

CLASSIFICATION: Community Relations

ADOPTED: 4/30/07

REVISED: 5/8/13

SUBJECT: Uniform Complaint Procedures,
Pupil Learning (*Williams* and
Valenzuela Settlements)PAGE: 1 of 7

This administrative regulation establishes Uniform Complaint Procedures to be followed in schools and programs operated by the San Diego County Superintendent of Schools for the filing, investigation, and resolution of specified complaints regarding pupil learning. Subjects of this complaint procedure may be:

Instructional materials, teacher vacancies or misassignments, and emergency or urgent facilities conditions that pose a threat to the health and safety of pupils or staff (*Williams*).

The provision of intensive instruction and services after the completion of grade 12 to pupils who have not passed one or both parts of the California High School Exit Examination (CAHSEE) (*Valenzuela*).

These regulations, including the notice and complaint form presented in Exhibits 1 and 2 respectively, implement the *Williams* and *Valenzuela* Settlements in accordance with Education Code section 35186.

TYPES OF COMPLAINTS

Procedures presented in this administrative regulation shall be used to address complaints when the complainant alleges that any of the following has occurred:

Textbooks and Other Instructional Materials

1. A pupil, including an English learner, does not have standards-aligned textbooks or other instructional materials or state-adopted or County Board-adopted textbooks or other required instructional materials to use in class.
2. A pupil does not have access to textbooks or other instructional materials to use at home or after school. This does not require two sets of textbooks or instructional materials for each pupil.

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3. Textbooks or other instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.
4. A pupil was provided photocopied sheets from only a portion of a textbook or other instructional materials to address a shortage of textbooks or instructional materials.

Instructional materials means all materials that are designed for use by pupils and their teachers as a learning resource and help pupils to acquire facts, skills, or opinions or to develop cognitive processes. Instructional materials may be printed or nonprinted, and may include textbooks, technology-based materials, other educational materials, and tests.

Teacher Vacancies or Misassignments

1. A semester begins and a teacher vacancy exists.
2. A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20 percent English learner pupils in the class.
3. A teacher is assigned to teach a class for which the teacher lacks subject matter competency.

Teacher vacancy means a position to which a single designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.

Misassignment means the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold.

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Facilities

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

Emergency or urgent threat means structures or systems that are in a condition that poses a threat to the health and safety of pupils or staff while at school, including but not limited to gas leaks; nonfunctioning heating, ventilation, fire sprinklers, or air-conditioning systems; electrical power failure; major sewer line stoppage; major pest or vermin infestation; broken windows or exterior doors or gates that will not lock and that pose a security risk; abatement of hazardous materials previously undiscovered that pose an immediate threat to pupils or staff; structural damage creating a hazardous or uninhabitable condition, and any other condition the County Superintendent of Schools deems appropriate.

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

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

Open restroom means, with the exception of temporary closures for repair or pupil safety, all restrooms are kept open during school hours when pupils are not in classes and a sufficient number of restrooms are kept open during school hours when pupils are in classes.

California High School Exit Examination (CAHSEE) Intensive Instruction and Services

Intensive instruction and services were not provided pursuant to Education Code section 37254, to an eligible pupil for two consecutive academic years after completion of grade 12 or until the pupil has passed both parts of the CAHSEE, whichever comes first. An eligible pupil means a pupil, including an English learner, who has not met the CAHSEE requirement for high school graduation and who has failed one or both parts

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of that examination by the end of grade 12. (See also Administrative Regulation 6146, High School Graduation Requirements)

FILING A COMPLAINT

The complaint form presented in Exhibit 2 may be used by a complainant to identify deficiencies, as described above, related to textbooks and other instructional materials, teacher vacancies or misassignments, conditions of facilities, and the provision of intensive instruction and services after grade 12 to pupils who have not passed the CAHSEE. The complaint form shall identify the place for filing the complaint and include a space to indicate whether a response is requested.

Complaint forms shall be available at all schools and programs operated by the San Diego County Superintendent of Schools and on the San Diego County Office of Education Web site. Complaint forms available on the California Department of Education Web site may also be used to file a complaint. However, a person may not be required to use a complaint form in order to file a complaint.

The complaint form provides for the information required pursuant to Article 8 of the California Code of Regulations, Title 5, to identify the subject of the complaint. A complainant may add as much text as he or she wishes to explain the complaint. A complaint may contain more than one allegation.

A complaint regarding deficiencies related to the provision of intensive instruction and services after grade 12 to pupils who have not passed the CAHSEE may be submitted directly to the assistant superintendent, Student Services and Programs, as the designated Compliance Officer for the San Diego County Office of Education, or it may be filed with the principal/program administrator and immediately forwarded to the Compliance Officer. All other complaints filed pursuant to this administrative regulation shall be submitted to the principal/program administrator at the school/program location in which the complaint arises. A complaint about problems beyond the authority of the principal/program administrator shall be forwarded in a timely manner, but not to exceed ten working days from the date the complaint was received, to the Compliance Officer.

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A complaint may be filed anonymously. If the complainant is unable to put the complaint in writing due to conditions such as a disability or illiteracy, staff of the San Diego County Office of Education shall assist the complainant in the filing of the complaint.

All complaints and written responses are public records.

CONDUCTING THE INVESTIGATION

The principal/program administrator or the Compliance Officer, as applicable, shall make all reasonable efforts to investigate any problem within his/her authority.

The Compliance Officer may assign to staff responsibility for investigating and resolving a complaint and reporting the resolution to the complainant. The Compliance Officer shall ensure that any employee designated to investigate and resolve a complaint is knowledgeable about applicable laws and the requirements of this administrative regulation.

The principal/program administrator, or the Compliance Officer or his/her designee, shall remedy a valid complaint within a reasonable time period but not to exceed 30 working days from the date the complaint was received.

RESPONSE TO THE COMPLAINANT

The principal/program administrator, or the Compliance Officer or his/her designee, shall report in writing to the complainant the resolution of the complaint within 45 working days of the initial filing if the complainant identifies himself or herself and has requested a response. The response shall be made to the mailing address of the complainant indicated on the complaint form. If 15 percent or more of the pupils enrolled in the school addressed in the complaint speak a single primary language other than English and if the complaint is written in that language, the response shall be written in both languages. If the principal/program administrator makes the report to the complainant, the principal/program administrator shall also report the same information in the same timeframe to the Compliance Officer.

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RIGHT OF APPEAL

A complainant who is not satisfied with the resolution of a complaint has the right to describe the complaint to the County Board of Education at a regularly scheduled meeting.

A complainant who is not satisfied with the resolution of a complaint involving a condition of a facility that poses an emergency or urgent threat, as defined in this administrative regulation, has the right to file an appeal to the Superintendent of Public Instruction within 15 days of receiving the response. The complainant shall comply with the appeal requirements specified in California Code of Regulations, Title 5, section 4632; a copy of this section shall be provided to the complainant upon request.

REPORT OF COMPLAINTS

The County Superintendent of Schools or designee shall submit quarterly reports of complaints filed in accordance with this administrative regulation to the County Board of Education in open session at a regularly scheduled meeting. The reports shall include summarized data on the nature and resolution of all complaints, the number of complaints by general subject area, and the number of resolved and unresolved complaints.

POSTED NOTICE/NOTIFICATIONS

A notice shall be posted permanently in each classroom and regional office of the schools and programs operated by the County Superintendent of Schools and on the Juvenile Court and Community Schools Web page informing parents, guardians, teachers, and pupils of the right to file a complaint pursuant to Education Code section 35186, and the locations at which to obtain a complaint form. The notice shall comply with the translation requirements of Education Code section 48985. Exhibit 1 presents the required notice.

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Notifications regarding the availability of intensive instruction and services after grade 12 to pupils who have not passed one or both parts of the CAHSEE shall be mailed to eligible pupils in accordance with Administrative Regulation 6146, High School Graduation Requirements.

Board Policy 1312

Administrative Regulation 1312.3, 6146, 6161

Derivation: Adopted 4/30/07. Amended and renamed 7/31/08. Amended 4/20/11, 5/8/13.

Legal Reference: Education Code

1240, 1240.3, 17002, 17592.72, 35186, 35292.5, 37254, 48985

California Code of Regulations, Title 5

4600 et seq.

Court Decisions

Eliezer Williams et al., vs. State of California, et al., (2004) No. CGC-00-312236,
Superior Court, County of San Francisco

Liliana Valenzuela et al., vs. Jack O'Connell, et al., (2007) No. RG06288707,
Superior Court, County of Alameda

Management Resources: Uniform Complaint Procedures, California Department of Education:
www.cde.ca.gov/re/cp/uc

San Diego County Office of Education Board Bylaws, Board Policies,
and Administrative Regulations:

www.sdcoe.net/business/legal/policy.asp

*Uniform Complaint Notice, Pupil Learning and Uniform Complaint
Form, Pupil Learning:* www.sdcoe.net/parent_info.asp

SAN DIEGO COUNTY OFFICE OF EDUCATION
Notice of Uniform Complaint Procedures, Pupil Learning

NOTICE TO PARENTS, GUARDIANS, PUPILS, AND TEACHERS
COMPLAINT RIGHTS

Parents, Guardians, Pupils, and Teachers:

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

1. There should be sufficient textbooks and instructional materials. That means each pupil, including English learners, must have a textbook or instructional materials, or both, to use in class and to take home.
2. School facilities must be clean, safe, and maintained in good repair.
3. There should be no teacher vacancies or misassignments. There should be a teacher assigned to each class and not a series of substitutes or other temporary teachers. The teacher should have the proper credential to teach the class, including the certification required to teach English learners if present.

Teacher vacancy means a position to which a single designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.

Misassignment means the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold.

4. Pupils, including English learners, who have not passed one or both parts of the high school exit examination by the end of the 12th grade are to be provided the opportunity to receive intensive instruction and services for up to two consecutive academic years after the completion of grade 12.

A complaint form can be obtained at the school office or district office or downloaded from the San Diego County Office of Education Web site at: http://www.sdcoe.net/parent_info.asp. You can also download a copy of the California Department of Education complaint form from the following Web site: www.cde.ca.gov/re/cp/uc.

**SAN DIEGO COUNTY OFFICE OF EDUCATION
Uniform Complaint Form, Pupil Learning**

This form may be used to file a complaint related to the issues listed below. If you are unable to put your complaint in writing due to conditions such as a disability or illiteracy, a member of the school staff will assist you in filing your complaint. This form may be used for more than one complaint. This complaint and any written response are public records. For additional information, refer to San Diego County Office of Education Administrative Regulation 1312.4.

Today's Date: _____

Date Problem Was Observed: _____

Complaints may be filed anonymously. If you wish to receive a written response to your complaint, you must provide the contact information below. Do you want to receive a written response? **Yes** **No**

Name (Optional): _____ Mailing Address (Optional): _____

Phone Number (Optional): _____ (day) _____ (evening)

Issue(s) of the Complaint: (Please check all that apply.)

1. Textbooks and Instructional Materials

- A pupil, including an English learner, does not have standards-aligned textbooks or other instructional materials or state- or County Board-adopted textbooks or other required instructional materials to use in class.
- A pupil does not have access to textbooks or other instructional materials to use at home or after school. This does not require two sets of textbooks or instructional materials for each pupil.
- Textbooks or other instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.
- A pupil was provided photocopied sheets from only a portion of a textbook or instructional materials to address a shortage of textbooks or instructional materials.

2. Condition in a School Facility

- A condition in a school facility poses an emergency or urgent threat to the health or safety of pupils or staff, including but not limited to gas leaks; nonfunctioning heating, ventilation, fire sprinklers, or air-conditioning systems; electrical power failure; major sewer line stoppage; major pest or vermin infestation; broken windows or exterior doors or gates that will not lock and that pose a security risk; abatement of hazardous materials previously undiscovered that pose an immediate threat to pupils or staff; structural damage creating a hazardous or uninhabitable condition; and any other condition the County Superintendent of Schools deems appropriate.
- A school restroom has not been maintained or cleaned regularly, is not fully operational, or has not been stocked at all times with toilet paper, soap, and paper towels or functional hand dryers.
- The school has not kept all restrooms open during school hours when pupils are not in classes and has not kept a sufficient number of restrooms open during school hours when pupils are in classes.

3. Teacher Vacancy or Misassignment

- Teacher Vacancy: A semester begins and a teacher vacancy exists. (A teacher vacancy is a position to which a single designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.)
- Teacher Misassignment: A teacher is assigned to teach a class for which the teacher lacks subject matter competency.
- Teacher Misassignment: A teacher is assigned to teach a class in which more than 20 percent of the pupils are English learners and the teacher lacks credentials or training to teach English learners.

4. High School Exit Examination (CAHSEE) Intensive Instruction and Services

- Pupils who have not passed the high school exit exam by the end of 12th grade were not provided the opportunity to receive intensive instruction and services pursuant to 37254(d)(4) and (5) after the completion of grade 12.

Location of Problem (School Name, Address, and Room Number or Location): _____

Course or Grade Level and Teacher Name: _____

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

File this complaint with the school principal:

Name: _____

Address: _____

References: Education Code sections 35186(f) and 37254

Administrative Regulation 1312.4, Uniform Complaint Procedures, Pupil Learning: San Diego County Office of Education Web site at www.sdcoe.net/business2/dfs/?loc=legal-bylaws&m=5&pi=legal