

TUSTIN UNIFIED SCHOOL DISTRICT

STUDENTS

POLICY
5145.3

Nondiscrimination/Harassment

The Board of Education desires to provide a safe school environment that allows all students equal access and opportunities in the District's academic and other educational support programs, services, and activities. The Board prohibits, at any District school or school activity, unlawful discrimination, including harassment, intimidation, and bullying of any student based on the student's actual race or perceived race, color, ancestry, national origin, nationality, ethnicity, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, or gender expression or association with a person or group with one or more of these actual or perceived characteristics.

This policy shall apply to all acts related to school activity or to school attendance occurring within a District school, and to acts which occur off campus or outside of school-related or school-sponsored activities but which may have an impact or create a hostile environment at school.

Unlawful discrimination, including discriminatory harassment, intimidation, or bullying includes physical, verbal, nonverbal, or written conduct based on any of the categories listed above. Unlawful discrimination also shall include the creation of a hostile environment when the prohibited conduct is so severe, persistent, or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity; creates an intimidating, threatening, hostile, or offensive educational environment; has the effect of substantially or unreasonably interfering with a student's academic performance; or otherwise adversely affects a student's educational opportunities.

Unlawful discrimination also includes disparate treatment of students based on one of the categories above with respect to the provision of opportunities to participate in school programs or activities or the provision or receipt of educational benefits or services.

The Board also prohibits any form of retaliation against any individual who reports or participates in the reporting of unlawful discrimination, files or participates in the filing of a complaint, or investigates or participates in the investigation of a complaint or report alleging unlawful discrimination. Retaliation complaints shall be investigated and resolved in the same manner as a discrimination complaint.

The Superintendent or designee shall facilitate students' access to the educational program by publicizing the District's nondiscrimination policy and related complaint procedures to students, parents/guardians, and employees. The Superintendent or designee shall provide training and information on the scope and use of the policy and complaint procedures and take other measures designed to increase the school community's understanding of the requirements of law related to discrimination. The Superintendent or designee shall regularly review the implementation of the District's nondiscrimination policies and practices and, as necessary, shall take action to remove any identified barrier to student access to or participation in the District's educational program. He/she shall report his/her findings and recommendations to the Board after each review.

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Regardless of whether a complainant complies with the writing, timeline, and/or formal filing requirements, all complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying shall be investigated and prompt action taken to stop the discrimination, prevent recurrence, and address any continuing effect on students.

Students who engage in unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, in violation of law, Board policy, or administrative regulation shall be subject to appropriate consequence or discipline, which may include suspension or expulsion when the behavior is so severe or pervasive as defined in Education Code 48900.4. Any employee who permits or engages in prohibited discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, shall be subject to disciplinary action, up to and including dismissal.

Record-Keeping

The Superintendent or designee shall maintain a record of all reported cases of unlawful discrimination, including discriminatory harassment, intimidation, or bullying, to enable the District to monitor, address, and prevent repetitive prohibited behavior in District schools.

Legal Reference:

Education Code

200-262.4 Prohibition of discrimination
48900.3 Suspension or expulsion for act of hate violence
48900.4 Suspension or expulsion for threats or harassment
48904 Liability of parent/guardian for willful student misconduct
48907 Student exercise of free expression
48950 Freedom of speech
48985 Translation of notices
49020-49023 Athletic programs
51500 Prohibited instruction or activity
51501 Prohibited means of instruction
60044 Prohibited instructional materials

Civil Code

1714.1 Liability of parents/guardians for willful misconduct of minor

Penal Code

422.55 Definition of hate crime
422.6 Crimes, harassment

Code of Regulations, Title 5

432 Student record
4600-4687 Uniform Complaint Procedures
4900-4965 Nondiscrimination in elementary and secondary education programs

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United States Code, Title 20

1681-1688 Title IX of the Education Amendments of 1972

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

99.31 Disclosure of personally identifiable information

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

Date

Adopted: 07/08/13

Revised and Adopted: 07/14/14

Revised and Adopted: 08/24/15

Revised and Adopted: 10/10/16

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NONDISCRIMINATION/HARASSMENT

The District designates the individual(s) identified below as the employee(s) responsible for coordinating the District's efforts to comply with state and federal civil rights laws, including Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, and the Age Discrimination Act of 1975, and to answer inquiries regarding the District's nondiscrimination policies. The individual(s) shall also serve as the compliance officer(s) specified in AR 1312.3 - Uniform Complaint Procedures as the responsible employee to handle complaints regarding unlawful discrimination, including discriminatory harassment, intimidation, or bullying, based on actual or perceived race, color, ancestry, national origin, nationality, immigration status, ethnicity, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or any other legally protected status; the perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics.

The coordinator/compliance officer(s) may be contacted at:

District Lead Compliance Officer:

Robert Craven, Director, Educational Services
Tustin Unified School District
300 South C Street
Tustin, CA 92780
(714) 730-7301 Ext. 368
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School Compliance Officers – Elementary Schools:

Katy Sheyka, Principal
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School Compliance Officers – Middle Schools and K – 8 Schools:

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School Compliance Officers – High Schools

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Tim O'Donoghue, Principal
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Mike Williams, Principal
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School Compliance Officers – Alternative Schools, Adult School, and School Readiness Programs

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William Nedderson, Coordinator
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Lauralee Cabibi, Coordinator
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Measures to Prevent Discrimination

To prevent unlawful discrimination, including discriminatory harassment, intimidation, retaliation, and bullying of students at District schools or in school activities and to ensure equal access of all students to the educational program, the Superintendent/designee shall implement the following measures:

1. Publicize the District's nondiscrimination policy and related complaint procedures, including the coordinator/compliance officer's contact information, to students, parents/guardians, employees, volunteers, and the general public by posting them on the District's web site and other prominent locations and providing easy access to them through District-supported social media, when available.
2. Post in a prominent and conspicuous location on the district and school web sites information regarding Title IX prohibitions against discrimination based on a student's sex, gender, gender identity, pregnancy, and parental status, including the following: (Education Code 221.61)
 - a. The name and contact information of the district's Title IX coordinator, including the phone number and email address
 - b. The rights of students and the public and the responsibilities of the district under Title IX, including a list of rights as specified in Education Code 221.8 and web links to information about those rights and responsibilities located on the web sites of the Office for Equal Opportunity and the U.S. Department of Education's Office for Civil Rights (OCR)

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prohibited discrimination, discriminatory harassment, intimidation, retaliation, or bullying; how and to whom a report of an incident should be made; and how to guard against segregating or stereotyping students when providing instruction, guidance, supervision, or other services to them. Such training and information shall include details of guidelines the District may use to provide a discrimination-free environment for all District students, including transgender and gender-nonconforming students.

7. At the beginning of each school year, inform school employees that any employee who witnesses any act of unlawful discrimination, discriminatory harassment, intimidation, or bullying against a student is required to intervene if it is safe to do so. (Education Code 234.1)
8. At the beginning of each school year, inform each principal or designee of the District's responsibility to provide appropriate assistance or resources to protect students' privacy rights and ensure their safety from threatened or potentially discriminatory behavior.

Enforcement of District Policy

The Superintendent or designee shall take appropriate actions to reinforce BP 5145.3 - Nondiscrimination/Harassment. As needed, these actions may include any of the following:

1. Removing vulgar or offending graffiti
2. Providing training to students, staff, and parents/guardians about how to recognize unlawful discrimination, how to report it or file a complaint, and how to respond
3. Disseminating and/or summarizing the District's policy and regulation regarding unlawful discrimination
4. Consistent with the laws regarding the confidentiality of student and personnel records, communicating the school's response to students, parents/guardians, and the community
5. Taking appropriate disciplinary action against students, employees, and anyone determined to have engaged in wrongdoing in violation of District policy, including any student who is found to have filed a complaint of discrimination that he/she knew was not true.

Process for Initiating and Responding to Complaints

Any student who feels that he/she has been subjected to unlawful discrimination described above or in District policy is strongly encouraged to immediately contact the compliance officer, principal, or any other staff member. In addition, any student who observes any such incident is strongly encouraged to report the incident to the compliance officer or principal, whether or not the alleged victim files a complaint.

Any school employee who observes an incident of unlawful discrimination, including

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discriminatory harassment, intimidation, retaliation, or bullying, or to whom such an incident is reported shall immediately report the incident to the compliance officer or principal within a school day, whether or not the alleged victim files a complaint.

Any school employee who witnesses an incident of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, shall immediately intervene to stop the incident when it is safe to do so. (Education Code 234.1)

When a verbal report of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying is made to or received by the principal or compliance officer, he/she shall make a note of the report and encourage the student or parent/guardian to file the complaint in writing, pursuant to the provisions in AR 1312.3 - Uniform Complaint Procedures. Once notified verbally or in writing, the principal or compliance officer shall begin the investigation and shall implement immediate measures necessary to stop the discrimination and ensure that all students have access to the educational program and a safe school environment. In assessing the need for a party to receive interim measures, schools and the District may not rely on fixed rules or operating assumptions that favor one party over another. Interim measures shall be individualized, making every effort to avoid depriving any student of her or his education.

Any report or complaint alleging unlawful discrimination by the principal, compliance office, or any other person to whom a report would ordinarily be made or complaint filed shall instead be made to or filed with the Superintendent/designee who shall determine how the complaint will be investigated.

Transgender and Gender-Nonconforming Students

Gender identity of a student means the student's gender-related identity, appearance, or behavior as determined from the student's internal sense of his/her gender, whether or not that gender-related identity, appearance, or behavior is different from that traditionally associated with the student's physiology or assigned sex at birth.

Gender expression means a student's gender-related appearance and behavior, whether stereotypically associated with the person's assigned sex at birth. (Education Code 210.7)

Gender transition refers to the process in which a student changes from living and identifying as the sex assigned to the student at birth to living and identifying as the sex that corresponds to the student's gender identity.

Gender-nonconforming student means a student whose gender expression differs from stereotypical expectations.

Transgender student means a student whose gender identity is different from the gender he/she was assigned at birth.

Regardless of whether they are sexual in nature, acts of verbal, nonverbal, or physical aggression,

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intimidation, or hostility that are based on sex, gender identity, or gender expression, or that have the purpose or effect of producing a negative impact on the student's academic performance or of creating an intimidating, hostile, or offensive educational environment are prohibited. Examples of types of conduct which are prohibited in the District and which may constitute gender-based harassment include, but are not limited to:

1. Refusing to address a student by a name and the pronouns consistent with his/her gender identity
2. Disciplining or disparaging a student or excluding him/her from participating in activities for behavior or appearance that is consistent with his/her gender identity or that does not conform to stereotypical notions of masculinity or femininity, as applicable.
3. Blocking a student's entry to the bathroom that corresponds to his/her gender identity
4. Taunting a student because he/she participates in an athletic activity more typically favored by a student of the other sex
5. Revealing a student's transgender status to individuals who do not have a legitimate need for the information, without the student's consent
6. Use of gender-specific slurs
7. Physical assault of a student motivated by hostility toward him/her because of his/her gender, gender identity, or gender expression

The District's uniform complaint procedures (AR 1312.3) shall be used to report and resolve complaints alleging discrimination against transgender and gender-nonconforming students.

Examples of bases for complaints include, but are not limited to, the above list as well as improper rejection by the District of a student's asserted gender identity, denial of access to facilities that correspond with a student's gender identity, improper disclosure of a student's transgender status, discriminatory enforcement of a dress code, and other instances of gender-based harassment.

To ensure that transgender and gender-nonconforming students are afforded the same rights, benefits, and protections provided to all students by law and Board policy, the District shall address each situation on a case-by-case basis, in accordance with the following guidelines:

1. **Right to privacy:** A student's transgender or gender-nonconforming status is his/her private information and the District shall only disclose the information to others with the student's prior consent, except when the disclosure is otherwise required by law or is necessary to preserve the student's physical or mental well-being. In any case, the District shall only allow disclosure of a student's personally identifiable information to employees with a legitimate educational interest as determined by the District pursuant to 34 CFR 99.3. Any District employee to whom a student's transgender or gender-nonconforming

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status is disclosed shall keep the student's information confidential. When disclosure of a student's gender identity is made to a District employee by a student, the employee shall seek the student's permission to notify the compliance officer. If the student refuses to give permission, the employee shall keep the student's information confidential, unless he/she is required to disclose or report the student's information pursuant to this procedure, and shall inform the student that honoring the student's request may limit the District's ability to meet the student's needs related to his/her status as a transgender or gender-nonconforming student. If the student permits the employee to notify the compliance officer, the employee shall do so within three school days.

As appropriate given the student's need for support, the compliance officer may consider discussing with the student any need to disclose the student's transgender or gender-nonconformity status or gender identity or gender expression to his/her parents/guardians and/or others, including other students, teacher(s), or other adults on campus. The District shall offer support services, such as counseling, to students who wish to inform their parents/guardians of their status and desire assistance in doing so.

2. **Determining a Student's Gender Identity:** The compliance officer shall accept the student's assertion of his/her gender identity and begin to treat the student consistent with his/her gender identity unless District personnel present a credible basis for believing that the student's assertion is for an improper purpose.
3. **Addressing a Student's Transition Needs:** The compliance officer shall arrange a meeting with the student and, if appropriate, his/her parents/guardians to identify and develop strategies for ensuring that the student's access to education programs and activities is maintained. The meeting shall discuss the transgender or gender-nonconforming student's rights and how those rights may affect and be affected by the rights of other students and shall address specific subjects related to the student's access to facilities and to academic or educational support programs, services, or activities, including, but not limited to, sports and other competitive endeavors. In addition, the compliance officer shall identify specific school site employee(s) to whom the student may report any problem related to his/her status as a transgender or gender-nonconforming individual, so that prompt action could be taken to address it. Alternatively, if appropriate and desired by the student, the school may form a support team for the student that will meet periodically to assess whether the student's arrangements are meeting his/her educational needs and providing equal access to programs and activities, educate appropriate staff about the student's transition, and serve as a resource to the student to better protect the student from gender-based discrimination.
4. **Accessibility to Sex-segregated Facilities, Programs, and Activities:** When the District maintains sex-segregated facilities, such as restrooms and locker rooms, or offers sex-segregated programs and activities, such as physical education classes, intermural sports, and interscholastic athletic programs, students shall be permitted to access facilities and participate in programs and activities consistent with their gender identity. To address any student's privacy concerns in using sex-segregated facilities, the District shall offer

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available options such as a gender-neutral or single-use restroom or changing area, a bathroom stall with a door, an area in the locker room separated by a curtain or screen, access to a staff member's office, or use of the locker room before or after the other students. However, the District shall not require a student to utilize these options because he/she is transgender or gender-nonconforming. In addition, a student shall be permitted to participate in accordance with his/her gender identity in other circumstances where students are separated by gender, such as for class discussions, yearbook pictures, and field trips. A student's right to participate in a sex-segregated activity in accordance with his/her gender identity shall not render invalid or inapplicable any other eligibility rule established for participation in the activity.

5. **Student Records:** A student's legal name or gender as entered on the mandatory student record required pursuant to 5 CCR 432 shall only be changed pursuant to a court order. However, at the written request of a student or, if appropriate, his/her parents/guardians, the District shall use the student's preferred name and pronouns consistent with his/her gender identity on all other District-related documents. Such preferred name may be added to the student's record and official documents as permitted by law.
6. **Names and Pronouns:** If a student so chooses, District personnel shall be required to address the student by a name and the pronouns consistent with his/her gender identity, without the necessity of a court order or a change to his/her official District record. However, inadvertent slips or honest mistakes by District personnel in the use of the student's name and/or consistent pronouns shall not constitute a violation of this administrative regulation or the accompanying District policy.
7. **Uniforms/Dress Code:** A student has the right to dress in a manner consistent with his/her gender identity, subject to any dress code adopted on a school site.

Date

Effective: 07/14/2014

Revised: 08/24/2015

Revised: 08/22/2016

Revised: 10/10/2016

Revised: 06/06/2017

Revised: 08/29/2017

Revised: 01/11/2018

Revised: 08/23/2018

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COMMUNITY RELATIONS

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AR 1312.3

UNIFORM COMPLAINT PROCEDURES

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

Compliance Officers

The District designates the individual(s) identified below as the employee(s) responsible for coordinating the District's response to complaints and for complying with state and federal civil rights laws. These individuals are knowledgeable about the laws and programs they are assigned to investigate. The individual(s) also serve as the compliance officer(s) specified in AR 5145.3 - Nondiscrimination/Harassment as the responsible employee to handle complaints regarding sex discrimination and unlawful discrimination (such as discriminatory harassment, intimidation, or bullying). The individual(s) shall receive and coordinate the investigation of complaints and shall ensure District compliance with law.

District Lead Compliance Officer:

Robert Craven, Director, Educational Services
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300 South C Street
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School Compliance Officers – Middle Schools and K – 8 Schools:

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School Compliance Officers – High Schools

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School Compliance Officers – Alternative Schools, Adult School, and School Readiness

Dustin O’Malley, Principal
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Dustin O’Malley, Principal
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Lauralee Cabibi, Coordinator
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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 to investigate the complaint.

In no instance shall a compliance officer be assigned to a complaint in which he/she has a bias or conflict of interest that would prohibit him/her from fairly investigating or resolving the complaint. Any complaint against a compliance officer or that raises a concern about the compliance officer’s ability to investigate the complaint fairly and without bias shall be filed with the Superintendent/designee who shall determine how the complaint will be investigated.

The Superintendent/designee shall ensure that employees designated to investigate and resolve complaints receive training and are knowledgeable about the laws and programs at issue in the complaints to which they are assigned. 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 unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), applicable standards for reaching decisions on complaints, and appropriate corrective measures. Assigned employees may have access to legal counsel as determined by the Superintendent/designee.

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

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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)

The Superintendent/designee shall annually provide written notification of the District's uniform complaint procedures to students, employees, parents/guardians of district students, district advisory committee members, school advisory committee members, appropriate private school officials or representatives, and other interested parties. The notification shall include information regarding the prohibition of discrimination, harassment, intimidation, and bullying, unlawful student fees, local control and accountability plan (LCAP) requirements, and requirements related to the educational rights of foster youth and, homeless students, former juvenile court school students, and children of military families. (Education Code 262.3, 48853, 48853.5, 49010-49013, 49069.5, 51225.1, 51225.2, 52075; 5 CCR 4622)

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.

At the beginning of each school year, the Superintendent/designee shall inform school employees that any employee who witnesses any act of unlawful discrimination, harassment, intimidation, or bullying against a student is required to intervene if it is safe to do so. (Education Code 234.1)

The Superintendent/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.

The notice shall:

1. Identify the person(s), position(s), or unit(s) responsible for receiving complaints Advise the complainant of any civil law remedies that may be available to him/her under state or federal antidiscrimination laws, if applicable.

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2. Advise the complainant of the appeal process including, if applicable, the complainant's right to take a complaint directly to the California Department of Education (CDE) or to pursue remedies before civil courts or other public agencies, such as the U.S. Department of Education's Office for Civil Rights (OCR) in cases involving unlawful discrimination (such as discriminatory harassment, intimidation, or bullying).
3. Include statements that:
 - a. The District has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs.
 - b. The complaint review shall be completed within 60 calendar days from the date of receipt of the complaint unless the complainant agrees in writing to an extension of the timeline.
 - c. A complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) must be filed not later than six months from the date it occurred, or six months from the date the complainant first obtains knowledge of the facts of the alleged discrimination. The time for filing may be extended for up to 90 days by the Superintendent/designee for good cause upon written request by the complainant setting forth the reasons for the extension.
 - d. Complaints should be filed in writing and signed by the complainant. If a complainant is unable to put his/her complaint in writing, for example, due to conditions such as a disability or illiteracy, District staff shall assist him/her in the filing of the complaint.
 - e. If a complaint is not filed in writing but the District receives notice of any allegation that is subject to the UCP, the District shall take affirmative steps to investigate and address the allegations, in a manner appropriate to the particular circumstances.

If the allegation involves retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) and the investigation reveals that discriminate has occurred, the District will take steps to prevent recurrence of discrimination and correct its discriminatory effects on the complainant, and on others, if appropriate.
 - f. A student enrolled in a public school shall not be required to pay a fee for his/her participation in an educational activity that constitutes an integral fundamental part of the District's educational program, including curricular and extracurricular activities.

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- g. The Board is required to adopt and annually update a local control and accountability plan (LCAP), in a manner that includes meaningful engagement of parents/guardians, students, and other stakeholders in the development and/or review of the LCAP.
- h. A foster youth shall receive information about educational rights related to his/her educational placement, enrollment in and checkout from school, as well as the responsibilities of the District liaison for foster youth to ensure and facilitate these requirements and to assist the student in ensuring proper transfer of his/her credits, records, and grades when he/she transfers between schools or between the District and another district.
- i. A foster youth, homeless student, former juvenile court school student, or child of a military family who transfers into a District high school or between District high schools shall be notified of the District's responsibility to:
 - 1) Accept any coursework or part of the coursework that the student has satisfactorily completed in another public school, juvenile court school, or a nonpublic, nonsectarian school or agency, and to issue full or partial credit for the coursework completed
 - 2) Not require the student to retake any course or a portion of a course which he/she has satisfactorily completed in another public school, juvenile court school, or a nonpublic, nonsectarian school or agency
 - 3) If the student has completed his/her second year of high school before the transfer, provide the student information about District-adopted coursework and Board-imposed graduation requirements from which he/she may be exempted pursuant to Education Code 51225.1
- j. The complainant has a right to appeal the District's decision to the CDE by filing a written appeal within 15 calendar days of receiving the District's decision.

In any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the respondent also shall have the right to file an appeal with the CDE in the same manner as the complainant, if he/she is dissatisfied with the District's decision.
- k. The appeal to the CDE must include a copy of the complaint filed with the District and a copy of the District's decision.
- l. Copies of the District's uniform complaint procedures are available free of charge.

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District Responsibilities

All UCP-related complaints shall be investigated and resolved within 60 calendar days of the District's receipt of the complaint unless the complainant agrees in writing to an extension of the timeline. (5 CCR 4631)

For complaints alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the District shall inform the respondent when the complainant agrees to an extension of the timeline for investigating and resolving the complaint.

The compliance officer 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.

All parties involved in the allegations shall be notified when a complaint is filed and when a decision or ruling is made. However, the compliance officer shall keep all complaints or allegations of retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) confidential except when disclosure is necessary to carry out the investigation, take subsequent corrective action, conduct ongoing monitoring, or maintain the integrity of the process. (5 CCR 4630, 4964)

Step 1: Filing of Complaints

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. If a complaint is not filed in writing but the District receives notice of any allegation that is subject to the UCP, the District shall take affirmative steps to investigate and address the allegations, in a manner appropriate to the particular circumstances.

Complaints shall also 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 the following programs: Adult Education; After School Education and Safety; Bilingual Education; Career Technical and Technical Education and Career Technical and Technical Training; Career Technical Education; Child Care and Development; Compensatory Education; Consolidated Categorical Aid; Every Student Succeeds Act / No Child Left Behind; Migrant Education, Regional Occupational Centers and Programs; School Safety Plans; Special Education; and State Preschool may be filed by any individual, public agency, or organization. (5 CCR 4630)
2. Any complaint alleging noncompliance with law regarding the prohibition against requiring students to pay student fees, deposits, and charges or any requirement related to

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Course Period without Educational Content or the LCAP may be filed anonymously if the complaint provides evidence, or information leading to evidence, to support an allegation of noncompliance. A complaint about a violation of the prohibition against the charging of unlawful student fees may be filed with the principal of the school, the Superintendent, or Superintendent's 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 (such as discriminatory harassment, intimidation, or bullying) may be filed only by a person who alleges that he/she personally suffered the unlawful discrimination or by a person who believes that an individual or any specific class of individuals has been subjected to it. The complaint shall be initiated no later than six months from the date when the alleged unlawful discrimination occurred, or six months from the date when the complainant first obtained knowledge of the facts of the alleged unlawful discrimination. The time for filing may be extended for up to 90 days by the Superintendent/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 (such as discriminatory harassment, intimidation, 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 of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) or the alleged victim, when he/she is not the complainant, requests confidentiality, the compliance officer shall inform him/her 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 shall nevertheless take all reasonable steps to investigate and resolve/respond to the complaint consistent with the request.

Step 2: Mediation

Within three business days after the compliance officer receives the complaint, he/she 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 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 or unlawful discrimination (such as discriminatory harassment, intimidation, 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.

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If the mediation process does not resolve the problem within the parameters of law, the compliance officer shall proceed with his/her 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.

Step 3: Investigation of Complaint

Within 10 business days of receiving 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 his/her representative an opportunity to present the information contained in the complaint to the compliance officer and shall notify the complainant and/or his/her 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. He/she 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. At appropriate intervals, the compliance officer shall inform both parties of the status of the investigation.

To investigate a complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, 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/or

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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)

The compliance officer shall apply a "preponderance of the evidence" standard in determining the veracity of the factual allegations in a complaint. This standard is met if the allegation is more likely to be true than not.

Step 4: Report of Findings

Unless extended by written agreement with the complainant, the compliance officer shall investigate, prepare, and send to the complainant a written report of the District's investigation and decision, as described in the section "Final Written Decision" below, within 60 calendar days of the District's receipt of the complaint.

Step 5: Final Written Decision

The District's decision shall be in writing and shall be sent to the complainant and respondent. (5 CCR 4631)

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 that may be involved in implementing the decision or 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 attends 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. In other all other instances, the District shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

For all complaints, the 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.

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- 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 (such as 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 actions, 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 49103 and 5 CCR 4600.

For complaints of unlawful discrimination (such as 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.

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6. Notice of the complainant's right to appeal the District's decision within 15 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.

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

1. He/she 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 within 180 days of the alleged discrimination. Where the allegations of unlawful discrimination were addressed through the District's internal complaint process, a complaint may be filed with OCR regarding the same allegations within 60 days of the completion of the District's complaint process.

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.

For complaints involving retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), appropriate corrective actions that focus on the victim may include, but are not limited to, the following:

1. Counseling
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

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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
9. Determination of whether any past actions of the victim that resulted in discipline were related to the treatment the victim received and described in the complaint

For complaints involving retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, 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
6. Denial of participation in extracurricular or co-curricular activities or other privileges as permitted by law
7. Disciplinary action, such as suspension or expulsion, as permitted by law

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.

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 (such as discriminatory harassment, intimidation, or bullying), that the District does not tolerate it, and how to report and respond to it.

When a complaint is found to have merit, an appropriate remedy shall be provided to the complainant or other affected person.

If a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges, physical education instructional minutes for students in elementary schools, course periods without educational content, 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 subject to procedures established by regulation of the State Board of Education. (Education Code 49013, 52075)

For complaints alleging noncompliance with the laws regarding student fees, the District shall

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attempt in good faith, by engaging in reasonable efforts, to identify and fully reimburse all affected students and parents/guardians who paid the unlawful student fees within one year prior to the filing of the complaint. (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 of a complaint regarding any specified federal or state educational program subject to the UCP may file an appeal in writing with the California Department of Education within 15 calendar days of receiving the District's decision. (Education Code 222, 48853, 48853.5, 49013, 49069.5, 51223, 51225.1, 51225.2, 51228.3, 52075; 5 CCR 4632)

When a respondent in any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying) is dissatisfied with the District's final written decision, he/she, in the same manner as the complainant, may file an appeal with the CDE.

The complainant or respondent 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 accompanied by 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 or respondent has appealed the District's decision, the Superintendent/designee shall forward the following documents to the CDE: (5 CCR 4633)

1. A copy of the original complaint
2. A copy of the written 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

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

Date

Effective: 01/26/04

Revised: 07/31/07

Revised: 05/12/08

Revised: 08/27/12

Revised: 02/11/13

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Revised: 06/09/14

Revised: 08/24/15

Revised: 05/23/16

Revised: 08/22/16

Revised: 10/10/16

Revised: 11/14/16

Revised: 06/05/17

Revised: 08/28/17

Revised: 01/11/18

Revised: 07/09/18



Tustin Unified School District
UNIFORM COMPLAINT FORM

APPENDIX A
1312.3

DATE: _____
Name(s) _____
Address _____ Zip Code _____
Telephone (Home) _____ Other _____
School: _____

TYPE OF UNIFORM COMPLAINT (Please check below):

1. _____ A violation of federal or state law or regulation governing the following program(s):

- Adult Education (Ed. Code Sections 8500-8538 and 52500-52616.5)
- Career Technical Education (Ed. Code Sections 52300 – 52490)
- Child Nutrition (Ed. Code Sections 49490-49560)
- Child Care and Development (Ed. Code Sections 8200-8493)
- Compensatory Education Programs (Ed. Code Sections 54400 – 54425)
- Consolidated Categorical Aid (Ed. Code Section 64000(a))
- Course Periods without Educational Content (Ed. Code Sections 51225.1 – 51225.2)
- Foster Youth (Ed. Code Sections 48853, 48853.5, 49069.5, 51225.1, 51225.2)
- Homeless Students (Ed. Code Sections 51225.1 and 51225.2)
- Former Juvenile Court School Students (Ed. Code Section 51225.2)
- Children of Military Families (Ed. Code Section 49701)
- Local Control and Accountability Plan (Ed. Code Sections 52060-52077)
- Migrant Education (Ed. Code Sections 54440-54445)
- Physical Education, Elementary Schools (Ed. Code Section 51223)
- Special Education (Ed. Code Sections 56000-56885 and 59000-59300)
- Vocational Education (Ed. Code Sections 52300-52480)
- ESSA/No Child Left Behind Act
- School Safety Planning (20 U.S.C. Section 7114(d)(7))

2. _____ Discrimination, harassment (including sexual harassment), intimidation, or bullying against any protected group based on the person's actual or perceived characteristics of:

- | | |
|---|--|
| <input type="checkbox"/> Race or ethnicity | <input type="checkbox"/> Religion |
| <input type="checkbox"/> Color | <input type="checkbox"/> Marital or parental status |
| <input type="checkbox"/> Ancestry | <input type="checkbox"/> Physical or mental disability |
| <input type="checkbox"/> Nationality | <input type="checkbox"/> Sex |
| <input type="checkbox"/> National origin | <input type="checkbox"/> Sexual orientation |
| <input type="checkbox"/> Immigration status | <input type="checkbox"/> Gender |
| <input type="checkbox"/> Ethnic group identification | <input type="checkbox"/> Gender identity |
| <input type="checkbox"/> Age | <input type="checkbox"/> Gender expression |
| <input type="checkbox"/> Genetic information | |
| <input type="checkbox"/> Association of a person or group with one or more of these actual or perceived characteristics | |
- Please check if this is a complaint concerning **sexual harassment**.
- Please check if this is a complaint concerning **bullying**.

