

## CLOVIS UNIFIED SCHOOL DISTRICT

### SCHOOL COMMUNITY RELATIONS

#### *Community Relations*

#### UNIFORM COMPLAINT PROCEDURES REGARDING PROGRAMS/DISCRIMINATION

In accordance with Board Policy and law, uniform complaint procedures shall be used when addressing complaints alleging failure to comply with state and/or federal laws in adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and career technical and technical training programs, child care and development programs, child nutrition programs, federal school safety plan requirements, non-compliance with laws relating to pupil fees, special education programs, Local Control Accountability Plans (LCAP), educational rights of foster and homeless youth, assignment to a course without educational content or to a course previously satisfactorily completed, reasonable accommodation for lactating pupils, required elementary instructional physical education minutes, graduation requirements for former juvenile court school students, After School Education and Safety, Agriculture Vocational Education, American Indian Centers and Early Childhood Program Assessments, bilingual education, California Peer Assistance and Review Programs for Teachers, compensatory education. Economic Impact Aid, English learner programs, Every Student Succeeds Act/No Child Left Behind (Titles I-VII), Regional Occupational Centers and Programs, State preschool, and Tobacco-Use Prevention Education.

The District shall also follow uniform complaint procedures when addressing complaints alleging unlawful discrimination, harassment, intimidation and bullying against any protected group as identified under the law including actual or perceived sex, sexual orientation, gender expression, gender identity, gender, ethnic group identification, race, ethnicity, ancestry, nationality, national origin, immigration status, religion, color, or mental or physical disability, or age, 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 District program or activity that receives or benefits from state financial assistance.

If the District finds merit in a complaint regarding pupil fees, LCAP, Education of pupils in foster care who are homeless, former juvenile court pupils now enrolled in a school district, reasonable accommodation for lactating pupils, course periods without educational content (grades nine through twelve), and physical education instructional minutes (grades one through eight), the District shall provide a remedy. In the case of complaints regarding course periods without educational content, reasonable accommodations to lactating pupils, education of pupils in foster care, pupils who are homeless, and former juvenile court pupils now enrolled in the District, the remedy shall go to the affected pupil. In the case of complaints regarding pupil fees, physical education instructional minutes and LCAP, the remedy shall go all affected pupils and parents/guardians. The District will attempt in good faith, by engaging in reasonable efforts, to identify and fully reimburse all pupils, parents and guardians who paid pupil fees within one year prior to the filing of the complaint.

The Board acknowledges and respects every individual's right to privacy. The District ensures that the complainants are protected from retaliation and discrimination, harassment, intimidation and bullying complaints shall be investigated in a manner that protects the confidentiality of the parties and the integrity of the process. This may include keeping the identity of the complainant confidential, as appropriate and except to the extent necessary to carry out the investigation or proceedings, as determined by the Superintendent or designee, on a case-by-case basis.

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## CLOVIS UNIFIED SCHOOL DISTRICT

Complaints alleging retaliation based on filing a complaint under the uniform complaint procedures shall also be addressed through these procedures.

The Governing Board designates the following Responsible District Officer to receive uniform complaints and ensure District compliance with law:

Associate Superintendent, School Leadership  
Clovis Unified School District  
1450 Herndon Avenue  
Clovis, CA 93611-0599  
(559) 327-9000

The Governing Board ensures that the Responsible District Officer is knowledgeable about the law and/or programs that he/she is assigned to investigate.

### A. NOTIFICATIONS

The Superintendent or designee shall meet the notification requirements of the Code of Regulations, Title 5, Section 4622, including the annual dissemination of District complaint procedures that includes information regarding unlawful pupil fees and information about available appeals, civil law remedies, including, but not limited to, injunctions, restraining orders, or other court orders which may be available to complainants and conditions under which a complaint may be taken directly to the California Department of Education. Such notification to pupils, employees, parent/guardians, the district advisory committee, school advisory committees, and other interested parties shall be included in the Student and Parent Rights and Responsibilities Handbook given to each CUSD pupil upon registration in the District and at the beginning of each school year. This information is also available on the District's web site at [www.cusd.com](http://www.cusd.com). Notification to appropriate private school officials or representatives shall be given at the annual consultation meeting between CUSD and private school officials. Complainants also have the right to pursue civil law remedies under state or federal discrimination, harassment, intimidation, or bullying laws.

An investigation of alleged program violations or unlawful discrimination, harassment, intimidation or bullying shall be initiated by filing a complaint not later than six months from the date of the alleged unlawful discrimination, harassment, intimidation or bullying, or within six months of the date the complainant first obtained knowledge of the facts of the alleged unlawful discrimination, harassment, intimidation or bullying unless the time for filing is extended by the Superintendent, upon written request by the complainant setting forth the reasons for the extension request. Such extension by the Superintendent shall be made in writing. The period for filing may be extended by the Superintendent for good cause for a period not to exceed 90 days following the expiration of the six-month period. The Superintendent shall respond immediately upon receipt of a request for an extension.

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## CLOVIS UNIFIED SCHOOL DISTRICT

### B. DEFINITIONS

1. *Complaint:* A complaint is a written and signed statement alleging a violation of federal or state law or regulation, which may include an allegation of unlawful discrimination.
2. *Complainant:* Any person, including any parent/guardian of a pupil, public agency, or organization who files a written complaint alleging violation of federal or state laws or regulations, including allegations of unlawful discrimination in programs and activities funded by the State or receiving any financial assistance from the State or allegations of unlawful financial assistance from the State.
3. *Appeal:* An appeal is a request made in writing by a complainant for reconsideration or reinvestigation of a complaint at a level higher than the source of a preceding decision unsatisfactory to the complainant.

### C. COMPLAINT PROCEDURES

The following procedures shall be used to address all complaints which allege that the District has violated federal or state laws or regulations governing educational programs including allegations of unlawful discrimination in programs and activities funded directly by the State or receiving any financial assistance for the State. The timeline for filing a complaint and/or an appeal to the District's decision is outlined in the complaint flow chart. See Exhibit No. 9208 (2).

The Associate Superintendent, School Leadership shall maintain a record of each complaint and subsequent related actions, including all information required for compliance with the California Code of Regulations, Title 5, Section 4633.

#### 1. Informal Resolution

The purpose of the informal complaint process is to allow an individual who believes there has been a program violation or he/she has been discriminated against to resolve the issue through a consultation process at the site level rather than the formal complaint process provided by this Regulation.

When an individual feels there has been a program violation or that he/she has been discriminated against, he/she should contact the principal or department head who shall separately counsel the complainant and the alleged offender and outline possible options for informal resolution of the complaint. If informal resolution of the complaint is achieved, the complainant's decision not to proceed with the filing of a formal complaint shall be obtained in writing, after the complainant receives and reviews the formal complaint procedures. A copy of this resolution shall be forwarded to the Responsible District Officer (Associate Superintendent, School Leadership).

If informal resolution of the complaint cannot be achieved within thirty (30) calendar days of the contact by complainant, the complainant shall be provided with the copy of this policy and regulation, and shall be informed of the right to file a formal written complaint with the Associate Superintendent School Leadership under this procedure.

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## CLOVIS UNIFIED SCHOOL DISTRICT

### 2. Formal Complaint

- a. Any individual, public agency or organization may file a written complaint of alleged noncompliance with the Associate Superintendent, School Leadership.
- b. If a complainant is unable to put a complaint in writing due to conditions such as illiteracy or other handicaps, District staff shall help the complainant to file the complaint.
- c. The formal written complaint should state the name of the complainant, the date of the complaint, the names(s) of any witnesses, a detailed statement of the circumstances constituting the alleged violation or discrimination, and the requested remedy.
- d. A pupil fees and LCAP complaints may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance with laws relating to pupil fees.
- e. Pupil fees complaint may be filed with the principal of a school or the District Superintendent or designee. Such complaints shall be filed no later than one year from the date the alleged violation occurred.

### 3. Notice to Parties

Within ten (10) calendar days of receipt of a written complaint, or as soon thereafter as possible, the Associate Superintendent, School Leadership or other designated employee, or outside investigator(s), shall:

- a. meet with the complainant if necessary to obtain clarification of the individual's written complaint;
- b. inform the alleged offender of the nature of the complaint;
- c. provide a copy of the District's uniform complaint policy and these procedures to the alleged offender; and
- d. advise the complainant and alleged offender that the complaint and the investigation including written reports and other written statements will be handled as confidentially as possible, consistent with a thorough investigation and appropriate disposition of the matter and current state and federal confidentiality and disclosure laws.

### 4. Investigation

The Associate Superintendent, School Leadership shall conduct, or cause to be conducted, a thorough, objective, and equitable investigation of the complaint or designate appropriate individuals for that purpose. The investigation of complaints may be assigned to other staff or to outside persons or organizations. The investigation should, if at all possible, be commenced within fourteen (14) calendar days of receiving the written complaint or as soon thereafter as possible. An outside investigator or investigators may, subject to Superintendent or designee authorization, be engaged depending on the nature and scope of the allegations. The term investigator includes

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## CLOVIS UNIFIED SCHOOL DISTRICT

neutral fact finders or other professionals knowledgeable about the law/programs that he/she is assigned to investigate.

The investigator(s) shall consult with all individuals reasonably believed to have relevant information, including the complainant and any witnesses to the conduct, and victims of similar conduct, if any, that the investigator(s) reasonably believes may exist. All complainants and/or representatives will be provided an opportunity to present evidence or information.

The 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.

The refusal by the 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.

When determining whether the alleged discriminatory conduct constitutes a violation, the investigator should consider the totality of the circumstances including, as appropriate, but not limited to:

- a. The nature of the alleged misconduct or violation
- b. How often the alleged misconduct or violation occurred
- c. Whether there were past incidents or continuing patterns of misconduct or violation

### 5. Investigation Report and Decision

Within sixty (60) calendar days of receiving the formal complaint, unless due to the nature and complexity of the evidence or the unavailability of relevant witnesses additional time is required and the complainant agrees in writing to an extension, the Associate Superintendent, School Leadership shall communicate in writing the District's final administrative decision to the complainant and the alleged offender. The District's final administrative decision shall include at least the following:

- a. the findings of fact based on the evidence gathered,
- b. conclusion of law,
- c. disposition of the complaint,
- d. the rationale for such a disposition,
- e. corrective actions, if any are warranted,

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## CLOVIS UNIFIED SCHOOL DISTRICT

- f. notice of the complainant's right to appeal the District's decision to the State Department of Education, and
- g. the procedures to be followed for initiating an appeal to the California Department of Education.

The District's final administrative decision shall be provided in English. If the complainant speaks a primary language other than English, the District shall also provide the decision in the complainant's primary language whenever feasible or when required by law.

### 6. Appeal Procedures

If a complainant or an alleged offender is not satisfied with the results of the District's final administrative decision, the complainant or alleged offender may, within fifteen (15) calendar days, submit a written appeal to the State Department of Education. The party appealing the decision shall specify the reasons for the appeal and whether the facts are incorrect and/or the law is misapplied.

The appeal should include a copy of the complaint and the District's final administrative decision. Copies of all appeals shall be given to all other complainants and alleged offenders.

### 7. Remedial Actions

If the investigation reveals there is reasonable cause to believe that a violation or discrimination has occurred, the District shall take appropriate action to ensure that the violation or discrimination ceases and will not recur. Depending upon the totality of the circumstances, appropriate action may include, but is not limited to:

- a. Staff training,
- b. Program modification,
- c. Employee counseling,
- d. Employee discipline (as a matter of law, employee discipline is confidential and cannot be shared with the complainant).

Remedial action should be designed to further the goals of ending the discrimination, of deterring similar future misconduct and of remedying the effects of the discrimination.

Discrimination shall be deemed to constitute just and reasonable cause for employee discipline and shall be deemed to be insubordination and a violation and refusal to obey the school laws of California or reasonable regulations for the good governance of the District.

## D. RELATIONSHIP TO OTHER ENFORCEMENT MECHANISMS

The District's discrimination policies and procedures are intended to supplement, and not replace, any applicable state and federal laws and regulations. For example, a complainant who believes he or she has been discriminated or retaliated against for complaining about discrimination may file a complaint with the agencies referenced below. A complainant may request that other state and federal governmental agencies investigate complaints of discrimination by filing a complaint with the State Department of Education and the Office of

## CLOVIS UNIFIED SCHOOL DISTRICT

Civil Rights. Employees may also file complaints with the Department of Fair Employment and Housing and the Equal Employment Opportunity Commission.

California Department of Education  
1430 N Street  
Sacramento, California 95814  
(916) 319-0797

Office of Civil Rights  
50 United Nations Place, Room 239  
San Francisco, California 94102  
(415) 556-4275

Fair Employment and Housing  
Fresno District Office  
1320 East Shaw Avenue, Suite 150  
Fresno, California 93710  
(559) 445-5373

Equal Employment Opportunity Commission  
2300 Tulare Street, Suite 215  
Fresno, California 93721  
(559) 487-5793

*Adopted: 08/12/92*  
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*Revised: 09/22/99*  
*Revised: 04/24/02*  
*Revised: 07/19/06*  
*Revised: 01/23/08*  
*Revised: 01/14/09*  
*Revised: 10/14/09*  
*Revised: 11/10/10*  
*Revised: 03/06/12*  
*Revised: 02/27/13*  
*Revised: 03/12/14*  
*Revised: 04/02/14*  
*Revised: 08/23/17*  
*Revised: 09/27/17*  
*Revised: 05/08/18*

*Education Code 200-262.3 Prohibition of discrimination*  
*Education Code section 32289 complaint of non-compliance*  
*with school safety planning*  
*Education Code 49060-49079 Student Records*  
*Education Code 49010-49013 Student Fees*  
*Education Code 48853, 48853.5, 49069.5, 51225.1 and 51225.2*  
*Homeless and Foster Youth*  
*Education Code 51228.1, 51228.2 and 51228.3 Repeat of*  
*Previously Taken Course and Assignment to Course without*  
*Educational Content*  
*Education Code 51210 and 51223 Elementary Physical*  
*Education Minutes*  
*Education Code 222 Lactating Pupil*  
*Code of Reg Title 5 3080 Application of section 4600-4671*  
*Code of Reg Title 5 4600-4671 Uniform Complaint Procedures*  
*Government Code 950-950.8 Actions against public employees*  
*Government Code 54957-54957.8 Closed Sessions*  
*Title VI, Civil Rights Act of 1964*  
*Title IX, Education Amendments of 1972*  
*Section 504, Rehabilitation Act of 1973*  
*34 Code of Federal Regulations 200.74 and*  
*Part 300*  
*General Education Provisions Act, 20 U.S.C.*  
*1221 et seq., especially:*  
*Family Education and Privacy Rights Act, 20 U.S.C. 1232g*  
*Assembly Bill 699*  
*Attorney General of California Model Policies April 2018*