

# TUSTIN UNIFIED SCHOOL DISTRICT

## COMMUNITY RELATIONS

## POLICY

1312.3

### Uniform Complaint Procedures

The Board of Education recognizes 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, informal resolution of complaints whenever possible and appropriate. To resolve complaints which cannot be resolved through such informal process, the Board shall adopt a uniform system of complaint processes specified in 5 CCR 4600=4670 and the accompanying administrative regulation.

We shall ensure annual dissemination of the written notice of our complaint procedures to students, employees, parents or guardians of its students, school and District advisory committee members, appropriate private school officials or representatives, and other interested parties that includes unlawful pupil fees and LCAP requirements.

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 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; Child Nutrition; 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; State Preschool; and any other District-implemented program listed in Education Code 64000(a). (5 CCR 4610)
2. Any complaint alleging the occurrence of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) against any person in District programs and activities, including, but not limited to, those programs or activities funded directly by or that receive or benefit from any state financial assistance, based on the person's actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, 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 (5 CCR 4610)
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)
4. 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)

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5. Any complaint alleging District noncompliance with legal requirements related to the implementation of the local control and accountability plan (Education Code 52075)
6. Any complaint, by or on behalf of any student who is a foster youth, alleging district noncompliance with any legal 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 or district, school transfer, or the grant of an exemption from Board-imposed graduation requirements (Education Code 48853, 48853.5, 49069.5, 51225.1, 51225.2)
7. Any complaint, by or on behalf of a homeless student as defined in 42 USC 11434a, alleging district noncompliance with any requirement applicable to the student regarding the award of credit for coursework satisfactorily completed in another school or district or the grant of an exemption from Board-imposed graduation requirements (Education Code 51225.1, 51225.2)
8. Any complaint alleging district noncompliance with the requirements of Education Code 51228.1 and 51228.2 that prohibit the assignment of a student to a course without educational content for more than one week in any semester or to a course the student has previously satisfactorily completed, without meeting specified conditions (Education Code 51228.3)
9. Any complaint alleging district noncompliance with the physical education instructional minutes requirement for students in elementary school (Education Code 51210, 51223)
10. Any complaint alleging retaliation against a complainant or other participant in the complaint process or anyone who has acted to uncover or report a violation subject to this policy
11. Any other complaint as specified in a 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. ADR such as mediation may be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint involving sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. The 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. As appropriate for any complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the Superintendent or designee shall keep confidential the identity of the complainant and/or the subject of the complaint if he/she is different from the complainant, as long as the integrity of the complaint process is maintained.

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When an allegation that is not subject to the 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 related requirements, including the steps and timelines specified in this policy and the accompanying administrative regulation.

The Superintendent or designee shall maintain records of all UCP complaints and the investigations of those complaints in accordance with applicable law and District policy.

### 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, the County Protective Services Division, and the appropriate law enforcement agency.
2. Any complaint alleging health and safety violations by a child development program shall, for licensed facilities, be referred to Department of Social Services and shall, for licensing-exempt facilities, be referred to the appropriate Child Development regional administrator.
3. Any complaint alleging employment discrimination shall be sent to the California Department of Fair Employment and Housing and the compliance officer shall notify the complainant by first class mail of the transfer.
4. Any complaint alleging fraud shall be referred to the California Department of Education.

In addition, the District's Williams Uniform Complaint Procedures, AR 1312.4, shall be used to investigate and resolve any complaint related to sufficiency of textbooks or instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff, or teacher vacancies and misassignments. (Education Code 35186)

### Legal References:

#### EDUCATION CODE

|             |  |
|-------------|--|
| 200-262.4   | Prohibition of discrimination                    |
| 222         | Reasonable accommodations; lactating students    |
| 8200-8498   | Child care and development programs              |
| 8500-8538   | Adult basic education                            |
| 18100-18203 | School libraries                                 |
| 32289       | School safety plan, uniform complaint procedures |

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|                 |  |
|-----------------|--|
| 35186           | Williams uniform complaint procedures  |
| 48853-48853.5   | Foster youth   |
| 48985           | Notices in language other than English   |
| 49101-49013     | Student fees   |
| 49060-49079     | Student records  |
| 49069.5         | Rights of parents  |
| 49490-49590     | Child nutrition programs   |
| 51210           | Courses of study grades 1-6  |
| 51223           | Physical education, elementary schools   |
| 51225.1-51225.2 | Foster youth and homeless children; course credits; graduation requirements              |
| 51228.1-51228.3 | Course periods without educational content   |
| 52060-52077     | Local Control Accountability Plan, especially  |
| 52075           | Complaint for lack of compliance with local control and accountability plan requirements |
| 52160-52178     | Bilingual education programs   |
| 52300-52490     | Career technical education   |
| 52500-52616.24  | Adult schools  |
| 52800-52870     | School-based program coordination  |
| 54400-54425     | Compensatory education programs  |
| 54440-54445     | Migrant education  |
| 54460-54529     | Compensatory education programs  |
| 56000-56867     | Special education programs   |
| 59000-59300     | Special schools and centers  |
| 64000-64001     | Consolidated application process   |

GOVERNMENT CODE

|             |   |
|-------------|---|
| 11135       | Nondiscrimination in programs or activities funded by state |
| 12900-12996 | Fair Employment and Housing Act                             |

PENAL CODE

|        |   |
|--------|---|
| 422.55 | Hate crime; definition                              |
| 422.6  | Interference with constitutional right or privilege |

CODE OF REGULATIONS, TITLE 5

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

UNITED STATES CODE, TITLE 20

|           |  |
|-----------|--|
| 1221      | Application of laws                          |
| 1232g     | Family Educational Rights and Privacy Act    |
| 1681-1688 | Title IX of the Education Amendments of 1972 |
| 6301-6577 | Title I basic programs                       |

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|             |  |
|-------------|--|
| 6801-6871   | Title III language instruction for limited English proficient and immigrant students |
| 7101-7184   | Safe and Drug-Free Schools and Communities Act                                       |
| 7201-7283g  | Title V promoting informed parental choice and innovative programs                   |
| 7301-7372   | Title V rural and low-income school programs   |
| 12101-12213 | Title II equal opportunity for individuals with disabilities                         |

UNITED STATES CODE, TITLE 29

|     |   |
|-----|---|
| 794 | Section 504 of Rehabilitation Act of 1973 |
|-----|---|

UNITED STATES CODE, TITLE 42

|                 |   |
|-----------------|---|
| 2000d-2000e-17  | Title VI and Title VII Civil Rights Act of 1964, as amended |
| 2000h-2-2000h-6 | Title IX of the Civil Rights Act of 1964                    |
| 6101-6107       | Age Discrimination Act of 1975                              |

CODE OF FEDERAL REGULATIONS, TITLE 28

|        |  |
|--------|--|
| 35.107 | Nondiscrimination on basis of disability; complaints |
|--------|--|

CODE OF FEDERAL REGULATIONS, TITLE 34

|            |  |
|------------|--|
| 99.1-99.67 | Family Educational Rights and Privacy                                    |
| 100.3      | Prohibition of discrimination on basis of race, color or national origin |
| 104.7      | Designation of responsible employee for Section 504                      |
| 106.8      | Designation of responsible employee for Title IX                         |
| 106.9      | Notification of nondiscrimination on basis of sex                        |
| 110.25     | Notification of nondiscrimination on the basis of age                    |

|  | <u>Date</u>                   |
|--|-------------------------------|
|  | Adopted: 08/10/92             |
|  | Revised and Adopted: 06/10/96 |
|  | Revised and Adopted: 01/26/04 |
|  | Revised and Adopted: 05/12/08 |
|  | Revised and Adopted: 08/27/12 |
|  | Revised and Adopted: 02/11/13 |
|  | Revised and Adopted: 06/09/14 |
|  | Revised and Adopted: 08/24/15 |
|  | Revised and Adopted: 05/23/16 |
|  | Revised and Adopted: 08/22/16 |
|  | Revised and Adopted: 10/10/16 |

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### 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. The individual(s) shall receive and coordinate the investigation of complaints and shall ensure District compliance with law.

District Lead Compliance Officer:

Director, Assessment and Evaluation  
Tustin Unified School District  
300 South C Street  
Tustin, CA 92780  
714-730-7301 Ext. 368  
scordes@tustin.k12.ca.us

School Compliance Officers – Elementary Schools:

Principal  
Arroyo Elementary School  
11112 Coronel Rd.  
Santa Ana, CA 92705  
(714)730-7381  
anjones@tustin.k12.ca.us

Principal  
Loma Vista Elementary School  
13822 Prospect Ave.  
Santa Ana, CA 92705  
(714) 730-7528  
ksheyka@tustin.k12.ca.us

Principal  
Benson Elementary School  
12712 Elizabeth Way  
Tustin, CA 92780  
(714)730-7531  
jchristy@tustin.k12.ca.us

Principal  
Myford Elementary School  
3181 Trevino Dr.  
Irvine, CA 92602  
(714) 734-1875  
rfairchild@tustin.k12.ca.us

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Principal  
Beswick Elementary School  
1362 Mitchell Ave.  
Tustin, CA 92780  
(714)730-7385  
syang@tustin.k12.ca.us

Principal  
Nelson Elementary School  
14392 Browning Ave.  
Tustin, CA 92780  
(714) 730-7536  
msmith@tustin.k12.ca.us

Principal  
Estock Elementary School  
14741 North B Street  
Tustin, CA 92780  
(714)730-7390  
whudson@tustin.k12.ca.us

Principal  
Peters Canyon Elementary School  
26900 Peters Canyon Rd.  
Tustin, CA 92782  
(714)730-7540  
bcarreras@tustin.k12.ca.us

Principal  
Guin Foss Elementary School  
18492 Vanderlip Ave.  
Santa Ana, CA 92705  
(714)730-7552  
kfresch@tustin.k12.ca.us

Principal  
Red Hill Elementary School  
11911 Red Hill Ave.  
Santa Ana, CA 92705  
(714)730-7543  
wneddersen@tustin.k12.ca.us

Principal  
Heideman Elementary School  
15571 Williams St.  
Tustin, CA 92780  
(714)730-7521  
slindsay@tustin.k12.ca.us

Principal  
Thorman Elementary School  
1402 Sycamore Ave.  
Tustin, CA 92780  
(714)730-7364  
dparks@tustin.k12.ca.us

Principal  
Heritage Elementary School  
15400 Lansdowne  
Tustin, CA 92782  
(714)430-2066  
eblackman@tustin.k12.ca.us

Principal  
Tustin Memorial Academy  
12712 Browning Ave.  
Santa Ana, CA 92705  
(714)730-7546  
smaeda@tustin.k12.ca.us

Principal  
Hicks Canyon Elementary School  
3817 Viewpark Ave.  
Irvine, CA 92602  
(714)734-1878  
dvela@tustin.k12.ca.us

Principal  
Tustin Ranch Elementary School  
12950 Robinson Dr.  
Tustin, CA 92782  
(714)730-7580  
tbarquer@tustin.k12.ca.us

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Principal  
Ladera Elementary School  
2515 Rawlings Way  
Tustin, CA 92780  
(714)730-7505  
jharrison@tustin.k12.ca.us

Principal  
Veeh Elementary School  
1701 San Juan Street  
Tustin, CA 92780  
(714)730-7544  
rplascencia@tustin.k12.ca.us

School Compliance Officers – Middle Schools and 5 – 8 Schools:

Principal  
Columbus Tustin Middle School  
17952 Beneta Way  
Tustin, CA 92780  
(714)730-7352  
mburdette@tustin.k12.ca.us

Principal  
Orchard Hills School  
11555 Culver Dr.  
Irvine, CA 92602  
(714) 430-2078  
cagopian@tustin.k12.ca.us

Principal  
Currie Middle School  
1402 Sycamore Ave.  
Tustin, CA 92780  
(714) 730-7360  
efineberg@tustin.k12.ca.us

Principal  
Pioneer Middle School  
2700 Pioneer Road  
Tustin, CA 92782  
(714) 730-7534  
tvanderhayden@tustin.k12.ca.us

Principal  
Hewes Middle School  
13232 Hewes Ave.  
Santa Ana, CA 92705  
(714) 730-7348  
ekilian@tustin.k12.ca.us

Principal  
Utt Middle School  
13601 Browning Ave.  
Tustin, CA 92780  
(714) 730-7573  
cgreen@tustin.k12.ca.us

School Compliance Officers – High Schools

Principal  
Beckman High School  
3588 Bryan Ave.  
Irvine, CA 92602  
(714) 734-2900  
drafter@tustin.k12.ca.us

Principal  
Hillview High School  
1151 San Juan St.  
Tustin, CA 92780  
(714) 730-7356  
todonoghue@tustin.k12.ca.us



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Principal  
Foothill High School  
19251 Dodge Ave.  
Santa Ana, CA 92705  
(714) 730-7464  
mwilliams@tustin.k12.ca.us

Principal  
Tustin High School  
1171 El Camino Real  
Tustin, CA 92780  
(714) 730-7414  
cmatos@tustin.k12.ca.us

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

Assistant Principal  
Sycamore High School  
1151 San Juan St.  
Tustin, CA 92780  
(714) 730-7395  
domalley@tustin.k12.ca.us

Assistant Principal  
Tustin Connect Center  
1151 San Juan St.  
Tustin, CA 92780  
(714) 730-7395  
domalley@tustin.k12.ca.us

Principal  
Adult Education  
1151 San Juan St.  
Tustin, CA 92780  
(714) 730-7395  
todonoghue@tustin.k12.ca.us

Coordinator  
School Readiness Programs  
1701 San Juan St.  
Tustin, CA 92780  
(714) 730-7592  
lcabibi@tustin.k12.ca.us

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 or designee who shall determine how the complaint will be investigated.

The Superintendent or 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 or designee.

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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)

The Superintendent or designee shall annually provide written notification of the District's uniform complaint procedures, including information regarding unlawful student fees, local control and accountability plan (LCAP) requirements, and requirements related to the educational rights of foster youth and homeless students, 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, 48853, 48853.5, 49013, 49069.5, 51225.1, 51225.2, 52075; 5 CCR 4622)

The annual notification and complete contact information of the compliance officer(s) may be posted on the District web site and, if available, provided through District-supported social media.

At the beginning of each school year, the Superintendent or 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 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.

The notice shall:

1. Identify the person(s), position(s), or unit(s) responsible for receiving complaints

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2. Advise the complainant of any civil law remedies that may be available to him/her under state or federal antidiscrimination laws, if applicable
3. 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).
4. 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 or 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

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of the District's educational program, including curricular and extracurricular activities.

- 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 or homeless student 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.

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1. Copies of the District's uniform complaint procedures are available free of charge.

### **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.

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

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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 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 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 (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.

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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.

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.

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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 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



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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
  - 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

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- 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
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](http://www.ed.gov/ocr) within 180 days of the alleged discrimination.

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### 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 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

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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.

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 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 decision 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.

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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 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 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  
Revised: 01/26/04  
Revised: 05/12/08  
Revised: 07/31/07  
Revised: 08/27/12  
Revised: 02/11/13  
Revised: 06/09/14  
Revised: 08/24/15  
Revised: 05/23/16  
Revised: 08/22/16  
Revised: 10/10/16  
Revised and Adopted: 11/14/16

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### WILLIAMS UNIFORM COMPLAINT PROCEDURES

#### Types of Complaints

The District shall use the procedures described in this administrative regulation only to investigate and resolve the following: (Education Code 35186; 5 CCR 4680-4683)

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 material to address a shortage of textbooks or 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 English Language Learners)
  - 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)

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Beginning of the year or semester means the first day classes necessary to serve all the students 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 students 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)

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 students 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 line 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; structural damage creating a hazardous or uninhabitable condition; or any other condition deemed appropriate. (Education Code 17592.72) (5 CCR 4683)

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

Clean or maintained school restroom means a school restroom 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 students are not in classes and has kept a sufficient number of restrooms open during school hours when students 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)

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### **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 complainant is not satisfied with the resolution of a complaint, he/she has the right to describe the complaint to the Board of Education 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 students or staff as described in item #3a in the section entitled "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 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)



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### 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. (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; 5 CCR 4680)

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

|           |   |
|-----------|---|
| 4600-4687 | Uniform complaint procedures, especially: |
| 4680-4687 | Williams complaints                       |

#### Date

Revised: 8/24/15  
Effective: 08/27/12

Tustin Unified School District  
**WILLIAMS UNIFORM COMPLAINT FORM**  
**(Education Code Section 35186)**

*Education Code (EC) Section 35186 created a procedure for the filing of complaints regarding deficiencies related to instructional materials, conditions of facilities 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 a response to the complaint is desired, provide the following contact information.*

Response requested?  Yes  No Date of Problem: \_\_\_\_\_

Name: (Optional) \_\_\_\_\_ Mailing Address (Optional): \_\_\_\_\_

Phone Number (Optional) Day: \_\_\_\_\_ Evening (Optional): \_\_\_\_\_

**Issue of the complaint** (Please check all that apply):

**1. Textbooks and Instructional Materials:**

- A pupil, including an English learner, does not have standards-aligned textbooks or instructional materials or state adopted or district adopted textbooks or other required instructional materials to use in class.
- A pupil 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 pupil.
- Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.
- A pupil was provided photocopied sheets from only a portion of a textbook or instructional materials to address a shortage of textbooks or instructional materials.

**2. Facility Conditions:**

- A condition poses an urgent or emergency threat to the health or safety of students or staff including: gas leaks, nonfunctioning heating, ventilation, fire sprinklers or air-conditioning systems, electrical power failure, major sewer line stoppage, major pest or vermin infestation, broken windows or exterior doors or gates that will not lock and pose a security risk, abatement of hazardous materials previously undiscovered that pose an immediate threat to pupils or staff, structural damage creating a hazardous or uninhabitable condition, and any other emergency conditions the school district determines appropriate.
- A school restroom has not been maintained or cleaned regularly, is not fully operational, or has not been stocked at all times with toilet paper, soap, and paper towels or functional hand dryers.
- The school has not kept all restrooms open during school hours when pupils are not in classes, and has not kept a sufficient number of restrooms open during school hours when pupils are in classes.

**3. Teacher Vacancy or Misassignment:**

- Teacher vacancy – 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 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.)
- Teacher misassignment – A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20 percent English learner pupils in the class.
- Teacher misassignment – A teacher is assigned to teach a class for which the teacher lacks subject matter competency.

**Location of Problem (School Name, Address, and Room Number or Location):** \_\_\_\_\_

**Course or Grade Level and Teacher Name (if Applicable):** \_\_\_\_\_

**Please describe the issue of your complaint in detail. You may attach additional pages if necessary to fully describe the situation.** For complaints regarding facilities conditions, please describe the emergency or urgent facilities condition and how that condition poses a threat to the health or safety of students or staff.

Please file this complaint with the person specified below at the following location:

**School Office/Principal – or – Sharon Cordes, Ed.D., Director, Assessment and Evaluation, Tustin Unified School District, 300 South C Street, Tustin, CA 92780.**