for Homeless Children)

8. Any complaint alleging MCOE noncompliance with the requirements of Education Code 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 MCOE 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 complaint 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

11. Any other complaint as specified in a MCOE policy

The MCOE recognizes that alternative dispute resolution (ADR) can, depending on the nature of the allegations, offer a process to reach a resolution to the complaint that is acceptable to all parties. ADR such as mediation may 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 County Superintendent or designee shall ensure that the use of ADR is consistent with state and federal laws and regulations.

The MCOE shall protect all complainants from retaliation. In investigating complaints, the confidentiality of the parties involved shall be protected as required by law. As appropriate for any complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the County 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.

UNIFORM COMPLAINT PROCEDURES

(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 subject to the UCP is included in a UCP complaint, MCOE shall refer the non-UCP allegation to the appropriate staff or agency and shall resolve the UCP-related allegation(s) through the MCOE’s UCP.

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

(cf. 4331 - Staff Development)

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

(cf. 3580 – MCOE Records)

Non-UCP Complaints

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

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 employment discrimination shall be processed in accordance with Regulation 4031 - Complaints Concerning Discrimination in Employment
4. Any complaint alleging fraud shall be referred to the California Department of Education.

In addition, the MCOE’s Williams Uniform Complaint Procedures, Regulation 1312.4, shall be used to investigate and resolve any complaint related to sufficiency of textbooks or instructional materials, emergency or urgent facilities conditions that pose a threat to the

UNIFORM COMPLAINT PROCEDURES

health or safety of students or staff, or teacher vacancies and misassignments. (Education Code 35186)

(cf. 1312.4 – Williams Uniform Complaint Procedure)

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 Procedure
35186 Williams Uniform Complaint Procedure
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 children; course credits; graduation requirements
51228.1-51228.3 Course periods without educational content
52060-52077 Local control and 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

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

UNIFORM COMPLAINT PROCEDURES

Legal Reference: (continued)

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

UNITED STATES CODE, TITLE 42

2000d-2000e-17 Title VI and Title VII Civil Rights Act of 1964, as amended

2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964

6101-6107 Age Discrimination Act of 1975

CODE OF FEDERAL REGULATIONS, TITLE 28

35.107 Nondiscrimination on basis of disability; complaints

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.67 Family Educational Rights and Privacy

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

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>

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>

Policy Adopted: 8/1/2008;

MERCED COUNTY OFFICE OF EDUCATION

Revised: 2/25/09, 10/24/12, 10/23/13, 5/13/15, 6/9/15, 6/22/15, 2/15/17 Merced, California