



Uniform Complaint Procedures

Monitoring Requirements Training for Agencies

Presented by staff from the
Categorical Programs Complaint Management (CPCM) Office

2015



TOM TORLAKSON
State Superintendent
of Public Instruction

Purpose

To gain an understanding of:

- Benefits of training
- Regulatory basis
- Uniform Complaint Procedures (UCP) documents to provide as evidence for the FPM process
- Implementation procedures and timelines
- Resources and contacts



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Benefits of Training

- Agencies receive updated information regarding UCP monitoring
- The CDE provides technical assistance to Agencies
- Potential reduction of review monitoring findings



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Legal Requirements

Federal Laws

*34 Code of Federal Regulations
(CFR)*

sections 299.11 & 300.510–511



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Legal Requirements

California State Laws

**new since July 2012*

- *California Code of Regulations, Title 5 (5 CCR) sections 4600–4687 (Revised January, 2014*)*
- *Education Code (EC) sections 200, 220, 262.3*
- *EC sections 234 – 234.5 (“Seth’s Law” / enacted July 2012*)*
- *EC Section 35186*
- *EC Section 48985*
- *EC sections 49010 – 49013 (Pupil Fees law / enacted July 2013*)*
- *EC Section 52075 (a-f) (School Finance laws(LCFF and LCAP) / enacted June 2014*)*
- *Government Code (GC) sections 11135, 11138*
- *Penal Code (PC) Section 422.55*



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Legal Requirements

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

All legal requirements for the UCP procedures are included in the UCP instrument posted to the CDE FPM Web pages.



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UCP Items

The six UCP items below meet the federal and state laws, statutes, and regulations:

UCP 1: Policies and Procedures

UCP 2: Annual Notice

UCP 3: Implementation

UCP 4: Williams Complaint Policies and Procedures

UCP 5: Williams Complaint Classroom Notice

UCP 6: Williams Complaint Form



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UCP 1

Policies and Procedures

The Local Educational Agency (LEA) has adopted UCP policies and procedures for all specified programs, pupil fees violations, local control and accountability plan noncompliance, and providing civil rights guarantees.



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UCP 1

Policies and Procedures

Sample UCP Board Policies and Procedures
Printed by the California Department of Education • Categorical Programs Complaints Management Office • 1420 71 Street, Sacramento, CA 95815 • 916-219-0222

[Name of your LEA] UCP Policies and Procedures
[Address of your LEA] adopted by our
[City, State, Zip of your LEA] Governing Board on
[Phone number of your LEA] [Month day, year]

Uniform Complaint Procedures (UCP)

This document contains rules and instructions about the filing, investigation and resolution of a Uniform Complaint Procedures (UCP) complaint regarding an alleged violation by [name of your LEA] of federal or state laws or regulations governing educational programs, including allegations of unlawful discrimination, harassment, intimidation, bullying and non-compliance with laws relating to pupil fees and our Local Control and Accountability Plan (LCAP).

This document presents information about how we process UCP complaints concerning particular programs or activities in which we receive state or federal funding. A UCP complaint is a written and signed statement by a complainant alleging a violation of federal or state laws or regulations, which may include an allegation of unlawful discrimination, harassment, intimidation, bullying or charging pupil fees for participation in an educational activity or non-compliance with the requirements of our LCAP. A complainant is any individual, including a person's duly authorized representative or an interested third party, public agency, or organization who files a written complaint alleging violation of federal or state laws or regulations, including allegations of unlawful discrimination, harassment, intimidation, bullying and non-compliance with laws relating to pupil fees or non-compliance with the requirements of our LCAP. If the complainant is unable to put the complaint in writing, due to a disability or illiteracy, we shall assist the complainant in the filing of the complaint.

Programs and activities that are implemented by our district and subject to the UCP in which we receive state or federal funding are [customize to identify only those programs in your LEA]:

- Adult Education
- After School Education and Safety
- Agricultural Vocational Education
- American Indian Education Centers and American Indian Early Childhood Education Program Assessments
- Career Technical Education
- Child Care and Development Programs including state preschool
- Consolidated Categorical Programs
- Discrimination, Harassment, Intimidation, and Bullying
- Foster and Homeless Youth
- Local Control Funding Formula and Local Control Accountability Plans
- Migrant Education
- NCLB Titles I-VII
- Nutrition Services - USDA Civil Rights
- Regional Occupational Centers and Programs
- School Facilities
- Special Education
- Tobacco-Use Prevention Education Program
- Safety Planning Requirements

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First page of the CDE
*Sample UCP Policies
and Procedures*
document (total 6
pages) available for
use by all Agencies.



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UCP 2 (Cont.) Annual Notice

The LEA annually notifies, in writing, its students, employees, parents/guardians, advisory committee members, private school officials, and other interested parties of the LEA's UCP process.



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UCP 2 (Cont.)

UCP Annual Notice

First page of the CDE
*Sample UCP Annual
Notice* document
(total 2 pages)
available for use by
all Agencies.

Sample Uniform Complaint Procedures (UCP) Annual Notice
Provided by the California Department of Education • Categorical Programs Complaints Management Office • 1430 H Street, Sacramento, CA 95815 • 916-319-0222

UCP Annual Notice for 2015 - 2016

[Name of your Local Educational Agency or LEA]

FOR THE LEA (not to be on notice itself):
* This notice shall be in English, and when necessary, in the primary language, pursuant to section 49985 of the Education Code, or mode of communication of the recipient of the form.
* The terms 'pupil' and 'student' may be used interchangeably.

For students, employees, parents/guardians, school and district advisory committee members, private school officials, and other interested parties

The [name of your LEA] has the primary responsibility for compliance with federal and state laws and regulations. We have established Uniform Complaint Procedures (UCP) to address allegations of unlawful discrimination, harassment, intimidation, and bullying, and complaints alleging violation of state or federal laws governing educational programs, the charging of unlawful pupil fees and the non-compliance of our Local Control and Accountability Plan (LCAP).

We 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.

The UCP shall also be used when addressing complaints alleging failure to comply with state and/or federal laws in [customize to identify only those programs in your LEA]:

- Adult Education
- After School Education and Safety
- Agricultural Vocational Education
- American Indian Education Centers and American Indian Early Childhood Education Program Assessments
- Career Technical Education
- Child Care and Development Programs including state preschool
- Consolidated Categorical Programs
- Discrimination, Harassment, Intimidation, and Bullying
- Foster and Homeless Youth
- Local Control Funding Formula and Local Control Accountability Plans
- Migrant Education
- NCLB Titles I-VII
- Nutrition Services - USDA Civil Rights
- Regional Occupational Centers and Programs
- School Facilities
- Special Education
- Tobacco-Use Prevention Education Program
- Safety Planning Requirements

A pupil fees and/or LCAP complaint may be filed anonymously if the complainant provides evidence or information leading to evidence to support the complaint.

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UCP 3

Implementation

The LEA must investigate and seek to resolve complaints, in accordance with the UCP procedures adopted by their governing board, alleging:

- A violation by the LEA of a federal or state law or regulation governing the programs listed in 5 *CCR* Section 4610(b)
- Discrimination, harassment, intimidation, and/or bullying
- Charging pupil fees for participation in an educational activity
- Noncompliance with the requirements of the Local Control and Accountability Plan (LCAP)



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UCP 4

Williams Complaint Policies and Procedures

The LEA is required to have local policies and procedures that enable Williams complaints to be handled through its governing-board approved UCP process in accordance with 5 *CCR* sections 4680-4687, to resolve Williams complaints regarding alleged deficiencies related to:

- Instructional materials
- Teacher vacancy or misassignment
- The condition of a facility that is not maintained in a clean or safe manner or in good repair



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UCP 4 (Cont.)

Williams Complaint Policies and Procedures

Note that AB 97—School Finances, which includes the Local Control Funding Formula (LCFF) and the LCAP—removed the *Valenzuela* requirement where pupils were provided intensive instruction and services pursuant to *EC* Section 37254(d) (4) and (5) after the completion of grade 12 if they had not passed the California High School Exit Examination by the end of 12th grade.

The UCP instrument no longer contains this language.



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UCP 5

Williams Complaint Classroom Notice

The LEA provided a UCP process in accordance with 5 *CCR*, sections 4680-4687 to resolve Williams complaints by posting a Williams Complaint Classroom Notice notifying parents/guardians, pupils, and teachers in each classroom in each school in each district regarding alleged deficiencies related to:

- Instructional materials
- Teacher vacancy or misassignment
- Facility conditions



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UCP 5 (Cont.)

Williams Complaint Classroom Notice

CDE *Sample Williams Complaint Classroom Notice* available for use by all Agencies.

Sample Williams Complaint Classroom Notice
Provided by the California Department of Education • Categorical Programs Compliance Management Office • 1432 N Street, Sacramento, CA 95815 • 916-219-0222

[Name of your LEA]

Williams Complaint Classroom Notice

FOR THE LEA (not to be on form itself):
• This form shall be in English, and when necessary, in the primary language, pursuant to section 48985 of the Education Code, or mode of communication of the recipient of the form.
• The terms 'pupil' and 'student' may be used interchangeably.

Notice to Parents, Guardians, Pupils, and Teachers

Pursuant to California *Education Code* Section 35186, you are hereby notified that:

1. There should be sufficient textbooks and instructional materials. That means each pupil, including English learners, must have a textbook or instructional materials, or both, to use in class and to take home.
2. School facilities must be clean, safe, and maintained in good repair.

There should be no teacher vacancies or **misassignments**. There should be a teacher assigned to each class and not a series of substitutes or other temporary teachers. The teacher should have the proper credential to teach the class, including the certification required to teach English learners if present.

Teacher vacancy means 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 to which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.
3. Misassignment means the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold.
4. A complaint form may be obtained at the school office, district office, or downloaded from the school's Web site at [district adds Web site address]. You may also download a copy of the California Department of Education complaint form from the following Web site: <http://www.cde.ca.gov/re/cp/uc>.

June 2016



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UCP 5 (Cont.)

Williams Complaint Classroom Notice

Uniform Complaint Procedures Self-Certification Form
Provided by the California Department of Education • Categorical Programs Complaints Management Office • 1420 I Street, Sacramento, CA 95815 • 916-219-0229

I

Name of LEA

Address

Phone number

LEA SELF-CERTIFICATION FORM FOR UCP 5
FOR COMPLETION OF AN ONLINE REVIEW OF UCP 5

DATE: _____

TO: CA Dept of Education, Categorical Programs Complaints Management (CPCM) office

SUBJECT: Evidence of the posting of the Williams Complaint Classroom Notice in every classroom in every school

LEA SELF-CERTIFICATION

UCP 5

I certify that a notice has been posted in each classroom in each school in the school district that provides information about filing a Williams-related complaint and meets the requirements as prescribed in the California *Education Code*, Section 35186(f).

Name of LEA Superintendent or Designee

Signature of LEA Superintendent or Designee

Date

JUNE 2015

CDE *Williams Complaint Self-certification Form* for UCP 5 available for use by all Agencies scheduled to have an **online FPM** review.



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UCP 6

Williams Complaint Form

- The LEA's Williams Complaint Form must be available at all school sites.
- The Williams Complaint Form must identify deficiencies related to:
 - Textbooks and instructional materials
 - Teacher vacancy or misassignment
 - Conditions of facilities



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UCP 6 (Cont.)

Williams Complaint Form

CDE *Sample Williams Complaint Form* available for use by all Agencies.

Sample Williams Complaint Form
Provided by the California Department of Education - Categorical Programs Complaints Management Office • 1425 N. Street, Sacramento, CA 95811 • 916-019-0229

Williams Complaint Form

Education Code (EC) Section 35186 created a procedure for the filing of complaints concerning 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. The complaint and response are public documents as provided by statute. Complaints may be filed anonymously. However, if you wish to receive a response to your complaint, you must provide the following contact information.

Response requested Yes No

Name (Optional): _____ Mailing Address (Optional): _____
Phone Number Day (Optional): _____ Evening (Optional): _____

Issue of complaint (please check all that apply):

1. Textbooks and Instructional Materials
 - 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.
 - 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.
 - Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.
 - 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.
2. Facility Conditions
 - A condition poses an urgent or emergency threat to the health or safety of students 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.
 - A school restroom has not been maintained or cleaned regularly, is not fully operational and has not been stocked at all times with toilet paper, soap, and paper towels or functional hand dryers.
 - 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.
3. Teacher Vacancy or Misassignment
 - Teacher vacancy - A semester begins and a teacher vacancy exists. (A teacher vacancy is 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 to which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.)
 - Teacher misassignment - A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20 percent English learner pupils in the class.
 - Teacher misassignment - A teacher is assigned to teach a class for which the teacher lacks subject matter competency.

Date of Problem: _____ Location of problem (school name, address, and room number or location): _____

Course or Grade Level and Teacher Name: _____

Describe specific nature of the complaint in detail. You may include as much text as necessary (please use other side):

Please file this complaint at the following location:
Principal or the designee of the district superintendent: _____
Mailing address: _____

JUNE 2015



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Acceptable Evidence

| | | |
|-------|--|---|
| UCP 1 | Policies and Procedures | One set of the local governing board-approved UCP Policies and Procedures (may be in the form of 2 separate documents) |
| UCP 2 | Annual Notice | One sample UCP annual notice in English – may be one of the following format: flyer, handbill, leaflet, brochure, pamphlet (a second sample in another language is acceptable) |
| UCP 3 | Implementation | On-site reviews - no document is needed; online reviews only – LEA Self-certification Form for UCP 3 |
| UCP 4 | Williams Complaint Policies and Procedures | One set of the local governing board-approved Williams Complaint Policies and Procedures |
| UCP 5 | Williams Complaint Classroom Notice | One sample Williams Complaint Classroom Notice in English (a second sample in another language is acceptable), and for online reviews only, LEA Self-certification Form for UCP 5 |
| UCP 6 | Williams Complaint Form | One sample Williams Complaint form in English (a second sample in another language is acceptable) |



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Monitoring Deadlines

Before the FPM review:

The Agency uploads documents 30 calendar days before the first day of scheduled review



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Monitoring Deadlines (Cont.)

During the FPM review:

The Agency may upload additional documents no later than the day before the last day of a review.

- On-site: 5 p.m.
- Online: 1 p.m.



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Monitoring Deadlines (Cont.)

- **After the FPM review**, any resolution documents from the Agency are due 45 calendar days from the last day of the review
- When the Agency submits resolution documents, the assigned CPCM consultant responds within 15 calendar days
- If the Agency cannot submit resolution documents in 45 calendar days, the Agency can request a **Resolution Agreement**, which the CPCM consultant will approve or deny within 5 calendar days



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Resources and Contacts

- **UCP Brochure and Sample Documents:**
<http://www.cde.ca.gov/re/cp/uc/>
- **Compliance Monitoring Information:**
<http://www.cde.ca.gov/ta/cr/>
- **Categorical Programs Complaints Management (CPCM) Office**
916-319-0929