

## OFFICE OF SUPERINTENDENT



**OAKLAND UNIFIED  
SCHOOL DISTRICT**

*Community Schools, Thriving Students*

### ADDENDA:

District Parent and Guardians Annual Notification District  
Employee Handbook

Student and Family Handbooks (which also serves as Parent Handbook and Welcome Packet)

Date: March 8, 2021

To: Oakland Unified Staff, Students and Parents

From: Oakland Unified School District Superintendent Dr. Kyla Johnson-Trammel

Re: Notification to all Oakland Unified parents and students regarding important updates to the  
Oakland Unified Annual Parent Notice

Dear Oakland Unified Parents, Guardians, Students & Staff:

I would like to take this opportunity to inform you of changes to the Oakland Unified School District's Annual Parent Notification of Rights. Oakland Unified made changes to the following district policies or regulations:

- Non-Discrimination Statement and Policy (BP5145.3),
- Student Sexual Harassment Policy (BP5145.7),
- Rights for Pregnant and Parenting Students (BP5146),
- Extracurricular and Co-curricular Activities (BP6145)
- Annual Notification of the Uniform Complaint Procedures (BP/AR 1312.3)
- Responding to Requests for Information : Immigration Policy and Procedures (AR 5145.13),

### NON-DISCRIMINATION STATEMENT

OUSD prohibits 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, immigration status, ethnic group identification, age, religion, marital, pregnancy, or parental status, physical or mental disability, medical condition, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code 200 or 220, Government Code 11135, or Penal Code 422.55 or education equity or compliance with Title IX, or based on his/her/their association with a person or group with one or more of these actual or perceived characteristics (5 CCR 4610). BOARD POLICY 0410. BOARD POLICY 1312.3. BOARD POLICY 4030. BOARD POLICY 5143.3. BOARD POLICY 5145.7

For questions or complaints, contact: Gabriel Valenzuela, Ombudsperson/Title IX Coordinator: Office of the Ombudsperson, 1000 Broadway, 1<sup>st</sup> Floor, Suite 150, Oakland, California 94607, (510) 879-4281, FAX (510) 879-3678 Email: [Gabriel.Valenzuela@ousd.org](mailto:Gabriel.Valenzuela@ousd.org)

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## OFFICE OF SUPERINTENDENT

### BP 5145.3

#### **Nondiscrimination/Harassment/Intimidation and Transgender Policy**

The Governing Board recognizes that the District is responsible for ensuring that it complies with state and federal laws and regulations governing educational programs. Further, the Board shall ensure equal opportunities for all students in admission and access to academic courses, guidance and counseling programs, athletic programs, testing procedures, vocational education and other activities.

This policy shall apply to all acts constituting unlawful discrimination or harassment related to school activity or to school attendance occurring within the District, and to acts which occur off campus or outside of school-related or school-sponsored activities but which may have an impact or create a hostile environment at school.

The Governing Board desires to provide a safe school environment that allows all students equal access and opportunities in the District's academic and other educational support programs, services, and activities. The Board prohibits, at any District school or school activity, unlawful discrimination, harassment (including sexual harassment), intimidation, and bullying of any student based on the student's actual or perceived race, color, ancestry, immigration status, national origin, ethnic group identification, citizenship, age, religion, marital or parental status, physical or mental disability, medical condition, status as a veteran or disabled veteran, sex, sexual orientation, gender, gender identity or gender expression, or homeless status; the perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics.

Unlawful discrimination, including discriminatory harassment, intimidation, or bullying, may result from physical, verbal, nonverbal, or written conduct based on any of the categories listed above. Unlawful discrimination also occurs when prohibited conduct is so severe, persistent, or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity; creates an intimidating, threatening, hostile, or offensive educational environment; has the effect of substantially or unreasonably interfering with a student's academic performance; or otherwise adversely affects a student's educational opportunities.

Unlawful discrimination also includes disparate treatment of students based on one of the categories above with respect to the provision of opportunities to participate in school programs or activities or the provision or receipt of educational benefits or services.

The Board also prohibits any form of retaliation against any individual who reports or participates in the reporting of unlawful discrimination, files or participates in the filing of a complaint, or investigates or participates in the investigation of a complaint or report alleging unlawful discrimination. Retaliation complaints shall be investigated and resolved in the same manner as a discrimination complaint.

The Superintendent or designee shall facilitate students' access to the educational program by publicizing the District's nondiscrimination policy and related complaint procedures to students, parents/guardians, and employees. In addition, the Superintendent or designee shall post the District's policies prohibiting discrimination, harassment, intimidation, and bullying and other required information on the District's web site in a manner that is easily accessible to parents/guardians and students, in accordance with law and the accompanying administrative regulation.

OUSD prohibits 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, immigration status, ethnic group identification, age, religion, marital, pregnancy, or parental status, physical or mental disability, medical condition, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code 200 or 220, Government Code 11135, or Penal Code 422.55 or education equity or compliance with Title IX, or based on his/her/their association with a person or group with one or more of these actual or perceived characteristics (5 CCR 4610). BOARD POLICY 0410. BOARD POLICY 1312.3. BOARD POLICY 4030. BOARD POLICY 5143.3. BOARD POLICY 5145.7



The Superintendent or designee shall provide training and/or information on the scope and use of the policy and complaint procedures and take other measures designed to increase the school community's understanding of the requirements of law related to discrimination. The Superintendent or designee shall regularly review the implementation of the District's nondiscrimination policies and practices and, as necessary, shall take action to remove any identified barrier to student access to or participation in the district's educational program. The Superintendent or designee shall report the findings and recommendations to the Board after each review.

Regardless of whether a complainant complies with the writing, timeline, and/or other formal filing requirements, all complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying, shall be investigated and prompt action taken to stop the discrimination, prevent recurrence, and address any continuing effect on students.

Students who engage in unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, in violation of law, Board policy, or administrative regulation shall be subject to appropriate consequence or discipline, which may include suspension or expulsion when the behavior is severe or pervasive as defined in Education Code 48900.4. Any employee who permits or engages in prohibited discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, shall be subject to disciplinary action, up to and including dismissal.

The associated administrative regulation shall provide contract information for questions or complaints.

### **Record-Keeping**

The Superintendent or designee shall maintain a record of all reported cases of unlawful discrimination, including discriminatory harassment, intimidation, or bullying, to enable the district to monitor, address, and prevent repetitive prohibited behavior in district schools.

### **Transgender Policy**

The California Code of Regulations defines "gender" as: "a person's actual sex or perceived sex and includes a person's perceived identity, appearance or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with a person's sex at birth."

This policy is meant to advise school site staff and administration regarding transgender and gender non-conforming student concerns in order to create a safe learning environment for all students, and to ensure that every student has equal access to all components of the District's educational program.

Schools are expected to implement this Policy as follows:

- **Names/Pronouns**

Students shall have the right to be addressed by a name and pronoun corresponding to their gender identity that is exclusively and consistently asserted at school.

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**OAKLAND UNIFIED  
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- **Official Records**  
The District shall change a student's official records to reflect a change in legal name or gender upon receipt of documentation that such legal name and/or gender have been changed pursuant to California legal requirements.
- **Restroom Accessibility**  
Students shall have access to the restroom that corresponds to their gender identity exclusively and consistently at school.
- **Locker Room Accessibility**  
Transgender students shall not be forced to use the locker room corresponding to their gender assigned at birth.
- **Sports and Gym Class**  
Transgender students shall not be denied the opportunity to participate in sports and gym.
- **Dress Codes**  
Students shall have the right to dress in accordance with their gender identity that is exclusively and consistently asserted at school, within the constraints of the dress codes adopted at their school site.
- **Gender Segregation in Other Areas**  
As a general rule, in any other circumstances where students are separated by gender in school activities, students shall be permitted to participate in accordance with their gender identity exclusively and consistently asserted at school.

7/14/04; 10/26/11A; 11/14/12A; 02/24/21A

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**BP 5145.7****Sexual Harassment**

The Governing Board is committed to maintaining a safe school environment that is free from harassment and discrimination. The Board acknowledges that complex societal and historical factors may contribute to inequity within the district and that sexual harassment devalues all students, undermines students' physical safety, impedes students' ability to learn, and reinforces social inequality. The Board is committed to eliminating sexual harassment and repairing the harm it causes. The Board prohibits sexual harassment of students at school or at school-sponsored or school-related activities. The Board also prohibits retaliatory behavior or action against any person who reports, files a complaint or testifies about, or otherwise supports a complainant in alleging sexual harassment.

The district strongly encourages any student who feels that he/she is being or has been sexually harassed on school grounds or at a school-sponsored or school-related activity by another student or an adult to immediately contact his/her teacher, the principal, or any other available school employee. The district will take immediate steps to stop harassment and protect the safety and well-being of reported victims of sexual harassment, including interim measures during the investigation as appropriate. Any employee who receives a report or observes an incident of sexual harassment shall notify the principal or a district compliance officer.

Prohibited sexual harassment is unwelcome sexual conduct that may include, but is not limited to, sexual violence, 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 educational setting, when made on the basis of sex and under any of the following conditions: (Education Code 212.5; 5 CCR 4916)

1. Submission to the conduct is explicitly or implicitly made a term or condition of a student's academic status or progress.
2. Submission to or rejection of the conduct by a student is used as the basis for academic decisions affecting the student.
3. The conduct has the purpose or effect of having a negative impact on the student's academic performance or of creating an intimidating, hostile, or offensive educational environment.
4. Submission to or rejection of the conduct by the student is used as the basis for any decision affecting the student regarding benefits and services, honors, programs, or activities available at or through any district program or activity.

Examples of types of conduct which are prohibited in the district and which may constitute sexual harassment include, but are not limited to:

1. Unwelcome leering, sexual flirtations, or propositions
2. Unwelcome sexual slurs, epithets, threats, verbal abuse, derogatory comments, or sexually degrading descriptions

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3. Graphic verbal comments about an individual's body, unwanted sexual comments or questions, or overly personal conversation
4. Sexual jokes, derogatory posters, notes, stories, cartoons, drawings, pictures, obscene gestures, or computer-generated images of a sexual nature
5. Spreading sexual rumors
6. Teasing or sexual remarks about students enrolled in a predominantly single-sex class or activity
7. Massaging, grabbing, fondling, stroking, or brushing the body
8. Touching an individual's body or clothes in a sexual way
9. Impeding or blocking an individual's movements or any physical interference with school activities when directed at an individual on the basis of sex or gender expression
10. Displaying sexually suggestive objects
11. Sexual assault, sexual battery, or sexual coercion
12. Sexual violence which is the perpetration of a sexual act on a person without their affirmative consent
13. Electronic communications containing comments, words, or images described above.

Sexual harassment is prohibited on all campuses and at all school-sponsored programs and activities. Any prohibited conduct that occurs off campus or outside of school-related or school-sponsored programs or activities will be regarded as sexual harassment in violation of district policy if it has a continuing effect on or creates a hostile school environment for the complainant or victim of the conduct.

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

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 5131 - Conduct)

(cf. 5131.2 - Bullying)

(cf. 5137 - Positive School Climate)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)

Complaints regarding sexual harassment shall be investigated and resolved in accordance with law and district procedures specified in AR 1312.3 - Uniform Complaint Procedures. Principals are responsible for notifying students and parents/guardians that complaints of sexual harassment can be filed under AR 1312.3 and where to obtain a copy of the procedures.

(cf. 1312.3 - Uniform Complaint Procedures)

The Superintendent or designee shall take appropriate actions to reinforce the district's sexual harassment policy.

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## Instruction/Information

The Superintendent or designee shall ensure that all district students receive age-appropriate information on sexual harassment. Such instruction and information shall include:

1. What acts and behavior constitute sexual harassment, including the fact that sexual harassment could occur between people of the same sex and could involve sexual violence
2. A clear message that students do not have to endure sexual harassment under any circumstance
3. Encouragement to report observed incidents of sexual harassment even where the alleged victim of the harassment has not complained
4. A clear message that student safety is the district's primary concern, and that any separate rule violation involving an alleged victim or any other person reporting a sexual harassment incident will be addressed separately and will not affect the manner in which the sexual harassment complaint will be received, investigated, or resolved
5. A clear message that, regardless of a complainant's noncompliance with the writing, timeline, or other formal filing requirements, every sexual harassment allegation that involves a student, whether as the complainant, respondent, or victim of the harassment, of which school employees become aware of through any means, shall be investigated and prompt action shall be taken to stop any harassment, prevent recurrence, and address any continuing effects on students
6. Information about the district's procedure for investigating complaints and the person(s) to whom a report of sexual harassment should be made
7. Information about the rights of students and parents/guardians to file a civil or criminal complaint, as applicable
8. A clear message that, when needed, the district will take interim measures to ensure a safe school environment for a student who is the complainant or victim of sexual harassment and/or other students during an investigation and that, to the extent possible, when such interim measures are taken, they shall not disadvantage the complainant or victim of the alleged harassment

## Disciplinary Actions

Upon investigation of a sexual harassment complaint, any student who engages in sexual harassment or sexual violence at school or at a school-sponsored or school-related activity is in violation of this policy and shall be subject to disciplinary action. For students in grades 4-12, disciplinary action may include suspension and/or expulsion, provided that, in imposing such discipline, the entire circumstances of the incident(s) shall be taken into account.

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

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Upon investigation of a sexual harassment complaint, any staff member found to have engaged in sexual harassment or sexual violence toward any student shall be subject to discipline up to and including dismissal in accordance with applicable policies, laws, and/or collective bargaining agreements.

(cf. 4117.4 - Dismissal)  
 (cf. 4117.7 - Employment Status Report)  
 (cf. 4118 - Suspension/Disciplinary Action)  
 (cf. 4218 - Dismissal/Suspension/Disciplinary Action)  
 (cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

### Record-Keeping

The Superintendent or designee shall maintain a record of all reported cases of sexual harassment to enable the district to monitor, address, and prevent repetitive harassing behavior in district schools.

(cf. 3580 - District Records)

Legal Reference:

#### EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex  
 48900 Grounds for suspension or expulsion  
 48900.2 Additional grounds for suspension or expulsion; sexual harassment  
 48904 Liability of parent/guardian for willful student misconduct  
 48980 Notice at beginning of term

#### CIVIL CODE

51.9 Liability for sexual harassment; business, service and professional relationships  
 1714.1 Liability of parents/guardians for willful misconduct of minor

#### GOVERNMENT CODE

12950.1 Sexual harassment training

#### CODE OF REGULATIONS, TITLE 5

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, discrimination

#### UNITED STATES CODE, TITLE 42

1983 Civil action for deprivation of rights  
 2000d-2000d-7 Title VI, Civil Rights Act of 1964  
 2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended

#### CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.67 Family Educational Rights and Privacy  
 106.1-106.71 Nondiscrimination on the basis of sex in education programs

#### COURT DECISIONS

Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567  
 Flores v. Morgan Hill Unified School District, (2003, 9th Cir.) 324 F.3d 1130

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Reese v. Jefferson School District, (2001, 9th Cir.) 208 F.3d 736  
Davis v. Monroe County Board of Education, (1999) 526 U.S. 629  
Gebser v. Lago Vista Independent School District, (1998) 524 U.S. 274  
Oona by Kate S. v. McCaffrey, (1998, 9th Cir.) 143 F.3d 473  
Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447

#### Management Resources:

##### CSBA PUBLICATIONS

Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014

Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011

##### U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Dear Colleague Letter: Transgender Students, May 2016

Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016

Dear Colleague Letter: Title IX Coordinators, April 2015

Questions and Answers on Title IX and Sexual Violence, April 2014

Dear Colleague Letter: Sexual Violence, April 4, 2011

Sexual Harassment: It's Not Academic, September 2008

Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001

##### WEB SITES

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr>

8/25/04; 3/25/15A; 6/14/17A

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**OAKLAND UNIFIED SCHOOL DISTRICT****Board Policy  
Students****BP 5146****Married/Pregnant/Parenting Students**

The Governing Board recognizes that early marriage, pregnancy or parenting and related responsibilities may disrupt a student's education and increase the chance of a student dropping out of school. The Board therefore desires to support married, pregnant, and parenting students to continue their education, attain strong academic and parenting skills and to promote the healthy development of their children.

(cf. 5113.1 - Chronic Absence and Truancy)

(cf. 5147 - Dropout Prevention)

(cf. 6011 - Academic Standards)

(cf. 6146.1 - High School Graduation Requirements)

(cf. 6146.11 - Alternative Credits Toward Graduation)

(cf. 6146.2 - Certificate of Proficiency/High School Equivalency)

(cf. 6145.5 - Student Success Teams)

The District shall not exclude or deny any student from any educational program or activity, including any class or extracurricular activity, solely on the basis of the student's pregnancy, childbirth, false pregnancy, termination of pregnancy, or related recovery. In addition, the District shall not adopt any rule concerning a student's actual or potential parental, family, or marital status that treats students differently on the basis of sex. (Education Code sections 221.51, 230; 5 CCR 4950; 34 CFR 106.40)

The Superintendent or designee shall annually notify parents/guardians at the beginning of the school year of the rights and options available to pregnant and parenting students under the law. In addition, pregnant and parenting students shall be notified of the rights and options available to them under the law through annual school year welcome packets and through independent study packets. (Education Code sections 222.5, 48980)

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

For school-related purposes, a student under the age of 18 years who enters into a valid marriage shall have all the rights and privileges of students who are 18 years old, even if the marriage has been dissolved. (Family Code section 7002)

(cf. 0500 - Accountability)

(cf. 6162.5 - Student Assessment)

**Education and Support Services for Pregnant and Parenting Students**

Pregnant and parenting students shall retain the right to participate in any comprehensive school or educational alternative program. The classroom setting shall be the preferred instructional strategy unless an alternative is necessary to meet the needs of the student and/or his/her child.

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(cf. 6158 - Independent Study)  
 (Cf. 6181 - Alternative Schools/Programs of Choice)  
 (cf. 6183 - Continuation Education)  
 (cf. 6200 - Adult Education)

Any education program or activity that is offered separately to pregnant students, including any class or extracurricular activity, shall be equal to that offered to other District students. A student's participation in such programs shall be voluntary. (5 CCR 4950)

(cf. 6142.7 - Physical Education and Activity)  
 (cf. 6145 - Extracurricular and Curricular Activities)

As required for other students with physical or emotional conditions or temporary disabilities, the Superintendent or designee may require a student, based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or related recovery, to obtain certification from a physician indicating that the student is physically and emotionally able to participate in an educational program or activity. (34 CFR 106.40)

To the extent feasible, educational and related support services shall be provided, either through the District or in collaboration with community agencies and organizations, to meet the needs of pregnant and parenting students and their children. Such services may include, but are not limited to:

1. Child care and development services for the children of parenting students on or near school site(s) during the school day and during school-sponsored activities

(cf. 1020 - Youth Services)  
 (cf. 5148 - Child Care and Development)

2. Parenting education and life skills instruction
3. Special school nutrition supplements for pregnant and lactating students pursuant to Education Code section 49553, 42 USC 1786, and 7 CFR 246.1-246.28

(cf. 3550 - Food Service/Child Nutrition Program)  
 (cf. 5030 - Student Wellness)

4. Health care services, including prenatal care

(cf. 5141.6 - School Health Services)

5. Tobacco, alcohol, and/or drug prevention and intervention services

(cf. 5131.6 - Alcohol and Other Drugs)  
 (cf. 5131.62 - Tobacco)

6. Academic and personal counseling

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(cf. 6164.2 - Guidance/Counseling Services)

7. Supplemental instruction to assist students in achieving grade-level academic standards and progressing toward graduation

(cf. 6179 - Supplemental Instruction)

As appropriate, teachers, administrators, and/or other personnel who work with pregnant and parenting students shall receive related professional development.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

### **Absences**

Pregnant or parenting students may be excused for absences related to confidential medical appointments in accordance with BP/AR 5113 - Absences and Excuses.

(cf. 5113 - Absences and Excuses)

The Superintendent or designee shall grant a student a leave of absence due to pregnancy, childbirth, false pregnancy, termination of pregnancy, and related recovery for as long as it is deemed medically necessary by a physician. At the conclusion of the leave, the student shall be reinstated to the status held when the leave began. (34 CFR 106.40)

(cf. 5112.3 - Student Leave of Absence)

A parenting student may request exemption from attendance because of personal services that must be rendered to a dependent.

(cf. 5112.1 - Exemptions from Attendance)

### **Reasonable Accommodations**

When necessary, the District shall provide reasonable accommodations to pregnant and parenting students to enable them to access the educational program.

A pregnant student shall have access to any services available to other students with temporary disabilities or medical conditions. (34 CFR 106.40)

(cf. 6183 - Home and Hospital Instruction)

The school shall provide reasonable accommodations to any lactating student to express breast milk, breastfeed an infant child, or address other needs related to breastfeeding. A student shall not incur an academic penalty for using any of these reasonable accommodations, and shall be provided the opportunity to make up any work missed due to such use. Reasonable accommodations include, but are not limited to:

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(Education Code 222)

1. Access to a private and secure room, other than a restroom, to express breast milk or breastfeed an infant child.
2. Permission to bring onto a school campus a breast pump and any other equipment used to express breast milk.
3. Access to a power source for a breast pump or any other equipment used to express breast milk.
4. Access to a place to store expressed breast milk safely.
5. A reasonable amount of time to accommodate the student's need to express breast milk or breastfeed an infant child.

### Complaints

Any complaint of discrimination on the basis of pregnancy or marital or parental status shall be addressed through the District's uniform complaint procedures in accordance with 5 CCR 4600-4687 and BP/AR 1312.3 - Uniform Complaint Procedures.

(cf. 1312.3 - Uniform Complaint Procedures)

Any complaint alleging District noncompliance with the requirements to provide reasonable accommodations for lactating students also may be filed in accordance with the District's procedures in BP/AR 1312.3 - Uniform Complaint Procedures. A complainant who is not satisfied with the District's decision may appeal the decision to the California Department of Education (CDE). If the District or the CDE finds merit in an appeal, the District shall provide a remedy to the affected student. (Education Code section 222; 5 CCR 4600-4687)

### Program Evaluation

The Superintendent or designee shall periodically report to the Board regarding the effectiveness of District strategies to support married, pregnant, and parenting students, which may include data on participation rates in District programs and services, academic achievement, school attendance, graduation rate, and/or student feedback on District programs and services.

(cf. 0500 - Accountability)

(cf. 6162.5 - Student Assessment)

### Legal Reference:

#### EDUCATION CODE

222 Reasonable accommodations; lactating students

230 Sex discrimination

8200-8498 Child Care and Development Services Act

48205 Excused absences

48220 Compulsory education requirement

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48410 Persons exempted from continuation classes  
 49553 Nutrition supplements for pregnant/lactating students  
 51220.5 Parenting skills and education  
 51745 Independent study  
 52610.5 Enrollment of pregnant and parenting students in adult education

CIVIL CODE

51 Unruh Civil Rights Act

FAMILY CODE

7002 Description of emancipated minor

HEALTH AND SAFETY CODE

104460 Tobacco prevention services for pregnant and parenting students

CODE OF REGULATIONS, TITLE 5

4600-4687 Uniform complaint procedures

4950 Nondiscrimination, marital and parental status

CODE OF REGULATIONS, TITLE 22

101151-101239.2 General licensing requirements for child care centers

101351-101439.1 Infant care centers

UNITED STATES CODE, TITLE 20

1681-1688 Title IX, Education Act Amendments

UNITED STATES CODE, TITLE 42

1786 Special supplemental nutrition program for women, infants, and children

CODE OF FEDERAL REGULATIONS, TITLE 7

246.1-246.28 Special supplemental nutrition program for women, infants, and children

CODE OF FEDERAL REGULATIONS, TITLE 34

106.40 Marital or parental status

ATTORNEY GENERAL OPINIONS

87 Ops.Cal.Atty.Gen. 168 (2004)

COURT DECISIONS

American Academy of Pediatrics et al v. Lungren et al (1997) 16 Cal.4th 307

Management Resources:

CALIFORNIA WOMEN'S LAW CENTER PUBLICATIONS

Educational Rights of Pregnant and Parenting Teens: Title IX and California State Law Requirements

Pregnant Students and Confidential Medical Services

The Civil Rights of Pregnant and Parenting Teens in California Schools, 2002

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Supporting the Academic Success of Pregnant and Parenting Students under Title IX of the Education

Amendments of 1972, rev. June 2013

WEB SITES

California Department of Education: <http://www.cde.ca.gov>

California Women's Law Center: <http://www.cwlc.org/resources>

U.S. Department of Agriculture, Women, Infants, and Children Program: <http://www.fns.usda.gov/wic>

U.S. Department of Education: <http://www.ed.gov>

7/14/04A, 7/28/04, 5/24/17A; 2/24/21A

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**BP 6145****Extracurricular and Co-curricular Activities**

The Governing Board recognizes that extracurricular and co-curricular activities enrich the educational and social development and experiences of students. The District shall encourage and support student participation in extracurricular and co-curricular activities without compromising the integrity and purpose of the educational program.

No extracurricular or co-curricular program or activity shall be provided or conducted separately and no District student's participation in extracurricular and co-curricular activities shall be required or refused based on the student's actual or perceived ancestry, color, gender, gender identify, gender expression immigration status, sex, sexual orientation, ethnic group identification, race, national origin, religion, or mental or physical disability. Requirements for participation in extracurricular and co-curricular activities shall be limited to those that are essential to the success of the activity. (5 CCR 4925)

A student shall be permitted to participate in sex-segregated school programs and activities consistent with his or her gender identity, irrespective of the gender listed on the pupil's records. (Education Code section 221.5(f))

Any complaint regarding the District's extracurricular and co-curricular programs or activities shall be filed in accordance with BP/AR 1312.3 - Uniform Complaint Procedures.

No student shall be prohibited from participating in extracurricular and co-curricular activities related to the educational program because of inability to pay fees associated with the activity.

**Eligibility Requirements**

To be eligible to participate in extracurricular and co-curricular activities, students in grades 7 through 12 must demonstrate satisfactory educational progress in the previous grading period including but not limited to:

1. Maintenance of a minimum of 2.0 grade point average on a 4.0 scale.
2. Maintenance of minimum progress toward meeting high school graduation requirements.

The Superintendent or designee may grant ineligible students a probationary period of not more than one semester. Students granted probationary eligibility must meet the required standards by the end of the probationary period in order to remain eligible for participation.

Any decision regarding the eligibility of a homeless student, foster youth, or child of an active duty military family for extracurricular or cocurricular activities shall be made by the Superintendent or designee in accordance with Education Code sections 48850 and 49701.

The Superintendent or designee shall provide the necessary assistance to help ineligible students achieve the academic standards required by law.

(cf. 6164.5 - Student Success Teams)

(cf. 6176 - Weekend/Saturday Classes)

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(cf. 6177 - Summer School)  
 (cf. 6179 - Supplemental Instruction)

The Superintendent or designee may revoke a student's eligibility for participation in extracurricular and co-curricular activities when the student's poor citizenship is serious enough to warrant loss of this privilege.

#### Annual Policy Review

The Board shall annually review this policy and implementing regulations.

#### Legal Reference:

##### EDUCATION CODE

35145 Public meetings

35160.5 District policy rules and regulations; requirements; matters subject to regulation

35179 Interscholastic athletics; associations or consortia

48930-48938 Student organizations

##### CODE OF REGULATIONS, TITLE 5

350 Fees not permitted

4900-4965 Nondiscrimination in elementary and secondary education programs receiving state financial assistance

5531 Supervision of extracurricular activities of pupils

##### UNITED STATES CODE, TITLE 42

2000h-2-2000h-6 Title IX, 1972 Education Act Amendments

##### COURT DECISIONS

Hartzell v. Connell, (1984) 35 Cal. 3d 899

#### Management Resources:

##### CDE LEGAL ADVISORIES

001.90 Access to School-Related Activities and Events by Disabled Students, LO: 3-0

409.87 Requirements for Pupil Participation in Extracurricular and Cocurricular activities, AB 2613, CIL: 86/87-11

#### WEB SITES

California Association of Directors of Activities: <http://www.cada1.org>

7/14/04; 8/9/06A; 9/26/07R; 2/24/21A

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**BP 1312.3****Uniform Complaint Procedures**

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 the early resolution of complaints whenever possible. To resolve complaints which may require a more formal process, the Board adopts the uniform system of complaint process 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 regulation governing adult education programs, agricultural vocational education, after school education and safety programs, migrant education, career technical and technical education and training programs, child care and development programs, state preschool, child nutrition programs, special education programs, consolidated categorical aid programs, bilingual education, programs for English learners, American Indian Education Centers, California Peer Assistance Review Program for Teachers, economic impact aid, Every Student Succeeds Acts (ESSA) - No Child Left Behind (NCLB), regional occupational centers and programs, compensatory education, school safety plans, tobacco-use prevention education (TUPE) and any other District-implemented program which is listed in Education Code section 64000(a). (5 CCR 4610)

(cf. 3553 - Free and Reduced Price Meals)

(cf. 3555 - Nutrition Program Compliance)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

(cf. 5148 - Child Care and Development)

(cf. 5148.2 - Before/After School Programs)

(cf. 6159 - Individualized Education Program)

(cf. 6171 - Title I Programs)

(cf. 6174 - Education for English Language Learners)

(cf. 6175 - Migrant Education Program)

(cf. 6178 - Career Technical Education)

(cf. 6178.1 - Work-Based Learning)

(cf. 6178.2 - Regional Occupational Center/ Program)

(cf. 6200 - Adult Education)

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 and 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, immigration status, ethnic group identification, age, religion, marital, or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code section 200 or 220, Government Code section 11135, or

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Penal Code section 422.5, or based upon his/her association with a person or group with one or more of these actual or perceived characteristics (5 CCR 4610).

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

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

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 section 222)

(cf. 5146 - Married/Pregnant/Parenting Students)

4. Any complaint alleging District noncompliance with requirements to provide a pregnant or parenting student the accommodations specified in Education Code section 46015, including those related to the provision of parental leave, right of return to the school of previous enrollment or to an alternative education program, if desired, and possible enrollment in school for a fifth year of instruction to enable the student to complete state and Board-imposed graduation requirements (Education Code section 46015)
5. 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)

(cf. 3260 - Fees and Charges)

(cf. 3320 - Claims and Actions Against the District)

6. Any complaint alleging District noncompliance with legal requirements related to the implementation of the Local Control and Accountability Plan (LCAP). (Education Code section 52075)

(cf. 0460 - Local Control and Accountability Plan)

7. 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 sections 48853, 48853.5, 49069.5, 51225.1, 51225.2)

(cf. 6173.1 - Education for Foster Youth)

8. 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 sections 51225.1, 51225.2)

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(cf. 6173 - Education for Homeless Children)

9. Any complaint alleging District noncompliance with the requirements of Education Code sections 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 section 51228.3)

(cf. 6152 - Class Assignment)

10. Any complaint alleging District noncompliance with the physical education instructional minutes requirement for students in elementary school. (Education Code sections 51210, 51223)

(cf. 6142.7 - Physical Education and Activity)

11. Any complaints 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. The Board prohibits any form of retaliation against any complainant in the complaint process. Participation in the complaint process shall not in any way affect the status, grades, or work assignments of the complainant.
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 complainant that is agreeable to all parties. One type of ADR is mediation, which 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 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.

In filing and investigating complaints, the confidentiality of the parties involved shall be protected as required by law. As appropriate for any complaint alleging retaliation, unlawful discrimination, 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.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

(cf. 5125 - Student Records)

(cf. 9011 - Disclosure of Confidential/Privileged Information)

When an allegation that is not the 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 allegations(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 steps and timelines specified in this policy and the accompanying administrative regulation.

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(cf. 4131 - Staff Development)  
(cf. 4231 - Staff Development)  
(cf. 4331 - Staff Development)

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

(cf. 3580 - District Records)

### **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 fraud shall be referred to the California Department of Education.
4. As per Board Policy 5144.1 - Suspension and Expulsion / Due Process, the Superintendent shall develop a complaint form to allow members of the school community and public to raise concerns if restorative justice or another restorative approach is not available at a school site as an alternative to suspension. The complaint form will be available on the District's website, the District Discipline Office, and the District Ombudsperson's Office. The Ombudsperson shall investigate such complaints and within 90 days of complaint submission develop a plan with the school site for addressing the complaint and provide a written response to the complaining party.

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

(cf. 1312.4 - Williams Uniform Complaint Procedures)

With the exception of pupil fee complaints, which may be filed within one (1) year of the alleged violation; all other uniform complaints must be filed no later than six (6) months after the alleged occurrence.

Legal Reference:

#### EDUCATION CODE

#### **200-262.4 Prohibition of discrimination**

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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 education; course credits; graduation requirements  
 51228.1-51228.3 Course periods without educational content  
 52060-52077 Local control accountability plan, especially  
 52075 Complaint for lack of compliance with local control and accountability plan requirements  
 52160-52178 Bilingual education programs  
 52300-52490 Career technical education  
 52500-52616.24 Adult schools  
 52800-52870 School-based program coordination  
 54400-54425 Compensatory education programs  
 54440-54445 Migrant education  
 54460-54529 Compensatory education programs  
 56000-56867 Special education programs  
 59000-59300 Special schools and centers  
 64000-64001 Consolidated application process

#### GOVERNMENT CODE

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

#### PENAL CODE

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

#### CODE OF REGULATIONS, TITLE 5

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

#### UNITED STATES CODE, TITLE 20

1221 Application of laws  
 1232g Family Educational Rights and Privacy Act  
 1681-1688 Title IX of the Education Amendments of 1972

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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

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

Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 2002

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

Family Policy Compliance Office: <http://familypolicy.ed.gov>

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/ocr>

U.S. Department of Justice: <http://www.justice.gov>

11/17/04, 11/18/09A; 10/26/11A; 05/22/13A; 1/27/16A; 5/24/17A; 2/24/21A

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**AR 1312.3****Uniform Complaint Procedures**

Except as the Governing Board may otherwise specifically provide in other Board policies, these uniform complaint procedures (UCP) shall be used only to investigate and resolve only the complaints specified in BP 1312.3.

*(cf. 1312.1 - Complaints Concerning District Employees)*

*(cf. 1312.2 - Complaints Concerning Instructional Materials)*

*(cf. 1312.4 - Williams Uniform Complaint Procedures)*

*(cf. 4030 - Discrimination in Employment)*

**I. 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 officers) specified in the AR 5145.3 Nondiscrimination/Harassment as the responsible employee to handle complaints alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying). The individual(s) shall receive and coordinate the investigation of complaints and shall ensure compliance with the law.

*(cf. 5145.3 – Nondiscrimination/ Harassment)*

*(cf. 5145.7 – Sexual Harassment)*

Gabriel Valenzuela

Ombudsperson/Title IX Coordinator

Office of the Ombudsperson

1000 Broadway, 1<sup>st</sup> Floor, Suite 150, Oakland, California 94607

(510) 879-4281

FAX (510) 879-3678

Email: [Gabriel.Valenzuela@ousd.org](mailto:Gabriel.Valenzuela@ousd.org)

The Ombudsperson, also serves as the Title IX Coordinator and is responsible for the intake and monitoring of all Uniform Complaints. The Ombudsperson is also responsible for investigating complaints regarding discrimination (filed by a parent or students) as well as Uniform Complaints concerning the program for English Language Learners (ELL) and retaliation for, or interference with, ELL Program advocacy.

As per Board Policy 5144.1 – Suspension and Expulsion / Due Process, as of July 1, 2016, the Superintendent shall develop a complaint form to allow members of the school community and public to raise concerns, if restorative justice or another restorative approach is not available at a school site as an alternative to suspension. The complaint form will be available on the District's website, the District Discipline Office and the District Ombudsperson's Office. The Ombudsperson shall investigate such complaints and within 90 days of complaint submission develop a plan with the school site for addressing the complaint and provide a written response to the complaining party. As per Administrative Regulation 5145.7: Sexual Harassment

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(Students) site administrators/principals shall be responsible for investigating complaints alleging student sexual harassment. Additionally, school personnel shall take immediate steps to intervene, when it is safe to do so, and when he or she witnesses an act of discrimination, harassment, intimidation or bullying.

Tara Gard, Deputy Chief  
Talent Management Division  
1000 Broadway, 2<sup>nd</sup> Floor, Suite 295  
Oakland, CA 94608  
(510) 879-8852  
FAX (510) 879-0228  
Email: [Tara.Gard@ousd.org](mailto:Tara.Gard@ousd.org)

The Deputy Chief of Talent Management or his/her designee, is responsible for investigating complaints alleging discrimination in employment in accordance with BP/AR 4030 Nondiscrimination in Employment and AR 4031 Complaints Concerning Discrimination in Employment School personnel shall take immediate steps to intervene, when it is safe to do so, and when he or she witnesses an act of discrimination, harassment, intimidation, or bullying.

Paris Pryor  
Health Services/Section 504 Coordinator  
Community Schools & Student Services  
1000 Broadway, 1<sup>st</sup> Floor, Suite 150  
Oakland, CA 94607  
(510) 879-2365  
FAX (510) 879-4605  
Email: [504@ousd.org](mailto:504@ousd.org)

The Section 504 Coordinator is responsible for coordinating program modifications for students with disabilities covered under Section 504 of the Rehabilitation Act of 1973 and also investigates complaints concerning Section 504.

The compliance officer who received 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 designated to investigate a complaint in which he/she is a subject in the complaint or has a conflict of interest that would prohibit him/her from fairly investigating or resolving the complaint. Any complaint that raises a concern about the compliance officer's ability to investigate the complaint fairly shall be filed with the Superintendent or designee who shall determine how the complaint will be investigated.

Other complaints will be routed to the appropriate school site administrator, department director or to the Superintendent's designee for investigation.

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The Superintendent or designee shall ensure that employees designated to investigate and resolve complaints receive training and are knowledgeable about the laws and programs at issue in the complaints to which they are assigned. Training provided to such designated employees shall include current state and federal laws and regulations governing the program, applicable processes for investigating and resolving complaints, including those alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), applicable standards for reaching decisions on complaints, and appropriate corrective measures. Designated employees may have access to legal counsel as determined by the Superintendent or designee.

*(cf. 4331 – Staff Development)*

*(cf. 9124 - Attorney)*

The compliance officer or, if necessary, any appropriate administrator shall determine whether interim measures are necessary during and pending the results of an investigation. If interim measures are determined to be necessary, the compliance officer or the administrator shall consult with the superintendent, the superintendent's designee, or, if appropriate, the site principal to implement, if possible, one or more of the interim measures. The interim measures may remain in place until the compliance officer determines that they are no longer necessary or until the district issues its final written decision, whichever occurs first.

## II. Notifications

The district's UCP policy and administrative regulation shall be posted in all district schools and offices, including staff lounges and student government meeting rooms. (Education Code 234.1)

The Superintendent or designee shall annually provide written notification of the district's uniform complaint procedures (UCP), including information regarding unlawful student fees, local control and accountability plan (LCAP) requirements, and requirements related to the educational rights of foster youth and homeless students, to students, employees, parents/guardians, the district advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties. (Education Code sections 262.3, 48853.48853.5, 49013, 49069.5, 51225.1, 51225.2, 52075; 5 CCR 4622)

*(cf. 0420 - School Plans/Site Councils)*

*(cf. 0460 - Local Control and Accountability Plan)*

*(cf. 1220 - Citizen Advisory Committees)*

*(cf. 3260 - Fees and Charges)*

*(cf. 4112.9/4212.9/4312.9 - Employee Notifications)*

*(cf. 5145.6 - Parental Notifications)*

*(cf. 6173 - Education for Homeless Children)*

*(cf. 6173.1 - Education for Foster Youth)*

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.

*(cf. 1113 - District and School Web Sites)*

*(cf. 1114 - District-Sponsored Social Media)*

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The Superintendent or designee shall ensure that all students and parent/ 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 sections 234.1 and 438985. In all other instances, the district shall ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

The notice shall:

- 1) Identify the person(s), position(s), or unit(s) responsible for receiving complaints.
- 2) Advise the complainant of any civil law remedies that may be available to him/her under state or federal nondiscrimination 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 (6) 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 reason 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.
    - i) 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.

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- 5) 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 education program, including curricular and extracurricular activities.
- 6) The Board is required to adopt and annually update the Local Control and Accountability Plan (LCAP), in a manner that includes meaningful engagement of parents/guardians, students, and other stakeholders in the development and /or review of the LCAP.
- 7) 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.
- 8) A foster youth or homeless student who transfers into a district high school or between district high schools shall be notified of the district's responsibility to:
  - 9) 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
  - 10) 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
  - 11) 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 section 51225.1
  - 12) 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.
  - 13) The appeal to the CDE must include a copy of the complaint filed with the district and a copy of the district's decision.
  - 14) Copies of the district's UCP are available free of charge.

### III. 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)

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.

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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)

#### IV. Filing of Complaints

The complaint shall be presented to the compliance officer who shall maintain a log of complaints received, providing each with a code number and a date stamp.

All complaints shall be filed in writing and signed by the complainant. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, district staff shall assist him/her in the filing of the complaint. (5 CCR 4600). All complaint forms created relative to this process will be translated pursuant to EC 48985.

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)
- 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 (1) year from the date the alleged violation occurred. (Education Code sections 49013, 52075; 5 CCR 4630)
- 3) A complaint alleging unlawful discrimination (discriminatory harassment, intimidation, or bullying) may be filed only by a person who alleges that he/she personally suffered 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 discrimination occurred, or six months from the date when the complainant first obtained knowledge of the facts of the alleged discrimination. The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension. (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

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of the allegation.

- 5) When the complainant or alleged victim 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 will nevertheless take all reasonable steps to investigate and respond to the complaint consistent with the request.
- 6) 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)

## V. Mediation

Within ten (10) 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 asexual 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.

## VI. 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 five 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 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

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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.

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)

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.

## VII. Report of Findings

### Response

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 **45** calendar days of the district's receipt of the complaint. (5 CCR 4631). The timeline to investigate and resolve complaints of discrimination, harassment, intimidation or bullying will be followed by all schools under the jurisdiction of the the district.

### Level II Appeal

A complaint not satisfactorily resolved at Level I may be appealed to the Superintendent or designee in writing by the complainant within five (5) calendar days of receipt of the Level I response. The appeal form shall be

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filed with the Office of the Ombudsperson. The appeal can only include the allegations outlined in the Level I Complaint. New allegations cannot be included in the Level II Appeal.

Upon receiving the appropriately completed appeal form from the complainant, the Superintendent or designee shall:

1. Notify the employee(s) to whom the complaint was directed.
- 2) Investigate the appeal. This may include the following steps:
  - a) Review the appeal filed by the complainant
  - b) Review documents from the Level I investigation
  - c) Conduct additional interviews as necessary
  - d) Allow both parties to discuss complaint, Level I decision, or question each other, except for discrimination or sexual harassment complaints.
- 3) Respond in writing to the complainant within ten (10) calendar days after receipt of appeal, including a resolution.
- 4) Notify the employee(s) of the resolution.

Except for the Uniform Complaint Procedures categories listed on pages 1-2 of BP 1312.3 (#1, #2) which may be appealed to the CDE, the appeal decision shall be final.

In resolving any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying), the respondent also shall be sent the district's decision.

### **VIII. 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)

In consultation with district legal counsel, information about the relevant part of a decision may be communicated to a victim who is not the complainant and to other parties that may be involved in implementing the decision or affected by the complaint, as long as the privacy of the parties is protected.

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 other all other instances, the district shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

For all complaints, the decision shall include: (5 CCR 4631)

1. The findings of fact based on the evidence gathered. In reaching a factual determination, the following factors may be taken into account:
  - a. Statements made by any witnesses

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- 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), to the extent permitted by law, 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, to the extent permitted by law, include:

- a. The corrective actions imposed on the individual found to have engaged in the conduct that related directly to the subject of the complaint.

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- b. Individual remedies offered or provided to the subject of the complaint
  - c. Systemic measures the school has taken to eliminate a hostile environment and prevent recurrence.
6. Notice of the complainant's right to appeal the district's decision within 15 calendar days to the CDE and procedures to be followed for initiating such an appeal.

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

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

1. He/she may pursue available civil law remedies outside of the district's complaint procedures, including seeking assistance from mediation centers or public/private interest attorneys, 60 calendar days after the filing of an appeal with the CDE. (Education Code 262.3)
2. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law. (Education Code 262.3)
3. Complaints alleging discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the U.S. Department of Education, Office for Civil Rights at [www.ed.gov/ocr](http://www.ed.gov/ocr) within 180 days of the alleged discrimination.

#### **IX. 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

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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 (discriminatory harassment, intimidation, or bullying), that the district does not tolerate it, and how to report and respond to it.

If a public school or District finds merit in a pupil fees, LCAP and/or Course Period without Educational Content complaint, the public school or District shall provide a remedy. Specifically, in Course Period without Educational Content complaints, the remedy shall go to the affected pupil. In LCAP and pupil fee complaints, the remedy shall go to all affected pupils, parents and guardians, which in the case of pupil fees, also includes reasonable efforts by the public school or District to ensure full reimbursement to all affected pupils, parents

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and guardians subject to procedures established through regulations adopted by the State Board of Education. (Education Code 49013, 51228.3(c), 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 section 49013; 5 CCR 4600)

## **X. 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)

The complainant 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 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 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

The CDE may directly intervene in a complaint without waiting for action by the district when one of the conditions listed in 5 CCR 4650 exists, including cases in which the district has not taken action within 60 calendar days of the date the complaint was filed with the district. (5 CCR 4650)

## **XI. Civil Law Remedies**

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A complainant may pursue available civil law remedies outside of the district's complaint procedures. Complainants may seek assistance from mediation centers or public/private interest attorneys. Civil law remedies that may be imposed by a court include, but are not limited to, injunctions and restraining orders.

For complaints alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying) based on state law, a complainant shall wait until 60 calendar days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies, provided the district has appropriately and in a timely manner apprised the complainant of his/her right to file a complaint in accordance with 5 CCR 4622. The moratorium does not apply to injunctive relief and to discrimination complaints based on federal law. (Education Code 262.3)

11/17/04A; 11/18/09A; 10/26/11A; 05/22/13A, 01/27/16A, 5/24/17A, 3/8/21A

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For questions or complaints, contact Equity Officer: Gabriel Valenzuela, Ombudsperson/Title IX Coordinator: Office of the Ombudsperson, 1000 Broadway, 1<sup>st</sup> Floor, Suite 150, Oakland, California 94607, (510) 879-4281, FAX (510) 879-3678 Email: [Gabriel.Valenzuela@ousd.org](mailto:Gabriel.Valenzuela@ousd.org)

**AR 5145.13****Responding to Requests for Information**

Unless authorized by the Family Educational Rights and Privacy Act pursuant to 20 USC 1232g, student information shall not be disclosed to immigration law enforcement authorities without parental consent, a valid effective warrant signed by a judge, or a valid effective court order, or judicial subpoena. The Superintendent or designee shall annually notify parents/guardians that the District will not release student information to third parties for immigration enforcement purposes, unless the parent/guardian consents or as required to do so by a valid effective warrant signed by a judge, or a valid effective court order or judicial subpoena.

Upon receiving any verbal or written request for information related to a student's or family's immigration or citizenship status, District staff shall:

1. Notify the Superintendent or designee about the information request
2. Provide students and families with appropriate notice and a description of the immigration officer's request
3. Require written parental or guardian consent for release of student information, unless the information is relevant for a legitimate educational interest or includes directory information only. Neither exception permits disclosing information to immigration authorities for immigration-enforcement purposes; no student information shall be disclosed to immigration authorities for immigration-enforcement purposes without a court order or judicial subpoena.
4. Document any request for information by immigration authorities
5. Provide students and parents/guardians with any documents provided by the immigration enforcement officer, unless such disclosure is prohibited by a subpoena served on the District or in cases involving investigations of child abuse, neglect, or dependency

Resources and data collected by the District shall not be used, directly or by others, to compile a list, registry, or database of individuals based on national origin, immigration status, religion, or other category of individual characteristics protected against unlawful discrimination. (Government Code 8310.3)

**Responding to Requests for Social Security Cards****District Staff:**

1. Shall not solicit or collect entire Social Security numbers or cards.
2. Shall solicit and collect the last four digits of an adult household member's Social Security number only if required to establish eligibility for federal benefit programs.
3. Shall explain the limited purpose if collecting the last four digits of an adult household member's Social Security number to establish eligibility for a federal benefit program, and clarify that a failure to provide this information will not bar the student from enrolling in or attending the school.

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4. Shall treat all students equitably in the receipt of all school services, including, but, not limited to, the gathering of student and family information for the free and reduced lunch program, transportation and educational instruction.

### **Responding to Requests for Access to Students or School Grounds**

District staff shall receive parent/guardian consent before a student is interviewed or searched by any officer seeking to enforce civil immigration laws at the school, unless the officer presents a valid, effective warrant signed by a judge or a valid, effective court order. A student's parent/guardian shall be immediately notified if a law enforcement officer requests or gains access to the student for immigration enforcement purposes, unless the judicial warrant or subpoena restricts disclosure to the parent/guardian.

All visitors and outsiders, including immigration enforcement officers, shall register with the principal or designee upon entering school grounds during school hours. Each visitor or outsider shall provide the principal or designee with his/her name, address, occupation, age if less than 21, purpose in entering school grounds, proof of identity, and any other information required by law. (Penal Code 627.2, 627.3)

District staff shall report the presence of any immigration enforcement officers to appropriate administrators.

As early as possible, District staff shall notify the Superintendent or designee of any request by an immigration enforcement officer for access to the school or a student or for review of school documents, including service of lawful subpoenas, petitions, complaints, warrants, or other such documents.

Except for investigations of child abuse, child neglect, or child dependency, or when the subpoena served on the local educational agency prohibits disclosure, the District shall provide parental or guardian notification of any court orders, warrants, or subpoenas before responding to such requests.

In addition, District staff shall take the following actions in response to an officer present on the school campus specifically for immigration enforcement purposes:

Advise the officer that before school personnel can respond to the officer's request, they must first receive notification and direction from the Superintendent or designee, except under exigent circumstances that necessitate immediate action

- 1) Request to see the officer's credentials, including his/her name and badge number, and the phone number of the officer's supervisor, and note or make a copy of all such information
- 2) Ask the officer for his/her reason for being on school grounds and document the response
- 3) Request that the officer produce any documentation that authorizes his/her school access
- 4) Make a copy of all documents produced by the officer and retain one copy for school records

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- 5) If the officer declares that exigent circumstances exist and demands immediate access to the campus, comply with the officer's orders and immediately contact the Superintendent or designee
- 6) If the officer does not declare that exigent circumstances exist, respond according to the requirements of the officer's documentation, as follows:
  - a) If the officer has an Immigrations and Customs Enforcement (ICE) administrative warrant, District staff shall inform the agent that they cannot consent to any request without first consulting with the District's legal counsel or other designated District official.
  - b) If the officer has a federal judicial warrant, such as a search and seizure warrant or an arrest warrant signed by a federal judge or magistrate, District staff shall promptly comply with the warrant. If feasible, District staff shall consult with the District's legal counsel or designated administrator before providing the officer with access to the person or materials specified in the warrant.
  - c) If the officer has a subpoena for production of documents or other evidence, District staff shall inform the District's legal counsel or other designated official of the subpoena and await further instructions as to how to proceed.
- 7) Do not attempt to physically impede the officer, even if the officer appears to be exceeding the authorization given under a warrant or other document. If an officer enters the premises without consent, District staff shall document the officer's actions while on campus.
- 8) After the encounter with the officer, promptly make written notes of all interactions with the officer, including:
  - a) A list or copy of the officer's credentials and contact information
  - b) The identity of all school personnel who communicated with the officer
  - c) Details of the officer's request
  - d) Whether the officer presented a warrant or subpoena to accompany his/her request, what was requested in the warrant or subpoena, and whether the warrant or subpoena was signed by a judge
  - e) District staff's response to the officer's request
  - f) Any further action taken by the officer
  - g) A photo or copy of any documents presented by the officer
- 9) Provide a copy of these notes and associated documents collected from the officer to the District's legal counsel or other designated District official

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The District's legal counsel or other designated official shall submit a timely report to the Governing Board regarding the officer's requests and actions and the District's responses. (Education Code 234.7)

The Superintendent or designee shall also email the Bureau of Children's Justice in the California Department of Justice (BCJ@doj.ca.gov) regarding any attempt by a law enforcement officer to access a school site or a student for immigration enforcement purposes.

### **Responding to the Detention or Deportation of Student's Family Member**

The Superintendent or designee shall encourage students and their families to update their emergency contact information as needed throughout the school year and to provide alternative contacts, including an identified trusted adult guardian, in case a student's parent/guardian is detained or is otherwise unavailable. The Superintendent or designee shall notify students' families that information provided on the emergency cards will only be used in response to specific emergency situations and not for any other purpose.

The Superintendent or designee shall also encourage all students and families to learn their emergency phone numbers and be aware of the location of important documentation, including birth certificates, passports, social security cards, physicians' contact information, medication lists, lists of allergies, and other such information that would allow the students and families to be prepared in the event that a family member is detained or deported.

In the event that a student's parent/guardian is detained or deported by federal immigration authorities, the Superintendent or designee shall release the student to the person(s) designated in the student's emergency contact information or to any individual who presents a caregiver's authorization affidavit on behalf of the student. The Superintendent or designee shall only contact child protective services if District personnel are unable to arrange for the timely care of the student by the person(s) designated in the emergency contact information maintained by the school or identified on a caregiver's authorization affidavit.

The Superintendent or designee shall notify a student whose parent/guardian was detained or deported that the student continues to meet the residency requirements for attendance in a District school, provided that the parent/guardian was a resident of California and the student lived in California immediately before he/she moved out of state as a result of the parent/guardian's departure. (Education Code 48204.4)

The Superintendent or designee may refer a student or his/her family members to other resources for assistance, including, but not limited to, an ICE detainee locator, legal assistance, or the consulate or embassy of the parent/guardian's country of origin.

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### **Legal References**

<b>State</b>	<b>Description</b>
Ed. Code 200	<u><a href="#">Equal rights and opportunities in state educational institutions</a></u>

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Ed. Code 220	<u>Prohibition of discrimination</u>
Ed. Code 234.1	<u>Prohibition of discrimination, harassment, intimidation, and bullying</u>
Ed. Code 234.7	<u>Student protections relating to immigration and citizenship status</u>
Ed. Code 48204.4	<u>Evidence of residency for school enrollment</u>
Ed. Code 48980	<u>Parental notifications</u>
Ed. Code 48985	<u>Notices to parents in language other than English</u>
Gov. Code 8310.3	<u>California Religious Freedom Act</u>
Pen. Code 422.55	<u>Definition of hate crime</u>
Pen. Code 627.1-627.6	<u>Access to school premises, outsiders</u>

**Federal****Description**

20 USC 1232g Family Educational Rights and Privacy Act (FERPA) of 1974

**Management Resources**

Promoting Safe & Secure Learning Environment for All: Guidance & Model Policies to Assist CA K-12 Schools in Responding to Immigration Issues, 4/2018

Plyler v. Doe, 457 U.S. 202 (1982)

Legal Guidance on Providing All Children Equal Access to Education, Regardless of Immigration Status, February 2017

U.S. Immigration and Customs Enforcement, Online Detainee Locator System

California Attorney General's Office

California Office of the Attorney General

U.S. Department of Education, Office for Civil Rights

U.S. Immigration and Customs Enforcement

California Department of Fair Employment and Housing

CSBA

California Department of Education

3/8/21

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