

Policy 1312.3: Uniform Complaint Procedures

Status: ADOPTED

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Uniform Complaint Procedures (UCP)

This document contains rules and instructions about the filing, investigation and resolution of a Uniform Complaint Procedures (UCP) complaint regarding an alleged violation by Marysville Joint Unified School District of federal or state laws or regulations governing educational programs, including non-compliance with laws relating to pupil fees and our Local Control and Accountability Plan (LCAP).

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 by a complainant alleging a violation of federal or state laws or regulations, which may include an allegation of unlawful discrimination, harassment, intimidation, bullying or charging pupil fees for participation in an educational activity or non-compliance with the requirements of our LCAP. 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 and non-compliance with laws relating to pupil fees or noncompliance with the requirements of our LCAP.

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 Responsibilities of Marysville Joint Unified 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 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 implemented that are subject to the UCP.

The Marysville Joint Unified School District developed the Uniform Complaint Procedures (UCP) process with policies and procedures adopted by our board.

Complaints Subject to UCP

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 8200-8498)
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, when students in grades 9-12 are assigned to such courses more than one week in any semester or in a course the student has previously satisfactorily completed, unless specified conditions are met (Education Code 51228.1-51228.3)

10. Discrimination, harassment, intimidation, or bullying in district programs and activities, including in those programs or activities funded directly by or that receive or benefit from any state financial assistance, based on a person's actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, immigration status, ethnic group identification, age, religion, physical or mental disability, medical condition, or genetic information; any other characteristic identified in Education Code 200 or 220, Government Code 11135, or Penal Code 422.55; or based on the person's association with a person or group with one or more of these actual or perceived characteristics (5 CCR 4610)

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 a 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. Additionally, discrimination includes, but is not limited to, the Board's adoption or approval of use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or other resource in a school library if the use would subject a student to unlawful discrimination pursuant to Education Code 220. 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, 244)

The UCP shall not be used to investigate and resolve employment discrimination complaints. (5 CCR 4611)

Educational and graduation requirements for students in foster care, students experiencing homelessness, students from military families, students formerly in a juvenile court school, students who are migratory, and newcomer students (Education Code 48645.7, 48853, 48853.5, 49069.5, 51225.1, 51225.2)

12. Every Student Succeeds Act (Education Code 52059; 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 Fees (Education Code 49010-49013)
17. Reasonable Accommodations to a Lactating Pupil (Education Code 222)
18. Regional Occupational Centers and Programs (Education Code 52300-52334.7)
19. School plans for student achievement as required for the consolidated application for specified federal and/or state categorical funding (Education Code 64001)
20. School Safety Plans (Education Code 32280-32289)
21. Schoolsite Councils as required for the consolidated application for specified federal and/or state categorical funding (Education Code 65000)
22. State Preschool programs (Education Code 8235-8239.1)
23. State Preschool Health And Safety Issues In LEAs Exempt From Licensing (Education Code 8235.5)
24. 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
25. And 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 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 federal, state, and local 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-UCP Complaints

The following complaints shall not be subject to the district's UCP but shall be investigated and resolved by the specified agency or through an alternative process:

1. Any complaint alleging child abuse or neglect shall be referred to the County Department of Social Services Protective Services Division or the appropriate law enforcement agency (5 CCR 4611)
2. Any complaint alleging health and safety violations by a child development program shall, for licensed facilities, be referred to Department of Social Services (5 CCR 4611)
3. Any complaint alleging that a student, while in an education program or activity, was subjected to conduct known to the district that may reasonably constitute sex discrimination under Title IX, including sex-based harassment, as defined in 34 CFR 106.2

Discrimination on the basis of sex includes sex stereotypes; sex characteristics; sexual orientation; gender; gender identity; gender expression; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions or recovery; and parental, marital, and family status. Such a complaint 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 Sex Discrimination and Sex-Based Harassment Complaint Procedures. (34 CFR 106.2, 106.10, 106.11, 106.44)

4. Except for complaints alleging sex discrimination, including sex-based harassment, 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

Employment complaints alleging sex discrimination, including sex-based harassment, shall be investigated and resolved as specified in 34 CFR 106.44 and 106.45 and Administrative Regulation 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

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)

Pupil Fees

A pupil fee is a fee, deposit, or other charge imposed on pupils, or a pupil's parents or guardians, in violation of state codes and constitutional provisions which require educational activities to be provided free of charge to all pupils without regard to their families' ability or willingness to pay fees or request special waivers. Educational activities are those offered by a school, school district, charter school, or county office of education that constitute a fundamental part of education, including, but not limited to, curricular and extracurricular activities.

A pupil fee includes, but is not limited to, all of the following:

A fee charged to a pupil as a condition for registering for school or classes, or as a condition for participation in a class or an extracurricular activity, regardless of whether the class or activity is elective or compulsory, or is for credit.

A security deposit, or other payment, that a pupil is required to make to obtain a lock, locker, book, class apparatus, musical instrument, clothes, or other materials or equipment.

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

The Local Control Accountability Plan

The LCAP is an important component of the Local Control Funding Formula (LCFF), the revised school finance system that overhauled how California funds its K-12 schools. Under the LCFF we are required to prepare an LCAP, which describes how we intend to meet annual goals for our pupils, with specific activities to address state and local priorities identified pursuant to California Education Code (EC) Section 52060(d).

The UCP Annual Notice

We disseminate on an annual basis the UCP Annual Notice which is a written notice of our approved UCP complaint procedures to all of our 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 information regarding allegations about discrimination, harassment, intimidation, or bullying.

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

- information regarding allegations about discrimination, harassment, intimidation, or bullying;
- 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

Our UCP Annual Notice shall also include information regarding the requirements of EC Section 49010 through 49013 relating to pupil fees and information regarding the requirements of EC Section 52075 relating to the LCAP.

Our UCP Annual Notice shall be in English and in the primary language, pursuant to section 48985 of the Education Code, or mode of communication of the recipient of the notice.

In order to identify appropriate subjects of state preschool health and safety issues pursuant to Section 1596.7925 of the *Health and Safety Code (HSC)* a notice, separate from the UCP Annual Notice, shall be in the local educational agency notifying parents, guardians, pupils, and teachers of (1) the health and safety requirements under Title 5 of

the *California Code of Regulations (5 CCR)* that apply to California state preschool programs pursuant to *HSC* Section 1596.7925, and (2) where to get a form for a state preschool health and safety issues complaint.

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:

Assistant Superintendent/Personnel Services Personnel Service Dept.
1919 B Street
Marysville, CA 95901 (530) 749.6144
personnel@mjusd.k12.ca.us

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 LCAP or annual update that we adopted. An LCAP 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.

We will 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 Marysville Joint Unified 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.

The complaint will be investigated and a written report with a Decision will be issued to the complainant by us within 60 days from the date of the receipt of the complaint, unless the complainant agrees in writing to an extension of time.

This report will contain the following elements:

1. The findings of fact based on the evidence gathered.
2. Conclusion of law.
3. Disposition of the complaint.
4. The rationale for such a disposition.
5. Corrective actions, if any are warranted.
6. Notice of the complainant's right to appeal our Decision to the CDE.
7. Procedures to be followed for initiating an appeal to CDE.

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 Marysville Joint Unified 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.

The staff member, position, or unit responsible to receive and investigate UCP complaints and ensure our compliance in our agency is knowledgeable about the laws and programs assigned to investigate.

We investigate all allegations of unlawful discrimination, harassment, intimidation or bullying against any protected group as identified in EC Section 200 and 220 and Government Code (GC) Section section 11135, including any actual or perceived characteristics as set forth in Penal Code (PC) Section .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 we conduct, which is funded directly by, or that receives or benefits from any state financial assistance.

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.

We ensure that complainants are protected from retaliation.

We advise complainants of the right to pursue civil law remedies under state or federal discrimination, harassment, intimidation or bullying laws.

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:
- for complaints regarding Pupil Fees; Local Control and Accountability Plan (LCAP); Physical Education Instructional Minutes or Course Periods without Educational Content, the remedy shall go to all affected pupils and parents/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 reasonable efforts to ensure full reimbursement to all pupils, parents and guardians who paid a pupil fee within one year prior to the filing of the complaint;
- With respect to reasonable Accommodations to a Lactating Pupil; Course Periods without Educational Content (grades nine through twelve); and/or Education of Pupils in Foster Care, Pupils who are Homeless, former Juvenile Court Pupils now enrolled in a school district, and pupils in military families, the public school or LEA shall provide a remedy to the affected pupil.
- 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.

We ensure an attempt shall be made in good faith to engage in reasonable efforts 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.

We shall report summarized data on the nature and resolution of all state preschool health and safety issues complaints on a quarterly basis to the county superintendent of schools and our board. The summaries shall be publicly reported on a quarterly basis at a regularly scheduled meeting of our board. The report shall include the number of complaints by general subject area with the number of resolved and unresolved complaints.

We are aware that all complaints and responses are public records. **UCP Complaint Appeal Process**

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 Marysville Joint Unified 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.

UCP Requirements Regarding State Preschool Health and Safety Issues Pursuant to HSC Section 1596.7925:

When Filing a UCP Complaint Regarding State Preschool Health and Safety Issues

To file a UCP complaint regarding a state preschool health and safety issue pursuant to HSC Section 1596.7925 the complainant must file with the preschool program administrator or their designee in Marysville Joint unified School District.

A state preschool health and safety issues complaint about problems beyond the authority of the preschool program administrator shall be forwarded in a timely manner, but not to exceed 10 working days to our official for resolution.

A state preschool health and safety issues complaint may be filed anonymously. A complainant who identifies themselves is entitled to a response if they indicate that a response is requested. A complaint form shall include a space to mark to indicate whether a response is requested. If EC section 48985 is otherwise applicable, the response, if requested, and our Investigation Report shall be written in English and the primary language in which the complaint was filed.

A complaint form for a state preschool health and safety issue shall specify the location for filing a complaint. A complainant may add as much text to explain the complaint as they wish.

When investigating a UCP state preschool health and safety issue the preschool program administrator or the designee of the district superintendent shall make all reasonable efforts to investigate any problem within his or her authority, and investigations shall begin within 10 calendar days of the receipt of the complaint. A valid complaint shall be remedied within a reasonable time period, but not to exceed 30 working days from the date the complaint was received. The resolution of the complaint shall be reported to the complainant within 45 working days of the initial filing. If the preschool program administrator makes this report, he or she shall also report the same information in the same timeframe to the designee of the district superintendent.

Filing an Appeal Regarding UCP State Preschool Health and Safety Issues

A complainant not satisfied with the resolution of the preschool program administrator or the designee of the district superintendent has the right to describe the complaint at a regularly scheduled hearing of our board. A complainant will not be precluded from filing an appeal to the State Superintendent of Public Instruction (SSPI) if the complainant does not file a local appeal.

A complainant who is not satisfied with the resolution proffered by the preschool program administrator or the designee of our superintendent has the right to file an appeal to the SSPI within 30 calendar days of the date of the Investigation Report.

The complainant shall comply with the same appeal requirements of 5 CCR section 4632 as in the section above 'UCP Complaint Appeal Process.'

The complainant shall include a copy of the Investigation Report and specify and explain the basis for the appeal, including at least one of the following:

- the preschool program administrator or the designee of our superintendent 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
- 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
- If the preschool program is found noncompliant, the corrective actions fail to provide a proper remedy.

We shall report summarized data on the nature and resolution of all UCP state preschool health and safety issues complaints on a quarterly basis to the county superintendent of schools and our board. The summaries shall be publicly reported on a quarterly basis at a regularly scheduled meeting of our board. The report shall include the number of complaints by general subject area with the number of resolved and unresolved complaints.

All complaints and responses are public records.

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 Code* [EC] Sections 200, 201, 210.1, 210.3, 220, 221.1, 222, 234.1, 260, 3031, 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, 46015, 48645.7, 48853, 48853.5, 48987, 49010-49013, 49069.5, 49531, 49556, 51210, 51222, 51223, 51225.1-3, 51228.1-51228.3, 52059, 52075, 52300-52462, 52334.7, 52355, 52451, 52460-52462, 52500-52617, 54440-54445, 54445, 56100(a), 56100(j), 60010, 64001, 65000.

California *Government Code* [GC] Sections 11135, 11136, 12960 California *Penal Code* [PC] Section 422.55, 11166

Policy Reference Disclaimer: These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.
