

# Solana Beach School District

## Uniform Complaint Procedure

BP 1312.3

### 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 early resolution of complaints whenever possible. To resolve complaints which may require a more formal process, the Board adopts the uniform system of complaint processes specified in 5 CCR 4600-4670 and the accompanying administrative regulation.

### Complaints Subject to UCP

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

1. Accommodations for pregnant and parenting students (Education Code 46015)

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

2. After School Education and Safety programs (Education Code 8482-8484.65)

(cf. 5148.2 - Before/After School Programs)

3. Child care and development programs (Education Code 8200-8498)

(cf. 5148 - Child Care and Development)

4. Compensatory education (Education Code 54400)

(cf. 6171 - Title I Programs)

5. Consolidated categorical aid programs (Education Code 33315; 34 CFR 299.10-299.12)

6. Discrimination, harassment, intimidation, or bullying in district programs and activities, including in 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, immigration status, ethnic group identification, age, religion, marital status, pregnancy, parental status, physical or mental disability, medical condition, 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 the person's 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)

(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

7. Educational and graduation requirements for students in foster care, homeless students, students from military families, students formerly in a juvenile court school, migrant students, and immigrant students participating in a newcomer program (Education Code 48645.7, 48853, 48853.5, 49069.5, 51225.1, 51225.2)

(cf. 6173 - Education for Homeless Children)

(cf. 6173.1 - Education for Foster Youth)

(cf. 6173.2 - Education of Children of Military Families)

(cf. 6173.3 - Education for Juvenile Court School Students)

8. Every Student Succeeds Act (Education Code 52059; 20 USC 6301 et seq.)

9. Local control and accountability plan (Education Code 52075)

(cf. 0460 - Local Control and Accountability Plan)

10. Migrant education (Education Code 54440-54445)

(cf. 6175 - Migrant Education Program)

11. Physical education instructional minutes (Education Code 51210, 51222, 51223)

(cf. 6142.7 - Physical Education and Activity)

12. Student fees (Education Code 49010-49013)

(cf. 3260 - Fees and Charges)

13. Reasonable accommodations to a lactating student (Education Code 222)

14. Regional occupational centers and programs (Education Code 52300-52334.7)

(cf. 6178.2 - Regional Occupational Center/Program)

15. School plans for student achievement as required for the consolidated application for specified federal and/or state categorical funding (Education Code 64001)

(cf. 0420 - School Plans/Site Councils)

16. School safety plans (Education Code 32280-32289)

(cf. 0450 - Comprehensive Safety Plan)

17. School site councils as required for the consolidated application for specified federal and/or state categorical funding (Education Code 65000)

(cf. 0420 - School Plans/Site Councils)

18. State preschool programs (Education Code 8235-8239.1)

(cf. 5148.3 - Preschool/Early Childhood Education)

19. State preschool health and safety issues in license-exempt programs (Education Code 8235.5)

20. 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

21. Any other state or federal educational program the Superintendent of Public Instruction or designee deems appropriate

The Board recognizes that alternative dispute resolution (ADR) can, depending on the nature of the allegations, offer a process for resolving a complaint in a manner that is acceptable to all parties. An ADR process 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 Superintendent or designee shall ensure that the use of ADR is consistent with state and federal laws and regulations.

The district shall protect all complainants from retaliation. In investigating complaints, the confidentiality of the parties involved shall be protected as required by law. For any complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the Superintendent or designee shall keep the identity of the complainant, and/or the subject of the complaint if different from the complainant, confidential when appropriate and 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 subject to 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 allegation(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 requirements related to UCP, including the 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 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.

(cf. 3580 - District Records)

### Non-UCP Complaints

The following complaints shall not be subject to the district's UCP but shall be investigated and resolved by the specified agency or through an alternative process:

1. Any complaint alleging child abuse or neglect shall be referred to the County Department of Social Services Protective Services Division or the appropriate law enforcement agency. (5 CCR 4611)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

2. Any complaint alleging health and safety violations by a child development program shall, for licensed facilities, be referred to Department of Social Services. (5 CCR 4611)

3. Any complaint alleging employment discrimination or harassment shall be investigated and resolved by the district in accordance with the procedures specified in AR 4030 - Nondiscrimination in Employment, including the right to file the complaint with the California Department of Fair Employment and Housing.

4. Any complaint alleging a violation of a state or federal law or regulation related to special education, a settlement agreement related to the provision of a free appropriate public education, or a due process hearing order shall be submitted to the California Department of Education (CDE) in accordance with AR 6159.1 - Procedural Safeguards and Complaints for Special Education. (5 CCR 3200-3205)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

5. Any complaint alleging noncompliance of the district's food service program with laws regarding meal counting and claiming, reimbursable meals, eligibility of children or adults, or use of cafeteria funds and allowable expenses shall be filed with or referred to CDE in accordance with BP 3555 - Nutrition Program Compliance. (5 CCR 15580-15584)

6. Any allegation of discrimination based on race, color, national origin, sex, age, or disability in the district's food service program shall be filed with or referred to the U.S. Department of Agriculture in accordance with BP 3555 - Nutrition Program Compliance. (5 CCR 15582)

7. Any complaint related to sufficiency of textbooks or instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff, or teacher vacancies and misassignments shall be investigated and resolved in accordance with AR 1312.4 - Williams Uniform Complaint Procedures. (Education Code 35186)

(cf. 1312.4 - Williams Uniform Complaint Procedures)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

8200-8498 Child care and development programs

8500-8538 Adult basic education

18100-18203 School libraries

32280-32289 School safety plan, uniform complaint procedures

35186 Williams uniform complaint procedures

46015 Parental leave for students

48853-48853.5 Foster youth

48985 Notices in language other than English

49010-49014 Student fees

49060-49079 Student records, especially:

49490-49590 Child nutrition programs

49701 Interstate Compact on Educational Opportunity for Military Children

51210 Courses of study grades 1-6

51222 Physical education, secondary schools

51223 Physical education, elementary schools

51225.1-51225.2 Foster youth, homeless children, former juvenile court school students, military-connected students, migrant students, and newly arrived immigrant students; course credits; graduation requirements

51226-51226.1 Career technical education

51228.1-51228.3 Course periods without educational content

52059.5 Statewide system of support

52060-52077 Local control and accountability plan, especially:

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

52300-52462 Career technical education

52500-52616.24 Adult schools

54400-54425 Compensatory education programs

54440-54445 Migrant education

54460-54529 Compensatory education programs

59000-59300 Special schools and centers  
64000-64001 Consolidated application process; school plan for student achievement  
65000-65001 School site councils  
GOVERNMENT CODE  
11135 Nondiscrimination in programs or activities funded by state  
12900-12996 Fair Employment and Housing Act  
HEALTH AND SAFETY CODE  
1596.792 California Child Day Care Act; general provisions and definitions  
1596.7925 California Child Day Care Act; health and safety regulations  
PENAL CODE  
422.55 Hate crime; definition  
422.6 Interference with constitutional right or privilege  
CODE OF REGULATIONS, TITLE 2  
11023 Harassment and discrimination prevention and correction  
CODE OF REGULATIONS, TITLE 5  
3200-3205 Special education compliance complaints  
4600-4670 Uniform complaint procedures  
4680-4687 Williams uniform complaint procedures  
4690-4694 Complaints regarding health and safety issues in license-exempt preschool programs  
4900-4965 Nondiscrimination in elementary and secondary education programs  
15580-15584 Child nutrition programs complaint procedures  
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  
6301-6576 Title I Improving the Academic Achievement of the Disadvantaged  
6801-7014 Title III language instruction for limited English proficient and immigrant students  
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  
11431-11435 McKinney-Vento Homeless Assistance Act  
12101-12213 Title II equal opportunity for individuals with disabilities  
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  
106.1-106.82 Nondiscrimination on the basis of sex in education programs, especially:  
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:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Uniform Complaint Procedure 2020-21 Program Instrument

Sample UCP Board Policies and Procedures

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

Dear Colleague Letter, September 22, 2017

Dear Colleague Letter: Title IX Coordinators, April 2015

Dear Colleague Letter: Responding to Bullying of Students with Disabilities, October 2014

Dear Colleague Letter: Harassment and Bullying, October 2010

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

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>

Student Privacy Policy Office:

<http://www2.ed.gov/about/offices/list/oepd/sppo>

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/ocr>

U.S. Department of Justice: <http://www.justice.gov>

**Board Adopted: May 24, 2018**