

**Community Relations**

**Board Policy No. 1312.2 Uniform Complaint Procedures**

**Policy Adopted: May 20, 2021**

**Policy Reviewed: February 8, 2024**

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**Uniform Complaint Procedures**

This document contains rules and instructions about the filing, investigation and resolution of a Uniform Complaint Procedures (UCP) complaint regarding an alleged violation by Mountain View Whisman School District of federal or state laws or regulations governing educational programs.

This document presents information about how we process UCP complaints concerning particular programs or activities that are subject to the UCP.

A UCP complaint is a written and signed statement alleging a violation of federal or state laws or regulations, which may include an allegation of unlawful discrimination, harassment, intimidation or bullying. A signature may be handwritten, typed (including in an email) or electronically generated. Complaints may be filed anonymously. A UCP complaint filed on behalf of an individual student may only be filed by that student or that student's duly authorized representative.

A complainant is any individual, including a person's duly authorized representative or an interested third party, public agency, or organization who files a written complaint alleging violation of federal or state laws or regulations. Including allegations of unlawful discrimination, harassment, intimidation or bullying in programs and activities funded directly by the state or receiving any financial assistance from the state.

~~If the complainant is unable to put the complaint in writing, due to a disability or illiteracy, we shall assist the complainant in the filing of the complaint.~~

~~The Mountain View Whisman School District developed the Uniform Complaint Procedures (UCP) process with policies and procedures adopted by the board.~~

~~According to state and federal codes and regulations, the programs and activities subject to the UCP are:~~

~~The Governing Board recognizes that the district has a primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs. The Board encourages the early resolution of complaints whenever possible. To resolve complaints, which may require a more formal process, the board adopts the uniform system of complaint processes specified in 5 CCRR 4600-4670 and the accompanying administrative regulation.~~

#### Complaint subject to UCP

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

- ~~1. →Accommodations for Pregnant and Parenting Pupils (Education Code 46015)~~
- ~~2. →Adult Education Programs (Education Code 8500-8538, 52334.7, 52500-52617)~~
- ~~3. →After School Education and Safety Programs (Education Code 8482-8484.65)~~
- ~~4. →Agricultural Career Technical Education (Education Code 52460-52462)~~
- ~~5. →Career technical and technical education and career technical and technical training programs (Education Code 52300-52462)~~
- ~~6. →Child care and development programs (Education Code 8200-8488)~~

7. →Compensatory Education (Education Code 54400)

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

9. →Course Periods without Educational Content (Education Code 51228.1-51228.3)

10. →Discrimination, harassment, intimidation, or bullying ins district programs and activities, include in those programs and activities funded directly by or that receive or benefit from any state financial assistance, based on a person's actual or perceived against any protected group as identified under Education Code (EC) sections 200 and 220 and Government Code Section 11135, including any actual or perceived characteristic as set forth in Penal Code Section 422.55, or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, immigration, status, ethnic group, identification, age, religion, marital status, pregnancy, parental status, physical or mental disability, medical condition, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code 200, or 220, Government Code 1135, or Penal code 422.55, or based on the person's association with a person or group with one or more of these actual or perceived characteristics (5 CCR 4610)., in any program or activity conducted by an educational institution, as defined in EC Section 210.3, that is funded directly by, or that receives or benefits from, any state financial assistance.

Discrimination includes, but is not limited to, the Board's refusal to approve the use, or prohibit the use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book, or other resource in the school library, on the basis that it includes a study of the role and contributions of any individual or group consistent with the requirements of Education Code 51204.5 and 60040, unless such study would violate Education Code 51501 or 60044. A complaint alleging such unlawful discrimination may, in

addition to or in lieu of being filed with the district, be directly filed with the Superintendent of Public Instruction (SPI) (Education Code 243)

11. Educational and graduation requirements for ~~students~~pupils in foster care, pupils ~~students~~who ~~experiencing~~ ~~are~~ homelessness, ~~students~~pupils from military families and ~~students~~pupils formerly in a Juvenile Court ~~school~~, students who are migratory, and students ~~participating in a newcomer program (Education Code 48645.7, 48853, 48853.5, 49069.5, 51225.1, 51225.2)~~ now enrolled in a school district

12. Every Student Succeeds Act (Education Code 52059.5; 20 USC 6301 et seq)

13. Local control and accountability plans (LCAP) (Education Code 52075)

14. Migrant Education (Education Code 54440-54445)

15. Physical Education Instructional Minutes (Education Code 51210, 51222, 51223)

16. Pupil Student Fees (Education Code 49010-49013)

17. Reasonable Accommodations to a lactating ~~Student~~Pupil (Education Code 222)

18. Regional Occupational Centers and Programs (Education Code 52300-52334.7)

19. Schools Plans for Students Achievement ~~as required for the consolidated application for specified federal and/or state categorical funding (Education Code 64001)~~

20. School Safety Plans

20. School Site Councils ~~as required for the consolidated application for specified federal and/or state categorical funding (Education Code 65000)~~

21. State Preschool ~~programs (Education Code 8207-8225)~~

22. State Preschool Health and Safety Issues In ~~license exempt programs (Education Code 8212)~~IEAs Exempt from licensing

And any other state or federal educational program the state Superintendent of Public

~~Instruction (SSPI) of the California Department of Education (CDE) or designee deems appropriate.~~

~~23. 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~~

~~24. Any state or federal educational program the SPI or designee deems appropriate~~

~~The programs and activities subject to the UCP in which the Mountain View Whisman School District operates are:~~

- ~~→Accommodations for Pregnant and Parenting Pupils~~
- ~~→After School Education and Safety~~
- ~~→Child care and development programs~~
- ~~→Compensatory Education~~
- ~~→Consolidated categorical aid programs~~
- ~~→Course Periods without Educational Content~~
- ~~→Discrimination, harassment, intimidation, or bullying against any protected group as identified under Education Code (EC) sections 200 and 22<sup>o</sup> and Government Code Section 11135, including any actual or perceived characteristic as set forth in Penal Code Section 422.55, or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics. In any program or activity conducted by an educational institution, as defined in EC Section 210.3, that is funded directly by, or that receives or benefits from, any state financial assistance.~~
- ~~→Educational and graduation requirements for pupils in foster care, pupils who are homeless, pupils from military families and pupils formerly in juvenile Court now enrolled in a school~~

district

- ~~→Every Student Succeeds Act~~
- ~~→Local control and accountability plans (ICAP)~~
- ~~→Migrant Education~~
- ~~→Physical Education Instructional Minutes~~
- ~~→Pupil Fees~~
- ~~→Reasonable Accommodations to a lactating Pupil~~
- ~~→School Plans for Student Achievement~~
- ~~→School Safety Plans~~
- ~~→School Site Councils~~
- ~~→State Preschool~~

~~And any other state or federal educational program the state Superintendent of Public Instruction (SSPI) of the California Department of Education (CDE) or designee deems appropriate.~~

The Board recognizes that alternative dispute resolution (ADR) can, depending on the nature of the allegations, offer a process for resolving a complaint in a manner that is acceptable to all parties. An ADR process such as mediation may be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint involving sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. The Superintendent or designee shall ensure that the use of ADR is consistent with state and federal laws and regulations.

The district shall protect all complainants from retaliation. In investigating complaints, the confidentiality of the parties involved shall be protected as required by law. For any complaint

alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the Superintendent or designee shall keep the identity of the complainant, and/or the subject of the complaint if different from the complainant, confidential when appropriate and as long as the integrity of the complaint process is maintained.

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

The Superintendent or designee shall provide training to district staff to ensure awareness and knowledge of current law and requirements related to UCP, including the steps and timelines specified in this policy and the accompanying administrative regulation.

The Superintendent or designee shall maintain a record of each complaint and subsequent related actions, including steps taken during the investigation and all information required for compliance with 5 CCR 4631 and 4633.

### Non UPC Complaints

The following complaints shall not be subject to the District's UCP but shall be investigated and resolved by the ~~be referred to the~~ specified agencies or through an alternative process ~~for appropriate resolution and are not subject to the our UCP complaint procedures set forth in this~~

document:

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

2. (b) Any complaint alleging hHealth and safety violations by a child development program shall. For licensed facilities, be referred to the Department of Social Services (5 CCR 4611).complaints regarding licensed facilities operating a Child Development Program shall be referred to DSS.

3. Any complaint alleging that a student, while in an education program or activity in which the district exercises substantial control over the context and respondent, was subjected to sexual harassment as defined in 34 CFR 106.30 shall be addressed through the federal Title IX complaint procedures adopted pursuant to 34 CFR 106.44-106.45, as specified in Administrative Regulation 5145.71 - Title IX Sexual Harassment Complaint Procedures.

4. Any complaint alleging employment discrimination or harassment shall be investigated and resolved by the district in accordance with the procedures specified in Administrative Regulation 4030 - Nondiscrimination in Employment, including the right to file the complaint with the California Civil Rights Department.

5. Any complaint alleging a violation of a state or federal law or regulation related to special education, a settlement agreement related to the provision of a free appropriate public education (FAPE), failure or refusal to implement a due process hearing order to which the district is subject, or a physical safety concern that interferes with the district's provision of FAPE



shall be submitted to the California Department of Education (CDE) in accordance with Administrative Regulation 6159.1 - Procedural Safeguards and Complaints for Special Education. (5 CCR 3200-3205)

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

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

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

[Williams Uniform Complaint Form \(Español\)](#)

[Uniform Complaint Form \(Español\)](#)

~~(c) Employment discrimination complaints shall be sent to the state Department of Fair Employment and Housing (DFEH). the complainant shall be notified in writing in a timely manner of any DFEH transferal.~~

## **The Responsibilities of Mountain View Whisman School District**

We shall have the primary responsibility to ensure compliance with applicable state and federal laws and regulations. We shall investigate and seek to resolve, in accordance with the our approved UCP process, complaints alleging failure to comply with applicable state and federal laws and regulations including, but not limited to, allegations of discrimination, harassment, intimidation, or bullying or noncompliance with laws relating to all programs and activities we implement that are subject to the UCP.

## **The UCP Annual Notice**

We disseminate on an annual basis the UCP Annual Notice which is a written notice of the our UCP complaint procedures.

This notice may be made available on our website and shall include the following:

- the list of all federal and state programs within the scope of the UCP;
- the title of the position whose occupant is responsible for processing complaints, and the identity(ies) of the person(s) currently occupying that position, if known;
- a statement that the occupant responsible for processing complaints is knowledgeable about the laws and programs that they are assigned to investigate;

## **Filing UCP Complaints**

All UCP complaints shall be filed no later than one year from the date the alleged violation occurred.

Complaints within the scope of the UCP are to be filed with the person responsible for processing complaints:

Tara Vikjord, Chief Human Relations Officer

Mountain View Whisman School District

1400 Montecito Avenue

650-526-3553

[tvikjord@mvwsd.org](mailto:tvikjord@mvwsd.org)

A pupil fee includes a purchase that a pupil is required to make to obtain materials, supplies, equipment, or clothes associated with an educational activity.

A pupil fees complaint may be filed with the principal of a school or with our superintendent or their designee. A pupil fees complaint may be filed anonymously, that is, without an identifying signature, if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance.

For complaints relating to Local Control and Accountability Plans (LCAP), the date of the alleged violation is the date when the reviewing authority approves the ICAP or annual update that we adopted. An ICAP complaint may be filed anonymously, that is, without an identifying signature, if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance.

We advise complainants of the right to pursue civil law remedies that may be available under state or federal discrimination, harassment, intimidation or bullying laws, including, but not

limited to, injunctions, restraining orders, or other remedies or orders that may also be available to complainants.

### **Investigating UCP Complaints**

The UCP complaint investigation is our administrative process for the purpose of gathering data regarding the complaint. We provide an opportunity for complainants and/or representatives to present evidence or information.

Refusal by the complainant to provide the investigator with documents or other evidence related to the allegations in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation, may result in the dismissal of the complaint because of a lack of evidence to support the allegations.

Refusal by the Mountain View Whisman School District to provide the investigator with access to records and/or other information related to the allegation in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation, may result in a finding based on evidence collected that a violation has occurred and may result in the imposition of a remedy in favor of the complainant.

We ensure that complainants are protected from retaliation.

We investigate all allegations of unlawful discrimination, harassment, intimidation or bullying against any protected group. Unlawful discrimination, harassment, intimidation or bullying complaints shall be filed no later than six months from the date the alleged discrimination, harassment, intimidation or bullying occurred, or six months from the date the complainant first

obtained knowledge of the facts of the alleged discrimination, harassment, intimidation or bullying.

### **UCP Complaint Resolution**

We will thoroughly investigate the UCP complaint and issue a written Investigation Report to the complainant within 60 calendar days from the date of the receipt of the complaint, unless the complainant agrees in writing to an extension of time.

This Investigation Report will contain the following elements:

- the findings of fact based on the evidence gathered
- a conclusion that provides a clear determination for each allegation as to whether we are in compliance with the relevant law
- corrective actions if we find merit in a complaint:
  - including complaints of Pupil Fees: ICAP; Physical Education Instructional Minutes, or Course Periods without Educational Content, the remedy shall go to all affected pupils, parents, and guardians,
  - for all other complaints within the scope of the Uniform Complaint Procedures the remedy shall go to the affected pupil,
  - With respect to a pupil fees complaint, corrective actions shall include a remedy where in good faith, by engaging in reasonable efforts, an attempt to identify and fully reimburse all pupils, parents and guardians who paid a pupil fee within one year prior to the filing of the complaint;
- a notice of the complainant's right to appeal our Investigation Report to the Department of Education (CDE): and
- the procedures to be followed for initiating an appeal to the CDE.

## UCP Complaint Appeal Process

An appeal is a written and signed request by the complainant to the CDE seeking review of an IEA Investigation Report that was issued in response to a properly-filed complaint. A signature may be handwritten, typed (including in an email) or electronically-generated.

The complainant may appeal our Investigation Report of a UCP complaint to the CDE by filing a written appeal within 30 calendar days of the date. In order to request an appeal, the complainant must specify and explain the basis for the appeal, including at least one of the following:

- The Mountain View Whisman School District failed to follow its complaint procedures, and/or
- the Investigation Report lacks material findings of fact necessary to reach a conclusion of law, and/or
- the material findings of fact in the Investigation Report are not supported by substantial evidence, and/or
- the legal conclusion in the Investigation Report is inconsistent with the law, and/or
- in a case in which we were found in noncompliance, the corrective actions fail to provide a proper remedy.

The appeal shall be sent with: (1) a copy of the locally filed complaint; and (2) a copy of the LEA Investigation Report.<sup>[2]</sup>

## Legal References

20 United States Code [20 U.S.C.] Section 6301 et seq.

34 Code of Federal Regulations [34 CFR] Sections 106.8, 34 CFR 299.10-11

California Education Codes [EC] Sections 200, 201, 210.1, 210.3, 220, 221.1, 222, 234.1, 260, 3031,

MOUNTAIN VIEW WHISMAN SCHOOL DISTRICT  
Mountain View, California

8200-8498, 8235.5, 8235-8239.1, 8261, 8482-8484.65, 8500-8538

17002(d), 17592.72, 32280-32289, 32289, 33126(b)(5)(A), 33126(b)(5)(B), 33315,

35161, 35186, 46615, 48645.7, 48853, 48853.5, 48987, 4961649613, 49669.5, 49531, 49556,

51216, 51222, 51223, 51225.1-3, 51228.1-51228.3, 52659, 52675, 52366-

52462, 52334.7, 52355, 52451, 52466-52462, 52566-52617, 54446-54445, 54445, 56166(a),

56100j), 66616, 64661, 65666.

California Government Code [GC] Sections 11135, 11136, 12966

California Penal Code [PC] Section 422.55, 11166

California Code of Regulations (CCR) Sections 4666-4646, 4696-4694