MEMORANDUM

TO: All CVUSD Employees
FROM: Jeanne Valentine, Assistant Superintendent, Human Resources
SUBJECT: Policy/Regulation 1312.1: Complaints Concerning District Employees
Policy/Regulation 1312.3: Uniform Complaint Procedures
Policy 4020: Drug and Alcohol-Free Workplace
Policy/Regulation 4030: Nondiscrimination in Employment
Regulation 4032: Reasonable Accommodation
Policy 4119.11, 4219.11 & 4319.11: Sexual Harassment: Definition and Complaint Procedures

The attached information is of significant importance to all District employees and students.

Please read these policies and regulations so that you can be well informed in your activities as an employee.
CVUSD

Board Policy BP 1312.1

Community Relations

Complaints Concerning District Employees

The Governing Board accepts responsibility for providing a means by which the public can hold employees accountable for their actions. The Board desires that complaints be resolved expeditiously without disrupting the educational process.

The Superintendent or designee shall develop regulations which permit the public to submit complaints against district employees in an appropriate way. These regulations shall protect the rights of involved parties. The Board may serve as an appeals body if the complaint is not resolved.

(cf. 1312.2 - Complaints Concerning Instructional Material) (cf. 1312.3 - Uniform Complaint Procedures)
(cf. 3515.2 - Disruptions)

The Board prohibits retaliation against complainants. The Superintendent or designee at his/her discretion may keep a complainant’s identity confidential, except to the extent necessary to investigate the complaint. The district will not investigate anonymous complaints unless it so desires.

Legal Reference:
EDUCATION CODE
33308.1 Guidelines on procedure for filing child abuse complaints 35146 Closed sessions
44031 Personnel file contents and inspection 44811 Disruption of public school activities
44932-44949 Resignation, dismissal and leaves of absence (rights of employee; procedures to follow)
48987 Child abuse guidelines GOVERNMENT CODE
54957 Closed session; complaints re employees 54957.6 Closed session; salaries or fringe benefits PENAL CODE
273 Cruelty or unjustifiable punishment of child
11164-11174.3 Child Abuse and Neglect Reporting Act WELFARE AND INSTITUTIONS CODE
300 Minors subject to jurisdiction of juvenile court

Management Resources:
CDE LEGAL ADVISORIES
0910.93 Guidelines for parents to report suspected child abuse by school district employees or other persons against a pupil at school site (LO:4-93)

CVUSD
Administrative Regulation AR 1312.1

Community Relations

Complaints Concerning District Employees

The Superintendent or designee shall determine whether a complaint should be considered a complaint against the district and/or an individual employee, and whether it should be resolved by the district’s process for complaints concerning personnel and/or other district procedures.

(cf. 1312.2 - Complaints Concerning Instructional Materials)
(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 4144/4244/4344 - Complaints)

To promote prompt and fair resolution of the complaint, the following procedures shall govern the resolution of complaints against district employees:

1. Parent-Employee Meeting
   Every effort should be made to resolve a complaint at the earliest possible stage. Whenever possible, the complainant should communicate directly to the employee in order to resolve concerns (e.g., principal, assistant principal, or coordinator).

2. Parent Complaint to Employee’s Supervisor (Site Level Resolution)
   If a complainant is unable or unwilling to resolve the complaint directly with the employee, he/she may submit an oral or written complaint to the employee's immediate supervisor (e.g. the site principal or his/her designee at the secondary school.)

   A copy of the written complaint will be provided to the affected employee and the supervisor will attempt to resolve the complaint.

3. Parent Complaint to Supervisor of Site Level Administrator (District Level Resolution)
   When a parent complaint has not been resolved by the immediate supervisor (site level) of the employee, the written complaint, accompanied by the written response of the supervisor to the parent (a copy of which will be provided to the affected employee), may be brought by the parent to the supervisor (district level) of the site administrator; e.g. Director of Elementary Education, Director of Secondary Education, Assistant Superintendent of Instruction, or his/her designee, and the administrator will attempt to resolve the complaint.

4. Parent Complaint to the Superintendent
   When a parent complaint to the district level supervisor has not been resolved by the designated district level administrator of the supervisor of the affected employee, the written complaint, accompanied by the written responses of the supervisors who have attempted to resolve the complaint at the second and third steps
(copies of which will be provided to the affected employee) may be brought by the parent to the Superintendent or his/her designee who will attempt to resolve the complaint.

5. Parent Complaint to the Board of Education
When a parent complaint to the Superintendent has not resulted in a resolution of the complaint, the Board of Education may elect to review the complaint if requested by the parent.

If the Board of Education elects to review the complaint, the written complaint, accompanied by the written responses of the administrators at the second, third, and fourth steps (copies of which have been provided to the affected employee), will be reviewed in Closed Session of the Board of Education and a written response provided to both the parent making the complaint and the affected employee.

All complaints related to district personnel other than administrators shall be submitted in writing to the principal or immediate supervisor. If the complainant is unable to prepare the complaint in writing, administrative staff shall help him/her to do so. Complaints related to a principal or central office administrator shall be initially filed in writing with the Superintendent or designee. Complaints related to the Superintendent shall be initially filed in writing with the Board.

(cf. 9321 - Closed Session Purposes and Agendas)
(cf. 9323 - Meeting Conduct)

The decision of the Board shall be final.

Any complaint of child abuse or neglect alleged against a district employee shall be reported to the appropriate local agencies in accordance with law, Board policy and administrative regulation.

(cf. 5141.4 - Child Abuse Prevention and Reporting)

*Italics* = Modification to CSBA sample regulation

CSBA (12/88 6/94) 3/01

Adopted: April 15, 2008
***Note: To address prohibited discrimination and violations of state and federal laws governing educational programs, 5 CCR 4621 mandates districts to adopt uniform complaint procedures (UCP) consistent with the state’s complaint procedures specified in 5 CCR 4600-4670. Pursuant to 5 CCR 4610, districts are required to adopt a uniform system of procedures that meets specified requirements for investigating and resolving complaints alleging (1) noncompliance with state and federal laws and regulations governing educational programs; (2) noncompliance with state law prohibiting the charging of student fees; or (3) unlawful discrimination (such as discriminatory harassment, intimidation, and bullying). Although some bullying incidents may not fall within the provisions of 5 CCR 4610, BP 5131.2 - Bullying strongly recommends that districts use the UCP to investigate all bullying incidents, regardless of whether there is an allegation of discriminatory bullying, to ensure consistent implementation by district staff. It is not always easy or possible for staff to know prior to an investigation whether a student was bullied because of his/her actual or perceived membership in a legally protected class. After investigation, bullying incidents found to involve unlawful discrimination would then be resolved using the UCP. Districts that are concerned about the capacity of a single district compliance officer to handle a possible increase in the number of UCP complaints, or that prefer to handle certain incidents at the school site level whenever possible, may designate multiple compliance officers in accordance with the accompanying administrative regulation.***

***Note: Education Code 52075 mandates districts to adopt policies and procedures implementing the use of the UCP to investigate and resolve complaints alleging noncompliance with requirements related to the local control and accountability plan. For plan requirements, see BP/AR 0460 - Local Control and Accountability Plan. In addition, legislation enacted in 2015 authorizes the use of the UCP to resolve complaints of noncompliance with laws related to accommodations for lactating students, educational rights of foster youth and homeless students, assignment of students to courses without educational content, and physical education instructional minutes, as specified in items #3 and #6-9 below. Finally, a district should adopt policies and procedures implementing the use of the UCP to investigate and resolve complaints alleging retaliation in response to a complaint.***

***Note: The California Department of Education (CDE) monitors district programs and operations for compliance with these requirements through its Federal Program Monitoring (FPM) process. The FPM consists of a review of (1) written district policies and procedures for required statements, including prohibition of discrimination (such as discriminatory harassment, intimidation, and bullying) against students pursuant to Education Code 234.1, and (2) records of required activities, such as annual notification provided to students, parents/guardians, employees, and other school community members.***

***Note: The U.S. Department of Education’s Office for Civil Rights (OCR) enforces Title II of the Americans with Disabilities Act (20 USC 12101-12213), Title VI of the Civil Rights Act of 1964 (42 USC 2000d-2000e-17), Title IX of the Education Amendments Act of 1972 (20 USC 1681-1688), Section 504 of the Rehabilitation Act of 1973 (29 USC 794), and the Age Discrimination Act of 1975 (42 USC 6101-6107). OCR has issued guidance describing federal requirements for discrimination complaint procedures. OCR requires such procedures to be "prompt and equitable." The factors OCR examines to evaluate each district’s procedures are specified in the accompanying administrative regulation, including whether and how the procedures (1) provide notice of the procedures to the district’s students,
parents/guardians, and employees; (2) ensure adequate, reliable, and impartial investigation of complaints; (3) contain reasonably prompt timeframes for major stages of the complaint process; (4) provide notice to the complainant of the resolution of the complaint; and (5) provide an assurance that action will be taken to prevent recurrence of any discrimination found and to correct its effects.

The Governing Board recognizes that the district has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs. The Board encourages 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 CCR 4600-4670 and the accompanying administrative regulation.

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 adult education programs, after school education and safety programs, migrant education, career technical and technical education and training programs, child care and development programs, child nutrition programs, special education programs, consolidated categorical aid programs, and any other district-implemented program which is 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 student, employee, or other person participating 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, pregnancy, 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)

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 complaint, by or on behalf of a former juvenile court school student who transfers into the district after his/her second year of high school, alleging district noncompliance with any requirement applicable to the student regarding the award of credit for coursework satisfactorily completed in the juvenile court school or the grant of an exemption from Board-imposed graduation requirements (Education Code 51225.1, 51225.2)

12. 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 acceptable 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.

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 Reference:**

**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
35186 Williams uniform complaint procedures
48853-48853.5 Foster youth
48985 Notices in language other than English
49010-49013 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, and former juvenile court school students; course credits; graduation requirements
51228.1-51228.3 Course periods without educational content
52060-52077 Local control and 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
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 Act
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

Management Resources:
U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS
Dear Colleague Letter: Title IX Coordinators, April 2015
Questions and Answers on Title IX and Sexual Violence, April 2014
Dear Colleague Letter: Bullying of Students with Disabilities, August 2013
Dear Colleague Letter: Sexual Violence, April 2011
Dear Colleague Letter: Harassment and Bullying, October 2010
Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001

U.S. DEPARTMENT OF JUSTICE PUBLICATIONS

WEB SITES
CSBA: http://www.csba.org
California Department of Education: http://www.cde.ca.gov
CVUSD
Administrative Regulation AR 1312.3

Community Relations

Uniform Complaint Procedures

Compliance Officers

***Note: Apart from these mandates, state legislation enacted in 2015 authorizes the use of the UCP to resolve complaints of noncompliance with laws related to accommodations for lactating students, educational rights of foster youth and homeless students, assignment of students to courses without educational content, and physical education instructional minutes, as specified in items #3 and #6-9 of the accompanying Board policy.***

Except as the Governing Board 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. 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 unlawful discrimination (such as discriminatory harassment, intimidation, or bullying). The individual(s) shall receive and coordinate the investigation of complaints and shall ensure district compliance with law.

Assistant Superintendent
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Thousand Oaks, CA 91362
(805) 497-9511
llichtl@conejousd.org

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 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 compliance officer or, if necessary, any appropriate administrator shall determine whether interim measures are necessary during and pending the result 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 one or more interim measures. The interim measures shall 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)

***Note: 5 CCR 4622 mandates the district to include specified information in the required annual notice of its UCP to students, parents/guardians, employees, and others. Pursuant to Education Code 48853, 48853.5, 49069.5, 51225.1, and 51225.2, as amended by AB 379 (Ch. 772, Statutes of 2015), the district is required to include information about specified educational rights of foster youth and homeless students in its annual UCP notification.***

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.

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.

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

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 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.

   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 discrimination has occurred, the district will take steps to prevent recurrence of discrimination and correct its discriminatory effects on the complainant, and on others, if appropriate.

   f. A student enrolled in a public school shall not be required to pay a fee for his/her participation in an educational activity that constitutes an integral fundamental part of the district's educational program, including curricular and extracurricular activities.
The Board is required to adopt and annually update the LCAP in a manner that includes meaningful engagement of parents/guardians, students, and other stakeholders in the development and/or review of the LCAP.

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.

A foster youth or homeless student, or former juvenile court school 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

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.

The appeal to the CDE must include a copy of the complaint filed with the district and a copy of the district's decision.

Copies of the district's UCP 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)

Filing of Complaints

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. (5 CCR 4600)

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 adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and training programs, child care and development programs, child nutrition programs, and special education programs may be filed by any individual, public agency, or organization. (5 CCR 4630)
***Note: Education Code 49013 mandates districts to adopt procedures that allow for anonymous complaints to be filed when a district allegedly violates the prohibition against the charging of student fees. Pursuant to Education Code 52075, anonymous complaints are permitted with regards to the LCAP, as long as evidence, or information leading to evidence, to support the allegation of noncompliance is provided in the complaint.***

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 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 or with the Superintendent or 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.

Mediation

***Note: The following section should be used only by those districts that have decided to establish procedures for attempting to resolve complaints through alternative dispute resolution procedures such as mediation; see the accompanying Board policy. The following section may be modified to specify the alternative dispute resolution method and timelines used within the district.***

Within five business days after the compliance officer receives the complaint, he/she may informally discuss with all the parties the possibility of using mediation. Mediation shall be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint involving an allegation of sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. If the parties agree to mediation, the compliance officer shall make all arrangements for this process. Before initiating the mediation of a complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the compliance officer shall ensure that all parties agree to make the mediator a party to relevant confidential information. The compliance officer shall also notify all parties of the right to end the informal process at any time.

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.

Investigation of Complaint

Within 10 business days after the compliance officer receives the complaint, the compliance officer shall begin an investigation into the complaint.

Within three business days of initiating the investigation, the compliance officer shall provide the complainant and/or his/her representative with the opportunity to present the information contained in the complaint to the compliance officer and shall notify the complainant and/or his/her representative of the opportunity to present the compliance
officer with any evidence, or information leading to evidence, to support the allegations in the complaint. Such evidence or information may be presented at any time during the investigation.

In conducting the investigation, the compliance officer shall collect all available documents and review all available records, notes, or statements related to the complaint, including any additional evidence or information received from the parties during the course of the investigation. He/she shall individually interview all available witnesses with information pertinent to the complaint, and may visit any reasonably accessible location where the relevant actions are alleged to have taken place. At appropriate intervals, the compliance officer shall inform both parties of the status of the investigation.

To investigate a complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the compliance officer shall interview the alleged victim(s), any alleged offenders, and other relevant witnesses privately, separately, and in a confidential manner. As necessary, additional staff or legal counsel may conduct or support the investigation.

A complainant's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or engagement in any other obstruction of the investigation may result in the dismissal of the complaint because of a lack of evidence to support the allegation. Similarly, a respondent's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or engagement in any other obstruction of the investigation may result in a finding, based on evidence collected, that a violation has occurred and in the imposition of a remedy in favor of the complainant. (5 CCR 4631)

In accordance with law, the district shall provide the investigator with access to records and 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)

***Note: In determining the truth of any allegation, the district should apply the correct standard of proof to the situation. For example, with allegations of unlawful discrimination (such as discriminatory harassment, intimidation, and bullying) or retaliation, OCR uses the "preponderance of the evidence" (more likely than not) standard. Any standard of proof that is more rigorous than required by law could subject a district to liability.***

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.

Report of Findings

Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant, and respondent if there is one, a written report, as described in the section "Final Written Decision" below, within 60 calendar days of the district’s receipt of the complaint. (5 CCR 4631)

Final Written Decision

The district's decision on how it will resolve the complaint shall be in writing and shall be sent to the complainant and respondent. (5 CCR 4631)

***Note: The Family Educational Rights and Privacy Act (FERPA) (20 USC 1232g; 34 CFR 99.1-99.67) protects student privacy, including student records containing details of the actions taken in response to a UCP complaint. However, pursuant to 20 USC 1221, FERPA may not "be construed to affect the applicability of Title VI of the Civil Rights Act of 1964, Title IX of Education Amendments of 1972, Title V of the Rehabilitation Act of 1973, the Age Discrimination Act, or other statutes prohibiting discrimination, to any applicable program." In February 2015, the Family Policy Compliance Office (FPCO), the federal agency which administers FERPA, released a letter concluding that FERPA permits a district to disclose to a student who was subjected to unlawful discrimination certain information about the sanctions imposed upon the offender when the sanctions directly relate to that student. Thus, if properly remedying the impact of discrimination would require disclosing to the alleged victim certain information on how the district disciplined the alleged student offender (e.g., a stay-away order), FPCO interprets FERPA as allowing the district to disclose that information.***

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 who may be involved in implementing the decision or are affected by the complaint, as long as the privacy of the parties is protected. In a complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying), notice of the district's decision to the alleged victim shall include information about any sanction to be imposed upon the respondent that relates directly to the alleged victim.
If the complaint involves a limited-English-proficient student or parent/guardian and the student involved attends a school at which 15 percent or more of the students speak a single primary language other than English, then the decision shall also be translated into that language. In 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
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 action(s), 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 49013 and 5 CCR 4600

   For complaints of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the decision may, as required by law, include:

   a. The corrective actions imposed on the respondent
   b. Individual remedies offered or provided to the complainant or another person who was the subject of the complaint, but this information should not be shared with the respondent.
   c. Systemic measures the school has taken to eliminate a hostile environment and prevent recurrence

6. Notice of the complainant's and respondent's right to appeal the district's decision to the CDE within 15 calendar days, and procedures to be followed for initiating such an appeal

The decision may also include follow-up procedures to prevent recurrence or retaliation and for reporting any subsequent problems.

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

1. He/she may pursue available civil law remedies outside of the district's complaint procedures, including seeking assistance from mediation centers or public/private interest attorneys, 60 calendar days after the filing of an appeal with the CDE. (Education Code 262.3)

2. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law. (Education Code 262.3)
3. Complaints alleging discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the U.S. Department of Education, Office for Civil Rights at www.ed.gov/ocr within 180 days of the alleged discrimination.

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 remedies that may be offered to the victim but not communicated to the respondent 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
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, 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, 51223, 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 written decision may file an appeal in writing with the CDE within 15 calendar days of receiving the district's decision. (Education Code 222, 48853, 48853.5, 49013, 49069.5, 51223, 51225.1, 51225.2, 51228.3, 52075; 5 CCR 4632)

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

The complainant or respondent shall specify the basis for the appeal of the decision and whether the facts are incorrect and/or the law has been misapplied. The appeal shall be accompanied by a copy of the locally filed complaint and a copy of the district's decision. (5 CCR 4632)

Upon notification by the CDE that the complainant or respondent has appealed the district's decision, the Superintendent 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

***Note: The CDE may directly intervene in a complaint without waiting for action by the district when certain conditions exist, including the following: (1) the complaint alleges failure to comply with the UCP, including failure to follow the required timelines and failure to implement the final written decision; (2) the complainant requires anonymity due to the possibility of retaliation and would suffer immediate and irreparable harm if a complaint was filed and the complainant was named; (3) the complainant alleges that he/she would suffer immediate and irreparable harm as a result of an application of a districtwide policy that is in conflict with state or federal law and that filing a complaint would be futile; (4) the complainant alleges failure to comply with the due process procedures established pursuant to special education law and regulation to implement a due process hearing order; (5) the complainant alleges facts that indicate that one or more students may be in immediate physical danger or that the health, safety, or welfare of one or more students is threatened; or (6) the complainant alleges failure to follow a student's individualized education program.***

(7/15 3/16) 11/16 9/17

CVUSD
Reglamento Administrativo AR 1312.3
Relaciones Comunitarias
Procedimientos Uniformes de Quejas
Oficiales de Conformidad a los Reglamentos

***Nota: Aparte de esos mandatos, la legislación estatal promulgada en el 2015 autoriza el uso de Los Procedimientos Uniformes de Quejas (UCP por sus siglas en inglés) para resolver quejas por el incumplimiento de las leyes relacionadas con la acomodación de estudiantes lactantes, los derechos educativos de jóvenes en hogares de acogida y de estudiantes sin hogar, la asignación de estudiantes a clases sin contenido educativo y los minutos de instrucción de educación física, como está especificado en los puntos #3 y #6 a 9 de la política del consejo educativo que lo acompaña.***

A menos que el consejo educativo pueda disponer específicamente de otras políticas del distrito, estos procedimientos uniformes de quejas UCP deben ser usados para investigar y resolver únicamente las quejas especificadas en BP 1312.3.

Oficiales de Conformidad a los Reglamentos
El distrito designa al/los individuo(s) identificados a continuación como al/los empleado(s) responsable(s) de coordinar las respuestas del distrito a las quejas y de cumplir con las leyes estatales y federales de derechos civiles. El/los individuo(s) también sirve(n) como Oficiales de Conformidad a los Reglamentos como está especificado en AR 5145.3 – No discriminación/acoso, como el/los empleado(s) responsable(s) de manejar las quejas relacionadas con la discriminación ilegal (tal como acoso discriminatorio, intimidación u hostigamiento). El/los individuo(s) recibirá(n) y coordinara(n) la investigación de quejas y asegurará(n) que el distrito cumpla con la ley.

Asistente Superintendente
1400 E Janss Road
Thousand Oaks, CA 91362
(805) 497-9511
llichtl@conejousd.org
El Oficial de Conformidad a los Reglamentos que reciba una queja podrá asignar a otro Oficial de Conformidad a los Reglamentos para que investigue y resuelva la queja. El Oficial de
Conformidad a los Reglamentos notificará inmediatamente al demandante y al demandado, si es aplicable, si otro Oficial de Conformidad a los Reglamentos es asignado al caso.

En ningún caso un Oficial de Conformidad a los Reglamentos será asignado a una queja en la que pueda ser parcial o tenga un conflicto de interés que pueda prohibirle una investigación justa para resolver la queja. Cualquier queja en contra de un Oficial de Conformidad a los Reglamentos que pueda plantear una inquietud en contra de la habilidad del oficial para investigar justamente y sin conflictos una queja, se debe presentar ante el superintendente o su delegado quien determinará como se investigará la queja.

El Oficial de Conformidad a los Reglamentos o si es necesario, cualquier administrador apropiado podrá determinar si son necesarias medidas cautelares durante el proceso de investigación o en espera de este. Si se determina que las medidas cautelares son necesarias, el Oficial de Conformidad a los Reglamentos o el administrador deberá consultar con el superintendente, el delegado del superintendente o si es apropiado, el director de la escuela para implementar una o más medidas cautelares. Las medidas cautelares deberán ser mantenidas hasta que el Oficial de Conformidad a los Reglamentos determine que no son necesarias o hasta que el distrito emita su decisión final por escrito, lo que ocurra primero.

Notificaciones

Las políticas y el reglamento administrativo del UCP del distrito deberán publicarse en todas las escuelas y en todas las oficinas del distrito, incluyendo las salas del personal y las salas de reuniones del personal y los salones en donde se reúne el consejo escolar. (Código de educación 234.1)

***Nota: 5 CCR 4622 ordena al distrito incluir la información específica en la notificación anual de UCP a los estudiantes, padres de familia/tutores legales, empleados, y a otras personas. De acuerdo con el código de educación 48853, 48853.5, 49069.5, 51225.1, y 51225.2, como fue enmendado por AB 379 (capítulo 772, estatutos del 2015), el distrito debe incluir información sobre los derechos educativos especificados con relación a los jóvenes de acogida y a los estudiantes sin hogar en su notificación anual de UCP. ***

La notificación anual y toda la información de contacto del/los oficial(es) de conformidad a los reglamentos pueden ser publicadas en la página web del distrito y si están disponibles, pueden ser proporcionadas a través de las redes sociales respaldadas por el distrito.

El superintendente o su delegado debe asegurar que todos los estudiantes y los padres de familia/tutores legales incluyendo a los estudiantes y padres de familia/tutores legales con dominio limitado del inglés, tengan acceso a la información relevante como está estipulado en las políticas del distrito, reglamentos, formularios y notificaciones concernientes a UCP.

Si el 15 por ciento o más de los estudiantes matriculados en una escuela particular del distrito escolar hablan una misma lengua materna diferente al inglés, las políticas del distrito, los reglamentos, los formularios y las notificaciones concernientes a UCP deberán ser traducidas a ese idioma, de acuerdo al código de educación 234.1 y 48985. En todos los demás casos, el distrito deberá asegurar el acceso significativo a toda la información pertinente de UCP para los padres de familia/tutores legales con un dominio limitado del inglés.

1. Identificar a la(s) persona(s), posición(es), o unidad(es) responsables de recibir las quejas
2. Si corresponde, aconsejar al denunciante sobre los recursos de sistema de derecho civil que puedan estar disponibles bajo las leyes antidiscriminatorias estatales o federales
3. Si corresponde, debe aconsejar al denunciante acerca del proceso de apelaciones, incluyendo, el derecho del denunciante de presentar la queja directamente al Departamento de Educación de California (CDE por sus siglas en inglés) o de ejercer su procedimiento de los recursos del sistema de la corte civil o de cualquier otra agencia pública, tal como la Oficina de Derechos Civiles del Departamento de Educación de los Estados Unidos (U.S. Department of Education's Office for Civil Rights) (OCR por sus siglas en inglés) en casos de discriminación ilícita (tal como acoso discriminatorio, intimidación u hostigamiento).
4. Incluye declaraciones que:
   a. El distrito tiene la responsabilidad primaria de asegurar el cumplimiento de las leyes estatales y federales que apliquen y los reglamentos que rigen a los programas educativos.
   b. La revisión de la queja deberá completarse en un plazo de 60 días calendario de la fecha de recibo, a menos de que el denunciante esté de acuerdo por escrito con una extensión del plazo.
   c. Una denuncia que alega represalias o discriminación ilícita (tal como acoso discriminatorio, intimidación u hostigamiento) deberá ser presentada a más tardar seis meses después de la fecha en que ocurrió, o seis meses desde la fecha en que el denunciante obtuvo conocimiento de los hechos de la presunta discriminación ilícita. La fecha para iniciar la denuncia puede ser extendida hasta por 90 días por el superintendente o su delegado por un motivo justificado, a petición escrita del denunciante exponiendo los motivos para la extensión.
   d. Las denuncias deben ser presentadas por escrito y deben ser firmadas por el denunciante. Si el denunciante no puede escribir su queja por motivos, tales como discapacidad o analfabetismo, el personal del distrito deberá ayudarle a presentar la queja.
   e. Si una queja no se presenta por escrito, pero el distrito recibe notificación de cualquier
alegato que es sujeto a UCP, el distrito deberá tomar pasos afirmativos para investigar y resolver las acusaciones, de manera apropiada a las circunstancias particulares. Si el alegato implica retaliación o discriminación ilegal (tal como acoso discriminatorio, intimidación u hostigamiento) y la investigación revela que ocurrió discriminación, si es apropiado, el distrito tomará medidas para prevenir la recurrencia de la discriminación ilícita y de corregir sus efectos discriminatorios en el denunciante y en otros.
f. Un estudiante matriculado en una escuela pública no está obligado a pagar cuotas por su participación en una actividad educativa que constituya una parte integral fundamental del programa educativo del distrito, incluyendo actividades curriculares y extracurriculares.
g. El consejo escolar está obligado a adoptar y actualizar anualmente LCAP de manera que incluya la participación significativa de los padres de familia/tutores legales, estudiantes, y de otras personas interesadas en el desarrollo y/o revisión de LCAP.
h. Un joven en un hogar de acogida deberá recibir información acerca de sus derechos educativos relacionados con su colocación educativa, inscripción y salida de la escuela, al igual que de las responsabilidades del coordinador de los estudiantes en hogares de acogida, para asegurar y facilitar esos requisitos y para ayudar al estudiante y asegurar la transferencia apropiada de sus créditos, documentos y calificaciones cuando se transfiera entre escuelas o entre distritos.
i. Un joven en un hogar de acogida o sin hogar o un ex estudiante de una escuela corregional juvenil que se transfiere a una escuela secundaria del distrito o entre las escuelas secundarias del distrito deberá ser notificado/a de la responsabilidad del distrito de:
   (1) Aceptar cualquier trabajo de un curso o parte del trabajo de un curso que el estudiante haya completado satisfactoriamente en otra escuela pública, en una escuela de una corte juvenil, o en una escuela o agencia privada, no sectaria y de otorgar crédito total o parcial del trabajo del curso completado
   (2) No requiere que el estudiante vuelva a tomar un curso o una parte de un curso que haya completado satisfactoriamente en otra escuela pública, en una escuela de una corte juvenil, o en una escuela o agencia privada, no sectaria
   (3) Si el estudiante ha completado su segundo año de la escuela secundaria antes de la transferencia, deberá proporcionar al estudiante información sobre los cursos aprobados por el distrito y los requisitos de graduación impuestos por el consejo escolar de los cuales puede ser exento, de acuerdo con el código de educación 51225.1
j. El denunciante tiene el derecho de apelar la decisión del distrito a CDE presentando una apelación por escrito dentro de los 15 días calendario de haber recibido la decisión del distrito. En cualquier denuncia que alegue discriminación ilícita (tal como acoso discriminatorio, intimidación u hostigamiento), el demandado también tiene el derecho de presentar una apelación con el CDE al igual que el denunciante, si esa persona no está satisfecha con la decisión del distrito.
k. La apelación al CDE debe incluir una copia de la queja presentada al distrito y una queja de la decisión del distrito.
l. Las copias de UCP del distrito están disponibles sin ningún costo.
Responsabilidades del Distrito Todas las quejas relacionadas con UCP-deberán ser investigadas y resueltas dentro de 60 días calendario a partir del día en que el distrito reciba la queja, a menos de que el denunciante esté de acuerdo por escrito con una extensión del plazo. (5 CCR 4631) Para las quejas que aleguen discriminación ilegal (tales como acoso discriminatorio, intimidación u hostigamiento), el distrito deberá informar al demandado cuando el denunciante acepte una extensión del plazo para investigar y resolver la queja. El oficial de conformidad a los reglamentos deberá mantener un registro de cada queja y de las acciones subsecuentes relacionadas, incluyendo las medidas necesarias tomadas durante la investigación y toda la información requerida para el cumplimiento de 5 CCR 4631 y 4633. Todas las partes involucradas en las denuncias serán notificadas cuando se presente una queja y cuando se tome una decisión o un fallo. Sin embargo, el oficial de conformidad a los reglamentos deberá mantener confidenciales, todas las quejas o denuncias de represalias o de discriminación ilegal (tal como acoso discriminatorio, intimidación u hostigamiento), excepto cuando la divulgación de estas sean necesarias para llevar a cabo la investigación, para tomar medidas correctivas subsecuentes, o, para mantener la integridad del proceso. (5 CCR 4630, 4964) Presentación de Quejas Todas las quejas deberán ser presentadas por escrito y firmadas por el denunciante. Si el denunciante no puede escribir su queja por motivos tales como discapacidad o analfabetismo, el personal del distrito deberá ayudarle a presentar la queja. (5 CCR 4600) Las quejas también deberán ser presentadas de acuerdo con el siguiente reglamento, según corresponda:
1. Una queja que alega la violación del distrito de la ley estatal o federal aplicable, o de los reglamentos que rigen los programas de educación de adultos, de los programas consolidados de
ayuda categórica, de la educación a los migrantes, de programas de educación técnica y de entrenamiento técnico, de programas de capacitación, de programas de desarrollo y cuidado infantil, de programas de nutrición infantil y de programas de educación especial; puede ser presentada por cualquier individuo, agencia pública u organización. (5 CCR 4630)

***Nota: El código de educación 49013 obliga a los distritos a adoptar procedimientos que permitan que se presenten quejas anónimas cuando el distrito presuntamente infrinja la prohibición de cobrar a los estudiantes cuotas estudiantiles. De acuerdo al código de educación 52075, las quejas anónimas son permitidas con relación a LCAP, siempre y cuando la denuncia contenga evidencia, o información que conduzca a la evidencia que apoye la denuncia de incumplimiento. ***

2. Cualquier denuncia que alega el incumplimiento de la ley con relación a la prohibición de cobrar a los estudiantes honorarios, depósitos y cuotas estudiantiles o cualquier requisito relacionado con LCAP puede ser presentada de manera anónima si el denunciante provee información que lleve a la evidencia que apoye la denuncia de incumplimiento. Una queja acerca de una violación de la prohibición del cobro de cuotas estudiantiles ilegales puede ser presentada con el director de la escuela, con el superintendente o con su designado. Sin embargo, cualquier reclamación de este tipo deberá presentarse a más tardar un año después de la fecha en que ocurrió la supuesta violación. (código de educación 49013, 52075; 5 CCR 4630)

3. Una denuncia que alega discriminación ilegal (tal como acoso discriminatorio, intimidación u hostigamiento), únicamente puede ser presentada por la persona que alega que él/ella personalmente sufrió discriminación ilegal o por la persona que cree que un individuo o una clase específica de individuos han sido sometidos a ella. La denuncia debe ser iniciada a más tardar seis meses desde la fecha en que ocurrió la supuesta discriminación ilegala o seis meses a partir de la fecha en que el denunciante obtuvo conocimiento de los hechos de la supuesta discriminación ilegal. La fecha para iniciar la denuncia puede ser extendida hasta por 90 días por el superintendente o por su delegado por un motivo justificado a petición escrita del denunciante exponiendo los motivos para la extensión. (5 CCR 4630)

4. Cuando una denuncia que alega discriminación ilegal (tal como acoso discriminatorio, intimidación u hostigamiento) se presenta de manera anónima, el oficial de conformidad a los reglamentos deberá llevar a cabo una investigación u otra respuesta, según corresponda, dependiendo de la especificidad y confiabilidad de la información proporcionada y de la seriedad de la acusación.

5. Cuando el denunciante de una discriminación ilegala (tal como acoso discriminatorio, intimidación u hostigamiento) o la presunta víctima, cuando él/ella no es el demandante, solicita confidencialidad, el oficial de conformidad a los reglamentos deberá informarle que su solicitud puede limitar la habilidad del distrito para investigar la conducta o para tomar otras acciones necesarias. Cuando honran una solicitud de confidencialidad, el distrito deberá tomar todas las medidas razonables para investigar y resolver/responder la queja consistente con la solicitud.

Mediación

***Nota: La siguiente sección deberá ser usada únicamente por los distritos que han decidido establecer procedimientos para tratar de resolver denuncias a través de métodos alternativos de resolución de conflictos tales como la mediación; consulten la política del consejo escolar que le acompañe. La siguiente sección puede ser modificada para especificar los métodos alternativos de resolución de disputas y los plazos usados dentro del distrito. ***

En el transcurso de los cinco días hábiles siguientes de que el oficial de conformidad a los reglamentos reciba la queja, él/ella podrá discutir de manera informal con todas las personas interesadas la posibilidad de usar mediación. La mediación será ofrecida para resolver denuncias que involucren a más de un estudiante, pero no pueden involucrar a ningún adulto. Sin embargo, no se podrá ofrecer ni usar la mediación para resolver una queja relacionada con agresión sexual o cuando haya un riesgo razonable de que una de las partes de la mediación se sienta obligada a participar. Si las partes están de acuerdo con la mediación, el oficial de conformidad a los reglamentos deberá hacer todos los arreglos para el proceso.

Antes de iniciar la mediación de una denuncia basada en represalias o discriminación ilegal (tal como acoso discriminatorio, intimidación u hostigamiento), el oficial de conformidad a los reglamentos se asegurará de que todas las partes acuerden de que el mediador sea una parte de la información confidencial relevante. El oficial de conformidad a los reglamentos también notificará a todas las partes, el derecho de terminar el proceso informal en cualquier momento. Si el proceso de mediación no resuelve el problema dentro de los parámetros legales, el oficial de conformidad a los reglamentos deberá proceder con su investigación de la denuncia.

El uso de la mediación no extenderá los plazos del distrito para investigar y resolver la queja, a menos de que el reclamante esté de acuerdo por escrito con tal extensión de tiempo. Si la mediación tiene éxito y la queja es retirada, entonces el distrito solamente tomará las acciones acordadas a través de la mediación. Si la mediación no tiene éxito, el distrito continuará con los pasos posteriores especificados en este reglamento administrativo.

Investigación de una Queja
Dentro de los 10 días hábiles siguientes de que el oficial de conformidad a los reglamentos reciba la queja, él /ella deberá comenzar una investigación sobre la denuncia.

Dentro de los tres días hábiles de iniciar la investigación, el oficial de conformidad a los reglamentos deberá proveer al demandante y/o a su representante la oportunidad de que le presenten la información contenida en la denuncia, cualquier evidencia o información que corrobore la evidencia y que apoye los alegatos de la queja. Dicha evidencia o información podrá ser presentada en cualquier momento durante la investigación.

Al llevar a cabo la investigación, el oficial de conformidad a los reglamentos deberá recopilar todos los documentos disponibles y revisar todos los registros, anotaciones o declaraciones disponibles relacionados con la queja, incluyendo cualquier evidencia adicional o información recibida de las partes, durante el curso de la investigación. El /ella entrevistará individualmente a todos los testigos disponibles que posean información pertinente a la queja, y puede visitar cualquier lugar razonablemente accesible donde las acciones relevantes supuestamente tuvieron lugar. A intervalos adecuados, el oficial de conformidad a los reglamentos informará a ambas partes acerca del estado de la investigación.

Al investigar una denuncia que alega represalias o discriminación ilegal (tal como acoso discriminatorio, intimidación u hostigamiento), el oficial de conformidad a los reglamentos deberá entrevistar de manera privada, por separado y de manera confidencial a la(s) presunta(s) víctima(s), al/los presunto(s) delincuente(s) al igual que a otros testigos relevantes. Si fuera necesario, personal adicional o un asesor legal puede conducir o apoyar la investigación. Cuando un denunciante se niegue a proveer al investigador del distrito documentos u otra evidencia relacionada al/los alegato(s) de la queja, falla o se rehúsa a cooperar con la investigación, o se comprometa de cualquier otra forma a la obstrucción de la investigación, el resultado puede ser la absolución de la denuncia por falta de evidencia que apoye el alegato. De manera similar, si el demandado se rehúsa a proveer al investigador del distrito, documentos o cualquier otra evidencia relacionada con los alegatos de la denuncia, falla o se rehúsa a cooperar con la investigación, o se comprometa de cualquier otra forma a la obstrucción de la investigación, esto puede resultar en un veredicto, basados en la evidencia recopilada, de que ocurrió una violación y en la imposición de una resolución a favor del denunciante. (5 CCR 4631)

De acuerdo a la ley, el distrito proveerá al investigador acceso a los documentos y a otra información relacionada al alegato de la queja y no obstruirá de ninguna manera la investigación. El incumplimiento o la negativa del distrito de cooperar con la investigación puede resultar, basados en la evidencia recopilada, en que ocurrió una violación y en la imposición de una resolución en favor del denunciante. (5 CCR 4631)

***Nota: El proceso para determinar la veracidad de cualquier alegato, el distrito debe aplicar los estándares correctos de prueba de la situación. Por ejemplo, con acusaciones de discriminación ilegal (tal como acoso discriminatorio, intimidación u hostigamiento) o represalias, OCR usa el estándar de la "preponderancia de la prueba conforme al derecho" (lo más probable que). Cualquier estándar de prueba que es más riguroso que lo requerido por la ley puede someter a un distrito a la responsabilidad. ***

El oficial de conformidad a los reglamentos puede aplicar el estándar de "preponderancia de la prueba conforme al derecho" para determinar la veracidad de los hechos de una denuncia. Este estándar se cumple si el/los alegatos(s) es/son más probable(s) que sea(n) verdadero(s).

Reporte de los Hallazgos de la Investigación
***Nota: De acuerdo con 5 CCR 4631, la decisión por escrito del distrito debe ser enviada al denunciante dentro de los 60 días calendario después de recibir la queja. La opción 1 que aparece a continuación es para los distritos que no permiten al/los denunciantes(s) que apele(n) la decisión del oficial de conformidad a los reglamentos ante el comité educativo. La opción 2 es para los distritos que permiten apelaciones ante el comité educativo, y requiere que el oficial de conformidad a los reglamentos se presente durante los 30 días calendario para que la decisión del comité educativo pueda ser dada dentro del plazo de los 60 días. ***

OPCION 1:
A menos que se extienda un acuerdo por escrito del denunciante, el oficial de conformidad a los reglamentos debe preparar y mandar tanto al denunciante como al denunciado, si lo hubiere, un reporte por escrito de los hallazgos, tal como se describe en la sección "Decision Final Escrita" que aparece a continuación, dentro de los 60 días calendario desde que el distrito recibe la queja. (5 CCR 4631)

Decisión Final Escrita
La decisión del distrito sobre cómo se resolverá la denuncia, se hará por escrito y deberá ser mandada tanto al denunciante como al denunciado. (5 CCR 4631)

***Nota: La ley de derechos educativos y privacidad familia (FERPA por sus siglas en inglés) (20 USC 1232g; 34 CFR 99.1-99.67) protege la privacidad de los estudiantes, incluyendo los expedientes académicos que contienen detalles de las acciones tomadas en respuesta a una queja de UCP. Sin embargo, de conformidad con 20 USC 1221, FERPA no puede "interpretarse
afectando la aplicabilidad del Título VI de la ley de derechos civiles de 1964, Título IX de 
enmiendas a la educación de 1972, Título V de la ley de rehabilitación de 1973, la ley de 
discriminación por edad u otros estatutos que prohíben discriminación a cualquier programa 
aplicable." En febrero del 2015, la oficina de cumplimiento de políticas de familias (FPCO por 
sus siglas en inglés), la agencia federal que administra FERPA, publicó una carta concluyendo 
que FERPA permite a los distritos revelar a un estudiante que fue sujeto a discriminación ilícita 
cierta información, acerca de las sanciones impuestas al infractor cuando las sanciones se 
relacionan directamente con ese estudiante. Por consiguiente, si se repara adecuadamente el 
impacto de la discriminación, se puede requerir revelar a la presunta víctima, cierta información 
acerca de dónde el distrito disciplinó al estudiante que presuntamente cometió la infracción (por 
ejemplo, una orden de mantenerse alejado), FPCO interpreta que FERPA le permite al distrito 
que divulgue esa información. ***

***Nota: Dada la responsabilidad potencial de divulgar de manera inapropiada esa información, 
se aconseja a los distritos que consulten con asesores legales cuando se les presente una situación 
en que una víctima de discriminación ilegal solicite información acerca de las sanciones 
impuestas al infractor. ***

En consulta con el asesor legal del distrito, la información acerca de la parte pertinente de la 
decisión puede ser comunicada a la víctima quien no sea el denunciante y a otras personas que 
puedan estar involucradas en la implementación de la decisión o que sean afectadas por la queja, 
siempre y cuando la privacidad de las personas sea protegida. En una denuncia alegando 
discriminación ilegal (tal como acoso discriminatorio, intimidación u hostigamiento), la 
notificación de la decisión del distrito a la presunta víctima, deberá incluir información acerca de 
cualquier sanción que debe imponerse al denunciado, que se relacione directamente con la 
presunta víctima.

Si la denuncia involucra a un estudiante o a un padre de familia/tutor legal con dominio limitado 
del inglés y el estudiante involucrado asiste a una escuela en la que el 15 por ciento o más de los 
estudiantes hablan un solo idioma primario que no sea inglés, entonces la decisión también debe 
ser traducida a ese lenguaje. En todos los demás casos, el distrito debe asegurar acceso 
significativo a toda la información relevante a los padres de familia/tutores legales con un 
dominio limitado del inglés.

Para todas las quejas, la decisión debe incluir: (5 CCR 4631)
1. La determinación de una cuestión de hecho basada en la evidencia recopilada. Habiendo 
alcanzado una determinación fáctica, pueden tenerse en cuenta los siguientes factores:
   a. Declaraciones de los testigos
   b. La credibilidad relativa de los individuos involucrados
   c. Cómo reaccionó la persona que presenta la denuncia ante el incidente
   d. Cualquier prueba documental u otra evidencia relacionada a la supuesta conducta
   e. Casos anteriores de conducta similar de cualquier presunto infractor
   f. Falsos alegatos hechos por el denunciante en el pasado
2. Conclusión(es) de la ley
3. Disposición de la denuncia
4. Justificación de dicha disposición

Para quejas de represalias o de discriminación ilegal (tal como acoso discriminatorio, 
imimidación u hostigamiento), la disposición de la queja deberá incluir una determinación para 
cada alegato si han ocurrido represalias o discriminación ilícita. La determinación de si existe un ambiente hostil puede implicar la consideración de lo siguiente:
   a. Cómo la mala conducta afecta la educación de uno o más estudiantes
   b. La clase, frecuencia, y duración de la mala conducta
   c. La relación entre la(s) presunta(s) víctima(s) y el/los infractores(es)
   d. El número de personas involucradas en la conducta y a quien se dirigió la conducta
   e. El tamaño de la escuela, el lugar donde ocurrieron los incidentes, y el contexto en que 
ocurrieron

f. Otros incidentes en la escuela involucrando a diferentes individuos

5. Acción(es) Correctiva(s), incluyendo cualquier acción que se haya tomado o que se 
tomará para hacer frente a las denuncias de la queja e incluyendo, con respecto a una queja 
relacionada a cobro a los estudiantes, un recurso judicial que corresponde con el código de 
educación 49013 y 5 CCR 4600

Para quejas de discriminación ilegal (tal como acoso discriminatorio, intimidación u 
hostigamiento), la decisión puede, como lo exige la ley, incluir:
   a. Las acciones correctivas impuestas al denunciado
   b. Recursos legales individuales ofrecidos o proporcionados al denunciante o a otra persona 
que fue el sujeto de una denuncia, pero esta información no debe ser compartida con el 
denunciado.
   c. Medidas sistémicas que la escuela ha tomado para eliminar el ambiente hostil y para 
prevenir la recurrencia
6. Notificación del derecho del denunciante y del demandado a apelar la decisión del distrito al CDE dentro de los 15 días, calendario y los procedimientos a seguir para iniciar esa apelación
La decisión también puede incluir acciones de seguimiento para prevenir recurrencia o represalias y para reportar cualquier problema posterior.
Para las denuncias que alegan discriminación ilegal basada en las leyes estatales (como acoso discriminatorio, intimidación u hostigamiento), la decisión también debe incluir un aviso legal al demandante que:
1. El o ella puede emprender acciones disponibles en los recursos del sistema de derecho civil, por fuera de los procedimientos de quejas del distrito, incluyendo centros de mediación o de abogados de interés público/privado, en los 60 días calendario después de que haya presentado una apelación con el CDE. (Código de educación 262.3)
2. Los 60 días de moratoria no aplican a quejas que buscan medidas cautelares en las cortes estatales o para quejas de discriminación basadas en la ley federal. (Código de educación 262.3)
3. Las quejas que alegan discriminación basada en la raza, el color, origen nacional, sexo, género, discapacidad, o edad también pueden presentarse ante la oficina de derechos civiles del Departamento de Educación, de los Estados Unidos en www.ed.gov/ocr dentro de los 180 días de la presunta discriminación.

Acciones Correctivas
Cuando se considere que una queja tiene mérito, el oficial de conformidad a los reglamentos debe adoptar cualquier acción correctiva apropiada permitida por la ley, las acciones correctivas apropiadas que se enfocan en el entorno de la comunidad educativa o del distrito pueden incluir, pero no se limitan a, acciones para reforzar la política del distrito; entrenamiento a los maestros, al personal y a los estudiantes; actualizaciones de las políticas escolares; o encuestas sobre el ambiente escolar.
Para las quejas que impliquen represalias o discriminación ilegal (como acoso discriminatorio, intimidación u hostigamiento), los recursos disponibles que se pueden ofrecer a la víctima pero que no se comunican al demandado pueden incluir, pero no se limitan a lo siguiente:
1. Consejería
2. Apoyo académico
3. Servicios de salud
4. Asignar una escolta para permitir a la víctima desplazarse de manera segura por todas las instalaciones educativas
5. Información con relación a los recursos disponibles y cómo reportar incidentes similares o represalias
6. Separar la víctima de cualquier individuo involucrado, siempre u cuando la separación no penalice a la víctima
7. Justicia restaurativa
8. Seguimiento de las investigaciones para asegurarse que se puso fin a la conducta y que no han habido represalias
9. Determinación de si una acción de la víctima en el pasado, que resultó en disciplina, estuvo relacionada con el tratamiento que la víctima recibió y describió en la queja
Para denuncias que involucren represalias o discriminación ilegal (como acoso discriminatorio, intimidación u hostigamiento), acciones correctivas apropiadas que se enfocan en un estudiante delincuente, pueden incluir, pero no se limitan a lo siguiente:
1. Transferencia de una clase o escuela según sea permitido por ley
2. Conferencia con los padres de familia/tutores legales
3. Educación sobre el impacto de la conducta en los demás
4. Apoyar el comportamiento positivo
5. Referir al estudiante a un equipo de éxito estudiantil
6. Negarle la participación en actividades extracurriculares o co-curriculares u otros privilegios permitidos por ley
7. Acciones disciplinarias tales como suspensión o expulsión, como sea permitido por ley
Si se llega a comprobar que un empleado ha cometido represalias o discriminación ilegal (como acoso discriminatorio, intimidación u hostigamiento), el distrito deberá tomar medidas disciplinarias apropiadas, incluyendo destitución del cargo de acuerdo con la legislación aplicable y al pacto colectivo.
El distrito también puede considerar entrenamiento y otras intervenciones para la comunidad educativa en general que asegure que los estudiantes, el personal y los padres de familia/tutores legales entiendan los tipos de comportamientos que constituyen discriminación ilegal (como acoso discriminatorio, intimidación u hostigamiento), que el distrito no tolera y cómo se deben reportar y cómo se debe responder en esos casos.
Si quejas que alegan el incumplimiento de las leyes con relación a cobros a los estudiantes, depósitos y otros cargos, a los minutos de instrucción de educación física a estudiantes en escuelas primarias, o a cualquier otra exigencia relacionada con LCAP que se considera que
tiene mérito, el distrito deberá compensar a todos los estudiantes y a los padres de familia/tutores legales que han sido afectados, sujeto a los procedimientos establecidos en los reglamentos del consejo educativo. (Código de educación 49013, 51223, 52075)

Para quejas que alegan el incumplimiento de las leyes con relación a cobros a los estudiantes, el distrito deberá tratar de buena fe, haciendo esfuerzos razonables, para identificar y reembolsar completamente a todos los estudiantes y padres de familia/tutores legales que pagaron las cuotas ilegales dentro del año anterior a la presentación de la denuncia. (Código de educación 49013; 5 CCR 4600)

Apelaciones al Departamento de Educación de California

Cualquier denunciante que no esté satisfecho con la decisión final por escrito del distrito puede presentar una apelación por escrito con el CDE dentro de los 15 días calendario de recibir la decisión del distrito. (Código de educación 222, 48853, 48853.5, 49013, 49069.5, 51223, 51225.1, 51225.2, 51228.3, 52075; 5 CCR 4632)

Cuando el denunciado en cualquier queja que alegue discriminación ilegal (como acoso discriminatorio, intimidación u hostigamiento) no esté satisfecho con la decisión final por escrito del distrito, él/ella, de la misma forma que el denunciante, puede presentar una apelación con el CDE.

El denunciante o el denunciado podrán especificar las bases legales para la apelación de la decisión y si los hechos son incorrectos y/o las leyes han sido usadas incorrectamente. La apelación deberá estar acompañada de una copia de la queja que se presentó de manera local y de una copia de la decisión del distrito. (5 CCR 4632)

Tan pronto hayan sido notificados por el CDE de que el denunciante o el denunciado ha apelado la decisión del distrito, el superintendente o la persona designada deberá mandar los siguientes documentos al CDE: (5 CCR 4633)

1. Una copia de la denuncia original
2. Una copia de la decisión por escrito
3. Un resumen de la naturaleza y el alcance de la investigación llevada a cabo por el distrito, si no está cubierta por la decisión
4. Una copia del expediente de la investigación, incluyendo, pero no limitándose a, todas las notas, entrevistas y documentos presentados por las partes afectadas y recopilados por el investigador
5. Un informe de cualquier acción tomada para resolver la queja
6. Una copia de los procedimientos uniformes de quejas del distrito
7. Otra información relevante solicitada por el CDE

***Nota: El CDE puede intervenir directamente en una denuncia sin esperar que el distrito tome medidas cuando ciertas condiciones existan, incluyendo lo siguiente: (1) La denuncia alega el incumplimiento de UCP, incluyendo el seguimiento de los plazos requeridos y la falta de implementación de la decisión escrita final; (2) El denunciante requiere el anonimato debido a la posibilidad de represalias y porque puede sufrir daño inmediato e irreparable si se presenta la denuncia y se nombra al demandado; (3) El denunciante alega que él/ella puede sufrir daño inmediato e irreparable como resultado de la aplicación de una política del distrito que esté en conflicto con las leyes estatales o federales y que presentar la queja sería en vano; (4) El denunciante alega el incumplimiento del debido proceso establecido de conformidad con la ley y con los reglamentos de educación especial para implementar una orden de audiencia de debido proceso; (5) El denunciante alega hechos que indican que uno o más estudiantes puede estar en peligro físico inmediato o que la salud, la seguridad o el bienestar de uno o más estudiantes está amenazada; o (6) el denunciante alega que no siguió el programa individualizado de educación.***

(7/15 3/16) 11/16 9/17
CVUSD
Board Policy
BP 4020

Personnel

Drug And Alcohol-Free Workplace

***Note: Government Code 8350-8357 mandates state grant recipients, such as school districts, to adopt a drug-free workplace program. Federal grantees are also subject to the same requirements under the federal Drug-Free Workplace Act (41 USC 701-707).***

***Note: Government Code 8355 requires districts to notify employees of the policy on this topic and to certify to the state contracting agency that they have adopted a policy which includes the provisions specified below. Contracts and grants are subject to suspension and termination and the contractors or grantees subject to suspension and debarment if false certification is made or if the certification is violated by failure to carry out the requirements of these laws.***

The Governing Board believes that the maintenance of drug- and alcohol-free workplaces is essential to school and district operations.

No employee shall unlawfully manufacture, distribute, dispense, possess, use or be under the influence of any alcoholic beverage, drug or controlled substance as defined in 21 USC 81 at any school district workplace. These prohibitions apply before, during and after school hours. A school district workplace is any place where school district work is performed, any school- owned or school-approved vehicle used to transport students to and from school or school activities; any off-school sites when accommodating a school-sponsored or school-approved activity or function where students are under district jurisdiction; or during any period of time when an employee is supervising students on behalf of the district or otherwise engaged in district business.

(cf. 4112.41/4212.41/4312.41 - Employee Drug Testing)
(cf. 4112.42/4212.42/4312.42 - Drug and Alcohol Testing for School Bus Drivers)

The Superintendent or designee shall notify employees of these prohibitions. (Government Code 8355; 41 USC 702)

An employee shall abide by the terms of this policy and notify the district, within five days, of any criminal drug or alcohol statute conviction which he/she receives for a violation occurring in the workplace. (41 USC 702)

The Superintendent or designee shall notify the appropriate federal granting or contracting agencies within 10 days after receiving notification, from an employee or otherwise, of any conviction for a violation occurring in the workplace. (41 USC 701)
***Note: Government Code 8355 requires the district to also notify employees of the penalties that may be imposed for violations of these prohibitions. Pursuant to 41 USC 702, violations may result in personnel action "up to and including termination" or requiring the employee to satisfactorily participate in an abuse assistance or rehabilitation program approved for such purposes by an appropriate governmental agency. In addition, Education Code 44836 and 45123 require that employees convicted of certain drug offenses be terminated, as specified below.

Disciplinary action and other penalties for drug abuse convictions of school bus drivers are covered in BP/AR 4112.42/4212.42/4312.42 - Drug and Alcohol Testing for School Bus Drivers.***

The Board may not employ or retain in employment persons convicted of a controlled substance offense as defined in Education Code 44011. If any such conviction is reversed and the person acquitted in a new trial or the charges dismissed, his/her employment is no longer prohibited. A plea or verdict of guilty, a finding of guilt by a court in a trial without a jury, or a conviction following a plea of nolo contendere shall be deemed to be a conviction. (Education Code 44836, 45123)

(cf. 4112 - Appointment and Conditions of Employment) (cf. 4212 - Appointment and Conditions of Employment)

A classified employee may be reemployed after conviction of such an offense if the Board determines, from the evidence presented, that the person has been rehabilitated for at least five years. (Education Code 45123)

***Note: 41 USC 703 authorizes the Board to discipline an employee who violates the district's drug-free workplace policy or to require the employee to complete a drug rehabilitation program as specified below.***

The Board may take appropriate disciplinary action, up to and including termination, or require the employee to satisfactorily participate in and complete a drug assistance or rehabilitation program approved by a federal, state or local health, law enforcement or other appropriate agency.

(cf. 4117.4 - Dismissal)
(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

***Note: Pursuant to Government Code 8355, the district must certify the following information to the state contracting agency.***

The Superintendent or designee shall establish a drug- and alcohol-free awareness program to inform employees about: (Government Code 8355)

1. The dangers of drug and alcohol abuse in the workplace

2. The district policy of maintaining drug- and alcohol-free workplaces

3. Any available drug and alcohol counseling, rehabilitation, and employee assistance programs

(cf. 4159/4259/4359 - Employee Assistance Programs)

4. The penalties that may be imposed on employees for drug and alcohol abuse violations

Legal Reference:
EDUCATION CODE
44011 Controlled substance offense
44425 Conviction of controlled substance offenses as grounds for revocation of credential 44836 Employment of certificated persons convicted of controlled substance offenses 44940 Compulsory leave of absence for certificated persons
44940.5 Procedures when employees are placed on compulsory leave of absence 45123 Employment after conviction of controlled substance offense
Compulsory leave of absence for classified persons

GOVERNMENT CODE

8350-8357 Drug-free workplace UNITED STATES CODE, TITLE 20

7111-7117 Safe and Drug Free Schools and Communities Act UNITED STATES CODE, TITLE 21

812 Schedule of controlled substances UNITED STATES CODE, TITLE 41

701-707 Drug-Free Workplace Act

CODE OF FEDERAL REGULATIONS, TITLE 21

1308.01-1308.49 Schedule of controlled substances

CSBA: (12/89 12/90) 7/02

CVUSD Global Adoption: August 19, 2008
The Governing Board is determined to provide district employees, interns, volunteers, and job applicants a safe, positive environment where they are assured of full and equal employment access and opportunities, protection from harassment or intimidation, and freedom from any fear of reprisal or retribution for asserting their employment rights in accordance with law. This policy shall apply to all district employees and, to the extent required by law, to interns, volunteers, and job applicants.

(cf. 1240 - Volunteer Assistance)
(cf. 4111/4211/4311 - Recruitment and Selection)

Discrimination in employment based on the characteristics listed above is prohibited in all areas of employment and in all employment-related practices, including the following:

1. Discrimination in hiring, compensation, terms, conditions, and other privileges of employment

2. Taking of an adverse employment action, such as termination or the denial of employment, promotion, job assignment, or training

(cf. 4151/4251/4351 - Employee Compensation) (cf. 4154/4254/4354 - Health and Welfare Benefits)

3. Unwelcome conduct, whether verbal, physical, or visual, that is so severe or pervasive as to adversely affect an employee's employment opportunities, or that has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, or offensive work environment
4. Actions and practices identified as unlawful or discriminatory pursuant to Government Code 12940 or 2 CCR 11006-11086, such as:

a. Sex discrimination based on an employee's pregnancy, childbirth, breastfeeding, or any related medical condition or on an employee's gender, gender expression, or gender identity, including transgender status

(cf. 4033 - Lactation Accommodation)
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

b. Religious creed discrimination based on an employee's religious belief or observance, including his/her religious dress or grooming practices, or based on the district's failure or refusal to use reasonable means to accommodate an employee's religious belief, observance, or practice which conflicts with an employment requirement.

c. Disability discrimination based on a district requirement for a medical or psychological examination of a job applicant, or an inquiry into whether a job applicant has a mental or physical disability or a medical condition or as to the severity of any such disability or condition, without the showing of a job-related need or business necessity

(cf. 4119.41/4219.41/4319.41 - Employees with Infectious Disease)

d. Disability discrimination based on the district's failure to make reasonable accommodation for the known physical or mental disability of an employee or to engage in a timely, good faith, interactive process with an employee, to determine effective reasonable accommodations for the employee, when he/she has requested reasonable accommodation for a known physical or mental disability or medical condition

(cf. 4032 - Reasonable Accommodation)

The Board also prohibits retaliation against any district employee who opposes any discriminatory employment practice by the district or its employees, agents, or representatives or who complains, testifies, assists, or in any way participates in the district's complaint process pursuant to this policy. No employee who requests an accommodation for any protected characteristic listed in this policy shall be subjected to any punishment or sanction, regardless of whether the request was granted. (Government Code 12940)

Complaints concerning employment discrimination, harassment, or retaliation shall immediately be investigated in accordance with procedures specified in the accompanying administrative regulation.

Pursuant to 2 CCR 11019, in certain instances, an employee’s (especially a supervisor’s) knowledge or notice of prohibited conduct of another employee or individual may subject the district to liability. Therefore, it is recommended that the district require its employees with knowledge of harassment or discrimination to report the incident to the Superintendent or designated district coordinator as soon as practical after the incident. All other employees are encouraged to report such incidents to their supervisor immediately. The district shall protect any employee who reports such incidents from retaliation.

Any supervisory or management employee who observes or has knowledge of an incident of prohibited discrimination or harassment shall report the incident to the Superintendent or designated district coordinator as soon as practical after the incident. All other employees are encouraged to report such incidents to their supervisor immediately. The district shall protect any employee who reports such incidents from retaliation.

The Superintendent or designee shall use all appropriate means to reinforce the district's nondiscrimination policy. He/she shall provide training and information to employees about how to recognize harassment, discrimination, or other related conduct, how to respond appropriately, and components of the district's policies and regulations
regarding discrimination. The Superintendent or designee shall regularly review the district's employment practices and, as necessary, shall take action to ensure district compliance with the nondiscrimination laws.

In addition, the Superintendent or designee shall post, in a conspicuous place on district premises, the California Department of Fair Employment and Housing publication on workplace discrimination and harassment issued pursuant to 2 CCR 11013.

Any district employee who engages in prohibited discrimination, harassment, or retaliation or who aids, abets, incites, compels, or coerces another to engage or attempt to engage in such behavior in violation of this policy shall be subject to disciplinary action, up to and including dismissal.

(cf. 4118 - Dismissal/Suspension/Disciplinary Action) (cf. 4218 - Dismissal/Suspension/Disciplinary Action)

Legal Reference:
EDUCATION CODE
200-262.4 Prohibition of discrimination CIVIL CODE
51.7 Freedom from violence or intimidation GOVERNMENT CODE
11135 Unlawful discrimination 11138 Rules and regulations
12900-12996 Fair Employment and Housing Act PENAL CODE
422.56 Definitions, hate crimes

CODE OF REGULATIONS, TITLE 2
11006-11086 Discrimination in employment 11013
Recordkeeping
11019 Terms, conditions and privileges of employment
11023 Harassment and discrimination prevention and correction 11024 Sexual harassment training and education

CODE OF REGULATIONS, TITLE 5
4900-4965 Nondiscrimination in elementary and secondary education programs UNITED STATES CODE, TITLE 20
1681-1688 Title IX of the Education Amendments of 1972 UNITED STATES CODE, TITLE 29
621-634 Age Discrimination in Employment Act 794 Section 504 of the Rehabilitation Act of 1973 UNITED STATES CODE, TITLE 42
6101-6107 Age discrimination in federally assisted programs 12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 28
35.101-35.190 Americans with Disabilities Act CODE OF FEDERAL REGULATIONS, TITLE 34
100.6 Compliance information
104.7 Designation of responsible employee for Section 504
104.8 Notice
106.8 Designation of responsible employee and adoption of grievance procedures
106.9 Dissemination of policy

COURT DECISIONS

Management Resources:
CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING PUBLICATIONS
California Law Prohibits Workplace Discrimination and Harassment, December 2014
U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS Notice of Non-Discrimination, August 2010
U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS Questions and Answers: Religious Discrimination in the Workplace, 2008
New Compliance Manual Section 15: Race and Color Discrimination, April 2006
Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999

WEB SITES
California Department of Fair Employment and Housing: http://www.dfeh.ca.gov
U.S. Department of Education, Office for Civil Rights: http://www.ed.gov/about/offices/list/ocr

CVUSD Global Adoption: August 19, 2008
CVUSD Amendment: October 17, 2017
Unlawful discrimination or harassment of an individual includes:

1. Slurs, epithets, threats or verbal abuse

2. Derogatory or degrading comments, descriptions, drawings, pictures or gestures

3. Unwelcome jokes, stories, teasing or taunting

4. Any other verbal, written, visual or physical conduct against the individual which:
   
   a. Adversely affects his/her employment opportunities, or

   b. Has the purpose or effect of unreasonably interfering with his/her work performance or creating an intimidating, hostile or offensive work environment

Any employee or job applicant who feels that he/she has been or is being unlawfully discriminated against or harassed should immediately contact his/her supervisor, the nondiscrimination coordinator or the Superintendent in order to obtain procedures for reporting a complaint. Such complaints shall be filed in accordance with AR 4031 - Complaints Concerning Discrimination in Employment. An employee may bypass his/her supervisor when the supervisor is the alleged offender.

(cf. 4031 - Complaints Concerning Discrimination in Employment) (cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

Any supervisor who receives a discrimination/harassment complaint shall immediately notify the nondiscrimination coordinator or the Superintendent, who shall ensure that the complaint is appropriately investigated in accordance with district policy and regulations.
The Superintendent or designee shall ensure that annual training is provided to all employees regarding the issues of discrimination.

CSBA: (12/92) 6/99

CVUSD Global Adoption: August 19, 2008
Except when undue hardship would result to the district, the Superintendent or designee shall provide reasonable accommodation:

1. In the job application process, to any qualified job applicant with a disability

2. To enable any qualified employee with a disability to perform the essential functions of the position he/she holds or desires to hold or to enjoy equal benefits or other terms, conditions, and privileges of employment as other similarly situated employees without disabilities

No employee or job applicant who requests an accommodation for his/her physical or mental disability shall be subjected to discrimination or to any punishment or sanction, regardless of whether the request for accommodation was granted. (Government Code 12940)

The district designates the position specified in AR 4030 - Nondiscrimination in Employment as the coordinator of its efforts to comply with the Americans with Disabilities Act (ADA) and to investigate any and all related complaints.

(cf. 4030 - Nondiscrimination in Employment) Definitions

Disability, with respect to an individual, is defined as any of the following: (Government Code 12926; 20 CFR 1630.2)

1. A physical or mental impairment that limits one or more of the major life activities

2. A record of such an impairment

3. Being regarded as having such an impairment
Limits shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics or reasonable accommodations, unless the mitigating measure itself limits a major life activity. (Government Code 12926)

Essential functions are the fundamental job duties of the position the individual with a disability holds or desires. The term does not include the marginal functions of the position. (Government Code 12926; 29 CFR 1630.2)

Reasonable accommodations means: (Government Code 12926; 29 CFR 1630)

1. For a qualified job applicant with a disability, modifications or adjustments to the job application process that enable him/her to be considered for the position he/she desires

2. For a qualified employee with a disability, modifications or adjustments to the work environment, or to the manner or circumstances under which the position the employee holds or desires is customarily performed, that enable him/her to perform the essential functions of that position or to enjoy equal benefits and privileges of employment as are enjoyed by the district’s other similarly situated employees without disabilities

Qualified individual with a disability means a job applicant or employee with a disability who: (29 CFR 1630.15, 1630.2)

1. Satisfies the requisite skill, experience, education, and other job-related requirements of the employment position he/she holds or desires

2. Can perform the essential functions of the position with or without reasonable accommodation

3. Would not pose a significant risk of substantial harm, which cannot be eliminated or reduced by reasonable accommodation, to himself/herself or others in the job he/she holds or desires

When requesting reasonable accommodation, an employee or his/her representative shall inform the employee's supervisor that he/she needs a change at work for a reason related to a medical condition. The supervisor shall inform the coordinator of the employee's request as soon as practicable.

When requesting reasonable accommodation for the hiring process, a job applicant shall inform the coordinator that he/she will need a reasonable accommodation during the process.

When the disability or the need for accommodation is not obvious, the coordinator may ask the employee to supply reasonable documentation about his/her disability. In requesting this documentation, the coordinator shall specify the types of information that are being sought about the employee's condition, the employee's functional limitations, and the need for reasonable accommodation. The employee may be asked to sign a limited release allowing the coordinator to submit a list of specific questions to his/her health care or vocational professional.

If the documentation submitted by the employee does not indicate the existence of a qualifying disability or explain the need for reasonable accommodation, the coordinator shall request additional documentation that specifies the missing information. If the employee does not submit such additional documentation in a timely manner, the coordinator may require him/her to submit to an examination by a health care professional selected and paid for by the district.

The district may make a medical or psychological inquiry of a job applicant or require him/her to submit to a medical or psychological examination after he/she has been given a conditional offer of employment but before the commencement of his/her job duties, provided the inquiry or examination is job-related, consistent with business necessity, and required for all incoming employees in the same job classification. (Government Code 12940)
The coordinator shall not request any job applicant’s or employee's genetic information except as authorized by law. (42 USC 2000ff-1, 2000ff-5)

(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)

In accordance with law, the coordinator shall take steps to ensure the confidentiality of information related to medical conditions or history. As applicable, he/she shall notify the supervisor or manager of the qualified individual of any reasonable accommodation granted to the individual and may notify first aid and safety personnel when the disability of the qualified individual may require emergency treatment. (42 USC 12112)

(cf. 4112.6/4212.6/4312.6 - Personnel Records) Granting

Reasonable Accommodation

Upon receiving a request for reasonable accommodation from a qualified individual with a disability, the coordinator shall:

1. Determine the essential functions of the job involved

2. Engage in an informal, interactive process with the individual to review the request for accommodation, identify the precise limitations resulting from the disability, identify potential accommodations, and assess their effectiveness

3. Develop a plan for reasonable accommodation which will enable the individual to perform the essential functions of the job or gain equal access to a benefit or privilege of employment without imposing undue hardship on the district

A determination of undue hardship should be based on several factors, including: (29 CFR 1630.2)

a. The nature and net cost of the accommodation needed, taking into consideration the availability of tax credits and deductions and/or outside funding

b. The overall financial resources of the facility making the accommodation, the number of persons employed at this facility, and the effect on expenses and resources of the facility

c. The overall financial resources, number of employees, and the number, type, and location of facilities of the district

d. The type of operation of the district, including the composition, structure, and functions of the workforce and the geographic separateness and administrative or fiscal relationship of the facility making the accommodation to other district facilities

e. The impact of the accommodation on the operation of the facility, including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business

The coordinator may confer with the site administrator, any medical advisor chosen by the district, and/or other district staff before making a final decision as to the accommodation.

Reasonable Accommodation Committee

The coordinator may appoint a committee to review or assist in the development of appropriate plans to reasonably accommodate qualified individuals who request modifications or adjustments in their work duties or environment because of known physical or mental disabilities.
Committee members shall be selected on the basis of their knowledge of the specific functions and duties required in the position, the physical work environment, available accommodations, and other relevant issues. The committee may include a district administrator, site administrator, medical advisor or rehabilitation specialist, and as necessary, a certificated and/or classified employee. Membership may change on a case-by-case basis.

At the coordinator's discretion, the employee or applicant requesting accommodation may participate in the committee's meetings. If the employee or applicant is excluded from the committee's meetings, the coordinator shall communicate with him/her so that he/she has the opportunity to interact and contribute to planning the reasonable accommodation.

Appeal Process

Any qualified individual with a disability who is not satisfied with the decision of the coordinator may appeal in writing to the Superintendent or designee. This appeal shall be made within 10 working days of receiving the decision and shall include:

1. A clear, concise statement of the reasons for the appeal
2. A statement of the specific remedy sought

The Superintendent or designee shall consult with the coordinator and review the appeal, together with any available supporting documents. The Superintendent or designee shall give the employee or applicant his/her decision within 15 working days of receiving the appeal.

Any further appeal for reasonable accommodation shall be considered a complaint concerning discrimination in employment and may be taken to the Governing Board in accordance with the district's procedure for such complaints.

Legal Reference:
CIVIL CODE
51 Unruh Civil Rights Act
GOVERNMENT CODE
12900-12996 Fair Employment and Housing Act
UNITED STATES CODE, TITLE 29
701-794e Vocational Rehabilitation Act
UNITED STATES CODE, TITLE 42
12900-12996 Fair Employment and Housing Act
UNITED STATES CODE, TITLE 42
CODE OF FEDERAL REGULATIONS, TITLE 28
35.101-35.190 Americans with Disabilities Act
Americans with Disabilities Act
CODE OF FEDERAL REGULATIONS, TITLE 28
35.101-35.190 Americans with Disabilities Act
Americans with Disabilities Act
CODE OF FEDERAL REGULATIONS, TITLE 28
35.107 Designation of employee
36.101-36.608 Nondiscrimination on the basis of disability by public facilities
CODE OF FEDERAL REGULATIONS, TITLE 29
1630.2 Definitions
COURT DECISIONS

Management Resources:
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS
Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, October 2002
WEB SITES
Department of Fair Employment and Housing: http://www.dfeh.ca.gov
U.S. Department of Education, Office for Civil Rights: http://www.ed.gov/about/offices/list/ocr
CVUSD Board Policy
BP 4119.11, 4219.11, 4319.11

Personnel

Sexual Harassment

***Note: Education Code 231.5 mandates the district to have a written policy on sexual harassment. As part of this mandate, the district also should adopt a sexual harassment policy related to students; see BP/AR 5145.7 - Sexual Harassment.***

***Note: Generally, courts recognize two types of conduct as constituting sexual harassment. "Quid Pro Quo" ("this for that") sexual harassment is considered to have occurred when a person in a position of authority makes another individual's educational or employment benefits conditional upon that other person's willingness to engage in unwanted sexual behavior (e.g., promising a promotion for sex). "Hostile environment" sexual harassment, on the other hand, is conduct by the perpetrator that is so severe, persistent, or pervasive that it creates a hostile, intimidating, or abusive educational or professional environment for another. Sexual harassment also covers retaliatory behavior against a complainant, witness, or other participant in the complaint process.***

***Note: Sexual harassment may be a violation of Title VII of the Civil Rights Act of 1964 (42 USC 2000e-2000e-17) and/or Title IX of the Education Amendments of 1972 (42 USC 2000h-2- 2000h-6), as well as the California Fair Employment and Housing Act, Government Code 12900-12996.***

***Note: Government Code 12940 and 34 CFR 106.9 extend protection against sexual harassment to job applicants. In addition, pursuant to Government Code 12940, employers may be held liable for sexual harassment committed against their workers by clients, customers, or other third parties if they knew or should have known of the harassment and failed to take immediate and appropriate corrective action to stop the harassment.***

The Governing Board prohibits sexual harassment of district employees and job applicants. The Board also prohibits retaliatory behavior or action against district employees or other persons who complain, testify or otherwise participate in the complaint process established pursuant to this policy and administrative regulation.

(cf. 0410 - Nondiscrimination in District Programs and Activities) (cf. 4030 - Nondiscrimination in Employment)

***Note: Pursuant to Government Code 12950.1, as added by AB 1825 (Ch. 933, Statutes of 2004), employers with 50 or more employees are required to provide two hours of sexual harassment training to supervisory employees. See the accompanying administrative regulation for timelines and training requirements.***

The Superintendent or designee shall take all actions necessary to ensure the prevention, investigation, and correction of sexual harassment, including but not limited to:
1. Providing training to employees in accordance with law and administrative regulation

2. Publicizing and disseminating the district's sexual harassment policy to staff (cf. 4112.9/4212.9/4312.9 - Employee Notifications)

3. Ensuring prompt, thorough, and fair investigation of complaints

4. Taking timely and appropriate corrective/remedial action(s), which may require interim separation of the complainant and the alleged harasser and subsequent monitoring of developments

All complaints and allegations of sexual harassment shall be kept confidential to the extent necessary to carry out the investigation or to take other subsequent necessary actions. (5 CCR 4964)

***Note: Because an employee's (especially a supervisor's) knowledge or notice of sexual harassment may subject the district to liability, it is recommended that the district require its employees with knowledge or notice of sexual harassment to report the harassment to the appropriate authorities. ***

Any district employee or job applicant who feels that he/she has been sexually harassed or who has knowledge of any incident of sexual harassment by or against another employee, a job applicant or a student, shall immediately report the incident to his/her supervisor, the principal, district administrator or Superintendent.

A supervisor, principal or other district administrator who receives a harassment complaint shall promptly notify the Superintendent or designee.

Complaints of sexual harassment shall be filed in accordance with AR 4031 - Complaints Concerning Discrimination in Employment. An employee may bypass his/her supervisor in filing a complaint where the supervisor is the subject of the complaint.

(cf. 4031 - Complaints Concerning Discrimination in Employment)

Any district employee who engages or participates in sexual harassment or who aids, abets, incites, compels, or coerces another to commit sexual harassment against a district employee, job applicant, or student is in violation of this policy and is subject to disciplinary action, up to and including dismissal.

(cf. 4117.4 - Dismissal)
(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

Legal Reference:
EDUCATION CODE
200-262.4 Prohibition of discrimination on the basis of sex
GOVERNMENT CODE
12900-12996 Fair Employment and Housing Act, especially:
12940 Prohibited discrimination
12950.1 Sexual harassment training
LABOR CODE
1101 Political activities of employees
1102.1 Discrimination:
sexual orientation
CODE OF REGULATIONS, TITLE 2
7287.8 Retaliation
7288.0 Sexual harassment training and education
CODE OF REGULATIONS, TITLE 5
4900-4965 Nondiscrimination in elementary and secondary education programs receiving state financial assistance
UNITED STATES CODE, TITLE 42
2000d-2000d-7 Title VI, Civil Rights Act of 1964
Title IX, 1972 Education Act Amendments
CODE OF FEDERAL REGULATIONS, TITLE 34
106.9 Dissemination of policy
COURT DECISIONS
Department of Health Services v. Superior Court of California, (2003) 31 Cal.4th 1026

Management Resources:
OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS GENERAL
Protecting Students from Harassment and Hate Crime, January, 1999 WEB SITES

7/05
CVUSD Global Adoption: August 19, 2008
CVUSD
Administrative Regulation AR 4119.11, 4219.11, 4319.11

Personnel

Sexual Harassment

Definitions

Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature made against another person of the same or opposite sex in the work or educational setting when: (Education Code 212.5; 5 CCR 4916)

1. Submission to the conduct is made explicitly or implicitly a term or condition of the individual’s employment.

2. Submission to or rejection of such conduct by the individual is used as the basis for an employment decision affecting him/her.

3. The conduct has the purpose or effect of having a negative impact upon the individual’s work or has the purpose or effect of creating an intimidating, hostile, or offensive work environment. The conduct is sufficiently severe, persistent, pervasive, or objectively offensive so as to create a hostile or abusive working environment or to limit the individual’s ability to participate in or benefit from an education program or activity.

4. Submission to or rejection of the conduct by the other individual is used as the basis for any decision affecting him/her regarding benefits, services, honors, programs, or activities available at or through the district.

***Note: Pursuant to Government Code 12940, an employer may be held liable for sexual harassment committed against employees by clients, customers, or other third parties if the employer knew, or should have known, of the harassment and failed to take immediate and appropriate corrective action to stop the harassment. The following paragraph clarifies that sexual harassment may include acts by supervisors, co-workers, or other parties and should be modified to reflect district practice.***

Other examples of actions that might constitute sexual harassment, whether committed by a supervisor, a co-worker, or a non-employee, in the work or educational setting, include, but are not limited to:
1. Unwelcome verbal conduct such as sexual flirtations or propositions; graphic comments about an individual's body; overly personal conversations or pressure for sexual activity; sexual jokes or stories; unwelcome sexual slurs, epithets, threats, innuendoes, derogatory comments, sexually degrading descriptions, or the spreading of sexual rumors

2. Unwelcome visual conduct such as drawings, pictures, graffiti, or gestures; sexually explicit emails; displaying sexually suggestive objects

3. Unwelcome physical conduct such as massaging, grabbing, fondling, stroking, or brushing the body; touching an individual's body or clothes in a sexual way; cornering, blocking, leaning over, or impeding normal movements

Prohibited sexual harassment may also include any act of retaliation against an individual who reports a violation of the district’s sexual harassment policy or who participates in the investigation of a sexual harassment complaint.

Training

***Note: Government Code 12950.1 requires any district with 50 or more employees to provide two hours of sexual harassment training and education to supervisory employees once every two years. All newly hired supervisors or employees promoted to a supervisory position must receive the training within six months of their hire or assumption of the supervisory position. Compliance with this law does not insulate the district from any liability for harassment.***

***Note: Pursuant to 2 CCR 7288.0, as added by Register 2007, No. 29, the definition of "supervisor" in Government Code 12926 is applicable to this training requirement. Government Code 12926 defines "supervisor" broadly as any individual having the authority to hire, transfer, suspend, lay off, promote, discharge, assign, reward, or discipline other employees or to effectively recommend that action if the exercise of that authority is not merely routine or clerical in nature. Governing Board members, as elected officials, are not usually considered "supervisors"; however, since Board members have the authority to hire, reward, or discipline the Superintendent and other employees, Board members may also be required to receive sexual harassment training. Districts should consult with legal counsel to ensure that the appropriate individuals receive training.***

Every two years, the Superintendent or designee shall ensure that supervisory employees receive at least two hours of classroom or other effective interactive training and education regarding sexual harassment. All newly hired or promoted supervisory employees shall receive training within six months of their assumption of the supervisory position. (Government Code 12950.1)

The district's training and education program for supervisory employees shall include information and practical guidance regarding the federal and state laws on the prohibition against and the prevention and correction of sexual harassment, and the remedies available to the victims of sexual harassment in employment. The training shall also include all of the content specified in 2 CCR 7288.0 and practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation. (Government Code 12950.1; 2 CCR 7288.0)

In addition, the Superintendent or designee shall ensure that all employees receive periodic training regarding the district's sexual harassment policy, particularly the procedures for filing complaints and employees' duty to use the district's complaint procedures.

Notifications

***Note: Education Code 231.5 requires that the district provide copies of its policy on sexual harassment to staff, as specified below. In addition, 2 CCR 7288.0, as added by Register 2007, No. 29, requires that supervisory employees undergoing mandatory training receive a copy of the district's policy and acknowledge receipt of the policy.***

A copy of the Board policy and this administrative regulation shall: (Education Code 231.5)
1. Be displayed in a prominent location in the main administrative building, district office, or other area of the school where notices of district rules, regulations, procedures, and standards of conduct are posted.

2. Be provided to each faculty member, all members of the administrative staff, and all members of the support staff at the beginning of the first quarter or semester of the school year or whenever a new employee is hired (cf. 4112.9/4212.9/4312.9 - Employee Notifications).

3. Appear in any school or district publication that sets forth the school’s or district’s comprehensive rules, regulations, procedures, and standards of conduct.

***Note: Government Code 12950 requires the Department of Fair Employment and Housing (DFEH) to develop posters and information sheets on employment discrimination and the illegality of sexual harassment. These documents are available on DFEH’s web site.***

All employees shall receive either a copy of information sheets prepared by the California Department of Fair Employment and Housing (DFEH) or a copy of district information sheets that contain, at a minimum, components on: (Government Code 12950)

1. The illegality of sexual harassment

2. The definition of sexual harassment under applicable state and federal law

3. A description of sexual harassment, with examples

4. The district’s complaint process available to the employee (cf. 4031 - Complaints Concerning Discrimination in Employment)

5. The legal remedies and complaint process available through DFEH and the Equal Employment Opportunity Commission (EEOC)

6. Directions on how to contact DFEH and the EEOC

7. The protection against retaliation provided by 2 CCR 7287.8 for opposing harassment prohibited by law or for filing a complaint with or otherwise participating in an investigation, proceeding, or hearing conducted by DFEH and the EEOC

In addition, the district shall post, in a prominent and accessible location, DFEH’s poster on discrimination in employment and the illegality of sexual harassment. (Government Code 12950)

CSBA: (3/04 7/05) 3/08

CVUSD Global Adoption: August 19, 2008