



calanes Union High School District

1212 Pleasant Hill Road, Lafayette, CA 94549

www.acalanes.k12.ca.us

925-280-3900 ♦ Fax 925-280-3903

CONTINUOUS NON-DISCRIMINATION NOTICE

The Acalanes Union High School District does not discriminate on the basis of race, color, national origin, sex, or disability or affiliation with the Boy Scouts of America and other designated youth groups or any other basis protected by law or regulation, in its educational program(s) or employment. The following employees have been designated to handle questions and complaints of alleged discrimination:

Amy McNamara, Title IX Coordinator, 1212 Pleasant Hill Road, Lafayette, CA 94549, 925-280-3900, amcnamara@auhsdschools.org.

Leigh Gregory, 504 Coordinator, 1212 Pleasant Hill Road, Lafayette, CA 94549, 925-280-3900, lgregory@auhsdschools.org.

John Walker, Title II Coordinator, 1212 Pleasant Hill Road, Lafayette, CA 94549, 925-280-3900, jwalker@auhsdschools.org.

The following sample notice of nondiscrimination meets the minimum requirements of the 2024 amendments:

The Acalanes Union High School District does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX and its regulations, including in admission and employment.

Inquiries about Title IX may be referred to the Acalanes Union High School District's Title IX Coordinator, the U.S. Department of Education's Office for Civil Rights, or both.

AUHSD's Title IX Coordinator is Amy McNamara, 1212 Pleasant Hill Road, Lafayette, CA 94549, 925-280-3900, amcnamara@auhsdschools.org.

The Acalanes Union High School District's nondiscrimination policy and grievance procedures can be located at the following webpage: [AUHSD Nondiscrimination policy and Grievance Procedures](#).

To report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX, please refer to the [AUHSD Nondiscrimination policy and Grievance Procedures](#) on the AUHSD website.

CTE ANNUAL PUBLIC NOTIFICATION

The Acalanes Union High School District does not discriminate on the basis of race, color, national origin, sex, or disability, or any other basis protected by law or regulation in its

program or activities and provides equal access to the Boy Scouts of America and other designated youth groups.

The Acalanes Union High School District offers classes in many career and technical education (CTE) program areas including Technology, Arts, Media & Entertainment, Public Service, Child Development, Agriculture, Manufacturing, Health & Human Services, and Transportation under its open admissions policy. For more information about CTE course offerings and admissions criteria, contact the CTE Director: John Walker, Associate Superintendent, 1212 Pleasant Hill Road, Lafayette, CA 94549, 925-280-3900, jwalker@auhsdschools.org.

Lack of English language proficiency will not be a barrier to admission and participation in career and technical education programs. The following people have been designated to handle inquiries regarding the nondiscrimination policies:

If you, or your student, have been subjected to discrimination, you should contact your school site principal and/or:

Title IX Coordinator – Amy McNamara, Title IX Coordinator, 1212 Pleasant Hill Road, Lafayette, CA 94549, 925-280-3900, amcnamara@auhsdschools.org.

Title II / ADA Coordinator -- John Walker, Title II Coordinator, 1212 Pleasant Hill Road, Lafayette, CA 94549, 925-280-3900, jwalker@auhsdschools.org.

Section 504 Coordinator – Leigh Gregory, 504 Coordinator, 1212 Pleasant Hill Road, Lafayette, CA 94549, 925-280-3900, lgregory@auhsdschools.org.

TITLE IX FINAL RULE SEXUAL HARASSMENT COMPLAINT PROCEDURES

STUDENTS Administrative Regulation (AR) 5145.71 Title IX Sexual Harassment Complaint Procedures

The complaint procedures described in this administrative regulation shall be used to address any complaint governed by Title IX of the Education Amendments of 1972 alleging that a student, while in an education program or activity in which a district school exercises substantial control over the context and respondent, was subjected to one or more of the following forms of sexual harassment: (34 CFR 106.30, 106.44)

1. A district employee conditioning the provision of a district aid, benefit, or service on the student's participation in unwelcome sexual conduct

2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a student equal access to the district's education program or activity
3. Sexual assault, dating violence, domestic violence, or stalking defined as follows:
 - Forcible sexual assault includes any sexual act directed against a student, forcibly, against the student's will, or without consent, including rape, sodomy, sexual assault with an object, and fondling. (See 20 USC 1092(f)(6)(A)(v).)
 - Non-forcible sexual assault includes offenses that do not involve force where the student is incapable of giving consent, including statutory rape and incest. (See 20 USC 1092(f)(6)(A)(v).)
 - Dating violence includes violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the student, where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship and/or the frequency of interaction between the persons involved in the relationship. (See 34 USC 12291(a)(10).)
 - Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the student. (See 34 USC 12291(a)(8).)
 - Stalking which includes engaging in a course of conduct directed at a student that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress. (See 34 USC 12291(a)(30).)

All other sexual harassment complaints or allegations brought by or on behalf of students shall be investigated and resolved in accordance with BP/AR 1312.3 - Uniform Complaint Procedures and BP/AR 5145.7 Sexual Harassment. The determination of whether the allegations meet the definition of sexual harassment under Title IX shall be made by the district's Title IX Coordinator.

Because the complainant has a right to pursue a complaint under BP/AR 1312.3 for any allegation that is dismissed or denied under the Title IX complaint procedure, the Title IX Coordinator shall ensure that all requirements and timelines for BP/AR 1312.3 and 5145.7 are concurrently met while implementing the Title IX procedure.

Reporting Allegations/Filing a Formal Complaint

A student who is the alleged victim of sexual harassment or the student's parent/guardian may submit a report of sexual harassment to the district's Title IX Coordinator using the contact information listed in AR 5145.7 - Sexual Harassment or to any other available school employee, who shall forward the report to the Title IX Coordinator within one day of receiving the report.

Title IX Coordinator: Amy McNamara

Address: 1212 Pleasant Hill Road, Lafayette, CA 94549

Phone: 925-280-3900

(cf. 5145.7 - Sexual Harassment)

Upon receiving such a report, the Title IX Coordinator shall inform the complainant of the right to file a formal complaint and the process for filing a formal complaint. (34 CFR 106.44)

A formal complaint, with the complainant's physical or digital signature, may be filed with the Title IX Coordinator in person, by mail, by email, or by any other method authorized by the district. (34 CFR 106.30)

Even if the alleged victim chooses not to file a formal complaint, the Title IX Coordinator shall file a formal complaint in situations when a safety threat exists. In addition, the Title IX Coordinator may file a formal complaint in other situations as permitted under the Title IX regulations, including as part of the district's obligation to not be deliberately indifferent to known allegations of sexual harassment. In such cases, the Title IX Coordinator shall provide the alleged victim notices as required by the Title IX regulations at specific points in the complaint process.

The Title IX Coordinator, investigator, decision-maker, or a facilitator of an informal resolution process shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Such persons shall receive training in accordance with 34 CFR 106.45. (34 CFR 106.45)

Supportive Measures

Upon receipt of a report of Title IX sexual harassment, the Title IX Coordinator shall promptly contact the complainant to discuss the availability of supportive measures and shall consider the complainant's wishes with respect to the supportive measures implemented. Supportive measures shall be offered as appropriate, as reasonably available, and without charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures shall be non-disciplinary, nonpunitive, and designed to restore or preserve equal access to the district's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the district's educational environment or to deter sexual harassment.

Supportive measures may include, but are not limited to, counseling, course-related adjustments, modifications of class schedules, mutual restrictions on contact, increased security, and monitoring of certain areas of the campus. (34 CFR 106.30, 106.44)

The district shall maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the district's ability to provide the supportive measures. (34 CFR 106.30)

Emergency Removal from School

A student shall not be disciplined for alleged sexual harassment under Title IX until the investigation has been completed. However, on an emergency basis, the district may remove a student from the district's education program or activity, provided that the district conducts an individualized safety and risk analysis, determines that removal is justified due to an immediate threat to the physical health or safety of

any student or other individual arising from the allegations, and provides the student with notice and an opportunity to challenge the decision immediately following the removal. This authority to remove a student does not modify a student's rights under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973. (34 CFR 106.44)

If a district employee is the respondent, the employee may be placed on administrative leave during the pendency of the formal complaint process. (34 CFR 106.44)

Dismissal of Complaint

The Title IX Coordinator shall dismiss a formal complaint if the alleged conduct would not constitute sexual harassment as defined in 34 CFR 106.30 even if proved. The Title IX Coordinator shall also dismiss any complaint in which the alleged conduct did not occur in the district's education program or activity or did not occur against a person in the United States, and may dismiss a formal complaint if the complainant notifies the district in writing that the complainant would like to withdraw the complaint or any allegations in the complaint, the respondent is no longer enrolled or employed by the district, or sufficient circumstances prevent the district from gathering evidence sufficient to reach a determination with regard to the complaint. (34 CFR 106.45)

Upon dismissal, the Title IX Coordinator shall promptly send written notice of the dismissal and the reasons for the dismissal simultaneously to the parties, and shall inform them of their right to appeal the dismissal of a formal complaint or any allegation in the complaint in accordance with the appeal procedures described in the section "Appeals" below. (34 CFR 106.45)

If a complaint is dismissed, the conduct may still be addressed pursuant to BP/AR 1312.3 - Uniform Complaint Procedures as applicable.

(cf. 1312.1- Complaints Concerning District Employees)

Informal Resolution Process

When a formal complaint of sexual harassment is filed, the district may offer an informal resolution process, such as mediation, at any time prior to reaching a determination regarding responsibility. The district shall not require a party to participate in the informal resolution process or to waive the right to an investigation and adjudication of a formal complaint. (34 CFR 106.45)

The district may facilitate an informal resolution process provided that the district: (34 CFR 106.45)

1. Provides the parties with written notice disclosing the allegations, the requirements of the informal resolution process, the right to withdraw from the informal process and resume the formal complaint process, and any consequences resulting from participating in the informal resolution process, including that records will be maintained or could be shared.
2. Obtains the parties' voluntary, written consent to the informal resolution process
3. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student

Written Notice

If a formal complaint is filed, the Title IX Coordinator shall provide the known parties with written notice of the following: (34 CFR 106.45)

The district's formal Title IX complaint process, including any informal resolution process

1. The allegations potentially constituting sexual harassment with sufficient details known at the time, including the identity of parties involved in the incident if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident if known. Such notice shall be provided with sufficient time for the parties to prepare a response before any initial interview.

If, during the course of the investigation, new Title IX allegations arise about the complainant or respondent that are not included in the initial notice, the Title IX Coordinator shall provide notice of the additional allegations to the parties.

2. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the complaint process
3. The opportunity for the parties to have an advisor of their choice who may be, but is not required to be, an attorney, and the ability to inspect and review evidence
4. The prohibition against knowingly making false statements or knowingly submitting false information during the complaint process

The above notice shall also include the name of the investigator, facilitator of an informal process, and decision-maker and shall inform the parties that, if at any time a party has concerns regarding conflict of interest or bias regarding any of these persons, the party should immediately notify the Title IX Coordinator.

Investigation Procedures

During the investigation process, the district's designated investigator shall: (34 CFR 106.45)

1. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence
2. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence
3. Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney
4. Not limit the choice or presence of an advisor for either the complainant or respondent in any meeting or grievance proceeding, although the district may establish restrictions regarding the extent to which the advisor may participate in the proceedings as long as the restrictions apply equally to both parties
5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings, with sufficient time for the party to prepare to participate
6. Send in an electronic format or hard copy to both parties and their advisors, if any, any evidence that is obtained as part of the investigation that is directly

related to the allegations raised in the complaint, including the evidence upon which the district does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence obtained by a party or other source, so that each party can meaningfully respond to the evidence, and provide the parties at least 10 days to submit a written response for the investigator to consider prior to the completion of the investigative report

7. Objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence, and determine credibility in a manner that is not based on a person's status as a complainant, respondent, or witness
8. Create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to the determination of responsibility, send to the parties and their advisors, if any, the investigative report in an electronic format or a hard copy, for their review and written response
9. After sending the investigative report to the parties for review and before a decision-maker reaches a determination regarding responsibility, the decision-maker must afford each party the opportunity to submit written, relevant questions that the party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence are offered to prove that someone other than the respondent committed the conduct alleged by the complainant or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. (34 CFR 106.45)

The District shall maintain confidentiality and privacy rights of all parties to the complaint in accordance with applicable state and federal laws, except as may be permitted or required by law or to carry out the purposes of this formal Title IX complaint process.

If the complaint is against an employee, rights conferred under an applicable collective bargaining agreement shall be applied to the extent they do not conflict with the Title IX requirements.

Written Decision

The Superintendent shall designate an employee as the decision-maker to determine responsibility for the alleged conduct, who shall not be the Title IX Coordinator or a person involved in the investigation of the matter. (34 CFR 106.45)

After the investigative report has been sent to the parties but before reaching a determination regarding responsibility, the decision-maker shall afford each party the opportunity to submit written, relevant questions that the party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party

The decision-maker shall issue, and simultaneously provide to both parties, a written decision as to whether the respondent is responsible for the alleged conduct. (34 CFR 106.45)

The written decision shall be issued within 60 calendar days of the receipt of the complaint. The timeline may be temporarily extended for good cause with written notice to the complainant and respondent of the extension and the reasons for the action. (34 CFR 106.45)

In making this determination, the decision-maker shall use the "preponderance of the evidence" standard for all formal complaints of sexual harassment. The same standard of evidence shall be used for formal complaints against students as for complaints against employees. (34 CFR 106.45)

The written decision shall include the following: (34 CFR 106.45)

1. Identification of the allegations potentially constituting sexual harassment as defined in 34 CFR 106.30
2. A description of the procedural steps taken from receipt of the formal complaint through the written decision, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held if the district includes hearings as part of the grievance process.
3. Findings of fact supporting the determination
4. Conclusions regarding the application of the district's code of conduct or policies to the facts
5. A statement of, and rationale for, the result as to each allegation, including a decision regarding responsibility, any disciplinary sanctions the district imposes on the respondent, and whether remedies designed to restore or preserve equal access to the district's educational program or activity will be provided by the district to the complainant
6. The district's procedures and permissible bases for the complainant and respondent to appeal

Appeals

Either party may appeal the district's decision or dismissal of a formal complaint or any allegation in the complaint, if the party believes that a procedural irregularity affected the outcome, new evidence is available that could affect the outcome, or a conflict of interest or bias by the Title IX Coordinator, investigator(s), or decisionmaker(s) affected the outcome. If an appeal is filed, the district shall: (34 CFR

106.45)

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties
2. Ensure that the decision-maker(s) for the appeal is trained in accordance with 34 CFR 106.45 and is not the same decision-maker(s) who reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator
3. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome
4. Issue a written decision describing the result of the appeal and the rationale for the result
5. Provide the written decision simultaneously to both parties

An appeal must be filed in writing within 10 calendar days of receiving the notice of the decision or dismissal, stating the grounds for the appeal and including any relevant documentation in support of the appeal. Appeals submitted after this deadline are not timely and shall not be considered.

A written decision shall be provided to the parties within 20 calendar days from the receipt of the appeal.

The district's decision may be appealed to the California Department of Education within 30 days of the written decision in accordance with BP/AR 1312.3.

Either party has the right to file a complaint with the U.S. Department of Education's Office for Civil Rights within 180 days of the date of the most recently alleged misconduct.

The complainant shall be advised of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal antidiscrimination laws, if applicable.

Remedies

When a determination of responsibility for sexual harassment has been made against the respondent, the district shall provide remedies to the complainant. Such remedies may include the same individualized services described above in the section "Supportive Measures," but need not be nondisciplinary or nonpunitive and need not avoid burdening the respondent. (34 CFR 106.45)

Corrective/Disciplinary Actions

The district shall not impose any disciplinary sanctions or other actions against a respondent, other than supportive measures as described above in the section "Supportive Measures," until the complaint procedure has been completed and a determination of responsibility has been made. (34 CFR 106.44)

For students in grades 4-12, discipline for sexual harassment may include suspension and/or expulsion. After the completion of the complaint procedure, if it is determined that a student at any grade level has committed sexual assault or sexual battery at school or at a school activity off school grounds, the principal or Superintendent shall immediately suspend the student and shall recommend expulsion. This section does not apply to pupils enrolled in kindergarten and grades 1 to 3, inclusive. (Education Code 48900.2, 48915)

(cf. 5144 - Discipline)

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

Other actions that may be taken with a student who is determined to be responsible for sexual harassment include, but are not limited to:

1. Transfer from a class or school as permitted by law
2. Parent/guardian conference
3. Education of the student regarding the impact of the conduct on others

4. Positive behavior support
5. Referral of the student to a student success team

(cf. 6164.5 - Student Success Teams)

6. Denial of participation in extracurricular or cocurricular activities or other privileges as permitted by law

(cf. 6145 - Extracurricular and Cocurricular Activities)

When an employee is found to have committed sexual harassment or retaliation, the district shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

(cf. 4117.7/4317.7 - Employment Status Report) (cf. 4118 - Dismissal/Suspension/Disciplinary Action) (cf. 4119.11/4219.11/4319.11 - Sexual Harassment) (cf. 4218 - Dismissal/Suspension/Disciplinary Action)

Record-Keeping

The Superintendent or designee shall maintain, for a period of seven years: (34 CFR 106.45)

1. A record of all reported cases and Title IX investigations of sexual harassment, any determinations of responsibility, any audio or audiovisual recording and transcript if applicable, any disciplinary sanctions imposed, any remedies provided to the complainant, and any appeal or informal resolution and the results therefrom
2. A record of any actions, including supportive measures, taken in response to a report or formal complaint of sexual harassment, including the district's basis for its conclusion that its response was not deliberately indifferent, the measures taken that were designed to restore or preserve equal access to the education program or activity, and, if no supportive measures were provided to the complainant, the reasons that such a response was not unreasonable in light of the known circumstances
3. All materials used to train the Title IX Coordinator, investigator(s), decisionmaker(s), and any person who facilitates an informal resolution process. The district shall make such training materials publicly available on its web site, or if the district does not maintain a web site, available upon request by members of the public.

(cf. 1113 - District and School Web Sites) (cf. 3580 - District Records)

The [Acalanes Union High School District] Governing Board is committed to equal opportunity for all individuals in district programs and activities. District programs, activities, and practices shall be free from unlawful discrimination, including discrimination against an individual based on race, color, ancestry, nationality, national origin, immigration status, ethnic group identification, ethnicity, age, religion, marital status, pregnancy, childbirth, termination of pregnancy, or lactation, including related

medical conditions and recovery; parental, family or marital status, reproductive health decision-making, physical or mental disability, medical condition, sex, sex stereotypes, sex characteristics, sexual orientation, gender, gender identity, gender expression, veteran or military status, or genetic information; a perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics.

Policy 0410, Nondiscrimination in District Programs and Activities, Acalanes Union High School District

District adopted: Original Adoption 02/03/1998, Lafayette, CA

Last Revised: 10/17/2024

Last Reviewed: 10/17/2024

EMPLOYEE Administrative Regulation (AR) 4119.12, 4219.12, 4319.12

Title IX Sexual Harassment Complaint Procedures

The complaint procedures described in this administrative regulation shall be used to address any complaint governed by Title IX of the Education Amendments of 1972 alleging that a district employee was subjected to one or more of the following forms of sexual harassment: (34 CFR 106.30)

1. district employee conditioning the provision of a district aid, benefit, or service on a person's participation in unwelcome sexual conduct
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's education program or activity
3. Sexual assault, dating violence, domestic violence, or stalking on the basis of sex defined as follows:
 - Forcible Sexual Assault includes any sexual act directed against an employee, forcibly, against the employee's will, or without consent, including rape, sodomy, sexual assault with an object, and fondling. (See 20 USC 1092(f)(6)(A)(v))
 - Non-forcible Sexual Assault includes offenses that do not involve force where the employee is incapable of giving consent, including statutory rape and incest. (See 20 USC 1092(f)(6)(A)(v))
 - Dating Violence includes violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the employee, where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and/or the frequency of interaction between the persons involved in the relationship. (See 34 USC 12291(a)(10))
 - Domestic Violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the employee, a person with whom the employee shares a child in common, a person who is cohabitating with or has cohabitated with the employee as a

spouse or intimate partner, a person similarly situated to a spouse of the employee under the domestic or family violence laws of the jurisdiction receiving grant monies, or any other person against an adult or youth employee who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. (See 34 USC 12291(a)(8))

- Stalking, which includes engaging in a course of conduct directed at the employee that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress. (See 34 USC 12291(a)(8))

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

All other sexual harassment complaints shall be investigated and responded to pursuant to AR 4030 - Nondiscrimination in Employment.

(cf. 4030 - Nondiscrimination in Employment)

A report of sexual harassment shall be submitted directly to or forwarded to the district's Title IX Coordinator:

Title IX Coordinator: Amy McNamara

Address: 1212 Pleasant Hill Road, Lafayette, CA 94549

Phone: 925-280-3900

Email: amcnamara@auhsdschools.org

Upon receiving such a report, the Title IX Coordinator shall inform the complainant of the process for filing a formal complaint.

Even if the alleged victim chooses not to file a formal complaint, the Title IX Coordinator shall file a formal complaint in situations in which a safety threat exists. In addition, the Title IX Coordinator may file a formal complaint in other situations as permitted under the Title IX regulations. In such cases, the alleged victim is not a party to the case, but will receive notices as required by the Title IX regulations at specific points in the complaint process.

A formal complaint, with the complainant's physical or digital signature, may be filed with the Title IX Coordinator in person, by mail, by email, or by any other method authorized by the district. (34 CFR 106.30)

The Superintendent or designee shall ensure that the Title IX Coordinator, investigator, decision-maker, or a facilitator of an informal resolution process does not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent, and that such persons receive training in accordance with 34 CFR 106.45. (34 CFR 106.45)

Supportive Measures

Upon receipt of a report of Title IX sexual harassment, even if a formal complaint is not filed, the Title IX Coordinator shall promptly contact the complainant to discuss the availability of supportive measures which are nondisciplinary, nonpunitive, and do not unreasonably burden the other party. Such measures may include, but are not limited to, counseling, extensions of deadlines, modifications of work schedules, mutual restrictions on contact, changes in work locations, leaves of absence, increased security, and monitoring of certain areas of the campus. The Title IX Coordinator shall consider the complainant's wishes with respect to supportive measures. (34 CFR 106.30, 106.44)

Administrative Leave

If a district employee is the respondent, the employee may be placed on administrative leave during the pendency of the formal complaint process. (34 CFR 106.44(d))

If the respondent is a student, the district may, on an emergency basis, remove the student from the district's education program or activity, provided that the district conducts an individualized safety and risk analysis, determines that removal is justified due to an immediate threat to the physical health or safety of any student or other individual arising from the allegations, and provides the student with notice and an opportunity to challenge the decision immediately following the removal. This authority to remove a student does not modify a student's rights under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973. (34 CFR 106.44)

Dismissal of Complaint

The Title IX Coordinator shall dismiss a formal complaint if the alleged conduct would not constitute sexual harassment as defined in 34 CFR 106.30 even if proved. The Title IX Coordinator shall also dismiss any complaint that did not occur in the district's education program or activity or did not occur against a person in the United States, and may dismiss a formal complaint if the complainant notifies the district in writing that the complainant would like to withdraw the complaint or any allegations in the complaint, the respondent is no longer employed by the district, or sufficient circumstances prevent the district from gathering evidence sufficient to reach a determination with regard to the complaint. (34 CFR 106.45)

Upon dismissal, the Title IX Coordinator shall promptly, and simultaneously to the parties, send written notice of the dismissal and the reasons for the dismissal. (34 CFR 106.45)

If a complaint is dismissed on the grounds that the alleged conduct does not constitute sexual harassment as defined in 34 CFR 106.30, the conduct may still be addressed pursuant to AR 4030 - Nondiscrimination in Employment as applicable.

Informal Resolution Process

When a formal complaint of sexual harassment is filed, the district may offer an informal resolution process, such as mediation, at any time prior to reaching a determination regarding responsibility. The district shall not require a party to participate in the informal resolution process or to waive the right to an investigation and adjudication of a formal complaint. (34 CFR 106.45)

The district may facilitate an informal resolution process provided that the district: (34 CFR 106.45)

1. Provides the parties with written notice disclosing the allegations, the requirements of the informal resolution process, the right to withdraw from the informal process and resume the formal complaint process, and any consequences resulting from participating in the informal resolution process, including that records will be maintained or could be shared.
2. Obtains the parties' voluntary, written consent to the informal resolution process

Formal Complaint Process

If a formal complaint is filed, the Title IX Coordinator shall provide the known parties with written notice of the following: (34 CFR 106.45)

1. The district's Title IX complaint process, including any informal resolution process
2. The allegations potentially constituting sexual harassment with sufficient details known at the time, including the identity of parties involved in the incident if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident if known. Such notice shall be provided with sufficient time for the parties to prepare a response before any initial interview.

If, during the course of the investigation, the district investigates allegations about the complainant or respondent that are not included in the initial notice, the Title IX Coordinator shall provide notice of the additional allegations to the parties.

3. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the complaint process
4. The opportunity for the parties to have an advisor of their choice who may be, but is not required to be, an attorney, and the ability to inspect and review evidence
5. The prohibition against knowingly making false statements or knowingly submitting false information during the complaint process

The above notice shall also include the name of the investigator, facilitator of an informal process, and decision-maker and shall provide either party with no less than three calendar days to raise concerns of conflict of interest or bias regarding any of these persons.

During the investigation process, the district shall: (34 CFR 106.45)

Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence

Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence

1. Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney

2. Not limit the choice or presence of an advisor for either the complainant or respondent in any meeting or grievance proceeding, although the district may establish restrictions regarding the extent to which the advisor may participate in the proceedings as long as the restrictions apply equally to both parties
3. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings, with sufficient time for the party to prepare to participate
4. Send in an electronic format or hard copy to both parties and their advisors, if any, any evidence obtained as part of the investigation that is directly related to the allegations raised in the complaint, including the evidence upon which the district does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence obtained by a party or other source, so that each party can meaningfully respond to the evidence, and provide the parties at least 10 days to submit a written response for the investigator to consider prior to the completion of the investigative report
5. Objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence, and determine credibility in a manner that is not based on a person's status as a complainant, respondent, or witness
6. Create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to the determination of responsibility, send to the parties and their advisors, if any, the investigative report in an electronic format or a hard copy, for their review and written response.
7. After sending the investigative report to the parties for review and before a decision-maker reaches a determination regarding responsibility, the decision maker must afford each party the opportunity to submit written, relevant questions that the party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence are offered to prove that someone other than the respondent committed the conduct alleged by the complainant or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

The district shall maintain confidentiality and privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws, except as may be permitted or required by law to carry out the purposes of this formal Title IX complaint process.

If the complaint is against an employee, rights conferred under an applicable collective bargaining agreement shall be applied to the extent they do not conflict with the Title IX requirements.

Written Decision

The Superintendent shall designate an employee as the decision-maker to determine responsibility for the alleged conduct, who shall not be the Title IX Coordinator or a person involved in the investigation of the matter. (34 CFR 106.45)

The decision-maker shall issue, and simultaneously provide to both parties, a written decision as to whether the respondent is responsible for the alleged conduct. (34 CFR 106.45)

The written decision shall be issued within 60 calendar days of the receipt of the complaint.

The timeline may be temporarily extended for good cause with written notice to the complainant and respondent of the extension and the reasons for the action. (34 CFR 106.45)

In making this determination, the district shall use the "preponderance of the evidence" standard for all formal complaints of sexual harassment. (34 CFR 106.45)

The written decision shall include the following: (34 CFR 106.45)

1. Identification of the allegations potentially constituting sexual harassment as defined in 34 CFR 106.30
2. A description of the procedural steps taken from receipt of the formal complaint through the written decision, including any notifications to the parties, interview with parties and witnesses, site visits, methods used to gather other evidence, and hearings held if the district includes hearings as part of the grievance process
3. Findings of fact supporting the determination
4. Conclusions regarding the application of the district's code of conduct to the facts
5. A statement of, and rationale for, the result as to each allegation, including a decision regarding responsibility, any disciplinary sanctions the district imposes on the respondent, and whether remedies designed to restore or preserve equal access to the district's educational program or activity will be provided by the district to the complainant
6. The district's procedures and permissible bases for the complainant and respondent to appeal

Appeals

Either party may appeal the district's decision or dismissal of a formal complaint or any allegation in the complaint, if the party believes that a procedural irregularity affected the outcome, new evidence is available that could affect the outcome, or a conflict of interest or bias by the Title IX Coordinator, investigator(s), or decisionmaker(s) affected the outcome. If an appeal is filed, the district shall: (34 CFR 106.45)

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties
2. Ensure that the decision-maker(s) for the appeal is trained in accordance with 34 CFR 106.45 and is not the same decision-maker(s) who reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator
3. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome

4. Issue a written decision describing the result of the appeal and the rationale for the result

5. Provide the written decision simultaneously to both parties

An appeal must be filed in writing within 10 calendar days of receiving the determination, stating the grounds for the appeal and including any relevant documentation in support of the appeal. Appeals submitted after this deadline are not timely and shall not be considered. Either party has the right to file a complaint with the U.S. Equal Employment Opportunity Commission.

A written decision shall be provided to the parties within 20 calendar days from the receipt of the appeal.

Remedies

When a determination of responsibility for sexual harassment has been made against the respondent, the district shall provide remedies to the complainant. Such remedies may include the same individualized services described above in the section "Supportive Measures," but need not be nondisciplinary or nonpunitive and need not avoid burdening the respondent. (34 CFR 106.45)

Disciplinary Actions

The district shall not impose any disciplinary sanctions or other actions against a respondent, other than supportive measures as described above in the section "Supportive Measures," until the complaint procedure has been completed and a determination of responsibility has been made. (34 CFR 106.44)

When an employee is found to have committed sexual harassment or retaliation, the district shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

(cf. 4117.7/4317.7 - Employment Status Report) (cf. 4118 - Dismissal/Suspension/Disciplinary Action) (cf. 4119.11/4219.11/4319.11 - Sexual Harassment) (cf. 4218 - Dismissal/Suspension/Disciplinary Action)

Record-Keeping

The Superintendent or designee shall maintain for a period of seven years a record of all reported cases and Title IX investigations of sexual harassment, any determinations of responsibility, any audio or audiovisual recording and transcript if applicable, any disciplinary sanctions imposed, any remedies provided to the complainant, any appeal or informal resolution and the results therefrom, and responses made pursuant to 34 CFR 106.44. (34 CFR 106.45)

The Superintendent or designee shall also maintain for a period of seven years all materials used to train the Title IX Coordinator, investigator(s), decision-maker(s), and any person who facilitates an informal resolution process. The district shall make such training materials publicly available on its web site, or if the district does not maintain a web site, available upon request by members of the public. (34 CFR 106.45)

(cf. 3580 - District Records)

The [Acalanes Union High School District] Governing Board is committed to equal opportunity for all individuals in district programs and activities. District programs, activities, and practices shall be free from unlawful discrimination, including discrimination against an individual based on race, color, ancestry, nationality, national origin, immigration status, ethnic group identification, ethnicity, age, religion, marital status, pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions and recovery; parental, family or marital status, reproductive health decision-making, physical or mental disability, medical condition, sex, sex stereotypes, sex characteristics, sexual orientation, gender, gender identity, gender expression, veteran or military status, or genetic information; a perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics.

Policy 0410, Nondiscrimination in District Programs and Activities, Acalanes Union High School District

District Adopted: Original Adoption 02/03/1998, Lafayette, CA

Last Revised: 10/17/2024

Last Reviewed: 10/17/2024

SECTION 504 GRIEVANCE PROCEDURE

Administrative Regulation (AR) 6164.6 Instruction Identification and Education Under Section 504 Of The Rehabilitation Act Of 1973

Purpose

It is the intent of the Acalanes Union High School District ("District") to ensure that students with disabilities within the meaning of Section 504 of the Rehabilitation Act of 1973 ("Section 504") are identified, evaluated, and provided with a free appropriate public education.

Students who, because of a Section 504-qualifying disability, need, or are believed to need, regular or special education or related services are addressed under this policy.

Students who are identified as individuals with exceptional needs according to the Individuals with Disabilities Education Act (IDEA) criteria are not addressed under this policy.

Definitions

For the purpose of implementing Section 504 of the Rehabilitation Act of 1973, the following terms and phrases shall have only the meanings specified below:

Free appropriate public education (FAPE) means the provision of regular or special education and related aids and services designed to meet the individual educational needs of a student with disabilities as adequately as the needs of nondisabled students are met, without cost to the student or his/her parent/guardian, except when a fee is imposed on nondisabled students. (34 CFR 104.33)

(cf. 3260 - Fees and Charges)

Student with a disability means a student who has a physical or mental impairment which substantially limits one or more major life activities. (34 CFR 104.3)

Physical impairment means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal, special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito-urinary; hemic and lymphatic; skin; and endocrine. (34 CFR 104.3)

Mental impairment means any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities. (34 CFR 104.3)

Substantially limits major life activities means limiting a person's ability to perform functions such as caring for himself/herself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working. Major life activities also includes major bodily functions such as functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. Substantially limits shall be determined without regard to the ameliorative effects of mitigating measures other than ordinary eyeglasses or contact lenses. Mitigating measures include, but are not limited to, medications, prosthetic devices, assistive devices, learned behavioral, or adaptive neurological modifications which an individual may use to eliminate or reduce the effects of an impairment. (42 USC 12102; 34 CFR 104.3)

Identification and Referral Procedures

1. Any student not served under the IDEA who, because of disability, needs or is believed to need regular or special education or related services, in order to receive a free appropriate public education, may be referred by a parent/guardian, teacher, other school employee, student success team, or community agency to the school site principal or School Site Section 504 Coordinator.

Students exiting from a program pursuant to the IDEA, or found ineligible under the IDEA, will be referred to the school's Section 504 Student Study Team when a student is determined to have disability but does not require special education and related services under the IDEA to determine whether the student may need regular or special education or related services, pursuant to Section 504 of the Rehabilitation Act of 1973.

2. Upon receipt of any such referral, the principal or School Site Section 504 Coordinator will bring the referral to the school's Section 504 Student Study Team, which will be composed of persons knowledgeable about the student's individual needs, the student's school history, the meaning of evaluation data, and placement options. The School Site Section 504 Coordinator will monitor the composition of the Section 504 Student Study Team to ensure that qualified personnel participate.

3. The Section 504 Student Study Team will promptly consider the referral and make a determination as to whether an additional evaluation under the procedure outlined below is needed. This determination shall be based on a review of the student's school records, including those in academic and nonacademic (e.g. social and behavioral) areas of the school program; consultation with the student's teacher(s), other professionals, and the parent/guardian, as appropriate; and analysis of the student's needs. Students requiring evaluation will be referred to appropriate evaluation specialists at the school site. Prior to conducting an initial evaluation for eligibility under Section 504, the district shall obtain written consent from the student's parent/guardian.

Evaluation

The evaluation of students with disabilities within the meaning of Section 504 and formulation of a Section 504 plan for services will be carried out by the Section 504 Student Study Team according to the following procedures:

1. The district's evaluation procedures shall ensure that the tests and other evaluation materials: (34 CFR 104.35)
 - a. Have been validated and are administered by trained personnel in conformance with the instruction provided by the test publishers
 - b. Are tailored to assess specific areas of educational need and are not merely designed to provide a single general intelligence quotient
 - c. Reflect the student's aptitude or achievement or whatever else the tests purport to measure rather than his/her impaired sensory, manual, or speaking skills, except where those skills are the factors that the tests purport to measure
2. The determination of whether a student is a student with a disability under Section 504 shall not demand an extensive analysis or be foreclosed solely on the basis of bottom-line measures, such as grades.

Section 504 Services Plan and Placement

1. For a student who has been determined a student with a disability within the meaning of Section 504, the Section 504 Student Study Team shall be responsible for determining what, if any, regular or special education and related aids and services are necessary to ensure that the student receives a FAPE.
2. In interpreting evaluation data and making placement decisions, the Section 504 Student Study Team shall draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. The team shall also ensure that information obtained from all such sources is documented and carefully considered and that placement decision is made in conformity with 34 CFR 104.34. (34 CFR 104.33)
3. The parents/guardians shall be invited to participate in the Section 504 Student Study Team meeting where services for the student, if any, will be determined.

Parents/guardians shall, upon request, be given an opportunity to examine in advance all relevant records.

4. If the Section 504 Student Study Team determines that the student has a disability within the meaning of Section 504 requiring accommodations and/or modifications to his/her educational program, the Section 504 Student Study Team will develop a written plan describing the disability and any regular or special education or related services needed. The plan will specify how the services will be provided, by whom and how the plan is to be monitored. A copy of the plan shall be maintained in the student's cumulative file. The student's teacher(s) and any other staff, who provide services to the student shall be informed of the plan's requirements.

5. The Section 504 Student Study Team may also determine that the student is not eligible for services under Section 504. If the Section 504 Student Study Team so determines, the record of the Section 504 Student Study Team meeting will state the basis for the Team's decision. The parents/guardians will be provided a copy of the record/plan and an opportunity to review it, and parents/guardians will be asked to sign the record/plan which documents the team's decision.

6. In all cases, a student shall be placed in the regular educational environment of the district, unless the district can demonstrate that the education of the student in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. The student shall be educated with non-disabled students to the maximum extent appropriate to the individual needs of the student. (34 CFR 104.34)

7. The parents/guardians shall be notified in writing of the final decision concerning the services to be provided, if any, and of the Section 504 procedural safeguards, including the right to an impartial hearing.

8. The district shall complete the identification, evaluation, and placement process within a reasonable time frame.

Review and Reevaluation

1. The Section 504 Student Study Team shall monitor the progress of the student and, at least annually, review the effectiveness of the student's Section 504 plan to determine whether the services are appropriate and necessary and whether the student's needs are being met as adequately as the needs of the non-disabled students. In addition, the needs of each student with a disability under Section 504 shall be reevaluated at least once every three years.
2. Prior to any subsequent significant change in placement, a reevaluation of the student's needs will be conducted. (34 CFR 104.35) Parents/guardians will receive reasonable written notice of any meeting convened to propose a significant change in placement.

Procedural Safeguards

The Superintendent or designee shall notify the parents/guardians of students with disabilities of all actions and decisions by the district regarding the identification, evaluation, or educational placement of their children. He/she also shall notify the parents/guardians of all the procedural safeguards available to them if they disagree with the district's action or decision, including an opportunity to examine all relevant

records and an impartial hearing in which they shall have the right to participate. (34 CFR 104.36)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

1. The parents/guardians of a student with a disability shall be notified in writing of all district decisions concerning the identification, evaluation, or educational placement of their child.
2. The parents/guardians of a student with a disability have the right to review relevant records regarding their student. Upon parents' request, records may be reviewed at the school site or at the district office. Copies of student records may be obtained pursuant to applicable provisions of the law.
3. If a parent/guardian disagrees with the identification, evaluation or placement of a student with disabilities under Section 504, he/she may initiate the following procedures. Parents/guardians are encouraged to utilize Levels One and Two, but they may proceed directly to Level Three if they so choose.

LEVEL ONE: In writing, request a meeting with the Section 504 Student Study Team in an attempt to resolve the disagreement. This meeting shall be held within a reasonable period of time after receiving the parents/guardians' request.

LEVEL TWO: If disagreement continues, request in writing a meeting with the district's Section 504 Coordinator, 1212 Pleasant Hill Road, Lafayette, California, 94549, 925-280-3900. This meeting shall be held within a reasonable period of time after receiving the parents/guardians' request.

LEVEL THREE: If disagreement continues following the meetings at Levels One and Two, or if a parent/guardian chooses to proceed directly to Level Three, a parent/guardian may request in writing an impartial hearing.

4. The parents/guardians shall have the right to an impartial hearing ("Section 504 Due Process Hearing"). Section 504 Due Process Hearings shall be conducted in accordance with the following procedures:

- a. A request in writing for a Section 504 impartial hearing must be filed in the office of the district's Section 504 Coordinator, 1212 Pleasant Hill Road, California 94549, telephone: 925-280-3900.
- b. A request for an impartial hearing must be in writing and generally received by the district within 180 calendar days from the time the parents/guardians received written notice of the decision leading to the request for the impartial hearing. This timeframe may be extended for good cause or by mutual agreement of the parties. A parent/guardian or student making an oral request for an impartial hearing will be assisted by the district in making a written request.
- c. A request for an impartial hearing shall contain the following:
 - i. The specific nature of the decision(s) made by the district with which the person disagrees.
 - ii. The specific relief the person seeks.
 - iii. Any other information the person believes will assist in understanding the request.

- d. Within 30 days following receipt of a written request for hearing, the district's Section 504 Coordinator will select an impartial hearing officer. This 30-day deadline may be extended for good cause or by mutual agreement of the parties.
- e. A hearing officer selected by the district must satisfy the following requirements:
 - i. Be qualified to review district decisions relating to Section 504.
 - ii. Not be an employee of, or under contract with, the district or the SELPA of which the district is a member in any capacity other than that of a hearing officer.
 - iii. Not have any professional or personal involvement that would affect his or her impartiality or objectivity in the matter.
- f. Within 45 days of the selection of the hearing officer, the Section 504 Due Process Hearing shall be conducted and a written decision mailed to all parties. This 45-day deadline may be extended for good cause or by mutual agreement of the parties.
- g. Any party to the hearing shall be afforded the following rights:
 - i. The right to be accompanied and advised by counsel and by individuals with special knowledge or training relating to the problems of students who are disabled within the meaning of Section 504.
 - ii. The right to present evidence, written and oral.
 - iii. The right to written findings of fact, conclusions of law, and a decision prepared by the hearing officer.
 - iv. The right to a written or electronic verbatim record of the hearing prepared at the expense of the individual requesting such record.
- v. The right to prohibit the introduction of evidence at the hearing that has not been disclosed to the other party or parties at least 10 calendar days prior to the hearing except for good cause shown.
- vi. Receipt of notice from the other party or parties at least 10 calendar days prior to the hearing that they will utilize the services of an attorney, except for good cause shown.
 - h. The hearing officer shall render a decision pursuant to the legal standards set forth in 34 CFR 104.
 - i. Either party may seek review of the hearing officer's decision by timely filing with a court of competent jurisdiction.
 - j. Reimbursement of attorneys' fees, expert witnesses' fees, and other costs is available only as authorized by law.

Notifications

The Superintendent or designee shall ensure that the district has taken appropriate steps to notify students and parents/guardians of the district's duty under Section 504. (34 CFR 104.32)

Suspension/Expulsion of Section 504 Students

Before implementing a suspension or expulsion that constitutes a significant change in the placement of a student with a disability, the Section 504 Student Study Team must conduct a manifestation determination meeting for the student to determine whether the misconduct in question is caused by, or has a direct and substantial relationship to, the student's disability and whether the misconduct was a result of an inappropriate 504 Plan or its lack of proper implementation.

A significant change in placement includes the exclusion of a child for an indefinite period, or the exclusion of a child for more than 10 consecutive school days in a school year.

A series of suspensions each of which is 10 or fewer school days in duration, but that creates a pattern of exclusions, may also constitute a "significant change in placement."

Manifestation Determination

The Section 504 Student Study Team must convene and determine whether the misconduct is caused by, or has a direct and substantial relationship to, the student's disability or whether the misconduct was a direct result of an inappropriate 504 Plan or its lack of proper implementation. The student's parent/guardian will be given reasonable notice of the meeting. The Section 504 Student Study Team should have available to it evaluation information related to behavior, and the information must be recent enough to afford an understanding of the student's current behavior. This may require reevaluation under Code of Federal Regulations, Title 34, Part 104.35(a). The determination may not be made by the individuals responsible for the school's regular disciplinary procedures, such as the school principal or school Board officials, who lack the necessary expertise and personal knowledge about the student to make such a determination. These individuals, however, may participate as members of the placement decision group.

1. Procedural Safeguards

When the placement of a student with disabilities is changed for disciplinary reasons, the student and his/her parent/guardian are entitled to the procedural protections required by Section 504. These protections, as set forth herein, include appropriate notice to parents/guardians, an opportunity for their examination of records, an impartial hearing with the participation of parents/guardians and an opportunity for their representation by counsel and a review procedure. Thus, after a reevaluation of the then current placement, if the parents/guardians disagree with the determination regarding the relationship of the behavior to the disability, or with the subsequent placement proposal in those cases where the behavior is determined to be caused by the disability, they may request an impartial hearing, pursuant to the guidelines set forth in this administrative regulation.

The [Acalanes Union High School District] Governing Board is committed to equal opportunity for all individuals in district programs and activities. District programs, activities, and practices shall be free from unlawful discrimination, including discrimination against an individual based on race, color, ancestry, nationality, national origin, immigration status, ethnic group identification, ethnicity, age, religion, marital status, pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions and recovery; parental, family or marital status, reproductive health decision-making, physical or mental disability, medical condition, sex, sex stereotypes, sex characteristics, sexual orientation, gender, gender identity, gender expression, veteran or military status, or genetic information; a perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics.

Policy 0410, Nondiscrimination in District Programs and Activities, Acalanes Union High School District
District Adopted: Original Adoption 02/03/1998, Lafayette, CA
Last Revised: 10/17/2024
Last Reviewed: 10/17/2024

UNIFORM COMPLAINT PROCESS ADMINISTRATIVE REGULATION 1312.3

Except as the Board of Education may otherwise specifically provide in other Board policies, these Uniform Complaint Procedures shall be used to investigate and resolve complaints alleging

(1) unlawful discrimination, including discriminatory harassment, (such as sexual harassment, sexual violence or harassment based on a protected characteristic), intimidation, bullying, and retaliation, and (2) violations of other state and federal laws and regulations. The steps for each type of complaint are explained below.

District Compliance Officer/Coordinators

The following individuals shall be responsible for receiving and coordinating the District's response to complaints, investigating, or delegating the investigation of complaints, and ensuring district compliance with the law:

Title IX Coordinator: Amy McNamara
1212 Pleasant Hill Road. Lafayette, CA 94549
(925) 280-3900
amcnamara@auhsdschools.org

Title II Coordinator John Walker
1212 Pleasant Hill Road. Lafayette, CA 94549
(925) 280-3900
jwalker@auhsdschools.org

District Compliance Officer Amy McNamara
1212 Pleasant Hill Road. Lafayette, CA 94549
(925) 280-3900
amcnamara@auhsdschools.org

The Superintendent or designee shall ensure that the District Compliance Officer and those designated to investigate or otherwise resolve complaints have received training and are knowledgeable about the laws and programs for which they are responsible. This should include knowledge and training about the applicable laws governing the program, including federal and state anti-discrimination laws, the district's grievance procedures, the appropriate steps for investigating and documenting investigations, the applicable legal standards for reaching decisions on such complaints, and appropriate corrective measures. Designated employees may have access to legal counsel as determined by the Superintendent or designee. (*cf. 9124 - Attorney*)

Avoiding Conflict

The District Compliance Officer, a designee, or an outside consultant shall not be designated to investigate a uniform complaint if that person (1) is named as being involved with the underlying facts of the complaint or (2) has a conflict of interest that would prohibit that person from fairly and impartially investigating the complaint.

For the purposes of an investigation under the Uniform Complaint Procedures, a conflict of interest includes a personal, professional, or financial interest that has the potential to compromise or bias the professional judgment or objectivity of the holder of the interest. The investigator assigned to investigate shall disclose to the Superintendent or designee any potential conflicts of interest, including a relationship or familiarity with the complainant, respondent, and/or individuals who are likely to be witnesses, as well as any interest the investigator might have in the outcome of the matter. Because the Board of Education is obligated to provide and/or hire an investigator for uniform complaints, the act of paying the investigator's salary or fee is not considered to be an impermissible financial conflict of interest.

If the Superintendent or designee determines that an assigned investigator has a conflict of interest, the complaint and investigation shall be delegated to an impartial, trained, and available administrator or outside investigator.

Any complaint filed against or implicating the District Compliance Officer or other assigned investigator may instead be filed with the Superintendent or designee.

Notifications

The Superintendent or designee shall annually provide written/online notification of the district's Uniform Complaint Procedures to students, employees, parents/guardians, the district advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties. (5 CCR 4622)

The district's Uniform Complaint Procedures under Board Policy and Administrative Regulation 1312.3 shall be posted in all district schools and offices, including staff lounges and student government meeting rooms. If 15 percent or more of students enrolled in a particular district school speak a single primary language other than English the district's policy, regulation, forms, and notices concerning uniform complaint procedures shall be translated into that language. (*Education Code 234.1, 48985*) Additionally, when otherwise necessary to provide access to information for limited English proficient students and parents/guardians, as required by federal law, the district's policy, regulation, forms, and notices concerning uniform complaint procedures shall be translated into the student's or parent/guardian's primary language.

The Superintendent or designee shall annually provide written notification of the district's UCP, including information regarding unlawful student fees, local control and accountability plan (LCAP) requirements, and requirements related to the educational rights of foster youth, homeless students, and former juvenile court school students to students, employees, parents/guardians, the district advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties. (*Education Code 262.3, 48853, 48853.5, 49013, 49069.5, 51225.1, 51225.2, 52075; 5 CCR 4622*)

(*cf. 0460 - School Plans/Site Councils*)

cf. 0460 - Local Control and Accountability Plan)
(cf. 1220 - Citizen Advisory Committees)
(cf. 3260 - Fees and Charges)
(cf. 4112.9/4212.9/4312.9 - Employee Notifications)
(cf. 5145.6 - Parental Notifications)
(cf. 6173 - Education of Homeless
Children) (cf. 6173.1 - Education for Foster
Youth)
(cf. 6173.3 - Education for Juvenile Court School Students)

The annual notification, complete contact information of the compliance officer(s), and information related to Title IX as required pursuant to Education Code 221.61 shall be posted on the district web site and may be provided through district-supported social media, if available. *(cf. 1113 - District and School Web Sites) (cf. 1114 - District-Sponsored Social Media)*

The notice shall:

1. Identify the person(s), position(s), or unit(s) responsible for receiving complaints
2. Explain any civil law remedies that may be available to a victim of discrimination under state or federal discrimination laws, if applicable
3. Describe the appeal process, including, if applicable, a 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. A respondent to an unlawful discrimination complaint may also file an appeal with the CDE in the same manner as the complainant.
4. Include statements that:
 - a. The district has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs.
 - b. The complaint review shall be completed within 60 calendar days of the district's receipt of the complaint. This time period may be extended by written agreement of the complainant and respondent.
 - c. A complaint alleging retaliation or unlawful discrimination, including discriminatory harassment, intimidation, or bullying should be filed not later than six months from the date it occurred or six months from the date the complainant first obtained knowledge of the facts unless the time for filing is extended in writing by the Superintendent or designee for up to 90 calendar days following the expiration of the six month time period, for good cause upon written request by the complainant setting forth the reasons for the extension. (e.g., 5 CCR §4630.)
 - d. A 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. A respondent to an unlawful discrimination complaint also shall have the right to file an appeal with the CDE in the same manner as the complainant.
 - e. The appeal to the CDE shall include a copy of the complaint filed with the district and a copy of the district's decision.
 - f. Copies of the district's Uniform Complaint Procedures are available free of charge.

- g. While it is the District's intent to notify a parent/guardian about a Title IX report involving their student, the District must consider any student request not to notify a parent/guardian based on the law.
(*cf. 5145.6 - Parental Notifications*)
- h. A student enrolled in a public school shall not be required to pay a fee for his/her participation in an educational activity that constitutes an integral fundamental part of the district's educational program, including curricular and extracurricular activities.
- i. The Board is required to adopt and annually update the LCAP in a manner that includes meaningful engagement of parents/guardians, students, and other stakeholders in the development and/or review of the LCAP.
- j. A foster youth shall receive information about educational rights related to his/her educational placement, enrollment in and checkout from school, as well as the responsibilities of the district liaison for foster youth to ensure and facilitate these requirements and to assist the student in ensuring proper transfer of his/her credits, records, and grades when he/she transfers between schools or between the district and another district.
- k. A foster youth, homeless student, or former juvenile court school student who transfers into a district high school or between district high schools as applicable shall be notified of the district's responsibility to: (1) Accept any coursework or part of the coursework that the student has satisfactorily completed in another public school, juvenile court school, or a nonpublic, nonsectarian school or agency, and to issue full or partial credit for the coursework completed (2) Not require the student to retake any course or a portion of a course which he/she has satisfactorily completed in another public school, juvenile court school, or a nonpublic, nonsectarian school or agency (3) If the student has completed his/her second year of high school before the transfer, provide the student information about district- adopted coursework and Board-imposed graduation requirements from which he/she may be exempted pursuant to Education Code 51225.1

Complaint Procedures/Grievance Procedures

I.Complaints Alleging Unlawful Discrimination, Including Discriminatory Harassment, Intimidation and/or Bullying

All complaints alleging unlawful discrimination, including conduct prohibited by the District's Nondiscrimination/Harassment Policy – BP 5145.3, and Sexual Harassment Policy– BP 5145.7, as well as other discriminatory intimidation, harassment, or bullying shall be addressed in accordance with the following procedure and shall be investigated and resolved within 60 calendar days of the district's receipt of the complaint. (*5 CCR 4631*) Such complaints shall be investigated using this procedure regardless of whether the alleged harassment occurred on or off campus.

Recordkeeping: The District Compliance Officer shall maintain a log of complaints received, providing each with a code number and a date stamp. The District Compliance Officer shall also maintain a record of actions taken by the District in response to each complaint. The record shall include documentation of the steps taken during an investigation, including interview summaries and all information required for compliance with 5 CCR 4631 and 4633.

A. Reports and Complaints:

A “report” or “complaint” is defined as any oral or written communication to a school district employee or administrator which alleges behavior or misconduct that may constitute unlawful discrimination. A report or complaint may include an oral report, an email, a text message or other message conveyed to a school district employee or administrator. The report or complaint does not have to be on a particular form or use specific words to identify the law which may have been violated.

Any student, parent/guardian, third party, or other individual or organization who believes that an individual or group has been subjected to unlawful discrimination, including discriminatory harassment, intimidation and/or bullying, or who has witnessed such conduct, whether the conduct initially occurred on or off campus, is encouraged to report the conduct to any school district employee or administrator, and/or file a written uniform complaint under these procedures.

The following requirements apply to school district employees or administrators:

i. Reporting Up

- a. A school district employee who receives a report or complaint of discrimination, including discriminatory harassment, intimidation and/or bullying, shall, within one school day of receiving the report, notify the Principal/designee. In addition, any school district employee who observes any incident of unlawful discrimination, including discriminatory harassment, intimidation and/or bullying involving a student shall, within one school day, report this observation to the Principal/designee, whether or not the victim makes a report.
- b. The Principal/designee shall, within one school day of receiving a report or complaint of unlawful discrimination, including discriminatory harassment, intimidation and/or bullying, notify the District Compliance Officer of the report or complaint.
- c. When a report or complaint of unlawful discrimination, including discriminatory harassment, intimidation and/or bullying is made against the Principal/designee to whom the report would ordinarily be communicated, the school district employee who receives the report or who observes the incident shall instead report to the District Compliance Officer within one school day.

ii. Information, Options and Documentation Provided to Reporting Individuals and Complainants

- a. Either the Principal/designee or the District Compliance Officer shall, within one school day of receiving a report or complaint, inform the reporting individual or complainant of the resolution options under these procedures and the differences between these options (such as appeal rights and different types of written outcome.) The options include (1) the right to proceed under the Uniform Complaint Procedures; (2) the option to pursue resolution through an informal resolution process as described below in subsection D; or (3) the right to request that the District not take steps to investigate or pursue the complaint, with the understanding that the District may still have a duty to address the matter after a District-initiated investigation described in subsection E, below, depending on the seriousness of the allegations and the risk of future harm to students or others. If a District-initiated investigation proceeds, the Principal/designee or the District Compliance Officer shall inform the reporting individual or complainant in writing of the District’s decision to proceed. After the District has investigated the matter and determined the outcome, the Principal/designee or the

District Compliance Officer shall provide a written notice of outcome to the parties who would have been the complainant and respondent. The notice of outcome shall state that the party who would have been the complainant may pursue a Uniform Complaint at a later date, but the District reserves the right to enforce the six to nine month time line constraints for filing a Uniform Complaint as set forth in 5 CCR §4630(b). If a District-initiated investigation does not proceed, the reporting individual or complainant shall be informed of the right to proceed under the Uniform Complaint Procedures at a later time by making a request in writing to the District Compliance Officer.

- b.** If an individual who wants to proceed and submit the allegations in writing, but is unable to do so due to conditions such as a disability or illiteracy, district staff shall assist the individual in the writing the information related to the allegations. (See, e.g., 5 CCR 4600) The district may offer a Uniform Complaint Form for the complainant to place the uniform complaint in writing.
- c.** The Principal/designee or District Compliance Officer shall also inform the reporting individual or complainant that the identity of all parties of a complaint shall be kept confidential except when the District has a duty to share the parties' identifying information as necessary to gather a response to the complaint, in order to take subsequent corrective action if misconduct is found to have occurred, and/or to conduct ongoing monitoring.
- d.** If the reporting individual or complainant insists on not being identified or does not give names of the alleged perpetrators, the individual shall be informed by the Principal/designee or the District Compliance Officer that the request may limit the District's ability to investigate or take other necessary action.
- e.** This discussion and any decisions based on the discussion shall be reduced to writing and submitted to the reporting individual or complainant. The Principal/designee shall forward a copy of the document to the District Compliance Officer. A copy of the document shall be maintained in a confidential complaint file with the Principal/designee and with the District Compliance Officer.

B. Interim Measures:

After a report or complaint is received, the responsible administrator (Principal/designee and/or the District Compliance Officer) shall determine whether interim measures are necessary during and pending the result of an investigation. If interim measures are determined to be necessary, the responsible administrator shall implement measures to stop, prevent or address the effects of the alleged discrimination, including discriminatory intimidation or retaliation, harassment, or bullying during and pending any informal resolution and/or investigation. The interim measures may include actions such as no-contact directives, increased supervision, placing students in separate classes, or transferring a student to a class taught by a different teacher. To the extent

possible, interim measures will be implemented in a manner that minimizes the burden on the individual who was the target of the alleged discrimination.

C. Off-Campus Incidents or Incidents Unrelated to School Activity:

Though an incident of unlawful discrimination, including discriminatory harassment, intimidation, or bullying may occur off campus or unrelated to school activity, if the effects of the incident result or may result in harassment, intimidation, or bullying at school or at a school activity, which is

sufficiently serious to interfere with or limit student(s)' ability to participate in or benefit from the education program, the District Compliance Officer or Principal/designee shall, under these Uniform Complaint Procedures, promptly investigate, determine what occurred, eliminate any harassment, intimidation, or bullying that occurs at school or at a school activity, prevent its recurrence, and address its effects.

D. Optional Informal Resolution Process at the Site Level:

Except in complaints alleging sexual violence, when a complaint alleging unlawful discrimination, including discriminatory harassment, intimidation and/or bullying against an individual is submitted under these procedures, the site Principal/designee may, after gathering evidence related to the complaint, engage in informal efforts to resolve the complaint after obtaining the signed, written consent of the complainant, the complainant's parent/guardian, the respondent, and the respondent's parent/guardian. The Principal/designee shall notify the District Compliance Officer that the complainant and respondent have consented to an informal resolution process and submit a copy of the signed consent documents to the District Compliance Officer. The District Compliance Officer shall develop a template for the Principal/designee to use to facilitate written consent by the parties.

Before the parties consent to engage in an informal resolution process, the Principal/designee shall inform the complainant, the respondent and their respective parents/guardians of the following: (1) The complainant or the complainant's parent/guardian will not be asked or required to meet directly with the respondent as part of the informal resolution process; (2) The informal resolution process shall be completed within 10 calendar days of the district's receipt of the complaint; (3) The differences between the informal resolution process and the process set forth under subsections D-H below shall be explained; (4) The right of either party to terminate an informal resolution process at any time and request that the District Compliance Officer proceed with the investigation of the uniform complaint under subsections F-H within the timelines set forth in this AR 1312.3; and (5) the informal resolution process, if successful, will result in a signed, written agreement between the parties which includes a waiver of any appeal rights set forth in AR 1312.3 and acknowledgement that the complainant cannot pursue another Uniform Complaint regarding the same allegations discussed and resolved between the parties.

At the conclusion of 10 calendar days, the informal resolution process shall cease, and the Principal/designee shall create a written report to memorialize the information gathered during the informal process, the procedures used during the informal process, whether an agreement

was reached by the parties, and the terms of any agreement. A copy of this report shall be sent to the District Compliance Office.

If an agreement is reached between the parties, the parties, with the assistance of the Principal, shall reduce the agreement to writing, and the parties shall sign the document only if they agree with the terms of the agreement. The District Compliance Officer shall create an agreement template which the parties shall use to memorialize their agreement. The agreement shall include, among other things, a waiver of appeal rights set forth in AR 1312.3 and a statement that the complainant is precluded from filing another complaint regarding the same allegation(s). The complainant, respondent, their respective parents/guardians and the District Compliance Officer shall receive a copy of the signed agreement. The Principal's written report and the signed agreement shall be maintained in a confidential complaint file with the Principal/designee and with the District Compliance Officer.

If the informal resolution process did not result in an agreement within the 10 calendar days or if the informal process is stopped by either party, the District Compliance Officer shall immediately proceed with the investigation under subsections F-H below. The investigation process shall be concluded within 60 calendar days of the district's receipt of the complaint.

E. District-Initiated Procedures to Address a Report

If the Principal/designee and/or the District Compliance Officer has determined to pursue a District-Initiated investigation, the investigation will follow procedures in subsection F, below, except the investigation does not need to be initiated within 10 calendar days of receipt of the report, refusal of the complainant to participate does not dismiss the report or complaint, and the District does not need to re-describe the UCP to the reporting individual or complainant.. In any matter involving discrimination, including discriminatory harassment, intimidation and/or bullying, the expectation is to complete the process within 60 calendar days of the date the district received the initial report. The individuals who would have been the complainant and respondent shall receive a written notice of outcome within the 60 calendar days, unless there is good cause to extend the time, which will be explained to the parties in writing.

F. Investigation

i. Initiation of Investigation

The District Compliance Officer shall initiate an impartial investigation of an allegation of unlawful discrimination, including discriminatory harassment, intimidation and/or bullying, within five school days of receiving a complaint under this procedure. The time may be extended if informal resolution is undertaken pursuant to subsection D, above. However, in all cases the investigation shall begin within 10 calendar days of the district's receipt of the initial complaint unless the District Compliance Officer has confirmed that the complaint has been resolved informally to the satisfaction of complainant, respondent and their respective parents/guardians, under subsection D, above.

When a student is reported to be engaging in unlawful discrimination, including discriminatory harassment, intimidation, and/or bullying, against an individual off campus, the District Compliance Officer shall investigate and document the activity and shall identify specific facts or circumstances that explain the impact or potential impact on school activity, school attendance, or the complainant's educational performance.

If the District Compliance Officer receives an anonymous complaint or media report about alleged unlawful discrimination including discriminatory harassment, intimidation and/or bullying, the

District Compliance Officer shall determine whether it is appropriate to pursue an investigation considering the specificity and reliability of the information, the seriousness of the alleged incident, and whether any individuals can be identified who were subjected to the alleged harassment.

A complainant's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or engagement in any other obstruction of the investigation may result in the dismissal of the complaint because of a lack of evidence to support the allegation. (5 CCR 4631)

In accordance with law, the district shall provide the investigator with access to records and/or other information related to the allegations in the complaint. (5 CCR 4631)

The District Compliance Officer shall keep the complaint and allegation(s) confidential, except as necessary to carry out the investigation or take other necessary action. (5 CCR 4964)

ii. Initial Interview with the Subject of the Complaint:

At the beginning of an investigation, the District Compliance Officer shall describe the uniform complaint procedures to the complainant and the complainant's parent or guardian, and discuss what actions and remedies are being sought in response to the complaint. The complainant shall have an opportunity to describe the incident, identify witnesses who may have relevant information and provide other evidence or information leading to evidence of the alleged conduct.

iii. Additional Interviews and Gathering of Evidence:

The District Compliance Officer shall interview individuals who have information relevant to the investigation, including, but not limited to, the complainant and, where appropriate, the complainant's parents/guardians, the respondent, anyone who witnessed the reported conduct, and anyone mentioned as having relevant information.

When interviewing the respondent, the District Compliance Officer shall describe the Uniform Complaint Procedures to the respondent and the respondent's parent/guardian, if applicable. The respondent shall have the opportunity to respond to the allegations, identify witnesses who may have relevant information, and provide other evidence or information leading to evidence related to the allegations.

The District Compliance Officer will also locate and review any available records, notes, documents, electronic information or statements related to the complaint and may take other steps such as visiting the location where the conduct is alleged to have taken place.

Information about a complainant's past or current sexual relationship with individuals other than respondent shall be excluded from the investigation process.

When necessary to carry out his/her investigation or to protect student safety, and consistent with federal and state privacy laws, the District Compliance Officer also may discuss the complaint with the Superintendent or designee, the parent/guardian of the respondent if the respondent is a student, a teacher or staff member whose knowledge of the students involved may help in determining the facts, law enforcement and/or child protective services, and district legal counsel or the district's risk manager. Interviews of the complainant, the respondent, and all relevant witnesses are conducted privately, separately, and are confidential. At no time will the complainant and respondent be interviewed together.

Interviews, evidence and other information gathered will be documented and maintained in confidential complaint files. Confidential complaint files shall be maintained for a minimum of two years or as otherwise required by district policy and shall be destroyed in accordance with state law and district policy.

(cf. 5125 – Student Records)

(cf. 3580 – District Records)

iv. Factors in Reaching a Determination:

The District Compliance Officer shall apply a “preponderance of the evidence” standard in determining the veracity of the factual allegations in a complaint. The standard is met if the allegation is more likely or not to have occurred.

In reaching a decision about the complaint, the District Compliance Officer may take into account:

- a. Statements made by the complainant, the respondent, and other persons with knowledge relevant to the allegations
- b. The details, consistency and/or corroboration of each person's account
- c. Evidence of how the complainant and respondent reacted to and felt about the incident, if it was found to have occurred
- d. Evidence of any past instances of unlawful discrimination, including discriminatory harassment, intimidation and/or bullying or other misconduct by the respondent
- e. Evidence that the complainant or respondent filed a complaint or cross-complaint alleging unlawful discrimination, including discriminatory harassment, intimidation and/or bullying which was found to be a knowingly false complaint or cross-complaint or to have included knowingly false statements made by the complainant or respondent.

To judge the severity of the unlawful discrimination, including discriminatory harassment, intimidation and/or bullying, the District Compliance Officer may take into consideration:

- a. How the misconduct affected the complainant and/or the complainant's access to education and education programs and activities
- b. The type, frequency, and duration of the misconduct
- c. The age of the complainant and respondent and the nature of the relationship between them
- d. The number of persons engaged in the alleged conduct
- e. The size of the school, location of the incidents, and context in which they occurred
- f. Other incidents of discrimination, harassment, intimidation or bullying at the school

G. Written Report of Findings and Decision:

Within 60 calendar days of the district's receipt of the complaint, the District Compliance Officer shall conclude the investigation and prepare a written report of findings and decision, as described below. This timeline may be extended by written agreement of the complainant and the respondent. The district's decision shall be in writing and sent to the complainant and respondent. (5 CCR 4631) The decision shall maintain any applicable confidentiality rights of the parties and be issued in consideration of any legal limitations based on such confidentiality.

The district's decision shall be written in English and, when required by Education Code 48985, in the complainant's primary language. Additionally, when otherwise necessary to provide access to information for limited English proficient students and parents/guardians, as required by federal law, the decision shall be translated into the student's or parent/guardian's primary

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

- a. The findings of fact based on the evidence gathered
- b. As to each allegation, the District's conclusion(s) of law
- c. Rationale for such conclusion(s)
- d. Corrective actions, if warranted, which may include consequences imposed on the individual found to have engaged in the discriminatory conduct that relate directly to the complainant, as required by law, such as requiring that the individual found to have engaged in the discrimination stay away from the complainant, prohibiting the individual from attending school for a period of time, or transferring the individual to other classes or another school.

In consultation with district legal counsel, information about the relevant part of a decision may be communicated to a victim who is not the complainant and to other parties who may be involved in implementing the decision or are affected by the complaint, as long as the privacy of the parties is protected. In a complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying), notice of the district's decision to the alleged victim shall include information about any sanction to be imposed upon the respondent that relates directly to the alleged victim.

Individual remedies, if warranted, which were offered or provided to the complainant, such as counseling, academic remedies, or other measures taken to eliminate any hostile environment, prevent retaliation and prevent the discrimination from recurring. The remedies offered and provided to the complainant shall not be revealed to the respondent unless required by law or district policy.

Systemic measures the school has taken or will take to eliminate a hostile environment and prevent recurrence, including counseling and academic support services for other affected students, training for faculty and staff, revisions to the school's policies, and campus climate surveys.

- e. Notice that the complainant and/or the complainant's parent/guardian should immediately report any reoccurrence of the conduct or retaliation to the District Compliance Officer or Principal/designee. Notice that the respondent and/or the respondent's parent/guardian should also immediately report any retaliation to the District Compliance Officer or Principal/designee.
- f. Notice of the complainant's and respondent's right to appeal the district's decision within 15 calendar days to the CDE and procedures to be followed for initiating such an appeal.

Any decision concerning a complaint of discrimination, including discriminatory harassment, intimidation, and/or bullying shall include a notice that the complainant must wait until 60 calendar days have elapsed from the filing of an appeal with the CDE before pursuing state law civil law remedies. (*Education Code 262.3*)

H. Remedial Action

Remedial action will be designed to end the discriminatory conduct, to prevent its recurrence, and to address its effects on the complainant. Examples of remedial actions, as appropriate, include, but are not limited to, the following:

1. Interventions for the respondent who engaged in the discrimination, such as parent or supervisor notification, discipline (discussed below), counseling, or training.
2. Interventions for the subject of the complaint such as counseling, academic support, and information on how to report further incidents of discrimination.
3. Separating the subject of the complaint and the respondent who engaged in the discrimination, provided the separation does not penalize the subject of the complaint.
4. Follow-up inquiries with the subject of the complaint and witnesses to ensure that the discriminatory conduct has stopped and that they have not experienced any retaliation. Follow-up inquiries with the respondent who engaged in the discrimination to ensure that the respondent understands what behavior is expected and/or appropriate after the investigation.
5. Training or other interventions for the larger school community to ensure that students, staff, and parents understand the types of behavior that constitute discrimination, that the District does not tolerate it, and how to report it.

In addition, the District Compliance Officer shall ensure that the individual who was the target of discrimination and/or the individual's parent/guardian are informed of the procedures for

reporting any subsequent problems. The District Compliance Officer shall make follow-up inquiries to see if there have been any new incidents or retaliation and shall keep a record of this information.

I. Disciplinary Action

Students who are found to have engaged in discriminatory conduct may be subject to discipline up to and including expulsion. Disciplinary action may include oral warnings, written warnings, mandatory training, counseling, suspension, transfer, or expulsion for students. Such disciplinary action shall be in accordance with Board Policy, Administrative Regulation and state law.

Suspension and recommendations for expulsion shall follow applicable law.

Staff members who are found to have engaged in discriminatory conduct toward students shall be subject to discipline up to and including dismissal. Disciplinary action may include oral warnings, written warnings, mandatory training, counseling, suspension, transfer, demotion, or termination of employees. Such disciplinary action shall be determined by site and District Administration in accordance with applicable policies, laws, and/or collective bargaining agreements.

(cf. AR 4218 – Dismissal/Suspension/Disciplinary Action; Education Code 44932 et seq.)

In identifying appropriate disciplinary action, repeated incidents and/or multiple victims will result in more severe penalties. Individuals who knowingly file false complaints of discrimination, including discriminatory harassment, intimidation, and/or bullying or give false statements in an investigation shall be subject to discipline up to and including suspension, expulsion, and or dismissal, as shall any individual who is found to have retaliated against another in violation of this policy.

II. Complaints Alleging Noncompliance with Other Federal or State Laws

A complaint alleging district violation or noncompliance with federal or state laws or regulations governing specific educational programs, such as adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and training programs, child care and development programs, child nutrition programs, and special education programs may be filed by any individual, public agency, or organization. (5 CCR 4630)

Any complaint alleging noncompliance with the law regarding the prohibition against requiring students to pay student fees, deposits, and charges or any requirement related to the LCAP may also be filed under this procedure or may be filed anonymously if the complaint provides evidence, or information leading to evidence, to support an allegation of noncompliance. A complaint about a violation of the prohibition against the charging of unlawful student fees may be filed with the principal of the school or with the Superintendent or designee. However, any such complaint shall be filed no later than one year from the date the alleged violation occurred. (Education Code 49013, 52075; 5 CCR 4630)

If a complaint alleging noncompliance with federal or state laws or regulations governing specific educational programs or the laws regarding student fees, deposits, and other charges, physical education instructional minutes for students in elementary schools, or any requirement related to the LCAP is found to have merit, the district shall provide a remedy to all affected students and parents/guardians, subject to procedures established by regulation of the State Board of Education. (*Education Code 49013, 51223, 52075.*)

For complaints alleging noncompliance with the laws regarding student fees, the district shall attempt in good faith, by engaging in reasonable efforts, to identify and fully reimburse all affected students and parents/guardians who paid the unlawful student fees within one year prior to the filing of the complaint. *Education Code 49013 and 5 CCR 4600.*

Appeals to the California Department of Education

Any complainant who is dissatisfied with the district's investigation report/decision about a complaint regarding any specified federal or state educational program subject to UCP may file an appeal in writing with CDE within 30 calendar days of receiving the district's investigation report. (5 CCR 4632)

In any complaint alleging unlawful discrimination including discriminatory harassment, (such as sexual harassment, sexual assault, or harassment based on a protected characteristic such as gender), intimidation or bullying, the respondent also shall have the right to file an appeal with the CDE in the same manner as the complainant if the respondent is dissatisfied with the district's investigation report/decision.

The appeal shall be sent to CDE with a copy of the locally filed complaint and a copy of the district's investigation report/decision for that complaint. The complainant shall specify and explain the basis for the appeal, including at least one of the following: (5 CCR 4632)

1. The district failed to follow its complaint procedures.
2. Relative to the allegations of the complaint, the district's investigation report lacks material findings of fact necessary to reach a conclusion of law.
3. The material findings of fact in the district's investigation report are not supported by substantial evidence.
4. The legal conclusion in the district's investigation report is inconsistent with the law.
5. In a case in which the district found noncompliance, the corrective actions fail to provide a proper remedy.

Upon notification by CDE that the district's investigation report has been appealed, the Superintendent or designee shall forward the following documents to CDE within 10 days of the date of notification: (5 CCR 4633)

1. A copy of the original complaint
2. A copy of the district's investigation report
3. A copy of the investigation file including, but not limited to, all notes, interviews and documents submitted by the parties or gathered by the investigator
4. A report of any action taken to resolve the complaint
5. A copy of the district's UCP (BP 1312.3 and AR 1312.3)
6. Other relevant information requested by CDE

The district's failure to provide a timely and complete response may result in the CDE ruling on the appeal without considering information from the district.

Any confidential information or pupil information in the investigative file shall remain confidential and shall not be disclosed by the CDE, to the extent permitted by law. (5 CCR 4633)

If notified by CDE that the district's investigation report failed to address allegation(s) raised by the complaint, the district shall, within 20 days of the notification, provide CDE and the appellant with an amended investigation report that addresses the allegation(s) that were not addressed in the original investigation report. The amended report shall also inform the appellant of the right to separately appeal the amended report with respect to the allegation(s) that were not addressed in the original report. (5 CCR 4632)

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

Complaints alleging discrimination based on race, color, national origin, sex/gender, disability or age may also be filed with the U.S. Department of Education, Office for Civil Rights. [Instructions for filing a complaint](https://www2.ed.gov/about/offices/list/ocr/docs/howto.html) can be found at <https://www2.ed.gov/about/offices/list/ocr/docs/howto.html>. Such complaints must generally be filed within 180 calendar days of the alleged discrimination.

Administrative Regulation 1312.3, Uniform Complaint Procedures
Acalanes Union High School District
District Adopted: Original Adoption 02/03/1998, Lafayette, CA
Last Revised: 10/16/24
Last Reviewed: 10/16/24

NONDISCRIMINATION IN EMPLOYMENT

Board Policy (BP) 4030 Nondiscrimination in Employment

The Acalanes Union High School District is a place where diversity is valued and educational excellence and equity are expected.

The Governing Board desires to provide a safe, positive work environment where all district employees are assured of full and equal employment access and opportunities, protection from harassment and intimidation, and freedom from any fear of reprisal or

retribution for asserting their employment rights in accordance with law. For purposes of this policy, employees and persons providing services to the district are included, as applicable.

No district employee shall be discriminated against or harassed by any coworker, supervisor, manager, or other person with whom the employee comes in contact in the course of employment, on the basis of the employee's actual or perceived race, color, ancestry, national origin, age, religious creed, marital status, pregnancy, physical or mental disability, medical condition, genetic information, military and veteran status, sex, sexual orientation, gender, gender identity, or association with a person or group with one or more of these actual or perceived characteristics.

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

The district shall not inquire into any employee's immigration status nor discriminate against an employee on the basis of immigration status, unless there is clear and convincing evidence that it is necessary to comply with federal immigration law. (2 CCR 11028)

Discrimination in employment based on the characteristics listed above is prohibited in all areas of employment and in all employment-related practices, including the following:

1. Discrimination in hiring, compensation, terms, conditions, and other privileges of employment
cf. 4151/4251/4351 - Employee Compensation) (cf. 4154/4254/4354 - Health and Welfare Benefits)
2. Taking of an adverse employment action, such as termination or the denial of employment, promotion, job assignment, or training
3. Unwelcome conduct, whether verbal, physical, or visual, that is so severe or pervasive as to adversely affect an employee's employment opportunities, or that has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, or offensive work environment.
4. Actions and practices identified as unlawful or discriminatory pursuant to Government Code 12940 or 2 CCR 11006-11086, such as:
 - a. Sex discrimination based on an employee's pregnancy, childbirth, breastfeeding, or any related medical condition or on an employee's gender, gender expression, or gender identity, including transgender status.

(cf. 4033 - Lactation Accommodation) (cf. 4119.11/4219.11/4319.11 - Sexual Harassment)
 - b. Religious creed discrimination based on an employee's religious belief or observance, including religious dress or grooming practices, or based on

the district's failure or refusal to use reasonable means to accommodate an employee's religious belief, observance, or practice which conflicts with an employment requirement

(cf. 4119.22/4219.22/4319.22 - Dress and Grooming)

- c. Requirement for a medical or psychological examination of a job applicant, or an inquiry into whether a job applicant has a mental or physical disability or a medical condition or as to the severity of any such disability or condition, without the showing of a job-related need or business necessity

(cf. 4119.41/4219.41/4319.41 - Employees with Infectious Disease)

- d. Failure to make reasonable accommodation for the known physical or mental disability of an employee, or to engage in a timely, good faith, interactive process with an employee who has requested such accommodations in order to determine the effective reasonable accommodations, if any, to be provided to the employee

(cf. 4032 - Reasonable Accommodation)

The Board also prohibits retaliation against any district employee who opposes any discriminatory employment practice by the district or its employees, agents, or representatives or who complains, testifies, assists, or in any way participates in the district's complaint procedures instituted pursuant to this policy. No employee who requests an accommodation for any protected characteristic listed in this policy shall be subjected to any punishment or sanction, regardless of whether the request was granted. (Government Code 12940; 2 CCR 11028)

No employee shall, in exchange for a raise or bonus or as a condition of employment or continued employment, be required to sign any document that releases the employee's right to file a claim against the district or to disclose information about harassment or other unlawful employment practices. (Government Code 12964.5)

Complaints regarding employment discrimination, harassment, or retaliation shall immediately be investigated in accordance with procedures specified in the accompanying administrative regulation.

Any supervisory or management employee who observes or has knowledge of an incident of prohibited discrimination or harassment, including harassment of an employee by a nonemployee, shall report the incident to the Superintendent or designated district coordinator as soon as practical after the incident. All other employees are encouraged to report such incidents to their supervisor immediately. The district shall protect any employee who reports such incidents from retaliation.

The Superintendent or designee shall use all appropriate means to reinforce the district's nondiscrimination policy, including providing training and information to

employees about how to recognize harassment, discrimination, or other related conduct, how to respond appropriately, and components of the district's policies and regulations regarding discrimination. The Superintendent or designee shall regularly review the district's employment practices and, as necessary, shall take action to ensure district compliance with the nondiscrimination laws.

Any district employee who engages in prohibited discrimination, harassment, or retaliation, or who aides, abets, incites, compels, or coerces another to engage or attempt to engage in such behavior in violation of this policy shall be subject to disciplinary action up to and including dismissal.

(cf. 4118 - Suspension/Disciplinary Action) (cf. 4218 - Dismissal/Suspension/Disciplinary Action)

The district's policy shall be posted in all schools and offices including staff lounges and student government meeting rooms. (5 CCR 4960)

The [Acalanes Union High School District] Governing Board is committed to equal opportunity for all individuals in district programs and activities. District programs, activities, and practices shall be free from unlawful discrimination, including discrimination against an individual based on race, color, ancestry, nationality, national origin, immigration status, ethnic group identification, ethnicity, age, religion, marital status, pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions and recovery; parental, family or marital status, reproductive health decision-making, physical or mental disability, medical condition, sex, sex stereotypes, sex characteristics, sexual orientation, gender, gender identity, gender expression, veteran or military status, or genetic information; a perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics.

Policy 0410, Nondiscrimination in District Programs and Activities, Acalanes Union High School District

District Adopted: Original Adoption 02/03/1998, Lafayette, CA

Last Revised: 10/17/2024

Last Reviewed: 10/17/2024

REASONABLE ACCOMMODATION POLICY

(AR) 4032 Reasonable Accommodation

Except when undue hardship would result to the district, the Superintendent or designee shall provide reasonable accommodation:

1. In the job application process, to any qualified job applicant with a disability
2. To enable any qualified employee with a disability to perform the essential functions of the position they hold or desire to hold or to enjoy equal benefits or other terms, conditions, and privileges of employment as other similarly situated employees without disabilities

No employee or job applicant who requests an accommodation for their physical or mental disability shall be subjected to discrimination or to any punishment or sanction, regardless of whether the request for accommodation was granted. (Government Code 12940)

The district designates the position specified in AR 4030 – Nondiscrimination in Employment as the coordinator of its efforts to comply with the Americans with Disabilities Act (ADA) and to investigate any and all related complaints.

(cf. 4030 – Nondiscrimination in Employment)

Definitions

Disability, with respect to an individual, is defined as any of the following:
(Government Code 12926; 29 CFR 1630.2)

1. A physical or mental impairment that limits one or more of the major life activities
2. A record of such an impairment
3. Being regarded as having such an impairment

Limits shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics or reasonable accommodations, unless the mitigating measure itself limits a major life activity. (Government Code 12926)

Essential functions are the fundamental job duties of the position the individual with a disability holds or desires. The term does not include the marginal functions of the position. (Government Code 12926; 29 CFR 1630.2)

Reasonable accommodation means: (Government Code 12926; 29 CFR 1630.2)

1. For a qualified job applicant with a disability, modifications or adjustments to the job application process that enable them to be considered for the position they desire
2. For a qualified employee with a disability, modifications or adjustments to the work environment, or to the manner or circumstances under which the position the employee holds or desires is customarily performed, that enable them to perform the essential functions of that position or to enjoy equal benefits and privileges of employment as are enjoyed by the district's other similarly situated employees without disabilities

Qualified individual with a disability means a job applicant or employee with a disability who: (29 CFR 1630.15, 1630.2)

1. Satisfies the requisite skill, experience, education, and other job-related requirements of the employment position they hold or desire
2. Can perform the essential functions of the position with or without reasonable accommodation
3. Would not pose a significant risk of substantial harm, which cannot be eliminated or reduced by reasonable accommodation, to themselves or others in the job they hold or desire

Undue hardship is a determination based on an individualized assessment of current circumstances that shows that the provision of a specific accommodation would cause significant difficulty or expense to the district. (29 CFR 1630.2)

Request for Reasonable Accommodation

When requesting reasonable accommodation, an employee or their representative shall inform the employee's supervisor that they need a change at work for a reason related to a medical condition. The supervisor shall inform the coordinator of the employee's request as soon as practicable.

When requesting reasonable accommodation for the hiring process, a job applicant shall inform the coordinator that they will need a reasonable accommodation during the process.

When the disability or the need for accommodation is not obvious, the coordinator may ask the employee to supply reasonable documentation about their disability. In requesting this documentation, the coordinator shall specify the types of information that are being sought about the employee's condition, the employee's functional limitations, and the need for reasonable accommodation. The employee may be asked to sign a limited release allowing the coordinator to submit a list of specific questions to their health care or vocational professional.

If the documentation submitted by the employee does not indicate the existence of a qualifying disability or explain the need for reasonable accommodation, the coordinator shall request additional documentation that specifies the missing information. If the employee does not submit such additional documentation in a timely manner, the coordinator may require them to submit to an examination by a health care professional selected and paid for by the district.

The district may make a medical or psychological inquiry of a job applicant or require them to submit to a medical or psychological examination after they have been given a conditional offer of employment but before the commencement of their job duties, provided the inquiry or examination is job-related, consistent with business necessity, and required for all incoming employees in the same job classification. (Government Code 12940)

The coordinator shall not request any job applicant's or employee's genetic information except as authorized by law. (42 USC 2000ff-1, 42 USC 2000ff-5)

In accordance with law, the coordinator shall take steps to ensure the confidentiality of information related to medical conditions or history. As applicable, they shall notify the supervisor or manager of the qualified individual of any reasonable accommodation granted the individual and may notify first aid and safety personnel when the disability of the qualified individual may require emergency treatment. (42 USC 12112)

Granting Reasonable Accommodation

Upon receiving a request for reasonable accommodation from a qualified individual with a disability, the coordinator shall:

1. Determine the essential functions of the job involve
2. Engage in an informal, interactive process with the individual to review the request for accommodation, identify the precise limitations resulting from the disability, identify potential accommodations, and assess their effectiveness

3. Develop a plan for reasonable accommodation which will enable the individual to perform the essential functions of the job or gain equal access to a benefit or privilege of employment without imposing undue hardship on the district

A determination of undue hardship should be based on several factors, including: (29 CFR 1630.2)

- a. The nature and net cost of the accommodation needed, taking into consideration the availability of tax credits and deductions and/or outside funding
- b. The overall financial resources of the facility making the accommodation, the number of persons employed at this facility, and the effect on expenses and resources of the facility
- c. The overall financial resources, number of employees, and the number, type, and location of facilities of the district
- d. The type of operation of the district, including the composition, structure, and functions of the workforce and the geographic separateness and administrative or fiscal relationship of the facility making the accommodation to other district facilities
- e. The impact of the accommodation on the operation of the facility, including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business

The coordinator may confer with the site administrator, any medical advisor chosen by the district, and/or other district staff before making a final decision as to the accommodation.

Reasonable Accommodation Committee

The coordinator may appoint a committee to review or assist in the development of appropriate plans to reasonably accommodate qualified individuals who request modifications or adjustments in their work duties or environment because of known physical or mental disabilities.

Committee members shall be selected on the basis of their knowledge of the specific functions and duties required in the position, the physical work environment, available accommodations, and other relevant issues. The committee may include a district administrator, site administrator, medical advisor or rehabilitation specialist, and as necessary, a certificated and/or classified employee. Membership may change on a case-by-case basis.

At the coordinator's discretion, the employee or applicant requesting accommodation may participate in the committee's meetings. If the employee or applicant is excluded from the committee's meetings, the coordinator shall communicate with them so that they have the opportunity to interact and contribute to planning the reasonable accommodation.

Appeal Process

Any qualified individual with a disability who is not satisfied with the decision of the coordinator may appeal in writing to the Superintendent or designee. This appeal shall be made within 10 working days of receiving the decision and shall include:

1. A clear, concise statement of the reasons for the appeal
2. A statement of the specific remedy sought

The Superintendent or designee shall consult with the coordinator and review the appeal, together with any available supporting documents. The Superintendent or designee shall give the individual their decision within 15 working days of receiving the appeal.

Any further appeal for reasonable accommodation shall be considered a complaint concerning discrimination in employment and may be taken to the Governing Board in accordance with the district's procedure for such complaints.

The [Acalanes Union High School District] Governing Board is committed to equal opportunity for all individuals in district programs and activities. District programs, activities, and practices shall be free from unlawful discrimination, including discrimination against an individual based on race, color, ancestry, nationality, national origin, immigration status, ethnic group identification, ethnicity, age, religion, marital status, pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions and recovery; parental, family or marital status, reproductive health decision-making, physical or mental disability, medical condition, sex, sex stereotypes, sex characteristics, sexual orientation, gender, gender identity, gender expression, veteran or military status, or genetic information; a perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics.

Policy 0410, Nondiscrimination in District Programs and Activities, Acalanes Union High School District

District Adopted: Original Adoption 02/03/1998, Lafayette, CA

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