PROPOSED CHANGES

Community Relations BP 1312.3(a)

UNIFORM COMPLAINT PROCEDURES

Non-Compliance/Discrimination

The Governing Board recognizes that the District is primarily responsible for ensuring that it complies with state and federal laws and regulations governing educational programs. The District shall investigate complaints alleging failure to comply with applicable state and federal regulations alleging discrimination, **harassment, intimidation, and bullying,** and seek to resolve those complaints in accordance with the procedures set out in Sections 4600-4687, Title V regulations, and in accordance with policies and procedures of the governing Board. The District shall follow uniform complaint procedures when addressing complaints alleging unlawful discrimination, **harassment, intimidation, and bullying,** against any protected group as identified under Education Code 200 and 220 and Government Code 11135, including actual or perceived sex, sexual orientation, gender**, ~~including~~** gender identity* and **gender expression**,** ethnic group identification, race **or ethnicity**, ancestry, national origin, **nationality**, religion, color, genetic information***,** mental or physical disability, age, 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 District program or activity that receives or benefits from state financial assistance. The District shall also follow uniform complaint procedures when addressing complaints alleging failure to comply with state or federal laws in adult basic education, consolidated categorical aid programs, career/technical and technical education programs, child care and development programs, child nutrition programs and special education programs.

Education Code 32289 authorizes an individual to file a complaint if he/she believes that the district has not complied with the school safety planning requirements of the *No Child Left Behind Act*, 20 USC 7114(d)(7).

(cf. 0410 – Nondiscrimination in District Programs and Activities)
(cf. 0450 – Comprehensive Safety Plan)
(cf. 1312.1 – Complaints Concerning District Employees)
(cf. 1312.2 – Complaints Concerning Instructional Materials)
(cf. 1312.4 – Williams Uniform Complaint Procedures)
(cf. 0420.1 – School-Based Coordinated Programs)
(cf. 0420.2 – School Improvement Program)

(*gender identity; **gender expression; * Genetic information, see page BP 1312.3(d))**

UNIFORM COMPLAINT PROCEDURES (continued)

(cf. 0430 – Comprehensive Local Plan for Special Education)
(cf. 3553 – Free and Reduced -Price Meals)
(cf.4031 – Complaints Concerning Discrimination in Employment)
(cf. 5141.4 – Child Abuse Prevention and Reporting)
(cf. 6159 – Individualized Education Program)
(cf. 6171 – Title I Programs)
(cf. 6174 – Education for English Language Learners)
(cf. 6178 – Vocational Education)
(cf. 6200 – Adult Education)

The Board encourages the early, informal resolution of complaints at the site level whenever possible.

Upon receipt of a written complaint from an individual, public agency or organization, uniform complaint procedures shall be initiated. The Superintendent or designee shall distribute full information about these procedures.

The Board acknowledges and respects pupil and employee rights to privacy. Discrimination complaints shall be investigated in a manner that protects the confidentiality of the parties and the facts. This includes keeping the identity of the complainant confidential except to the extent necessary to carry out the investigation or proceedings, as determined by the Superintendent or designee on a case-by-case basis.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 5125 - Student Records)
(cf. 9011 - Disclosure of Confidential/Privileged Information)

The Board prohibits retaliation in any form for the filing of a complaint, the reporting of instances of discrimination, **harassment, intimidation, and bullying,** or participation in complaint procedures. Such participation shall not in any way affect the status, grades or work assignments of the complainant.

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 1312.2 - Complaints Concerning Instructional Materials)
(cf. 4031 - Complaints Concerning Discrimination in Employment)
(cf. 5141.4 - Child Abuse Reporting Procedures)

UNIFORM COMPLAINT PROCEDURES (continued)

The Board recognizes that a neutral mediator can often suggest an early compromise that is agreeable to all parties in a dispute. In accordance with uniform complaint procedures, whenever all parties to a complaint agree to try resolving their problem through mediation, the Superintendent or designee shall initiate a mediation process before beginning a formal compliance investigation. The Superintendent or designee shall ensure that mediation results are consistent with state and federal laws and regulations.

Nothing in this policy precludes a complainant from pursuing available civil law remedies **under state or federal discrimination, harassment, intimidation, and bullying laws,** such as injunctions, restraining orders, public/private interest groups, attorneys, or mediation centers.

Legal Reference:

EDUCATION CODE
200-262.3 Prohibition of discrimination
8200-8498 Child care and development programs
8500-8538 Adult basic education
18100-18179 School libraries
32289 School safety plan, uniform complaint procedure
35146 Closed sessions
35186 Alternative uniform complaint procedure
35160 Authority of governing boards
44670.1-44671.5 School personnel staff development and resource centers
48985 Notices in language other than English
49060-49079 Student records
49490-49560 Child nutrition programs
51513 Personal beliefs
52000-52049.1 School improvement programs
52160-52178 Bilingual education programs
52300-52483 Vocational education
52500-52616.24 Adult schools
52800-52863 School-based coordinated programs
54000-54041 Economic impact aid programs
54100-54145 Miller-Unruh Basic Reading Act
54400-54425 Compensatory education programs
54440-54445 Migrant education
54460-54529 Compensatory education programs
56000-56885 Special education programs
59000-59300 Special schools and centers
64000 Consolidated application process

UNIFORM COMPLAINT PROCEDURES (continued)

Legal Reference (continued):
GOVERNMENT CODE
54957-54957.8 Closed sessions
CODE OF REGULATIONS, TITLE 5
3080 Application of section 4600-4671
4600-4671 Uniform Complaint Procedures
UNITED STATES CODE, TITLE 20
1221-1232g General Education Provisions Act
1681-1688 Discrimination based on sex or blindness, Title IX
CODE OF FEDERAL REGULATIONS, TITLE 34
100.1-100.13 Nondiscrimination

*Gender identity is defined as a person's identity, expression, or physical characteristics regardless of whether those characteristics are traditionally associated with one's assigned biological sex at birth. Gender identity refers to the gender the individual experiences.

****Gender expression refers to the ways in which people externally communicate their gender identity to others through behavior, clothing, hairstyle, voice and other forms of presentation.**

*****Genetic information includes information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about the manifestation of a disease or disorder in an individual's family members (i.e. family medical history).

Policy **SAN LEANDRO UNIFIED SCHOOL DISTRICT**
adopted: February 3, 1998 San Leandro, California
revision adopted: September 8, 2004
revision adopted: March 1, 2005
revision adopted: July 29, 2008
revision adopted: April 21, 2009
revision adopted: January 10, 2012
Revision to BPC: November 27, 2012/Board December 4, 2012

Community Relations AR 1312.3(a)

UNIFORM COMPLAINT PROCEDURES

Compliance Officers

The Governing Board designates the following compliance officer to receive and investigate complaints and ensure District compliance with law:

Assistant Superintendent for Educational Services
14735 Juniper Street, San Leandro, CA 94579
(510) 667-3538

The Superintendent or designee shall ensure that employees designated to investigate complaints are knowledgeable about the laws and programs for which they are responsible. Such employees may have access to legal counsel as determined by the Superintendent or designee.

(cf. 9124 – Attorney)

Notifications

The Superintendent or designee shall annually provide written notification of the District's uniform complaint procedures to pupils, employees, parents/legal guardians, the District Advisory Committee, school advisory committees, appropriate private school officials or representatives, and other interested parties. The Superintendent or designee shall make available copies of the District's uniform complaint procedures free of charge.

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 discrimination, **harassment, intimidation, and bullying** laws, if applicable.
3. Advise the complainant of the appeal process including 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.

UNIFORM COMPLAINT PROCEDURES (continued)

4. Include statements that:
    a. The District is primarily responsible for compliance with state and federal laws and regulations.
    b. The complaint investigation 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. An unlawful discrimination, **harassment, intimidation, and bullying** complaint must be filed not later than six months from the date the alleged discrimination, **harassment, intimidation, and bullying** occurs, or six months from the date the complainant first obtains knowledge of the facts of the alleged discrimination, **harassment, intimidation, and bullying.**
    d. 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.
    e. The appeal to the CDE must include a copy of the complaint filed with the District and a copy of the District's decision.

(cf. 5145.6 – Parental Notifications)

The above notification shall state that complainants may seek help from agencies such as legal assistance agencies, local mediation centers or the county office of education. Local resources include:

Bay Area Legal Aid	510-663-4744
Alameda County Office of Education	510- 670-4105

An additional listing of free or low cost legal services may be found in E(1)1312.3, Appendix A.

UNIFORM COMPLAINT PROCEDURES (continued)

Notification of the Uniform Complaint Procedures will be accomplished by the following:

1. Including a summary of the policy in the District's Student/Parent Handbook.
2. Providing notification of the policy (including all required elements) to pupils, employees, parents/legal guardians, the District Advisory Committee, school advisory committees, appropriate private school officials or representatives and other interested parties.
3. Providing copies of the policy with appropriate instructions to all administrators and supervisors in the District.
4. Providing copies of the policy (with appropriate instruction as needed) upon request.

Step 1: Filing a Complaint

The following procedures shall be used to address all complaints which allege that the District has violated federal or state laws or regulations governing educational programs. Compliance officer shall maintain a record of each complaint and subsequent related actions, including information required for compliance with 5 CCR 4631 and 4633.

All parties involved in allegations shall be notified when a complaint is filed, when a complaint meeting or hearing is scheduled, and when a decision or ruling is made.

Any individual, public agency or organization may file a written complaint alleging a matter, which, if true, would constitute a violation of federal or state law or regulation governing the educational programs set forth above or unlawful discrimination, **harassment, intimidation, and bullying.**

A complaint alleging unlawful discrimination, **harassment, intimidation, and bullying** shall be initiated no later than 6 months from the date when the alleged discrimination, **harassment, intimidation, and bullying** occurred or 6 months from date when the complainant first obtained knowledge of the facts of the alleged discrimination, **harassment, intimidation, and bullying.** A complaint may be filed by a person who alleges that he/she personally suffered unlawful discrimination, **harassment, intimidation, and bullying,** or by a person who believes that an individual or any specific class of individual has been subjected to unlawful discrimination, **harassment, intimidation, and bullying.**

UNIFORM COMPLAINT PROCEDURES (continued)

The complaint shall be presented in writing to the Assistant Superintendent of Educational Services except complaints of employment discrimination, **harassment, intimidation, and bullying,** which shall be presented to the Assistant Superintendent of Human Resources. A complaint must be in writing and contain a concise statement of the facts constituting the ground for the complaint, and, where applicable, the laws or regulations violated. Complainant should complete the Uniform Complaint Form E(3) 1312.3, or provide a written statement describing the nature of the complaint and what resolution he/she is seeking. The use of the Uniform Complaint Form E(3) 1312.3 shall not be required for the filing of the complaint.

If the complainant is unable to put a complaint in writing due to conditions such as illiteracy or disability, District staff shall assist him/her to file the complaint (Title 5, Section 4600).

The compliance officer shall maintain a log of complaints received, providing each with a code number and a date stamp.

Step 2: Mediation

Within three calendar days of receiving the complaint, the compliance officer may informally discuss with the complainant the possibility of using mediation. If the complainant agrees to mediation, the compliance officer shall make all arrangements for this process. Before initiating the mediation of a discrimination, **harassment, intimidation, and bullying** complaint, the compliance officer shall ensure that all parties agree to make the mediator a party to related confidential information.

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.

UNIFORM COMPLAINT PROCEDURES (continued)

Step 3: Investigation of Complaint

The compliance officer is encouraged to hold an investigative meeting within five calendar days of receiving the complaint or an unsuccessful attempt to mediate the complaint. This meeting shall provide an opportunity for the complainant and/or his/her representative to repeat the complaint orally.

The complainant and/or his/her representative shall have the opportunity to present the complaint and evidence or information to support the allegations in the complaint.

A complainant's refusal to provide the District's investigator with documents or other evidence related to the allegations in the complaint, or his/her failure or refusal to cooperate in the investigation or his/here engagement in any other obstruction of the investigation may result in the dismissal of the complaint because of lack of evidence to support the allegation.

The District's refusal to provide the investigator with access to records and/or other information related to the allegation in the complaint, or its failure or refusal to cooperate in the investigation or its engagement 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 or the complainant.

Step 4: Response

Within 30 calendar days of receiving the complaint, the compliance officer shall prepare and send to the complainant a written report of the District's investigation and decision, as described in Step #5 below. If the complainant is dissatisfied with the compliance officer's decision, he/she may within five calendar days, file his/her complaint in writing with the Board of Education.

The Board may consider the matter at its next regular Board meeting or at a special Board meeting convened in order to meet the 60 calendar-day time limit within which the complaint must be answered. The Board may decide not to hear the complaint, in which case the compliance officer's decision shall be final.

UNIFORM COMPLAINT PROCEDURES (continued)

If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 60 calendar days of the District's initial receipt of the complaint or within the time period that has been specified in a written agreement with the complainant.

Step 5: Final Written Decision

The District's decision shall be in writing and sent to the complainant. The District's decision shall be written in English and in the language of the complainant whenever feasible or required by law.

The decision shall include:

1. The findings of fact based on the evidence gathered
2. The conclusion(s) of law
3. Disposition of the complaint
4. Rationale for such disposition
5. Corrective actions, if any are warranted
    - The report shall not give any information as to the nature of any disciplinary action against an employee.
6. Notice of the complainant's right to appeal the District's decision within 15 calendar days to the California Department of Education (CDE) and procedures to be followed for initiating such an appeal
7. For discrimination, **harassment, intimidation, and bullying** complaints, notice that the complainant must wait until 60 calendar days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies.

Step 6: Right to Appeal

Appeals to the California Department of Education (CDE)

If dissatisfied with the District's decision, the complainant may appeal in writing to the CDE within 15 calendar days of receiving the District's decision. When appealing to CDE, the complainant must 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.

UNIFORM COMPLAINT PROCEDURES (continued)

Upon notification by CDE that the complainant has appealed the District's decision, the Superintendent or designee shall forward the following documents to the CDE:

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 complaint procedures
7. Other relevant information requested by CDE

The CDE may directly intervene in the 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.

Civil Law Remedies

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 discrimination, **harassment, intimidation, and bullying** complaints, however, a complainant must wait until 60 calendar days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies. The moratorium does to apply to injunctive relief and is applicable only if 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.

Regulation **SAN LEANDRO UNIFIED SCHOOL DISTRICT**
reviewed: February 3, 1998 San Leandro, California
reviewed: March 2, 2004
reviewed: September 8, 2004
approved: July 29, 2008
approved: April 21, 2009
Revision to BPC: November 27, 2012/Board December 4, 2012

APPENDIX A

Listing of Free or Low Cost Legal Services:

Bay Area Legal Aid
510-663-4744

~~Community Alliance for Special Education (CASE)~~
~~680 W. Tennyson Rd., Rm. 1~~
~~Hayward, CA 94544~~
~~510-783-5333~~

Deaf Counseling and Referral Agency
14895 E. 14th Street
San Leandro, CA 94578
510-483-0753 or ~~483-6914~~ **510-343-6670**

Filipino~~s for Affirmative Action~~ Advocates for Justice
310 Eighth Street
Oakland, CA 94607
510-465-9876

~~Law Center for Families~~
~~510-451-9261~~

~~Protection and Advocacy, Inc.~~ **Disability Rights of California**
1330 Broadway, ~~Ste. 1550~~ **Suite 500**
Oakland, CA 94612
~~510-839-0811~~ **510-267-1200** or 800-776-5746

State Bar of California
800-843-9053

APPENDIX B

Uniform Complaint Procedure Timeline

	Action	Calendar Days Allotted	Total Elapsed Calendar Days
1.	Complaint files a written complaint with designated compliance officer	10	10
2.	Compliance officer investigates complaint and receives evidence relevant to complaint from all parties	5	15
3.	Compliance officer sends complainant a written report summarizing findings and disposition of complaint	15	30
4.	Complainant appeals to the Board of Education	5	35
5.	If Board hears complaint, it renders a decision within sixty (60) calendar days of receipt of the complaint by the district Compliance officer sends Board's decision to complainant within sixty (60) calendar days of receipt of initial complaint	25	60

FLOW CHART OF UNIFORM COMPLAINT PROCEDURES

Step 1 – Filing a Complaint

Informal Resolution: The complainant is encouraged to attempt to resolve the complaint informally. This step is optional. **Formal Complaint (60 Calendar Day Timeline Begins): Complainant files written complaint with Assistant Superintendent of Educational Services.**	**If complaint is resolved, process stops here.** **SLUSD Compliance Officer** Assistant Superintendent Educational Services 14735 Juniper Street San Leandro, CA 94579 510-667-3538

Step 2 – Mediation

The compliance officer may offer mediation to the complainant.	**If complaint is resolved, process stops.**

Step 3 – Investigating the Complaint

Compliance Officer shall attempt to meet with complainant within five (5) calendar days of receiving written complaint.	**If complaint resolved, process stops.**

Step 4 – Response

Within thirty (30) calendar days of receiving the written complaint, the compliance officer shall prepare and send to the complainant a written report of the District's investigation and decision.	**If the complaint is resolved, process stops.**
If the complainant is dissatisfied with the decision, he/she may within five (5) calendar days, file his/her complaint in writing with the Board of Education.	
If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within sixty (60) calendar days of the District's receipt of the written complaint or within the time period specified in a written agreement with the complainant.	**If complaint is resolved, process stops.**

Step 5 – Final Written Decision

The District's final decision shall be in writing and sent to the complainant. The written decision shall contain all of the components as required by the Administrative Regulations.	

Step 6 – Right to Appeal

Appeal to the California Department of Education (CDE) If dissatisfied with the District's decision, the complainant may appeal in writing to the CDE within 15 calendar days of receiving the District's decision.	
Civil Law Remedies 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. For discrimination, **harassment, intimidation, and bullying** complaints, the complainant must wait until 60 calendar days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies.	

The following agencies can provide assistance: Bay Area Legal Aid 510-663-4744; ~~Community Alliance for Special Education (CASE) 510- 783-5333~~; Deaf Counseling and Referral Agency 510-483-0753 or ~~483-6914~~ **510-343-6670**; Filipino~~s for Affirmative Action~~ **Advocates for Justice** 510-465-9876; ~~Protection & Advocacy, Inc.~~ **Disability Rights of California** 510-~~839-0811~~ **267-1200** or 800-776-5746; and State Bar of California 800-843-9053.

E(3) 1312.3 (c)

PROPOSED CHANGES

San Leandro Unified School District

UNIFORM COMPLAINT PROCEDURES
COMPLAINT FORM

FOR OFFICE USE ONLY

Date Received: _____
Received by: _____
Log No. _____
Response Due: _____
Mailed to: _____
Date Mailed: _____
Copy filed by:

Please complete the following form if there is a complaint involving Program Non-compliance/Discrimination or Discrimination against any protected group as listed in Board Policy 1312.3. Submit this complaint form to the District Office, Assistant Superintendent of Educational Services, 14735 Juniper Street, San Leandro, CA 94579. The telephone number is (510) 667-3538, FAX (510) 297-6156. Expect a response within thirty (30) calendar days.

TO: Assistant Superintendent, Educational Services
San Leandro Unified School District
14735 Juniper Street
San Leandro, CA 94579

FROM: _____
Name(s)

_____
Address

_____
Telephone Number(s)

Name of school, program or office or name of employee and job location against whom charge or complaint was directed:

_____

(A copy of the written complaint against an employee will be provided to the employee, except for sexual harassment and discrimination complaints.)

Nature of complaint:

_____
_____
_____

Please check next to the kind of complaint you are presenting:

Program Non-compliance/Program Discrimination:

___ Adult Basic Education
___ Program for English Learners
___ Career Technical Ed. & Civil Rights
___ Child Care and Development
___ Child Nutrition
___ Consolidated Categorical Programs
___ Educational Equity
___ Gifted and Talented Education (GATE)
___ State Compensatory Education (SCE)
___ School Improvement Program (SIP)
___ Special Education
___ Title I – *No Child Left Behind*
___ Safe and Drug Free Schools & Tobacco Use and Prevention Education (TUPE)

and/or Discrimination, **harassment, intimidation, and bullying** on basis of:

___ Ethnic Group Identification
___ Race **or Ethnicity**
___ Ancestry/National Origin, **Nationality**
___ Religion
___ Color
___ Mental/Physical Disability
___ Actual or perceived Sexual orientation
___ ~~Actual or perceived~~ Gender ~~(including gender identity*)~~
___ **Sex**
___ **Sexual Harassment**
___ **Sexual Orientation**
___ **Gender Identity***
___ **Gender Expression****
___ **Genetic Information**
___ **Genetic Information*****
___ **Nationality**
___ Age
OTHER:
___ _____

(*gender identity; **gender expression; ***Genetic information, see page E(3)1312.3(d))

When did event(s) occur? Date(s): _____

Has charge or complaint been discussed with the school principal, employee or his/her supervisor?

_____

To whom, if anyone, have you spoken? (Write name(s) in spaces provided.)

___	Director	_____	Date: _____
___	Principal	_____	Date: _____
___	Assistant Principal	_____	Date: _____
___	Counselor	_____	Date: _____
___	Teacher	_____	Date: _____
___	Supervisor	_____	Date: _____
___	Staff Member	_____	Date: _____
___	Other	_____	Date: _____

If a discussion took place, what was the result of the discussion?

_____
_____
_____
_____
_____
_____

If you desire a remedy or wish the District to take a particular course of action, please specify:

_____
_____
_____
_____
_____
_____
_____

I understand that the District will maintain this information confidential, to the extent provided by law; that I will be protected from retaliation for filing this complaint; that the District may request further information about this matter; and if such information is available, I agree to present it upon request.

I believe that the foregoing is true and correct.

Signature: _____ Date: _____

*Gender identity is defined as a person's identity, expression, or physical characteristics regardless of whether those characteristics are traditionally associated with one's assigned biological sex at birth. Gender identity refers to the gender the individual experiences.
****Gender expression refers to the ways in which people externally communicate their gender identity to others through behavior, clothing, hairstyle, voice and other forms of presentation.**
*****Genetic information includes information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about the manifestation of a disease or disorder in an individual's family members (i.e. family medical history).