

California Department of Education

Uniform Complaint Procedure

2015–16 Program Instrument

II. Governance and Administration

II-UCP 01: Policies and Procedures

II-UCP 1. The local educational agency (LEA) adopted uniform complaint procedures (UCP) for all specified programs, unlawful pupil fees, Local Control and Accountability Plans (LCAP), and provides civil rights guarantees. (34 Code of Federal Regulations [CFR] §§ 300.510-511; California Education Code [EC] §§ 200, 220, 234.1, 262.3, 49010-49013, 52075; Government Code [GC] §§ 11135, 11138; Penal Code [PC] § 422.55; 5 CCR § 4600–4687.)

1.0 LEA policies and procedures were adopted by the LEA's governing board and include the following:

- (a) A list of all programs and activities implemented by the district that are subject to the UCP. (5 CCR § 4610.)
- (b) A statement that the LEA shall have the primary responsibility to insure compliance with applicable state and federal laws and regulations. (5 CCR § 4620.)
- (c) A statement that the LEA shall investigate complaints alleging failure to comply with applicable state and federal laws and regulations including, but not limited to, allegations about discrimination, harassment, intimidation, bullying and noncompliance with laws relating to pupil fees for participation in an educational activity and LCAP and seek to resolve those complaints in accordance with the LEA's Uniform Complaint Procedures (EC §§ 234.1, 49010, 52075; 5 CCR §§ 4610, 4620–4621.)
- (d) A statement ensuring annual dissemination of a written notice of the LEA's complaint procedures to each students, employees, parents or guardians of its students, school and district advisory committees member, appropriate private school officials or representatives, and other interested party that includes information regarding unlawful pupil fees and LCAP requirements. (EC § 234.1, 49013, 52075(e); 5 CCR § 4622.)
- (e) A statement identifying the person(s), employee(s), or agency position(s), or unit(s) responsible for receiving complaints, investigating complaints and ensuring LEA compliance. (5 CCR § 4621.)
- (f) A statement ensuring the person(s), employees(s), positions(s) or unit(s) responsible for compliance and/or investigations shall be knowledgeable about the laws/programs that he/she is assigned to investigate. (5 CCR § 4621.)

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(g) A statement that the LEA will investigate all allegations of unlawful discrimination, harassment, intimidation or bullying against any protected group as identified in Education Code section 200 and 220 and Government Code section 11135, including any actual or perceived characteristics as set forth in Penal Code section 422.55 or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics in any program or activity conducted by the LEA, which is funded directly by, or that receives or benefits from any state financial assistance. (GC § 11135, EC §§ 200, 220, 234.1, 5 CCR § 4610, PC § 422.55.)

(h) A statement that unlawful discrimination, harassment, intimidation or bullying complaints shall be filed no later than six months from the date the alleged discrimination, harassment, intimidation or bullying occurred, or six months from the date the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation or bullying. (EC § 234.1; 5 CCR § 4630.)

(i) A statement ensuring that the complainants are protected from retaliation and that the identity of a complainant alleging discrimination, harassment, intimidation or bullying will remain confidential as appropriate. (EC § 234.1; 5 CCR § 4621.)

(j) A statement advising complainants of the right to pursue civil law remedies under state or federal discrimination, harassment, intimidation or bullying laws. (EC § 234.1; 5 CCR § 4622.)

(k) A statement that if a public school or LEA finds merit in a pupil fees and/or an LCAP complaint the public school or LEA shall provide a remedy to all affected pupils, parents, and guardians that, in the case of pupil fees, includes reasonable efforts by the public school or LEA to ensure full reimbursement to all affected pupils, parents, and guardians, subject to procedures established through regulations adopted by the state board (EC 49013(d), 52075(d))

(l) A statement that a pupil fees complaint may be filed with the principal of a school. (EC §49013(a))

(m) A statement that a pupil fees complaint and/or an LCAP complaint may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance with laws relating to pupil fees. (EC §§ 49013(b), 52075(b))

(n) A statement that a pupil fee complaint shall be filed no later than one year from the date the alleged violation occurred. (5 CCR § 4630(c)(2))

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- (o) A statement ensuring that the LEA will attempt in good faith by engaging in reasonable efforts to identify and fully reimburse all pupils, parents and guardians who paid a pupil fee within one year prior to the filing of the complaint. (5 CCR § 4600(u).)
- (p) A statement that the LEA will provide an opportunity for complainants and/or representatives to present evidence or information. (5 CCR § 4631.)
- (q) A statement that refusal by the complainant to provide the investigator with documents or other evidence related to the allegations in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation, may result in the dismissal of the complaint because of a lack of evidence to support the allegations. (5 CCR § 4631.)
- (r) A statement ensuring that refusal by the LEA to provide the investigator with access to records and/or other information related to the allegation in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation, may result in a finding based on evidence collected that a violation has occurred and may result in the imposition of a remedy in favor of the complainant. (5 CCR § 4631)
- (s) A statement that the LEA complaint will be investigated and a written report issued to the complainant within 60 days from the date of the receipt of the complaint, unless the complainant agrees in writing to an extension of time. (EC § 234.1; 5 CCR § 4631.)
- (t) The report will contain the following elements (EC §§ 234.1, 52075(c); 5 CCR § 4631):
- (i) The findings of fact based on the evidence gathered.
 - (ii) Conclusion of law.
 - (iii) Disposition of the complaint.
 - (iv) The rationale for such a disposition.
 - (v) Corrective actions, if any are warranted.
 - (vi) Notice of the complainant's right to appeal the LEA Decision to CDE.
 - (vii) Procedures to be followed for initiating an appeal to CDE.

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Evidence

Uniform Complaint Procedures (UCP) Policies and Procedures*

The Self-certification Form for UCP 3 is to be uploaded by LEAs with online certifying no UCP complaints within a 12-month period or the proper implementation of the UCP investigation process.

Uniform Complaint Procedures (UCP) 2015 - 2016 Checklist

The UCP Checklist is a guide for LEAs to use while reviewing own UCP material. Is the same as the UCP Instrument in a checklist format.

II. Governance and Administration

II-UCP 02: Annual Notice

II-UCP 2. The local educational agency (LEA) annually notified its students, employees, parents or guardians of its students, the district advisory committee, school advisory committees, appropriate private school officials, and other interested parties of the LEA's Uniform Complaint Procedures process. (EC § 234.1, 49013(e), 52075(e); 5 CCR § 4622)

2.0 Annual written notice of the complaint procedures is provided to Employees, Students, Parents/Guardians, Advisory Committees, Private School officials and other interested parties. This notice shall be in English, and when necessary, in the primary language, pursuant to section 48985 of the Education Code. The annual notice includes the following:

- (a) A statement that the local agency is primarily responsible for compliance with federal and state laws and regulations. (5 CCR § 4620.)
- (b) A statement that a pupil fees or LCAP complaint may be filed anonymously if the complainant provides evidence or information leading to evidence to support the complaint. (EC §49013(b))
- (c) A statement that a pupil enrolled in a public school shall not be required to pay a pupil fee for participation in an educational activity. (EC § 49011)
- (d) A statement that a pupil fee complaint shall be filed no later than one year from the date the alleged violation occurred. (5 CCR § 4630(c)(2))

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- (e) A statement identifying the responsible staff member, position, or unit designated to receive complaints. (5 CCR §§ 4621–4622)
- (f) A statement that the complainant has a right to appeal the LEA’s Decision of complaints regarding specific programs, pupil fees and the LCAP to the CDE by filing a written appeal within 15 days of receiving the LEA Decision. (EC § 234.1, 49013(c), 52075(c); 5 CCR §§ 4622, 4632)
- (g) A statement advising the complainant of civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal discrimination, harassment, intimidation or bullying laws, if applicable. (EC §§ 234.1, 262.3, 49013; 5 CCR § 4622)
- (h) A statement that copies of the local educational agency complaint procedures shall be available free of charge. (5 CCR § 4622)

Evidence

Uniform Complaint Procedures (UCP) Annual Notice 2015 – 2016*

The UCP Annual Notice is a written document informing stakeholders (employees, students, parents, advisory committee members, private school officials, and others) of the UCP complaint process.

II. Governance and Administration

II-UCP 03: Investigation of Complaints

II-UCP 3. The local educational agency (LEA) investigated complaints alleging a violation by the LEA of a federal or state law or regulation governing the programs listed in the 5 CCR § 4610(b), including, allegations about discrimination, harassment, intimidation, bullying, and noncompliance with laws relating to pupil fees and sought to resolve those complaints in accordance with the Uniform Complaint Procedures process of the LEA. (EC §§ 262.3(d), 49010-49013, 52075; 5 CCR §§ 4610(b), (d), 4630–4631.)

3.0 Evidence of proper implementation of the investigation process:

- (a) The LEA is asked if they received any UCP complaints during the past 12 months. (If the LEA has not received any UCP complaints, mark the “No” box in this section, then sign and date this checklist. If the LEA has

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received any UCP complaints with in the past 12 months, mark the “yes” box and continue reviewing sections b-k.)

3.1 A random selection of UCP complaint files will be reviewed either by the Regional Team Leader during an onsite review or by a consultant in the CDE Categorical Programs Complaints Management Office during an online review.

(b) The investigative process allowed the complainants and/or representatives the opportunity to present evidence or information. (5 CCR § 4631.)

(c) A written Decision was sent to the complainant within the 60-day time line or the time was extended by written agreement of the complainant. (5 CCR § 4631.)

3.2 A random selection of LEA Decisions shall contain the following:

(d) The findings of fact based on the evidence gathered. (5 CCR § 4631.)

(e) Conclusion of law. (5 CCR § 4631.)

(f) Disposition of the complaint. (5 CCR § 4631.)

(g) The rationale for such a disposition. (5 CCR § 4631.)

(h) Corrective actions, if any are warranted. (5 CCR § 4631.)

(i) Notice of the complainant’s right to appeal the LEA’s Decision to CDE. (EC §§ 234.1, 49013; 5 CCR § 4631.)

(j) Procedures to be followed for initiating an appeal to CDE. (EC §§ 234.1, 49013; 5 CCR § 4631.)

Evidence

UCP Complaint files in accordance with 5 CCR § 4610(b) (excluding Williams complaints)*

LEA’s UCP Complaint Investigation Reports (>10 % of total) within a 12-month period. For online FPM reviews only; to be uploaded on request by UCP Consultant in CPCM office only.

UCP Complaint Log

A UCP complaint log is an official record of non-Williams UCP complaints filed in the LEA during a 12-month period to be uploaded by LEAs with online FPM reviews only.

Uniform Complaint Procedures (UCP) Self-certification Form for UCP 3

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The Self-certification Form for UCP 3 is a form certifying either no UCP complaints or the proper implementation of the UCP investigation process to be uploaded by LEAs with online FPM reviews only.

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II-UCP 04: Williams Complaints Policies and Procedures

II-UCP 4. The LEA adopted the Uniform Complaint Procedures process in accordance with Chapter 5.1 (commencing with Section 4680) of the California Code of Regulations, Title 5, to resolve Williams Complaints regarding alleged deficiencies related to instructional materials, the condition of a facility that is not maintained in a clean or safe manner or in good repair, and teacher vacancy or misassignment. The LEA is required to have local policies and procedures that enable Williams Complaints to be handled through its Uniform Complaint Procedures process. These complaints regard alleged deficiencies related to instructional materials, the condition of a facility that is not maintained in a clean or safe manner or in good repair, and teacher vacancy or misassignment. (EC § 35186; 5 CCR §§ 4600–4687.)

4.0 Local educational agency (LEA) policies and procedures were adopted and include the following:

- (a) Williams Complaints shall be filed with the principal of the school or his or her designee, in which the complaint arises. (EC § 35186(a)(3), 5 CCR § 4680.)
- (b) A complaint about problems beyond the authority of the school principal shall be forwarded in a timely manner, but not to exceed 10 working days, to the appropriate school district official for resolution. (EC § 35186 (a)(3), 5 CCR § 4680.)
- (c) Williams Complaints may be filed anonymously. (EC § 35186(a)(1), 5 CCR § 4680.)
- (d) If a response is requested, the response shall be made to the mailing address of the complainant indicated on the complaint. (EC § 35186(a)(1), 5 CCR § 4680.)
- (e) If Section 48985 of the EC is applicable, the response, if requested, and report shall be written in English and the primary language in which the complaint was filed. (EC § 35186(a)(1).)

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- (f) The school shall have a complaint form available for such Williams Complaints. (EC § 35186(a)(1), 5 CCR § 4680.)
- (g) The Williams Complaints form shall identify the place for filing the complaint, (EC § 35186(a)(2), 5 CCR § 4680.)
- (h) The Williams Complaints form will include a space to indicate whether a response is requested. (EC § 35186 (a)(1), 5 CCR § 4680.)
- (i) The complainant need not use the Williams Complaint form to file a complaint.(5 CCR § 4680.)
- (j) The principal or the designee of the district superintendent, as applicable, shall make all reasonable efforts to investigate any problem within his or her authority. (EC § 35186(b), 5 CCR § 4685.)
- (k) The principal, or, where applicable, district superintendent or his or her designee shall remedy a valid complaint within a reasonable time period but not to exceed 30 working days from the date the complaint was received. (EC § 35186(b), 5 CCR § 4685.)
- (l) The principal, or where applicable, district superintendent or his or her designee, shall report to the complainant the resolution of the complaint within 45 working days of the initial filing, if complainant identifies himself or herself and requested a response. (EC § 35186(b), 5 CCR § 4685.)
- (m) The principal makes this report; the principal shall also report the same information in the same timeframe to the district superintendent or his or her designee. (EC § 35186(b), 5 CCR § 4685.)
- (n) A complainant who is not satisfied with the resolution of the principal or the district superintendent or his or her designee, has the right to describe the complaint to the governing board of the school district at a regularly scheduled meeting of the governing board. (EC § 35186(c), 5 CCR § 4686.)
- (o) The school district shall report summarized data on the nature and resolution of all complaints on a quarterly basis to the county superintendent of schools and the governing board of the school district. (EC § 35186(d), 5 CCR § 4686.)
- (p) The summaries shall be publicly reported on a quarterly basis at a regularly scheduled meeting of the governing board of the school district. (EC § 35186(d), 5 CCR § 4686.)
- (q) The report shall include the number of complaints by general subject area with the number of resolved and unresolved complaints. (EC § 35186(d), 5 CCR § 4686.)

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(r) The complaints and responses shall be available as public records. (EC § 35186(d), 5 CCR §4686) 4.1 LEA policies and procedures include the following statements on how to file an appeal regarding facilities complaints to the State Superintendent: (5 CCR § 4687.)

(s) A complainant who is not satisfied with the resolution proffered by the principal, or the district superintendent or his or her designee, involving a condition of a facility that poses an emergency or urgent threat, as defined in paragraph (1) of subdivision (c) of EC § 17592.72, has the right to file an appeal to the State Superintendent of Public Instruction within 15 days of receiving the report.(5 CCR § 4687.)

(t) The complainant shall comply with the appeal requirements of 5 CCR § 4632. (5 CCR § 4687.)

Evidence

Williams Complaints Policies and Procedures*

The Williams Complaint Policies and Procedures is one document thoroughly explaining the UCP process for Williams complaints only.

II. Governance and Administration

II-UCP 05: Williams Complaints Classroom Notice

II-UCP 5. The LEA provided a Uniform Complaint Procedures process in accordance with Chapter 5.1 (commencing with Section 4680) of the California Code of Regulations, Title 5, to resolve Williams Complaints by posting a Williams Complaints classroom notice notifying parents, guardians, pupils, and teachers in each classroom in each school in each district regarding alleged deficiencies related to instructional materials, facility conditions, and teacher vacancy or misassignment. (EC § 35186; 5 CCR § 4600–4687.)

The LEA's Williams Complaint Classroom Notice will be reviewed by the Regional Team Leader during an on-site review or by a Consultant in the CDE Categorical Complaints Management Office during an online review.

5.0 A notice shall be posted in each classroom in each school in the school district, and include the following statements: (EC § 35186(f), 5 CCR § 4684.)

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(a) The notice shall address parents, guardians, pupils, and teachers. (EC § 35186(f).)

(b) There should be sufficient textbooks and instructional materials. For there to be sufficient textbooks and instructional materials each pupil, including English Learners, must have a textbook or instructional materials, or both, to use in class and to take home. (EC § 35186(f)(1), 5 CCR § 4684.)

(c) School facilities must be clean, safe, and maintained in good repair. (EC § 35186(f)(2), 5 CCR § 4684.)

(d) There should be no teacher vacancies or misassignments. (EC § 35186(f)(3), 5 CCR § 4684.)

(e) The location at which to obtain a form to file a complaint in case of a shortage. Posting a notice downloadable from the Web site of the CDE shall satisfy this requirement. (EC § 35186(f)(5), 5 CCR § 4684.)

5.1 Each Williams Complaints Classroom notice must be exactly the same as in each classroom and must be exactly the same as the sample that is posted on CAIS.

Evidence

Williams Complaint Self-certification Form for UCP 5

The Self-certification Form for UCP 5 is a form certifying the Williams Complaint Classroom Notice has been posted in each classroom in each school to be uploaded by LEAs with online FPM reviews only.

Williams Complaints Classroom Notice*

The Sample Williams Complaint Classroom Notice is for all LEAs to post in each classroom in each school in the district alerting the right to file regarding Williams complaints.

II. Governance and Administration

II-UCP 06: Williams Complaint Form

II-UCP 6. The LEA provided a Uniform Complaint Procedures process in accordance with Chapter 5.1 (commencing with Section 4680) of the California

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Code of Regulations, Title 5, to resolve Williams Complaints by providing a UCP form for Williams Complaints regarding alleged deficiencies related to instructional materials, conditions of facilities that are not maintained in a clean or safe manner or in good repair, and teacher vacancy or misassignment. (EC §35186, 5 CCR §§ 4600–4687)

6.0 The LEA UCP form for complaints concerning deficiencies related to instructional materials, teacher vacancy or misassignments, and conditions of facilities that are not maintained in a clean or safe manner or in good repair, include the following sections:

- (a) A section to indicate if a response is requested. (EC § 35186(a)(1), 5 CCR § 4680.)
- (b) A section for contact information including mailing address should a response be requested. (5 CCR § 4680.)
- (c) A section to identify the location of the problem including school name, school address and room number or location, if applicable. (5 CCR §§ 4681–4683.)
- (d) A section to identify the course or grade level, if applicable. (5 CCR §§ 4681–4682.)
- (e) A section where the complainant describes the specific nature of the complaint in detail. (5 CCR §§ 4681–4683.)
- (f) A statement that the complainant may include as much text as the complainant feels is necessary. (EC § 35186 (a)(2), 5 CCR §§ 4682, 4683.)
- (g) A statement identifying where to file the complaint. (EC § 35186(a)(2), 5 CCR § 4680.)

6.1 The LEA UCP form for complaints concerning deficiencies related to instructional materials includes sections identifying the following allegations:

- (h) A pupil, including an English Learner, does not have standards-aligned textbooks or instructional materials or state adopted or district adopted textbooks or other required instructional materials to use in class. (EC § 35186(e)(1)(A), 5 CCR § 4681.)
- (i) A pupil does not have access to textbooks or instructional materials to use at home or after school. This does not require two sets of textbooks or instructional materials for each pupil. (EC § 35186(e)(1)(B), 5 CCR § 4681.)

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(j) Textbooks or instructional materials are in poor or unusable condition, having missing pages, or are unreadable due to damage. (EC § 35186(e)(1)(C), 5 CCR § 4681.)

(k) A pupil was provided photocopied sheets from only a portion of a textbook or instructional materials to address a shortage of textbooks or instructional materials. (5 CCR § 4681.)

6.2 The LEA UCP form for complaints concerning deficiencies related to teacher vacancy or misassignments includes the following sections to identify the following allegations:

(l) A semester begins and a teacher vacancy exists. (A position to which a single designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position of which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester). (EC § 35186(e)(2)(A), 5 CCR § 4682.)

(m) A teacher who lacks credentials or training to teach English Learners is assigned to teach a class with more than 20 percent English Learners pupils in the class. (EC § 35186(e)(2)(B), 5 CCR § 4682.)

(n) A teacher is assigned to teach a class for which the teacher lacks subject matter competency. (EC § 35186(e)(2)(C), 5 CCR § 4682.)

6.3 The LEA UCP form for complaints concerning deficiencies related to conditions of facilities that are not maintained in a clean or safe manner or in good repair includes the following sections to identify the following allegations:

(o) A condition poses an urgent or emergency threat to the health or safety of pupils or staff, including: gas leaks, nonfunctioning heating, ventilation, fire sprinklers or air-conditioning systems, electrical power failure, major sewer line stoppage, major pest or vermin infestation, broken windows or exterior doors or gates that will not lock and that pose a security risk, abatement of hazardous materials previously undiscovered that pose an immediate threat to pupils or staff, structural damage creating a hazardous or uninhabitable condition, and any other emergency conditions the school district determines appropriate. (EC § 17592.72, 5 CCR § 4683.)

(p) A school restroom has not been maintained or cleaned regularly, is not fully operational, or has not been stocked at all times with toilet paper, soap, and paper towels or functional hand dryers. (EC § 35292.5(a)(1).)

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(q) The school has not kept all restrooms open during school hours when pupils are not in classes, and has not kept a sufficient number of restrooms open during school hours when pupils are in classes. This does not apply when temporary closing of the restroom is necessary for pupil safety or to make repairs. (EC § 35292.5.)

Evidence

Williams Complaint Form*

The Williams Complaint Form is a document for parents, guardians, pupils and teachers to complete if there is a grievance regarding alleged Williams complaints.