

Chula Vista Elementary School District



Complaint Declaration Information Package

Board of Education

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EQUAL OPPORTUNITY EMPLOYER

The Chula Vista Elementary School District is committed to providing equal educational, contracting, and employment opportunity to all in strict compliance with all applicable state and federal laws and regulations. The District office that monitors compliance is the Human Resources Services and Support Office, 84 East J Street, Chula Vista, CA 91910, phone 619-425-9600, ext. 1340. Any individual who believes s/he has been a victim of unlawful discrimination in employment, contracting, or in an educational program may file a formal complaint with the District's Human Resources Office.

Dear Parent/Community Member:

The Chula Vista Elementary School District Governing Board welcomes constructive criticism of school policies, programs or personnel when it is motivated by a sincere desire to improve the quality of the educational process. Constructive criticism assists schools and departments to become more effective. In accordance with district policy, complaints will be categorized in one of the following three areas:

1. Complaints Concerning School Personnel
2. Complaints Concerning Instructional Materials
3. Uniform Complaint Procedures for Programs or Alleged Acts of Discrimination

The attached Board policies provide guidance to complainants as well as the district regarding individual complaints. All complainants will be asked to document the nature of their complaint and file it under a specific complaint policy. Procedures, timelines, and legal guidelines are included in each policy. If any complainant requires assistance, staff will provide needed information, translation, and support to expedite the process.

Estimados Padres de Familia y Miembros de la Comunidad:

La Mesa Directiva del Distrito Escolar Primario de Chula Vista recibe con gusto la crítica constructiva de los reglamentos escolares, de los programas o del personal cuando está inspirada por un deseo sincero de mejorar la calidad del proceso educativo. La crítica constructiva ayuda a que las escuelas y los departamentos funcionen mejor. De acuerdo con las normas del distrito, las quejas deberán clasificarse en una de las siguientes tres áreas.

1. Quejas respecto al personal docente
2. Quejas respecto a materiales didácticos
3. Procedimiento uniforme de quejas sobre programas o supuestos actos de discriminación

Los reglamentos de la Mesa Directiva (*BP*) que se anexan, proporcionan orientación tanto para los quejosos como para el distrito sobre quejas específicas. Se pedirá a todos los quejosos que documenten la naturaleza de su queja y que la presenten bajo una de las categorías mencionadas. En cada reglamento se detallan los procedimientos, las fechas límites y los lineamientos legales. Si algún quejoso necesita ayuda, el personal proporcionará la información, la traducción y el apoyo necesarios para agilizar el proceso.

Community

COMPLAINTS CONCERNING THE SCHOOLS

The Governing Board welcomes constructive criticism of school policies, programs, or personnel when it is motivated by a sincere desire to improve the quality of the educational process and to assist the schools in performing their tasks more effectively.

The Board encourages the resolution of complaints as early as effectively possible. All complaints submitted in accordance with the procedures adopted by the Board shall be assured of receiving appropriate review and consideration. If the problem is not resolved at a lower level, it shall be dealt with by the Board.

When individual members are approached with complaints about the schools, they should listen to the complaint and demonstrate their concern by identifying established procedures and channels through which the complaint may receive attention.

(cf. 1312.1 - Complaints Concerning School Personnel)
(cf. 1312.2 - Complaints Concerning Instructional Materials)
(cf. 1312.3 - Uniform Complaint Procedure)

Legal Reference:

EDUCATION CODE

35146 Closed sessions

35160.5 (a)(3) Requirement of school district policies: parental complaints re. employees

GOVERNMENT CODE

950 et seq. Actions against public employees

54957 et seq. Closed sessions

Policy
Adopted: 11/13/90
Revised: 4/16/96

CHULA VISTA ELEMENTARY SCHOOL DISTRICT
Chula Vista, California

Community

COMPLAINTS CONCERNING THE SCHOOLS

Chula Vista Elementary School District has created five Board policies that cover a range of complaint issues. All provide legal recourse for complainants that wish to pursue concerns about programs, instructional materials, schools, employees, or acts of discrimination.

The initial step regarding a complaint will be for the complainant to declare the nature of the complaint and select the appropriate complaint policy. This will establish the proper procedures, timelines, and protocol for dealing with a complaint. The Superintendent or her/his designee will provide appropriate assistance to help complainants select one of the appropriate policies listed on the Complaint Declaration Form. Copies of the actual policies will be shared with complainants. This form will be used to verify the nature of the complaint and specify Board policy to be referenced during the investigation. This declaration will be attached to any formal written complaint filed with the District.

Chula Vista Elementary School District
COMPLAINT DECLARATION FORM

Nature of the complaint:

Please select the appropriate complaint procedure:

_____ 1312.1 - Complaints Concerning School Personnel
To be used when complaints are filed against District personnel.

_____ 1312.2 - Complaints Concerning Instructional Materials
To be used when parents and community have concerns about instructional materials.

_____ 1312.3 - Uniform Complaint Procedure
To be used when complaints focus on specific programs; i.e., Special Education, Title I, etc. or alleged acts of gender bias or discrimination against an individual or specific class of individuals.

I have received a copy of the selected Board policy and wish to pursue complaints as prescribed.

_____ Complainant _____ Date

_____ Superintendent or Designee _____ Date

Exhibit
Reviewed: 4/16/96

CHULA VISTA ELEMENTARY SCHOOL DISTRICT
Chula Vista, California

Community Relations

COMPLAINTS CONCERNING SCHOOL PERSONNEL

Any person or group having a legitimate interest in the schools of the district shall have the right to present a complaint concerning district personnel. It is the intent of this policy to provide the means for judging each public complaint in a fair and impartial manner and to seek a remedy where appropriate.

It is the desire of the Governing Board to rectify any misunderstanding between the public and the district by direct discussions of an informal type among the interested parties. Only when such informal meetings fail to resolve the differences, shall more formal procedures be employed.

It is the belief of the Board that complaints regarding district personnel should be handled in a confidential manner and are not appropriate for public communication to the Board. Any complaints reaching the Board, Board members, and the administration shall be referred to the Superintendent or designee. Irate calls regarding personnel are to be referred to the Superintendent or designee.

The Superintendent or designee shall develop regulations which will permit the public to lodge criticism against staff members, assure a complete hearing, and protect the rights of the staff members and the district.

When public complaints involve accusations of child abuse, the provisions of this policy and regulation shall be implemented only after the child abuse reporting requirements have been completed.

(cf. 5141.4 - Child Abuse and Neglect)

The Board shall annually review policies and regulations regarding complaints against school personnel.

(cf. CTA/CSEA Negotiated Agreements)

(cf. 1250 - Visits to the School)

Legal Reference:

EDUCATION CODE

35146 Closed sessions

35160.5(a)(3) Requirement of school district policies: parental complaints re employees

35203 Duty of district attorney to defend in certain cases

35204 Contract with attorney in private practice

44811 Disruption of public school activities

44932-44949 Resignation, dismissal and leaves of absence (rights of employee; procedures to follow)

Policy
Adopted: 11/13/90

CHULA VISTA ELEMENTARY SCHOOL DISTRICT
Chula Vista, California

Community Relations

COMPLAINTS CONCERNING SCHOOL PERSONNEL

First Level - If it is a matter specifically directed toward a staff member, the matter must be addressed, initially, to the concerned staff member who shall discuss it promptly with the complainant and make every effort to provide a reasoned explanation or take appropriate action within his/her authority, and District rules and regulations. As appropriate, the staff member shall report the matter, and whatever action may have taken, to the appropriate Superintendent Designee.

Second Level - If the matter cannot be resolved satisfactorily at the first level, it shall be discussed by the complainant with the appropriate Superintendent Designee.

Third Level - If a satisfactory solution is not achieved by discussion with the appropriate Superintendent Designee, a written request for a conference shall be submitted to the Superintendent with a copy to the Governing Board. This request should include:

1. The specific nature of the complaint and a brief statement of the facts giving rise to it.
2. The respect in which it is alleged that the complainant (or child of the complainant) has been affected adversely.
3. The action which the complainant wishes taken and the reasons why it is felt that such action be taken.

Staff members will be apprised of third level request and submit a written report outlining their view of 1) the nature of the problem, 2) remediation suggestion, and 3) steps taken with complainant.

Should the matter be resolved in conference with the Superintendent or designee, the Board shall be advised of the resolution.

Fourth Level - Should the matter still not be resolved, or if it is one beyond the Superintendent or designee's authority and requires a Board decision or action, the complainant shall request in writing a hearing by the Board.

Community Relations

COMPLAINTS CONCERNING SCHOOL PERSONNEL (continued)

The Board, after reviewing all material relating to the case, shall provide the complainant with its written decision. The complainant shall be advised in writing of the Board's decision no more than ten days following the hearing.

Complaints Related to Evaluation (Management, Supervisory and Confidential Personnel)

1. Any citizen or parent/guardian formal complaint about an employee which is to be included or considered in the evaluation of the employee shall be reported as soon as is practical to the employee by the administrator.
2. The employee shall have the opportunity to respond in the way of comment, explanation or facts as perceived by the employee.
3. Should the involved employee believe that the allegations in the complaint are sufficiently serious to warrant a meeting, the employee may request a meeting with the involved parties. The immediate supervisor shall have the prerogative of meeting with the parties in the event that the employee does not request a meeting. Another person may be present at said meeting if requested by the employee.
4. If the matter is not resolved at the meeting to the satisfaction of all parties, the complainant may be requested by either the employee or the immediate supervisor to place his/her complaint into writing and submit the original to the employee with a copy to the employee's immediate supervisor. The written complaint and any attached responses by the employee and/or immediate supervisor shall be placed in the employee's personnel file. In the event that any section(s), or the entire list of allegations are found to be untrue, such specific section(s), or the entire list of allegations along with applicable responses shall be destroyed while remaining section(s), or entire list of allegations and applicable responses that do not pertain to this provision shall remain.

Regulation

Approved: 11/13/90

Reviewed: 3/19/96

CHULA VISTA ELEMENTARY SCHOOL DISTRICT
Chula Vista, California

Instruction

PUBLIC CRITICISM OF INSTRUCTIONAL PROGRAMS/MATERIALS

It shall be the policy of the Chula Vista Elementary School District to recognize the right of an individual(s) in the community to question topics, methods or materials used in the instructional program.

An individual(s) requesting a formal review of instructional programs/materials shall present in writing, a completed Form A, (Request for Reconsideration of Instructional Program/Material), and signature(s) of the individual(s) requesting the review of the programs/materials.

Under the direction of the Assistant Superintendent, Instructional Services, programs/materials subject to review shall be considered by a District committee composed of members of the professional staff and lay persons selected by the Superintendent or his/her designee.

Within twenty working days, the Review Committee shall consider the material in its entirety, invite the complainant(s) and appropriate staff to meet with the Committee for the orderly process of obtaining information and clarifying questions required by the Committee and forward its recommendation to the Assistant Superintendent Instructional Services. The Assistant Superintendent shall report the findings to the Superintendent and within ten working days present to the complainant(s) in writing deliberations and recommendations of the Review Committee.

In the event the complainant(s) does not accept the Review Committee's recommendation within ten working days (s)he may appeal in writing to the Superintendent.

If the challenge is not resolved by the Superintendent, the complainant(s) may within ten working days request in writing that the challenge be placed on an agenda for action at a regularly scheduled Board meeting. The decision of the Board of Education shall be final.

Instruction

**PUBLIC CRITICISM OF INSTRUCTIONAL PROGRAMS/MATERIALS
(continued)**

Legal Reference:

EDUCATION CODE

51550	Prohibited instruction or activity
51510	Prohibited study or supplemental materials
51511	Religious matters included in courses of study
51530	Prohibition and definition re advocating or teaching communism with intent to indoctrinate
51550	Sex education courses
60040	Portrayal of cultural and racial diversity
60044	Prohibited instructional materials
60045	Required to be accurate, objective, current, and suited to needs and comprehension at respective grade levels

Policy
Adopted: 2/19/91
Revised: 4/16/96

CHULA VISTA ELEMENTARY SCHOOL DISTRICT
Chula Vista, California

Instruction

PUBLIC CRITICISM OF INSTRUCTIONAL PROGRAMS/MATERIALS

Under the immediate direction of the Assistant Superintendent for Instructional Services and Support:

- I. A Review Committee shall be formed to review public criticism of the District's instructional program. This committee shall include but not be limited to:

The Coordinator, Instructional Media Services, a school library media teacher, a representative from the credentialed bargaining unit, a school psychologist, a principal, a parent representative from the District Advisory Council, and at least one parent at large from the community.

- II. Upon notification from anyone desiring to challenge any facet of the instructional program, the site administrator will:
 - A. Inform the complainant(s) of procedures to be followed;
 - B. Meet with the complainant(s) and, if appropriate, another staff member (i.e. library media teacher, language arts specialist, or classroom teacher) to discuss the purpose and relationship of the challenged material(s) to the curriculum;
 - C. If the complainant's concerns are not resolved, the principal shall request the complainant(s) to submit a Request for Reconsideration of Instruction or Educational Materials (Form A, attached);
 - D. Inform the Assistant Superintendent, Instructional Services of the impending challenge;
 - E. Mail or deliver Form A to the Assistant Superintendent, Instructional Services who will notify appropriate staff and committee members;
 - F. The challenged program/material shall remain in use during the reconsideration process.

Instruction

PUBLIC CRITICISM OF INSTRUCTIONAL PROGRAMS/MATERIALS (Continued)

- III. Within twenty (20) working days of receipt of the completed Form A:
- A. The Coordinator, Instructional Media Services, shall distribute to members of the Review Committee copies of Form A, appropriate related material and a copy of the challenged material(s) for their review;
 - B. The Coordinator, Instructional Media Services, shall convene the Review Committee and invite the complainant(s) and appropriate district staff to meet with the Committee for the orderly process of obtaining information and clarifying any questions the Committee might require;
 - C. The meeting date and time shall normally be within the usual working schedule of the district;
 - D. Complete the Review Committee's Checklist, (Form B, attached) judging the materials for its strength and value in relationship to the curriculum;
 - E. Present the completed Form B to the Assistant Superintendent, Instructional Services.
- IV. The Assistant Superintendent, Instructional Services, will present the written recommendation of the Review Committee to the Superintendent for review prior to notifying the complainant(s) of the Review Committee's recommendations. The Assistant Superintendent, Instructional Services, will report the Review Committee's recommendations and deliberations to the complainant(s) within ten (10) working days.
- V. If the complainant(s) is unwilling to accept the recommendations of the Review Committee, within ten (10) working days, a written request for an appointment with the Superintendent may be submitted. If the complainant(s) Form A challenge is not resolved by the Superintendent, the complainant(s) may request in writing within ten working days that the challenge be placed on an agenda for action at a regularly scheduled Board meeting. The decision of the Board of Education shall be final.

Exhibits attached.

Regulation
Approved: 2/19/91
Revised: 8/10/93
Reviewed: 4/16/96

CHULA VISTA ELEMENTARY SCHOOL DISTRICT
Chula Vista, California

FORM A

**REQUEST FOR RECONSIDERATION OF INSTRUCTIONAL
PROGRAM/ MATERIAL**

Name_____Telephone_____

Address_____

City_____Zip_____

School_____

Date you reviewed material in its entirety_____

I have met with the principal and appropriate staff regarding my concerns prior to
submitting this form YES_____DATE_____NO_____

Name/Title of Program or Material challenged_____

Author_____

The following questions are to be answered after you have read, viewed,
listened to, or observed the program/material in its entirety. If sufficient space is
not provided, attach additional sheets. (Please sign your name to each
additional attachment.)

1. To what in the program/material do you specifically object? (Please cite
pages, etc.)

2. What do you believe is the purpose or theme of this program/material?

**REQUEST FOR RECONSIDERATION OF INSTRUCTIONAL
PROGRAM/ MATERIAL (continued)**

3. Why do you believe the program/material is inappropriate for use in the classroom?

4. What do you believe might result from the continued use of this program/material?

5. Are there any conditions under which you believe this program/material might be used with value to the instructional program?

6. What suggestions would you offer regarding this program/material?

_____ Signed _____

Date _____

Exhibit

Approved: 02/19/91

Revised: 8/10/93

Reviewed: 4/16/96

CHULA VISTA ELEMENTARY SCHOOL DISTRICT
Chula Vista, California

FORM B

**CHECKLIST FOR REVIEW COMMITTEE'S RECONSIDERATION OF
INSTRUCTIONAL PROGRAM/ MATERIAL**

Program Name _____

or

Title of Material _____

Author _____

I. PURPOSE

1. Purpose of this material:

Is the purpose accomplished?

Yes _____ No _____

2. Background and reputation of the author/producer of this program/material:

Is information well documented and up-to-date?

Yes _____ No _____

II. APPROPRIATENESS

1. Does the program/material promote the educational goals of the curriculum?

Yes _____ No _____

2. Is the program/material appropriate to the level of instruction intended?

Yes _____ No _____

**CHECKLIST FOR REVIEW COMMITTEE'S RECONSIDERATION OF
INSTRUCTIONAL PROGRAM/MATERIAL (continued)**

III. CONTENT

1. Is the content of this program/material well presented by providing adequate scope, range, depth, and continuity?

Yes _____ No _____

2. Does this program/material present information not otherwise available?

Yes _____ No _____

IV. REVIEWS (If applicable)

V. ADDITIONAL COMMENTS

VI. RECOMMENDATION OF REVIEW COMMITTEE REGARDING
CHALLENGED PROGRAM/MATERIAL

SIGNATURES

DATE

Exhibit

Approved: 2/19/91

Revised: 8/10/93

Reviewed: 4/16/96

CHULA VISTA ELEMENTARY SCHOOL DISTRICT
Chula Vista, California

Community Relations

UNIFORM COMPLAINT PROCEDURE

The Governing Board recognizes that the District has primary responsibility for ensuring that it complies with state and federal laws and regulations governing educational programs. The District shall investigate and seek to resolve complaints at the local level. The District shall follow uniform complaint procedures when addressing complaints alleging unlawful discrimination/gender equity or failure to comply with state or federal law in the following programs: consolidated categorical aid, migrant education, child care and development, child nutrition, and special education.

The Superintendent or her/his designee shall ensure that employees designated to receive and 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 her/his designee.

An investigation of each complaint shall include all relevant information presented by the complainant, or the complainant's representative, or both, and Local Education Agency (LEA) representatives. The complainant or representative shall have the opportunity to question any involved parties.

Complaints concerning Special Education programs shall be addressed in accordance with the regulations and procedures developed jointly with the Special Education Local Plan Area (SELPA).

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

The Board acknowledges and respects student 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.

The Board recognizes that a neutral mediator can often suggest an early compromise that is agreeable to all parties in a dispute. 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 his/her designee shall ensure that mediation results are consistent with state and federal laws and regulations.

Community Relations

UNIFORM COMPLAINT PROCEDURE (continued)

Legal Reference:

EDUCATION CODE

- 200-262.3 Prohibition of discrimination
- 8200-8498 Child care and development programs
- 33031 Governing Board rules and regulations published
- 35146 Closed sessions
- 35160.5 Requirement of school district policies: parental complaints re: employees
- 48431.6 Academic progress and counseling review program
- 48985 Notices in language other than English
- 49060-49079 Student records
- 49490-49590 Child nutrition programs
- 52000-52049.1 School improvement programs
- 52160-52178 Bilingual education programs
- 52800-52870 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
- 60650 Personal beliefs
- 62000-62005.5 Evaluation and sunseting of programs
- 64000-64001 Consolidated application process
- CODE OF REGULATIONS, TITLE 5
- 3080 Application of section
- 4600-4671 Uniform complaint procedures
- 4900-4965 Nondiscrimination in elementary and secondary education programs receiving state financial assistance
- PENAL CODE
- 422.6 Interference with constitutional right or privilege

Management Resources:

WEB SITES

- CDE: <http://www.cde.ca.gov>
- U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/offices/OCR>

Policy

Adopted: 11/13/90

Revised: 04/16/96

CHULA VISTA ELEMENTARY SCHOOL DISTRICT

Chula Vista, California

Community Relations

UNIFORM COMPLAINT PROCEDURE

Compliance Officers

The Governing Board designates the following administrative designee to serve as compliance officer to receive and investigate complaints relative to programs contained in this policy and ensure District compliance with the law:

Name & Title: Assistant Superintendent, Instructional Services and Support
Chula Vista Elementary School District
84 East "J" Street
Chula Vista, CA 91910
(619) 425-9600

Notifications

The Superintendent or her/his designee shall meet the notification requirements of the Code of Regulations, Title 5, Section 4622, including the annual dissemination to students, employees, parents or guardians, District/school advisory committees, and interested parties of District complaint procedures and information about available appeals, civil law remedies, and conditions under which a complaint may be taken directly to the California Department of Education (CDE).

Procedures

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. The administrative designee shall maintain a record of each complaint and subsequent related actions, including all information required for compliance with the Code of Regulations, Title 5, Section 4632:

The District will use its uniform complaint procedures when addressing all complaints regarding gender equity.

Investigations of discrimination complaints shall be conducted in a manner that protects confidentiality of the parties and the facts (Title 5, Section 4630).

Community Relations

UNIFORM COMPLAINT PROCEDURE (continued)

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.

Step 1: Filing of Complaint

Any individual, public agency, or organization may file a written complaint of alleged noncompliance with the appropriate compliance officer designated above.

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

The complaint shall be presented to the Superintendent or designee, who will then give it to the appropriate compliance officer. The Superintendent or designee will maintain a log of complaints received, providing each with a code number and a date stamp.

Complaints alleging unlawful discrimination or gender bias may be filed 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 unlawful discrimination. The complaint must be initiated no later than six months from the date when the alleged discrimination occurred or when the complainant first obtained knowledge of the facts of the alleged discrimination (Title 5, Section 4630).

Step 2: Mediation

Within five days of receiving the complaint, the compliance officer shall informally discuss with the complainant the possibility of using mediation. If all parties agree to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a discrimination complaint, the compliance officer shall ensure that all parties agree to make the mediator a party to related confidential information.

Community Relations

UNIFORM COMPLAINT PROCEDURE (continued)

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 time lines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time.

Step 3: Investigation of Complaint

The compliance officer shall hold an investigative meeting within five days of receiving the complaint or attempting to mediate the complaint. This meeting shall provide an opportunity for the complainant and/or his/her representative and the District's representatives to present information relevant to the complaint. Parties to the dispute may discuss the complaint and question each other or each other's witnesses (Title 5, Section 4631).

To ensure that all pertinent facts are made available, the compliance officer and the complainant may ask other individuals to attend this meeting and provide additional information.

Step 4: Response

Within 20 days of receiving the complaint, the compliance officer shall prepare and send to the complainant, and upon request, to the CDE and disposition of the complainant, a written report of the District's findings as described in Step 5 below.

Step 5: Final Written Decision

The report of the District's decision shall be written in English and in the language of the complainant whenever feasible or required by law. If it is not feasible to write this report in the complainant's primary language, the District will arrange a meeting at which a community member will interpret it for the complainant.

Community Relations

UNIFORM COMPLAINT PROCEDURE (continued)

This report shall include:

1. The findings and disposition of the complaint, including corrective actions, if any;
2. The rationale for the above disposition;
3. Notice of the complainant's right to appeal the decision to the California Department of Education, and procedures to be followed for initiating such an appeal.

Appeal to the Governing Board

If a complainant is dissatisfied with the administrative designee's decision he/she may, within five days, file his/her complaint in writing with the Governing Board. 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-day time limit within which the complaint must be answered. The Board may decide not to hear the complaint, in which case the decision of the compliance officer shall be the District's final written decision. 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 initially receiving the complaint or within an extended time period that has been specified in a written agreement with the complainant.

Appeals to the California Department of Education

If a complainant is dissatisfied with the District's decision, the complainant will be given notice regarding his/her right to appeal in writing to the California Department of Education within 15 days of receiving the District's decision. For good cause, the State Superintendent of Public Instruction may grant an extension of filing appeals.

When appealing the California Department of Education, the complainant must specify the reason(s) for appealing the District's decision and must include a copy of the locally filed complaint and the District's decision (Title 5, Section 4652).

If dissatisfied with the California Department of Education's resolution of a complaint regarding a Title 1 program, the complainant may request its review by the U.S. Secretary of Education (34 Code of Federal Regulations).

Community Relations

UNIFORM COMPLAINT PROCEDURE (continued)

Basis of Direct State Intervention

California Administrative Code, Title 5, Section 4650, provides for direct intervention into complaints by the California State Superintendent of Public Instruction, without waiting for local school district action if one or more of the following conditions exist:

1. The complaint includes an allegation, and the Department verifies, that a local educational agency failed to comply with the complaint procedures required by this policy;
2. Discrimination is alleged by the complainant and the facts alleged indicate that the complainant will suffer an immediate loss of some benefit such as employment or education if the Department does not intervene. However, nothing in this section gives the Department jurisdiction over employment discrimination claims;
3. The complaint relates to agencies other than local educational agencies funded through the Child Development and Child Nutrition Programs;
4. The complainant requests anonymity and presents clear and convincing evidence and the Department verifies that he/she would be in danger of retaliation if a complaint were filed locally, or has been retaliated against because of past or present complaints;
5. The complainant alleges that the local educational agency failed or refused to implement the final decision resulting from its local investigation or local mediation agreement;
6. The local agency refuses to respond to the California State Superintendent's request for information regarding a complaint;
7. The complainant alleges and the California Department of Education verifies, or the Department has information that no action has been taken by the local educational agency within 60 calendar days of the date the complaint was filed locally;

Community Relations

UNIFORM COMPLAINT PROCEDURE (continued)

8. For complaints relating to Special Education, the following shall also be conditions for direct State intervention:
 - a. The complainant alleges that a public agency, other than a local educational agency, as specified in Government Code Section 7570 et seq., fails or refuses to comply with an applicable law or regulation relating to the provision of free appropriate public education to handicapped individuals;
 - b. The complainant alleges that the local educational agency or public agency fails or refuses to comply with the due process procedures established pursuant to Federal and State laws and regulations; or has failed or refused to implement a due process hearing order;
 - c. The complainant alleges facts that indicate that the child or group of children may be in immediate physical danger or that the health, safety, or welfare of a child or group of children is threatened;
 - d. The complainant alleges that a handicapped pupil is not receiving the Special Education or related services specified in his/her Individualized Educational Program (IEP);
 - e. The complaint involves a violation of Federal law governing Special Education, 20 U.S.C. Section 1400 et seq., or its implementing regulations. The complaint shall identify upon basis of the section that direct filing to the California Department of Education is being made.

Referring Complaint Issues to Appropriate State Or Federal Agencies

California Administrative Code, Title 5, Section 4611, mandates that the complaints listed below shall be referred to the specified agencies for appropriate resolution and are not subject to the local and California Department of Education's complaint procedures as set forth in this policy unless these procedures are made applicable by separate interagency agreements:

Community Relations

UNIFORM COMPLAINT PROCEDURE (continued)

1. Allegations of child abuse shall be referred to the applicable County Department of Social Services (DSS), Protective Services Division or appropriate law enforcement agency (CAC Section 4650).
2. Health and safety complaints regarding a Child Development Program shall be referred to Department of Social Services for licensed facilities, and to the appropriate Child Development regional administrator for licensing exempt facilities.
3. Discrimination issues involving Child Nutrition Programs of Title IX of the Educational Amendments of 1972 shall be referred to the U.S. Office of Civil Rights (OCR). Title IX complainants will only be referred to the OCR if there is not State discrimination law or regulation at issue. Unless otherwise negotiated through a memorandum of understanding/agreement, a preliminary inquiry and/or investigation concerning these complaints will be conducted by OCR. The complainant shall be notified by certified mail if his/her complaint is transferred to OCR by the State Superintendent of Public Instruction.
4. Employment discrimination complaints shall be sent to the State Department of Fair Employment and Housing (DFEH) pursuant to Title 22, CCR, Section 98410. The complainant shall be notified by certified mail of any DFEH transferal.
5. Allegations of fraud shall be referred to the responsible Department Division Director and the Department's Legal Office.

TIMELINE CHART OF UNIFORM COMPLAINT PROCESS

TIMELINES Within 60 days

1. LEA initiates an investigation or mediation process if agreeable to all parties.

3. Within five (5) calendar days of receiving complaint

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2. Written decision is sent to complainant within twenty (20) calendar days by certified mail and includes:

- Findings and disposition of complaint (any corrective actions)
- Rationale for disposition
- Right to appeal to Board and how to appeal

3. Appeal Compliance Officer's decision to Board in writing.

- Within five (5) calendar days of receiving written decision.
- Board decides:
 - A. NOT to hear appeal – decision stands
– complainant may appeal to SDE
 - B. To hear appeal in closed session – responds in writing to complainant

15 Days

4. Appeal to the State Department of Education (SDE) within fifteen (15) calendar days of receiving District's decision.

60 Days

5. The SDE has sixty (60) calendar days to decide whether to uphold the District decision or proceed to a state level investigation.

Community Relations

WILLIAMS UNIFORM COMPLAINT PROCEDURES

Types of Complaints

The District shall use the following procedures to investigate and resolve complaints when the complainant alleges that any of the following has occurred: (Education Code 35186; 5 CCR 4681, 4682, 4683)

1. Textbooks and instructional materials
 - a. A pupil, including an English Learner, does not have standards-aligned textbooks or instructional materials or state- or District-adopted textbooks or other required instructional materials to use in class.
 - b. A pupil does not have access to textbooks or instructional materials to use at home or after school.
 - c. Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.

(cf. 6161.1 - Selection and Evaluation of Instructional Materials)

2. Teacher vacancy or misassignment
 - a. A semester begins and a teacher vacancy exists.
 - b. 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.
 - c. A teacher is assigned to teach a class for which the teacher lacks subject matter competency.

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 the semester for an entire semester. (Education Code 35186; 5 CCR 4600)

Community Relations

WILLIAMS UNIFORM COMPLAINT PROCEDURES (continued)

Beginning of the year or semester means the first day classes necessary to serve all the pupils enrolled are established with a single designated certificated employee assigned for the duration of the class, but not later than 20 working days after the first day pupils attend classes for that semester. (5 CCR 4600)

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. (Education Code 35186; 5 CCR 4600)

(cf. 4112.2 - Certification)

(cf. 4113 - Assignment)

3. Facilities

- a. A condition poses an emergency or urgent threat to the health or safety of pupils or staff.

Emergency or urgent threat means structures or systems that are in a condition that poses a threat to the health and safety of pupils or staff while at school, including, but not limited to, 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; or structural damage creating a hazardous or uninhabitable condition. (Education Code 17592.72)

- b. A school restroom has not been cleaned, maintained, or kept open in accordance with Education Code 35292.5.

Clean or maintained school restroom means a school restroom has been cleaned or maintained regularly, is fully operational, or has been stocked at all times with toilet paper, soap, and paper towels or functional hand dryers. (Education Code 35292.5)

Community Relations

WILLIAMS UNIFORM COMPLAINT PROCEDURES (continued)

Open restroom means, except as necessary for pupil safety or to make repairs, the school has kept all restrooms open during school hours when pupils are not in classes and has kept a sufficient number of restrooms open during school hours when pupils are in classes. (Education Code 35292.5)

Filing of Complaint

A complaint alleging any condition(s) specified in items #1-3 above shall be filed with the principal or designee at the school in which the complaint arises. The principal or designee shall forward a complaint about problems beyond his/her authority to the Superintendent or designee in a timely manner, but not to exceed 10 working days. (Education Code 35186; 5 CCR 4680)

A complaint alleging any deficiency specified in item #4 above shall be filed with a district official designated by the Superintendent. Such complaints may be filed at the district office or at a school site and shall be immediately forwarded to the Superintendent or designee. (Education Code 35186)

Investigation and Response

The principal or designee shall make all reasonable efforts to investigate any problem within his/her authority. He/she shall remedy a valid complaint within a reasonable time period not to exceed 30 working days from the date the complaint was received. (Education Code 35186; 5 CCR 4685)

Complaints may be filed anonymously. If the complainant has indicated on the complaint form that he/she would like a response to the complaint, the principal or designee shall report the resolution of the complaint to him/her within 45 working days of the initial filing of the complaint. If a response is requested, the response shall be made to the mailing address of the complainant as indicated on the complaint form. At the same time, the principal or designee shall report the same information to the Superintendent or designee. (Education Code 35186; 5 CCR 4680, 4685)

When Education Code 48985 is applicable and the complainant has requested a response, the response shall be written in English and in the primary language in which the complaint was filed. (Education Code 35186)

Community Relations

WILLIAMS UNIFORM COMPLAINT PROCEDURES (continued)

If a complainant is not satisfied with the resolution of a complaint, he/she has the right to describe the complaint to the Governing Board at a regularly scheduled meeting. (Education Code 35186; 5 CCR 4686)

For any complaint concerning a facilities condition that poses an emergency or urgent threat to the health or safety of pupils or staff as described in item #3a above, a complainant who is not satisfied with the resolution proffered by the principal or Superintendent or designee may file an appeal to the Superintendent of Public Instruction within 15 days of receiving the district's response. The complainant shall comply with the appeal requirements specified in 5 CCR 4632. (Education Code 35186; 5 CCR 4687)

All complaints and written responses shall be public records. (Education Code 35186; 5 CCR 4686)

(cf. 1340 - Access to District Records)

Reports

The Superintendent or designee shall report summarized data on the nature and resolution of all complaints to the Board and the County Superintendent of Schools on a quarterly basis. The report shall include the number of complaints by general subject area with the number of resolved and unresolved complaints. These summaries shall be publicly reported on a quarterly basis at a regularly scheduled Board meeting. (Education Code 35186; 5 CCR 4686)

Forms and Notices

The Superintendent or designee shall ensure that the district's complaint form contains a space to indicate whether the complainant desires a response to his/her complaint and specifies the location for filing a complaint. A complainant may add as much text to explain the complaint as he/she wishes. However, complainants need not use the district's Williams complaint form in order to file a complaint. (Education Code 35186)

The Superintendent or designee shall ensure that a notice is posted in each classroom in each school containing the components specified in Education code 35186.

Community Relations

WILLIAMS UNIFORM COMPLAINT PROCEDURES (continued)

Legal Reference:

EDUCATION CODE

- 1240 County superintendent of schools, duties
 - 17592.72 Urgent or emergency repairs, School Facility Emergency Repair Account
 - 33126 School accountability report card
 - 35186 Williams uniform complaint procedure
 - 35292.5 Restrooms, maintenance and cleanliness
 - 37254 Supplemental instruction based on failure to pass exit exam by end of grade 12
 - 48985 Notice to parents in language other than English
 - 60119 Hearing on sufficiency of instructional materials
- CODE OF REGULATIONS, TITLE 5
- 4600-4687 Uniform complaint procedures, especially:
 - 4680-4687 Williams complaints

Management Resources:

WEB SITES

- CSBA: <http://www.csba.org>
- California County Superintendents Educational Services Association: <http://www.ccesa.org>
- California Department of Education, Williams case: <http://www.cde.ca.gov/eo/ce/wc/index.asp>
- State Allocation Board, Office of Public School Construction: <http://www.opsc.dgs.ca.gov>

Policy
Adopted: 12/14/10

CHULA VISTA ELEMENTARY SCHOOL DISTRICT
Chula Vista, California

Chula Vista Elementary School District Uniform Complaint Procedures

Williams Settlement Form

For Education Code Section 35186 Complaints

Education Code 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: _____

Phone Number: (Optional) Day: _____ Evening: _____

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, instructional materials, 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, ventilating, 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 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 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.

Chula Vista Elementary School District Uniform Complaint Procedures
Williams Settlement Form (continued)

- 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: _____

Please describe the issue of your complaint in detail. You may attach additional pages if necessary to fully describe the situation.

Please file this complaint form at your child's school or at the District's Operations and Instruction Services and Support Office located at 84 East "J" Street, Chula Vista, CA 91910.

COMPLAINT DECLARATION FORM

Nature of the complaint:

Please select the appropriate complaint procedure:

- _____ 1312.1 Complaints Concerning School Personnel
To be used when complaints are filed against District personnel.
- _____ 1312.2 Complaints Concerning Instructional Materials
To be used when parents and community have concerns about instructional materials.
- _____ 1312.3 Uniform Complaint Procedure
To be used when complaints focus on specific programs; i.e., Special Education, Title I, etc. or alleged acts of gender bias or discrimination against an individual or specific class of individuals.

I have received a copy of the selected Board policy and wish to pursue complaints as prescribed.

Complainant _____ Date _____

Superintendent or Designee _____ Date _____