

CSBA Sample Administrative Regulation

Community Relations

AR 1312.4(a)

WILLIAMS UNIFORM COMPLAINT PROCEDURES

Note: 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 a sample notice and complaint form.

Education Code 35186, as added, requires a district to use the uniform complaint procedures, 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. It is recommended that districts use this procedure only for those complaints specified in Education Code 35186 and that existing complaint procedures continue to be used for all other issues.

For procedures related to complaints about employees, other than vacancy or assignment, see BP/AR 1312.1 - Complaints Concerning District Employees. For complaints concerning the district’s adoption and selection of specific instructional materials, see BP/AR 1312.2 - Complaints Concerning Instructional Materials. For complaints regarding discrimination or failure to comply with state or federal law in certain categorical programs, see BP/AR 1312.3 - Uniform Complaint Procedures.

Types of Complaints

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

1. Instructional materials
 - a. A student, including an English learner, does not have standards-aligned textbooks or instructional materials or state- or district-adopted textbooks or other required instructional materials to use in class.
 - b. A student does not have access to instructional materials to use at home or after school in order to complete required homework assignments.
 - c. Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.

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

WILLIAMS UNIFORM COMPLAINT PROCEDURES (continued)

Note: Education Code 35186, as amended by AB 2727 (Ch. 903, Statutes of 2004), defines vacancy and misassignment, pursuant to Education Code 33126, as specified below.

2. Teacher vacancy or misassignment

- a. A semester begins and a certificated teacher is not assigned to teach the class.

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)

- 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.

(cf. 4112.22 - *Staff Teaching Students of Limited English Proficiency*)

- 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)

(cf. 4112.2 - *Certification*)

(cf. 4113 - *Assignment*)

Note: Education Code 35186, as amended by AB 2727 (Ch. 903, Statutes of 2004), requires that the Williams Uniform Complaint Procedures be used for complaints regarding facilities conditions that pose an emergency or urgent threat. Emergency or urgent threat, as specified below, is defined in Education Code 17592.72, as added by SB 6 (Ch. 899, Statutes of 2004).

3. Facilities

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,

WILLIAMS UNIFORM COMPLAINT PROCEDURES (continued)

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)

Filing of Complaint

Note: Education Code 35186, as amended by AB 2727 (Ch. 903, Statutes of 2004), requires that complaints be investigated and resolved within the timelines specified below.

A complaint alleging any condition(s) specified above shall be filed with the principal or designee. The principal or designee shall forward a complaint about problems beyond his/her authority to the Superintendent or designee within 10 working days. (Education Code 35186)

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

Note: As amended by AB 2727 (Ch. 903, Statutes of 2004), Education Code 35186 specifies that if a complainant has indicated on the complaint form that he/she would like a response to the complaint, then the principal must respond within 45 working days, as specified below.

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 or designee shall report the resolution of the complaint to him/her within 45 working days of the initial filing of the complaint. At the same time, the principal 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)

For complaints concerning a facility condition that poses an emergency or urgent threat to the health or safety of students or staff as described in item #3 above, a complainant who is not satisfied with the resolution proffered by the principal or Superintendent or designee may file an appeal to the Superintendent of Public Instruction. (Education Code 35186)

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

WILLIAMS UNIFORM COMPLAINT PROCEDURES (continued)

(cf. 1340 - Access to District Records)

Reports

Note: Education Code 35186, as amended by AB 2727 (Ch. 903, Statutes of 2004), requires the district to report summarized data regarding complaints as detailed below.

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

Forms and Notices

Note: As amended by AB 2727 (Ch. 903, Statutes of 2004), Education Code 35186 requires that the district's complaint form contain the following specified elements. In addition, Education Code 35186 requires that a notice be posted in each classroom in each school in the district, as specified below. See the accompanying exhibits for a sample form and classroom notice.

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. (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: (see next page)

WILLIAMS UNIFORM COMPLAINT PROCEDURES (continued)

Legal Reference:

EDUCATION CODE

1240 *County superintendent of schools, duties*

17592.72 *Urgent or emergency repairs, School Facility Emergency Repair Account*

33126 *School Accountability Report Card*

35186 *Alternative uniform complaint procedure*

60119 *Hearing on sufficiency of instructional materials*

CODE OF REGULATIONS, TITLE 5

4600-4671 *Uniform complaint procedures*

Management Resources:

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education, Williams case: <http://www.cde.ca.gov/eo/ce/wc/index.asp>

CSBA Sample Exhibit

Community Relations

E(1) 1312.4

WILLIAMS UNIFORM COMPLAINT PROCEDURES

Note: As amended by AB 2727 (Ch. 903, Statutes of 2004), Education Code 35186 requires that the following notice be posted in each classroom in each school in the district by January 1, 2005.

NOTICE TO PARENTS/GUARDIANS: COMPLAINT RIGHTS

Parents/Guardians:

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 to complete required homework assignments.
2. School facilities must be clean, safe, and maintained in good repair. Good repair means that the facility is maintained in a manner that assures that it is clean, safe and functional as determined by the Office of Public School Construction.

Note: Education Code 35186, as amended by AB 2727 (Ch. 903, Statutes of 2004), requires that the notice notify parents/guardians of the location to obtain a complaint form when there is a shortage and that posting a notice downloadable from the California Department of Education's website will satisfy this requirement. The law does not require that complaint forms be placed in any specific location. The following **optional** paragraph lists locations where complaint forms may be available and should be modified to reflect district practice.

3. To file a complaint regarding the above matters, complaint forms can be obtained at the principal's office, district office, or can be downloaded from the school district's or California Department of Education's website.

11/04

CSBA Sample Exhibit

Community Relations

E(2) 1312.4(a)

WILLIAMS UNIFORM COMPLAINT PROCEDURES

COMPLAINT FORM: WILLIAMS UNIFORM COMPLAINT PROCEDURE

Note: AB 2727 (Ch. 903, Statutes of 2004) amended Education Code 35186 to create a procedure for the filing of complaints concerning deficiencies in instructional materials, teacher vacancy or misassignment, and maintenance of facilities. The following form contains elements required by Education Code 35186. Education Code 35186 requires that complaints be filed with the principal or his/her designee and that the complaint form specify the location for filing the complaint. Districts should specify the name and/or location by filling in the spaces at the bottom of this form.

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 lacks textbooks or instructional materials to use in class.
- A student does not have access to instructional materials to use at home or after school to complete homework assignments.
- Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.

2. Teacher vacancy or misassignment:

- A semester begins and a certificated teacher is not assigned to teach the class.
- 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.

WILLIAMS UNIFORM COMPLAINT PROCEDURES (continued)

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: _____

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

(principal or title of his/her designee)

(address)