

1000 COMMUNITY RELATIONS

1500 COMPLAINTS

1502 WILLIAMS UNIFORM COMPLAINT PROCEDURES

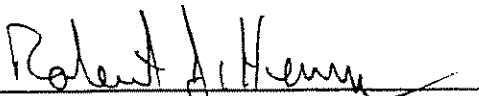
5 CCR 4621 has long required every school district to adopt uniform complaint procedures for the resolution of complaints regarding discrimination or failure to comply with state or federal law in certain categorical programs. As added and amended by SB 550 (Ch. 900, Statutes of 2004) and AB 2727 (Ch. 903, Statutes of 2004), Education Code 35186 mandates that the district establish policies and procedures regarding deficiencies related to instructional materials, emergency or urgent facilities conditions that pose a threat to the health and safety of students or staff, and teacher vacancy or misassignment. Education Code 35186 requires that the district adopt policies and post notices by January 1, 2005. See the accompanying exhibits for notice and complaint form.

Education Code 35186 was further amended by AB 831 (Ch. 118, Statutes of 2005) to modify language in the notice to (1) eliminate the condition that a complaint could be filed only if a student did not have a book to take home in order "to complete required homework assignments" and (2) require information about teacher vacancy and assignments. SB 512 (Ch. 677, Statutes of 2005) also amended Education Code 35186 to require that the notice be addressed to students and teachers, as well as parents and guardians.

Education Code 35186, as added, requires a district to use the uniform complaint procedure, with modifications, to identify and resolve complaints regarding those issues listed above. However, Education Code 35186 sets forth different timelines for investigation and resolution of complaints than the timelines specified under the long-standing uniform complaint procedures required by 5 CCR 4600-4671. Therefore, the following regulation creates a "supplemental" uniform complaint procedure to investigate complaints filed pursuant to Education Code 35186.

For procedures related to complaints about employees, other than vacancy or assignment, see Board Policy 4131 – Complaints Concerning School Personnel. For complaints concerning the adoption and selection of specific instructional materials, see Board Policy 6710 – Selection and Evaluation of Instructional Materials. For regular uniform complaints, see Board Policy 1501 – Uniform Complaint Procedures.

Approved as to form:



ROBERT J. HENRY, of Counsel
School and College Legal Services

Approved by
Marin County Board of Education – 1/11/05
Revised: 2/14/06; 3/13/07; 7/17/07; 10/9/07; 2/12/08

MARIN COUNTY OFFICE OF EDUCATION
ADMINISTRATIVE REGULATIONS AND PROCEDURES

WILLIAMS UNIFORM COMPLAINT PROCEDURES

(Board Policy 1502)

PROCEDURES

TYPES OF COMPLAINTS

The county office shall use the following procedures to investigate and resolve complaints when the complainant alleges that any of the following has occurred: (Education Code 35186)

1. Instructional materials
 - a. A student, including an English learner, does not have standards-aligned textbooks or instructional materials or state-adopted or Marin County Office of Education-adopted textbooks or other required instructional materials to use in class.
 - b. A student does not have access to instructional materials to use at home or after school.
 - c. Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.
 - d. A student was provided photocopied sheets from only a portion of textbook or instructional materials to address a shortage of textbooks or instructional materials.

2. Teacher vacancy or misassignment

2.1 Vacancy

- a. A semester begins and a teacher vacancy exists.

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. (Education Code 33126)

2.2 Misassignment

- b. A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20 percent English learner students in the class.
- c. A teacher is assigned to teach a class for which the teacher lacks subject matter competency.

Misassignment means the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold. (Education Code 35186)

3. Facilities

- a. A condition poses an emergency or urgent threat to the health or safety of students 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 students 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 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 students or staff; or structural damage creating a hazardous or uninhabitable condition. (Education Code 17592.72)

4. High School Exit Examination Intensive Instruction and Services

- a. A student, including an English learner, who has not passed the exit exam by the end of grade 12 and who was not provided the opportunity to receive intensive instruction and services pursuant to Education Code 37254(d)(4) and (5) after completion of grade 12 for two consecutive academic years or until the student has passed both parts of the exam, whichever comes first. (Education Code 35186)

FILING OF COMPLAINT

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

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

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

Complaints may be filed anonymously.

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

If a complainant is not satisfied with the resolution of the complaint, he/she may describe the complaint to the Governing Board at a regularly scheduled hearing. (Education Code 36186)

WILLIAMS UNIFORM COMPLAINT PROCEDURES

For complaints concerning a facility condition that poses an emergency or urgent threat to the health or safety of students as described in item #3a above, a complainant who is not satisfied with the resolution proffered by the principal/program manager, Superintendent, or designee may file an appeal to the Superintendent of Public Instruction within 15 days of receiving the report. The complaint shall comply with the appeal requirements specified in 5CCR4632. (Education Code 35186)

PUBLIC RECORDS

Complaints and written responses shall be public records. (Education Code 35186)

QUARTERLY REPORTS

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

FORMS AND NOTICES

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

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

Legal Reference:

EDUCATION CODE

1240 County superintendent of schools, duties

17592.72 Urgent or emergency repairs, School Facility Emergency Repair Account

33126 School Accountability Report Card

35186 Alternative uniform complaint procedure

60119 Hearing on sufficiency of instructional materials

CODE OF REGULATIONS, TITLE 5

4600-4671 Uniform complaint procedures

NOTICE TO PARENTS/GUARDIANS, STUDENTS AND TEACHERS:
COMPLAINT RIGHTS

Parents/Guardians, Students, and Teachers:

Education Code 35186 requires that the following notice be posted in your child's classroom:

1. There should be sufficient textbooks and instructional materials. For there to be sufficient textbooks and instructional materials, each student, including English learners, must have a textbook or instructional material, or both, to use in class and to take home.
2. School facilities must be clean, safe, and maintained in good repair. Good repair means that the facility is maintained in a manner that insures that it is clean, safe and functional as determined by the Office of Public School Construction.
3. There should be no teacher vacancies or misassignments as defined in Education Code 35186(e)(2).

Misassignment means the placement of a certified employee in a teacher 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.

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.

4. Students, including English learners, who have not passed one or both parts of the high school exit examination by the end of grade 12 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.
5. To file a complaint regarding the above matters, complaint forms can be obtained at the principal/program manager's office, county office, or can be downloaded from the county office's or California Department of Education's web site.

COMPLAINT FORM: WILLIAMS UNIFORM COMPLAINT PROCEDURE

Complaints may be filed anonymously. However, if you wish to receive a response to your complaint, you must provide the contact information below.

Response requested? Yes No

Name: _____

Address: _____

Phone Number: Day: _____ Evening: _____

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

1. Textbooks and instructional materials:

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

2. Teacher vacancy or misassignment:

- A semester begins and a teacher vacancy exists. (Education code 35186(e)(2). 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 of which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.
- A teacher lacks credentials or training to teach English learners or is assigned to teach a class with more than 20% English learners in the class.
- A teacher is assigned to teach a class for which the teacher lacks subject matter competency.

- 3. Facility conditions:
 - A condition exists that poses an emergency or urgent threat to the health or safety of students or staff as defined in AR 1312.4.

- 4. High school exit exam intensive instruction and services: (Education Code 35186)
 - Students, including English learners, who have not passed the high school exit exam by the end of grade 12 and who were not provided the opportunity to receive intensive instruction and services pursuant to Education Code 37254(d)(4) and (5) after the completion of grade 12.

Please describe the issue of your complaint in detail, including the date of the problem and specific location where the problem occurred (school, room number). You may attach additional pages if necessary to fully describe the situation(s).

For complaints regarding instructional materials, please include the title of the course or grade level in which the deficiency(ies) in instructional materials exist, and the name of the teacher of the course or grade level. Your complaint may contain more than one allegation.

For complaints regarding facilities condition, please describe the emergency or urgent facilities condition and how that condition poses a threat to the health or safety of students or staff. Your complaint may contain more than one allegation.

Please file this complaint with the person specified below at the following location:

(Program Manager or Principal or Designee)

(Address)