

## **COMMUNITY RELATIONS**

### **Uniform Complaint Procedures**

As the primary employer for all San Joaquin County Office of Education (SJCOE) staff, it is the intent of the Superintendent to address and resolve any concerns and/or complaints in a prompt and equitable manner. The Superintendent recognizes that SJCOE is primarily responsible for ensuring that it complies with state and federal laws and regulations governing educational programs. Complaints against SJCOE and/or an individual that alleges sexual harassment or resulting retaliation will be processed under 5145.7 – Sexual Harassment or AR 4031 – Complaints Concerning Discrimination in Employment. Any person or group having a legitimate interest in the programs and services of SJCOE shall have the right to present a request, suggestion, or complaint concerning personnel, programs, materials, or operations. At the same time, the Superintendent has a duty to protect staff from unnecessary harassment. The Superintendent encourages the early, informal resolution of complaints at the site level whenever possible. To resolve complaints which cannot be resolved through such informal process, the Superintendent adopts the uniform system of complaint processes specified in 5 CCR §§ 4600-4670 and the accompanying administrative regulation.

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

1. Any complaint alleging SJCOE 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.
2. Any complaint alleging the occurrence of unlawful discrimination, harassment (except for sexual harassment), intimidation, or bullying against any person in SJCOE 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 or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, genetic information, gender non-conformance, gender stereotyping, or any other characteristic identified in Education Code 200 or 220, Government Code § 11135, or Penal Code § 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.
3. Any complaint alleging SJCOE 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.

4. Any complaint alleging noncompliance with the prohibition against requiring students to pay fees, deposits, or other charges for participation in educational activities.
5. Any complaint alleging noncompliance with legal requirements related to the implementation of the Local Control Accountability Plan (LCAP).
6. Any complaint, by or on behalf of any student who is a foster youth, alleging SJCOE noncompliance with any legal requirement applicable to the student regarding placement decisions, the responsibilities of the SJCOE'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 graduation requirements.
7. Any complaint, by or on behalf of a homeless student as defined in 42 USC § 11434a, alleging SJCOE 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 graduation requirements.
8. Any complaint alleging SJCOE 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.
9. Any complaint alleging SJCOE noncompliance with the physical education instructional minutes requirement for students in elementary school.
10. Any complaint alleging SJCOE noncompliance with federal or state laws or regulations governing regional occupational centers and programs.
11. Any complaint alleging SJCOE noncompliance with federal or state laws or regulations governing SJCOE's participation in any student financial assistance program authorized by Title IV.
12. 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.
13. Any other complaint as specified in a SJCOE policy.

The Superintendent 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 agreeable to all parties. ADR such as mediation may be offered to resolve complaints. 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. In accordance

with the UCP, whenever all parties to a complaint agree to try resolving the problem through mediation, the Director of Human Resources shall initiate that process.

The Superintendent acknowledges and respects every individual's right to privacy. Discrimination, harassment, intimidation, or bullying complaints shall be investigated in a manner that protects the confidentiality of the parties and the facts as required by law. 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.

The Superintendent prohibits retaliation in any form for participating in complaint procedures, including, but not limited to, the filing of a complaint or the reporting of instances of discrimination, harassment, intimidation, or bullying. Such participation shall not, in any way, affect the status, grades, or work assignments of the complainant. All complaints of retaliation, aside from those resulting from a 5145.7 – Sexual Harassment Complaint or AR 4031 – Complaints Concerning Discrimination in Employment, will be processed under the UCP.

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

The Superintendent or designee shall provide annual training on issues related to gender nonconformance and gender-based harassment to SJCOE staff who have responsibility for investigating or supervising the investigation of gender-based harassment complaints and to administrators and staff who are employed in or oversee the SJCOE classes for students with emotional disabilities. SJCOE staff who investigate or supervise investigations will also receive training 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.

The 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 SJCOE policy.

### **Non-UCP Complaints**

The following complaints shall not be subject to the SJCOE UCP but shall be referred to the specified agency:

1. Any complaint alleging child abuse or neglect shall be referred to the County Department of Social Services, the County Protective Services, 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 sent to the California Department of Fair Employment and Housing and the compliance officer shall notify the complainant by first class mail of the transfer.
4. Any complaint alleging fraud shall be referred to the California Department of Education.

In addition, SJCOE Williams Uniform Complaint Procedures, AR 1312.4, shall be used to investigate and resolve any complaint related to the following:

1. Sufficiency of textbooks or instructional materials.
2. Emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff.
3. Teacher vacancies and misassignments.

*cf:* 0410 Nondiscrimination in Programs and Services  
1312.1 Complaints Concerning Personnel or Programs  
1312.2 Complaints Concerning Instructional Materials  
1312.4 Williams Uniform Complaint Procedures  
3553 Free and Reduced Lunch Program  
4031 Complaints Concerning Discrimination in Employment  
4131/4231/4331 Staff Development)  
5141.4 Child Abuse and Neglect Reporting Procedures  
5145.7 Sexual Harassment  
6159 Individualized Education Program  
6171 Title I Court & Community School/Day Center Programs  
6173 Education for Homeless Children  
6174 Education for English Language Learners  
6178 Career Technical Education  
9460 Local Control and Accountability Plan

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination  
222 Reasonable accommodations; lactating students  
8200-8498 Childcare 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 coordinated programs  
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  
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 VI 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 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

(03/16)