

# **TAMALPAIS UNION HIGH SCHOOL DISTRICT**



## **UNIFORM COMPLAINT PROCEDURES**

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# UNIFORM COMPLAINT PROCEDURES

Community Relations

BP 1312.3(a)

## UNIFORM COMPLAINT PROCEDURES

The Board of Trustees 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 the early resolution of complaints whenever possible and appropriate. To resolve complaints which may require a more formal process the Board adopts a uniform system of complaint processes specified in 5CCR 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 the following complaints:

1. Any complaint alleging district violation of applicable state or federal laws or regulations governing any program subject to the UCP which is offered by the district, including adult education programs; After School Education and Safety programs; agricultural career technical education; American Indian education centers and early childhood education program assessments; bilingual education; California Peer Assistance and Review programs for teachers; state career technical and technical education, career technical, and technical training programs; federal career technical education; child care and development programs; child nutrition programs; compensatory education; consolidated categorical aid programs; Economic Impact Aid; the federal Every Student Succeeds Act; migrant education; Regional Occupational Centers and Programs; school safety plans; special education programs; California State Preschool Programs; Tobacco-Use Prevention Education programs; and any other district-implemented state categorical program that is not funded through the local control funding formula pursuant to Education Code 64000

(cf. 3553 - Free and Reduced Price Meals)

(cf. 3555 - Nutrition Program Compliance)

(cf. 5131.62 - Tobacco)

(cf. 5148 - Child Care and Development)

(cf. 5148.2 - Before/After School Programs)

(cf. 5148.3 - Preschool/Early Childhood Education)

(cf. 6159 - Individualized Education Program)

(cf. 6171 - Title I Programs)

(cf. 6174 - Education for English 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, by a student, employee, or other person participating in a district program or activity, alleging the occurrence of unlawful discrimination (such as discriminatory 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, 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)*

3. Any complaint alleging district 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 district noncompliance with requirements to provide a pregnant or parenting student the accommodations specified in Education Code 46015, including those related to the provision of parental leave, right of return to the school of previous enrollment or to an alternative education program, if desired, and possible enrollment in school for a fifth year of instruction to enable the student to complete state and Board-imposed graduation requirements (Education Code 46015)

5. Any complaint alleging bullying in district programs and activities, regardless of whether the bullying is based on a 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, 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 his/her association with a person or group with one or more of these actual or perceived characteristics.

*(cf. 5131.2 - Bullying)*

6. Any complaint alleging district 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 District)*

7. Any complaint alleging district noncompliance with applicable requirements of Education Code 52060-52077 related to the implementation of the local control and accountability plan, including the development of a local control funding formula budget overview for parents/guardians (Education Code 52075)

*(cf. 0460 - Local Control and Accountability Plan)*

*(cf. 0460 - Local Control and Accountability Plan)*

*(cf. 3100 - Budget)*

8. Any complaint alleging noncompliance with requirements related to the development of a school plan for student achievement or the establishment of a school site council, as required for the consolidated application for specified federal and/or state categorical funding (Education Code 64000-64001, 65000-65001)

*(cf. 0420 - School Plans/Site Councils)*

9. Any complaint, by or on behalf of a student who is a foster youth as defined in Education Code 51225.2, alleging district noncompliance with any requirement applicable to the student regarding placement decisions; the responsibilities of the district's educational liaison to the student; the award of credit for coursework satisfactorily completed in another school, district, or country; school or records transfer; or the grant of an exemption from Board-imposed graduation requirements (Education Code 48853, 48853.5, 49069.5, 51225.1, 51225.2)

*(cf. 6173.1 - Education for Foster Youth)*

10. Any complaint, by or on behalf of a student who transfers into the district after the second year of high school and is a homeless child or youth as defined in 42 USC 11434a, a former juvenile court school student

currently enrolled in the district, a child of a military family as defined in Education Code 49701, or a migrant student as defined in Education Code 54441, or by or on behalf of an immigrant student participating in a newcomer program as defined in Education Code 51225.2 in the third or fourth year of high school, alleging district noncompliance with any requirement applicable to the student regarding the grant of an exemption from Board-imposed graduation requirements (Education Code 51225.1)

*(cf. 6173 - Education for Homeless Children)*

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

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

11. Any complaint, by or on behalf of a student who is a homeless child or youth as defined in 42 USC 11434a, a former juvenile court school student, a child of a military family as defined in Education Code 49701, a migrant child as defined in Education Code 54441, or a newly arrived immigrant student who is participating in a newcomer program as defined in Education Code 51225.2, alleging district noncompliance with requirements for the award of credit for coursework satisfactorily completed in another school, district, or country (Education Code 51225.2)

12. Any complaint alleging district noncompliance with the requirements of Education Code 51228.1 and 51228.2 that prohibit the assignment of a student in grades 9-12 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)*

13. 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

14. Any other complaint as specified in a district policy

The Board 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. One type of ADR is mediation, which shall 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 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 Protective Services Division and the appropriate law enforcement agency.

*(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 and shall, for licensing-exempt facilities, be referred to the appropriate Child Development regional administrator.

3. Any complaint alleging fraud shall be referred to the Legal, Audits and Compliance Branch of the California Department of Education.

4. 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.

5. 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, teacher vacancies and mis-assignments, or health and safety violations in any license-exempt California State Preschool Program shall be investigated and resolved in accordance with the procedures in AR 1312.4 - Williams Uniform Complaint Procedures. (Education Code 8235.5, 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  
33380-33384 California Indian Education Centers  
35186 Williams uniform complaint procedures  
44500-44508 California Peer Assistance and Review Program for Teachers  
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:

49069.5 Records of foster youth  
 49490-49590 Child nutrition programs  
 49701 Interstate Compact on Educational Opportunity for Military Children  
 51210 Courses of study grades 1-6  
 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  
 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  
 52300-52462 Career technical education  
 52500-52616.24 Adult schools  
 54000-54029 Economic Impact Aid  
 54400-54425 Compensatory education programs  
 54440-54445 Migrant education  
 54460-54529 Compensatory education programs  
 56000-56865 Special 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  
 104420 Tobacco-Use Prevention Education  
 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  
 3080 Applicability of uniform complaint procedures to complaints regarding students with disabilities  
 4600-4670 Uniform complaint procedures  
 4680-4687 Williams 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  
 6301-6576 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  
 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

106.8 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

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

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: <https://www2.ed.gov/policy/gen/guid/fpco>

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

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

Policy TAMALPAIS UNION HIGH SCHOOL DISTRICT

adopted: November 10, 1992 Larkspur, California

revised: September 12, 2002

revised: December 10, 2002

revised: January 13, 2004

revised: March 6, 2007

revised: February 10, 2015

revised: April 30, 2019

**Uniform Complaint Procedures**

**Compliance Officers**

Except as the Board of Trustees may otherwise specifically provide in other district policies, these general uniform complaint procedures (UCP) shall be used to investigate and resolve only the complaints specified in BP 1312.3.

- (cf. 1312.1 - Complaints Concerning District Employees)*
- (cf. 1312.2 - Complaints Concerning Instructional Materials)*
- (cf. 1312.4 - Williams Uniform Complaint Procedures)*
- (cf. 4031 - Complaints Concerning Discrimination in Employment)*

**Compliance Officers**

The district designates the individual(s), position(s), or unit(s) identified below as responsible for coordinating the district's response to complaints and for complying with state and federal civil rights laws. The individual(s), position(s), or unit(s) also serve as the compliance officer(s) specified in AR 5145.3 - Nondiscrimination/Harassment, responsible for handling complaints regarding unlawful discrimination (such as discriminatory harassment, intimidation, bullying or sex discrimination.) The compliance officer(s) shall receive and coordinate the investigation of complaints and shall ensure district compliance with law.

- (cf. 5145.3 - Nondiscrimination/Harassment)*
- (cf. 5145.7 - Sexual Harassment)*

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The compliance officer who receives a complaint may assign another compliance officer to investigate and resolve the complaint. The compliance officer shall promptly notify the complainant and respondent, if applicable, if another compliance officer is assigned the complaint.

In no instance shall a compliance officer be assigned to a complaint if the compliance officer is mentioned in the complaint or has a conflict of interest that would prohibit him/her from fairly investigating or resolving the complaint. Any complaint filed against or implicating a compliance officer or that raises a concern about the compliance officer's ability to investigate the complaint fairly and without bias may be filed with the Superintendent or designee.

The Superintendent or designee shall ensure that employees assigned to investigate and resolve complaints receive training and are knowledgeable about the laws and programs which they are assigned to investigate. Training provided to such designated employees shall include current state and federal laws and regulations governing the program, applicable processes for investigating and resolving complaints, including those involving alleged discrimination, applicable standards for reaching decisions on complaints, and appropriate corrective measures. Designated employees may have access to legal counsel as determined by the Superintendent or designee.

- (cf. 4331 - Staff Development)*
- (cf. 9124 - Attorney)*



The compliance officer or, if necessary, any appropriate administrator shall determine whether interim measures are necessary during and pending the results of an investigation. If interim measures are determined to be necessary, the compliance officer or the administrator shall consult with the Superintendent, the Superintendent's designee, or, if appropriate, the site principal to implement, if possible, one or more of the interim measures. The interim measures may remain in place until the compliance officer determines that they are no longer necessary or until the district issues its final written decision, whichever occurs first.

### Notifications

The district's UCP policy and administrative regulation shall be posted in all district schools and offices, including staff lounges and student government meeting rooms. (Education Code 234.1)

In addition, the Superintendent or designee shall annually provide written notification of the district's UCP to students, employees, parents/guardians, the district advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties. (Education Code 262.3, 49013, 52075; 5 CCR 4622)

*(cf. 0420 - School Plans/Site Councils)*

*(cf. 1220 - Citizen Advisory Committees)*

*(cf. 4112.9/4212.9/4312.9 - Employee Notifications)*

*(cf. 5145.6 - Parental Notifications)*

The notice shall include:

1. A statement that the district is primarily responsible for compliance with federal and state laws and regulations, including those related to prohibition of unlawful discrimination, harassment, intimidation, or bullying against any protected group and all programs and activities that are subject to UCP as identified in the section "Complaints Subject to UCP" in the accompanying Board policy

2. A statement that a complaint regarding student fees or the local control and accountability plan (LCAP) may be filed anonymously if the complainant provides evidence or information leading to evidence to support the complaint

*(cf. 0460 - Local Control and Accountability Plan)*

*(cf. 3260 - Fees and Charges)*

3. A statement that a student enrolled in a public school shall not be required to pay a fee for participation in an educational activity that constitutes an integral fundamental part of the district's educational program, including curricular and extracurricular activities

4. A statement that a complaint regarding student fees must be filed no later than one year from the date the alleged violation occurred

5. A statement that the district will post a standardized notice of the educational rights of foster youth, homeless students, former juvenile court school students now enrolled in the district, children of military families, migrant students, and immigrant students enrolled in a newcomer program, as specified in Education Code 48853, 48853.5, 49069.5, 51225.1, and 51225.2, and the complaint process

*(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)*

*(cf. 6175 - Migrant Education Program)*

6. Identification of the responsible staff member(s), position(s), or unit(s) designated to receive complaints

7. A statement that complaints will be investigated in accordance with the district's UCP and a written decision will be sent to the complainant within 60 days from the receipt of the complaint, unless this time period is extended by written agreement of the complainant

8. A statement that the complainant has a right to appeal the district's decision to CDE by filing a written appeal, including a copy of the original complaint and the district's decision, within 15 days of receiving the district's decision

9. A statement advising the complainant of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal antidiscrimination laws, if applicable

10. A statement that copies of the district's UCP are available free of charge

The annual notification, complete contact information of the compliance officer(s), and information related to Title IX as required pursuant to Education Code 221.61 shall be posted on the district web site and may be provided through district-supported social media, if available.

*(cf. 1113 - District and School Web Sites)*

*(cf. 1114 - District-Sponsored Social Media)*

The Superintendent or designee shall ensure that all students and parents/guardians, including students and parents/guardians with limited English proficiency, have access to the relevant information provided in the district's policy, regulation, forms, and notices concerning the UCP.

If 15 percent or more of students enrolled in a particular district school speak a single primary language other than English, the district's policy, regulation, forms, and notices concerning the UCP shall be translated into that language, in accordance with Education Code 234.1 and 48985. In all other instances, the district shall ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

#### Filing of Complaint

The complaint shall be presented to the compliance officer who shall maintain a log of complaints received, providing each with a code number and a date stamp.

All complaints shall be filed in writing and signed by the complainant. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, district staff shall assist him/her in the filing of the complaint. (5 CCR 4600)

All complaints shall be filed in accordance with the following rules, as applicable:

1. A complaint alleging district 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 may be filed by any individual, public agency, or organization. (5 CCR 4630)

2. Any complaint alleging noncompliance with law regarding the prohibition against student fees, deposits, and charges or any requirement related to the LCAP may be filed anonymously if the complaint provides evidence, or information leading to evidence, to support an allegation of noncompliance. (Education Code 49013, 52075) A complaint about a violation of the prohibition against the charging of unlawful student fees may be filed with the principal of the school or with the Superintendent or designee. However, any such complaint shall be filed no later than one year from the date the alleged violation occurred. (Education Code 49013, 52075; 5 CCR 4630)

3. A complaint alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying, may be filed only by persons who allege that they have personally suffered unlawful discrimination or who believe that an individual or any specific class of individuals has been subjected to unlawful discrimination. The complaint shall be initiated no later than six months from the date that the alleged discrimination occurred, or six months from the date that the complainant first obtained knowledge of the facts of the alleged discrimination. The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension. (5 CCR 4630)

4. When a complaint alleging unlawful discrimination or bullying is filed anonymously, the compliance officer shall pursue an investigation or other response as appropriate, depending on the specificity and reliability of the information provided and the seriousness of the allegation.

5. When the complainant or alleged victim of unlawful discrimination or bullying requests confidentiality, the compliance officer shall inform the complainant or victim that the request may limit the district's ability to investigate the conduct or take other necessary action. When honoring a request for confidentiality, the district will nevertheless take all reasonable steps to investigate and respond to the complaint consistent with the request.

#### Mediation

Within three business days after receiving the complaint, the compliance officer may informally discuss with all the parties the possibility of using mediation. Mediation shall 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 an allegation of a sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. If the parties agree to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a complaint alleging retaliation, unlawful discrimination, or bullying, the compliance officer shall ensure that all parties agree to make the mediator a party to relevant confidential information. The compliance officer shall also notify all parties of the right to end the informal process at any time.

If the mediation process does not resolve the problem within the parameters of law, the compliance officer shall proceed with an investigation of the complaint.

The use of mediation shall not extend the district's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time. If mediation is successful and the complaint is withdrawn, then the district shall take only the actions agreed to through the mediation. If mediation is unsuccessful, the district shall then continue with subsequent steps specified in this administrative regulation.

#### Investigation of Complaint

Within 10 business days after the compliance officer receives the complaint, the compliance officer shall begin an investigation into the complaint.

Within one business day of initiating the investigation, the compliance officer shall provide the complainant and/or the complainant's representative with the opportunity to present the information contained in complaint to the compliance officer and shall notify the complainant and/or representative of the opportunity to present the compliance officer with any evidence, or information leading to evidence, to support the allegations in the complaint. Such evidence or information may be presented at any time during the investigation.

In conducting the investigation, the compliance officer shall collect all available documents and review all available records, notes, or statements related to the complaint, including any additional evidence or information received from the parties during the course of the investigation. The compliance officer shall

individually interview all available witnesses with information pertinent to the complaint, and may visit any reasonably accessible location where the relevant actions are alleged to have taken place. To resolve a complaint alleging retaliation, unlawful discrimination, or bullying, the compliance officer shall interview the alleged victim(s), any alleged offenders, and other relevant witnesses privately, separately, and in a confidential manner. As necessary, additional staff or legal counsel may conduct or support the investigation.

A complainant's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or engagement in any other obstruction of the investigation may result in the dismissal of the complaint because of a lack of evidence to support the allegation. Similarly, a respondent's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or engagement in any other obstruction of the investigation may result in a finding, based on evidence collected, that a violation has occurred and in the imposition of a remedy in favor of the complainant.(5 CCR 4631)

In accordance with law, the district shall provide the investigator with access to records and other information related to the allegation in the complaint and shall not in any way obstruct the investigation. Failure or refusal of the district to cooperate in the investigation may result in a finding based on evidence collected that a violation has occurred and in the imposition of a remedy in favor of the complainant. (5 CCR 4631)

#### Timeline for Final Decision

Unless extended by written agreement with the complainant, a final decision shall be sent to the complainant within 60 calendar days of the district's receipt of the complaint. If the complainant is dissatisfied with the compliance officer's decision, the complainant may, within five business days, file the complaint in writing with the Board.

The Board may consider the matter at its next regular Board meeting or at a special Board meeting convened in order to meet the 60-day time limit within which the complaint must be answered. When required by law, the matter shall be considered in closed session. The Board may decide not to hear the complaint, in which case the compliance officer's decision shall be final.

*(cf. 9321 - Closed Session Purposes and Agendas)*

*(cf. 9321.1 - Closed Session Actions and Reports)*

If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 60 calendar days of the district's initial receipt of the complaint or within the time period that has been specified in a written agreement with the complainant. (5 CCR 4631)

For any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying), the respondent shall be informed of any extension of the timeline agreed to by the complainant, also shall be sent the district's final written decision, and, in the same manner as the complainant, may file a complaint with the Board if dissatisfied with the decision.

#### Final Written Decision

For all complaints, the district's final written decision shall include: (5 CCR 4631)

1. The findings of fact based on the evidence gathered. In reaching a factual determination, the following factors may be taken into account:

- a. Statements made by any witnesses
- b. The relative credibility of the individuals involved
- c. How the complaining individual reacted to the incident

- d. Any documentary or other evidence relating to the alleged conduct
- e. Past instances of similar conduct by any alleged offenders
- f. Past false allegations made by the complainant

2. The conclusion(s) of law

3. Disposition of the complaint

4. Rationale for such disposition

For complaints of retaliation or unlawful discrimination, including discriminatory harassment, intimidation, or bullying, the disposition of the complaint shall include a determination for each allegation as to whether retaliation or unlawful discrimination has occurred.

The determination of whether a hostile environment exists may involve consideration of the following:

- a. How the misconduct affected one or more students' education
- b. The type, frequency, and duration of the misconduct
- c. The relationship between the alleged victim(s) and offender(s)
- d. The number of persons engaged in the conduct and at whom the conduct was directed
- e. The size of the school, location of the incidents, and context in which they occurred
- f. Other incidents at the school involving different individuals

5. Corrective action(s), including any actions that have been taken or will be taken to address the allegations in the complaint and including, with respect to a student fees complaint, a remedy that comports with Education Code 49013 and 5 CCR 4600

For complaints of unlawful discrimination, including discriminatory harassment, intimidation, or bullying, the notice may, as required by law, include:

- a. The corrective actions imposed on the individual found to have engaged in the conduct that relate directly to the subject of the complaint
- b. Individual remedies offered or provided to the subject of the complaint
- c. Systemic measures the school has taken to eliminate a hostile environment and prevent recurrence

6. Notice of the complainant's right to appeal the district's decision within 15 calendar days to the CDE and procedures to be followed for initiating such an appeal

The decision may also include follow-up procedures to prevent recurrence or retaliation and for reporting any subsequent problems.

In consultation with district legal counsel, information about the relevant part of a decision may be communicated to a victim who is not the complainant and to other parties who may be involved in implementing the decision or are affected by the complaint, as long as the privacy of the parties is protected. In a complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and

bullying), notice of the district's decision to the alleged victim shall include information about any sanction to be imposed upon the respondent that relates directly to the alleged victim.

If the complaint involves a limited-English-proficient student or parent/guardian and the student involved is enrolled in a school at which 15 percent or more of the students speak a single primary language other than English, then the decision shall also be translated into that language pursuant to Education Code 48985. In all other instances, the district shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

For complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, and bullying, based on state law, the decision shall also include a notice to the complainant that:

1. The complainant may pursue available civil law remedies outside of the district's complaint procedures, including seeking assistance from mediation centers or public/private interest attorneys, 60 calendar days after the filing of an appeal with the CDE. (Education Code 262.3)
2. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law. (Education Code 262.3)
3. Complaints alleging discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the U.S. Department of Education, Office for Civil Rights at [www.ed.gov/ocr](http://www.ed.gov/ocr) within 180 days of the alleged discrimination.

#### Corrective Actions

When a complaint is found to have merit, the compliance officer shall adopt any appropriate corrective action permitted by law. Appropriate corrective actions that focus on the larger school or district environment may include, but are not limited to, actions to reinforce district policies, training for faculty, staff, and students, updates to school policies, or school climate surveys.

*(cf. 5137 - Positive School Climate)*

For complaints involving retaliation, unlawful discrimination, or bullying, appropriate corrective actions that focus on the victim may include, but are not limited to, the following:

1. Counseling

*(cf. 6164.2 - Guidance/Counseling Services)*

2. Academic support
3. Health services
4. Assignment of an escort to allow the victim to move safely about campus
5. Information regarding available resources and how to report similar incidents or retaliation
6. Separation of the victim from any other individuals involved, provided the separation does not penalize the victim
7. Restorative justice
8. Follow-up inquiries to ensure that the conduct has stopped and there has been no retaliation

For complaints involving retaliation, unlawful discrimination, or bullying, appropriate corrective actions that focus on a student offender may include, but are not limited to, the following:

1. Transfer from a class or school as permitted by law
2. Parent/guardian conference
3. Education regarding the impact of the conduct on others
4. Positive behavior support
5. Referral to a student success team

*(cf. 6164.5 - Student Success Teams)*

6. Denial of participation in extracurricular or co-curricular activities or other privileges as permitted by law

*(cf. 6145 - Extracurricular and Cocurricular Activities)*

7. Disciplinary action, such as suspension or expulsion, as permitted by law

*(cf. 5144 - Discipline)*

*(cf. 5144.1 - Suspension and Expulsion/Due Process)*

When an employee is found to have committed retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the district shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

*(cf. 4118 - Dismissal/Suspension/Disciplinary Action)*

*(cf. 4218 - Dismissal/Suspension/Disciplinary Action)*

The district may also consider training and other interventions for the larger school community to ensure that students, staff, and parents/guardians understand the types of behavior that constitute unlawful discrimination, including discriminatory harassment, intimidation, or bullying, that the district does not tolerate it, and how to report and respond to it.

However, if a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges or any requirement related to the LCAP is found to have merit, the district shall provide a remedy to all affected students and parents/guardians. (Education Code 49013, 52075)

For complaints alleging noncompliance with the laws regarding student fees, such remedies, where applicable, shall include reasonable efforts to ensure full reimbursement to affected students and parents/guardians. (Education Code 49013; 5 CCR 4600)

#### Appeals to the California Department of Education

Any complainant who is dissatisfied with the district's final written decision may file an appeal in writing with the CDE within 15 calendar days of receiving the district's decision. (Education Code 49013, 52075; 5 CCR 4632)

The complainant shall specify the basis for the appeal of the decision and whether the facts are incorrect and/or the law has been misapplied. The appeal shall be sent to the CDE with a copy of the locally filed complaint and a copy of the district's decision. (5 CCR 4632)

Upon notification by the CDE that the complainant has appealed the district's decision, the Superintendent or designee shall forward the following documents to the CDE: (5 CCR 4633)

1. A copy of the original complaint
2. A copy of the decision
3. A summary of the nature and extent of the investigation conducted by the district, if not covered by the decision
4. A copy of the investigation file including, but not limited to, all notes, interviews, and documents submitted by the parties and gathered by the investigator
5. A report of any action taken to resolve the complaint
6. A copy of the district's uniform complaint procedures
7. Other relevant information requested by the CDE

Regulation TAMALPAIS UNION HIGH SCHOOL DISTRICT  
approved: November 10, 1992 Larkspur, California  
revised: December 10, 2002  
revised: March 6, 2007  
revised: August 26, 2008  
revised: September 12, 2012  
revised: February 10, 2015  
revised: April 30, 2019



**Title 5, Section 4650 Basis of Direct State Intervention**

(a) The Superintendent shall directly intervene without waiting for local agency action if one or more of the following conditions exists:

- (i) The complaint includes an allegation, and the Department verifies, that a local educational agency failed to comply with the complaint procedures required by this Chapter;
  - (ii) Discrimination is alleged by the complainant and the facts alleged indicate that the complainant will suffer an immediate loss of some benefit such as employment or education if the Department does not intervene. However, nothing in this section gives the Department jurisdiction over employment discrimination claims.
  - (iii) The complaint relates to agencies other than local educational agencies funded through the Child Development and Child Nutrition Programs;
  - (iv) The complainant requests anonymity and presents clear and convincing evidence and the Department verifies that he or she would be in danger of retaliation if a complaint were filed locally, or has been retaliated against because of past or present complaints;
  - (v) The complainant alleges that the local educational agency failed or refused to implement the final decision resulting from its local investigation or local Mediation Agreement;
  - (vi) The local agency refuses to respond to the Superintendent's request for information regarding a complaint;
  - (vii) The complainant alleges and the Department verifies, or the Department has information that no action has been taken by the local educational agency within 60 calendar days of the date the complaint was filed locally.
  - (viii) For complaints relating to special education the following shall also be conditions for direct state intervention:
    - (A) The complainant alleges that a public agency, other than a local educational agency, as specified in Government Code Section 7570 et seq., fails or refuses to comply with an applicable law or regulation relating to the provision of free appropriate public education to handicapped individuals;
    - (B) The complainant alleges that the local educational agency or public agency fails or refuses to comply with the due process procedures established pursuant to federal and state law and regulation; or has failed or refused to implement a due process hearing order;
    - (C) The complainant alleges facts that indicate that the student or group of students may be in immediate physical danger or that the health, safety or welfare of a student or group of students is threatened.
    - (D) The complainant alleges that a handicapped pupil is not receiving the special education or related services specified in their Individualized Educational Program (IEP).
    - (E) The complaint involves a violation of federal law governing special education, 20 U.S.C. Section 1400 et seq., or its implementing regulations.
- (b) The complaint shall identify upon which basis, as described in paragraph (a) of this section, that direct filing to the state is being made.

NOTE: Authority cited: Section 232 and 33031, Education Code; Section 11138, Government Code.  
Reference: Sections 11135, 11136 and 11138, Government Code; 34 CFR 76.780-76.783 and 106.8.



**WILLIAMS UNIFORM COMPLAINT PROCEDURES**

**Types of Complaints**

The district shall use the following procedures to investigate and resolve complaints when the complainant alleges that any of the following has occurred: (Education Code 35186; 5 CCR 4681, 4682)

1. Complaints regarding the insufficiency of textbooks and instructional materials, including any complaint alleging that:

- a. A student, including an English learner, does not have standards-aligned textbooks or instructional materials or state- or district-adopted textbooks or other required instructional materials to use in class.
- b. A student does not have access to textbooks or instructional materials to use at home or after school. This does not require two sets of textbooks or instructional materials for each student.
- c. Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.
- d. A student was provided photocopied sheets from only a portion of a textbook or instructional materials to address a shortage of textbooks or instructional materials.

*(cf. 6161.1 - Selection and Evaluation of Instructional Materials)*

2. Complaints regarding teacher vacancy or misassignment, including any complaint alleging that:

- a. A semester begins and a teacher vacancy exists.
- b. A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20 percent English learners in the class.

*(cf. 4112.22 - Staff Teaching Students of Limited English Proficiency)*

c. A teacher is assigned to teach a class for which the teacher lacks subject matter competency.

Teacher vacancy means a position to which a single designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of the semester for an entire semester. (Education Code 35186; 5 CCR 4600)

Beginning of the year or semester means the first day classes necessary to serve all the pupils enrolled are established with a single designated certificated employee assigned for the duration of the class, but not later than 20 working days after the first day pupils attend classes for that semester. (5 CCR 4600)

Misassignment means the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold. (Education Code 35186; 5 CCR 4600)

*(cf. 4112.2 - Certification)*

*(cf. 4113 - Assignment)*

3. Complaints regarding the condition of school facilities, including any complaint alleging that:

- a. A condition poses an emergency or urgent threat to the health or safety of pupils or staff.

Emergency or urgent threat means structures or systems that are in a condition that poses a threat to the health and safety of students or staff while at school, including but not limited to gas leaks; nonfunctioning heating, ventilation, fire sprinklers, or air-conditioning systems; electrical power failure; major sewer stoppage; major pest or vermin infestation; broken windows or exterior doors or gates that will not lock and that pose a security risk; abatement of hazardous materials previously undiscovered that pose an immediate threat to students or staff; or structural damage creating a hazardous or uninhabitable condition; or any other condition deemed inappropriate. (Education Code 17592.72)

- b. A school restroom has not been cleaned, maintained, or kept open in accordance with Education Code 35292.5.

Cleaned or maintained school restroom means a school has been cleaned or maintained regularly, is fully operational, or has been stocked at all times with toilet paper, soap, and paper towels or functional hand dryers. (Education Code 35292.5)

Open restroom means the school has kept all restrooms open during school hours when pupils are not in classes and has kept a sufficient number of restrooms open during school hours when pupils are in classes. This does not apply when the temporary closing of the restroom is necessary for student safety or to make repairs. (Education Code 35292.5)

*(cf. 3514 - Environmental Safety)*

*(cf. 3517 - Facilities Inspection)*

#### Filing of Complaint

A complaint alleging any condition(s) specified in the section "Types of Complaints" above shall be filed with the principal or designee at the school in which the complaint arises. The principal or designee shall forward a complaint about problems beyond his/her authority to the Superintendent or designee in a timely manner, but not to exceed 10 working days. (Education Code 35186; 5 CCR 4680)

#### Investigation and Response

The principal or designee shall make all reasonable efforts to investigate any problem within his/her authority. He/she shall remedy a valid complaint within a reasonable time period not to exceed 30 working days from the date the complaint was received. (Education Code 35186; 5 CCR 4685)

Complaints may be filed anonymously. If the complainant has indicated on the complaint form that he/she would like a response to the complaint, the principal or designee shall report the resolution of the complaint to him/her at the mailing address indicated on the complaint form within 45 working days of the initial filing of the complaint. At the same time, the principal or designee shall report the same information to the Superintendent or designee. (Education Code 35186; 5 CCR 4680, 4685)

When Education Code 48985 is applicable and the complainant has requested a response, the response shall be written in English and in the primary language in which the complaint was filed. (Education Code 35186)

If a complaint is not satisfied with the resolution of a complaint, he/she has the right to describe the complaint to the Board of Trustees at a regularly scheduled meeting. (Education Code 35186; 5 CCR 4686)

For any complaint concerning a facilities condition that poses an emergency or urgent threat to the health or safety of pupils or staff as described in item #3a in the section "Types of Complaints" above, a complainant who is not satisfied with the resolution proffered by the principal or Superintendent or designee may file an appeal to the Superintendent of Public Instruction (SPI) within 15 days of receiving the district's response.

The complainant shall comply with the appeal requirements specified in 5 CCR 4632. (Education Code 35186; 5 CCR 4687)

All complaints and written responses shall be public records. (Education Code 35186; 5 CCR 4686)

*(cf. 1340 - Access to District Records)*

### Reports

On a quarterly basis, the Superintendent or designee shall report, to the Board at a regularly scheduled public Board meeting and to the County Superintendent of Schools, summarized data on the nature and resolution of all complaints. The report shall include the number of complaints by general subject area with the number of resolved and unresolved complaints. These summaries shall be publicly reported on a quarterly basis at a regularly scheduled Board meeting. (Education Code 35186; 5 CCR 4686)

### Forms and Notices

The Superintendent or designee shall ensure a Williams Complaint Form is available at each school. However, complainants need not use the district's complaint form in order to file a complaint. (Education Code 35186)

The Superintendent or designee shall ensure that the district's complaint form contains a space to indicate whether the complainant desires a response to his/her complaint and specifies the location for filing a complaint. A complainant may add as much text to explain the complaint as he/she wishes. (Education Code 35186; 5 CCR 4680)

The Superintendent or designee shall ensure that a notice is posted in each classroom in each school containing the components specified in Education Code 35186. (Education Code 35186)

### Legal Reference:

#### EDUCATION CODE

234.1 Prohibition of discrimination, harassment, intimidation, and bullying  
1240 County superintendent of schools, duties  
17592.72 Urgent or emergency repairs, School Facility Emergency Repair Account  
33126 School accountability report card  
35186 Williams uniform complaint procedure  
35292.5 Restrooms, maintenance and cleanliness  
48985 Notice to parents in language other than English  
60119 Hearing on sufficiency of instructional materials  
CODE OF REGULATIONS, TITLE 5  
4600-4670 Uniform complaint procedures  
4680-4687 Williams uniform complaint procedures

#### Management Resources:

#### WEB SITES

CSBA: <http://www.csba.org>  
California County Superintendents Educational Services Association: <http://www.ccesa.org>  
California Department of Education, Williams case: <http://www.cde.ca.gov/eo/ce/wc>  
State Allocation Board, Office of Public School Construction: <http://www.opsc.dgs.ca.gov>

### Regulation TAMALPAIS UNION HIGH SCHOOL DISTRICT

approved: January 11, 2005 Larkspur, California

revised: March 6, 2007

revised: August 21, 2007

revised: July 8, 2008

revised: January 23, 2018

TAMALPAIS UNION HIGH SCHOOL DISTRICT

**WILLIAMS UNIFORM COMPLAINT PROCEDURES**

NOTICE TO PARENTS/GUARDIANS, STUDENTS, AND TEACHERS:  
COMPLAINT RIGHTS

Parents/Guardians, Pupils, and Teachers:

Pursuant to Education Code 35186 you are hereby notified that:

1. There should be sufficient textbooks and instructional materials. That means each student, including an English learner, must have a textbook or instructional materials, or both, to use in class and to take home.
2. School facilities must be clean, safe, and maintained in good repair.
3. There should be no teacher vacancies or misassignments. There should be a teacher assigned to each class and not a series of substitutes or other temporary teachers. The teacher should have the proper credential to teach the class, including certification required to teach English learners, if present.

Misassignment means the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold.

Teacher vacancy means a position to which a single designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.

4. A complaint form can be obtained at the school office or district office, or downloaded from the school or district web site. You may also download a copy of the California Department of Education complaint form from the following website: <http://www.cde.ca.gov/re/cp/uc>. However, a complaint need not be filed using either the district's complaint form or the complaint form from the California Department of Education. Exhibit TAMALPAIS UNION HIGH SCHOOL DISTRICT

version: January 11, 2005 Larkspur, California  
 revised: April 4, 2006  
 revised: March 6, 2007  
 revised: July 8, 2008  
 revised: January 23, 2018

**WILLIAMS UNIFORM COMPLAINT PROCEDURES**

**COMPLAINT FORM: WILLIAMS UNIFORM COMPLAINT PROCEDURES**

Education Code 35186 creates a procedure for the filing of complaints concerning deficiencies related to instructional materials, conditions of facilities that are not maintained in a clean or safe manner or in good repair, and teacher vacancy or misassignment. The complaint and response are public documents as provided by law. Complaints may be filed anonymously. However, if you wish to receive a response to your complaint, you must provide the contact information below.

Response requested?  Yes  No

Contact Information:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: Day: \_\_\_\_\_ Evening: \_\_\_\_\_

E-Mail address, if any: \_\_\_\_\_

Location of the problem that is the subject of this complaint: \_\_\_\_\_

School name/address: \_\_\_\_\_

Course title/grade level and teacher name: \_\_\_\_\_

Room number/name of room/location of facility: \_\_\_\_\_

Only the following issues may be the subject of this complaint process. If you wish to complain about an issue not specified below, please contact the school or district for the appropriate complaint procedure.

Specific issue(s) of the complaint: (Please check all that apply: A complaint may contain more than one allegation.)

1. Textbooks and instructional materials: (Education Code 351896; 5 CCR 4681)

\_\_\_\_\_ A student, including an English learner, does not have standards-aligned textbooks or instructional materials or state- or district-adopted textbooks or other required instructional materials to use in class.

\_\_\_\_\_ A student does not have access to textbooks or instructional materials to use at home or after school. This does not require two sets of textbooks or instructional materials for each student.

\_\_\_\_\_ Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.

\_\_\_\_\_ A student was provided photocopied sheets from only a portion of a textbook or instructional materials to address a shortage of textbooks or instructional materials.

2. Teacher vacancy or misassignment: (Education Code 35186; 5 CCR 4681)

\_\_\_\_\_ A semester begins and a teacher vacancy exists. A teacher vacancy is a position to which a single designated certificated employee has not been assigned at the beginning of the school year for an entire year or, if the position is for a one-semester course, a position of which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.





District Office Building  
395 Doherty Drive  
Larkspur, CA 94939

Please provide a signature below. If you wish to remain anonymous, a signature is not required. However, all complaints, even anonymous ones, should be dated.

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(signature) (date)

Exhibit TAMALPAIS UNION HIGH SCHOOL DISTRICT

version: January 11, 2005 Larkspur, California  
revised: March 6, 2007  
revised: July 8, 2008  
revised: January 23, 2018