



# SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

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## LEGAL UPDATE

January 11, 2019

**To: Superintendents, Member School Districts (K-12)**  
**From: Damara L. Moore *DM*  
Senior Associate General Counsel**  
**Subject: Check Your Uniform Complaint Policy and Administrative  
Regulation for Compliance with CDE Program Monitoring  
Memo No. 01-2019**

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A local education agency (“LEA”) recently called to our attention that the California Department of Education’s (“CDE’s”) auditors have required changes to the policy and administrative regulation that the LEA adopted from California School Board Association’s (“CSBA’s”) model board policy (“BP”) and administrative regulation (“AR”) 1312.3, pertaining to Uniform Complaint Procedures (“UCP”). The CDE takes the position that model BP/AR 1312.3 do not comply with state and federal law in several respects.

The CDE has posted on its website a “Sample Uniform Complaint Procedures (UCP) Policies and Procedures” which does comply with the CDE’s interpretation of the legal requirements for UCP.<sup>1</sup>

The thrust of the CDE’s position is that CSBA’s BP 1312.3 does not accurately identify the state and federal laws that are covered by UCP. The CDE required the LEA that contacted our offices to change its BP 1312.3’s identification of the state and federal programs and activities which are subject to the UCP, with the required changes deviating only slightly from nomenclature used in CSBA model BP 1312.3.<sup>2</sup>

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<sup>1</sup> <https://www.cde.ca.gov/re/cp/uc/ucpmonitoring.asp> (last visited January 11, 2019).

<sup>2</sup> Here is a complete list of these programs, according to the CDE: Adult Education, After School Education and Safety, Agricultural Career Technical Education, American Indian Education Centers and Early Childhood Education Program Assessments, Bilingual Education, California Peer Assistance and Review Programs for Teachers, Career Technical and Technical Education; Career Technical; Technical Training (State); Career Technical Education (Federal); Child Care and Development; Child Nutrition; Compensatory Education; Consolidated Categorical Aid; Course Periods without Educational Content; Economic Impact Aid; Education Of Pupils In Foster Care, Pupils Who Are Homeless, Former Juvenile Court Pupils Now Enrolled In A School District, and Pupils Of Military Families; Every Student Succeeds Act / No Child Left Behind (Titles I–VII); Local Control and Accountability Plans (LCAP); Migrant Education; Physical Education Instructional Minutes; Pupil Fees; Reasonable Accommodations to a Lactating Pupil; Regional Occupational Centers and Programs; School Safety Plans; Special Education; and State Preschool.



The CDE auditors also disagree with the remedies required by CSBA model AR 1312.3. CSBA model AR 1312.3 requires a LEA to provide a remedy to “all affected students and parents/guardians” for specific violations of the law, whereas the CDE takes the position that it is “the affected pupil” who is entitled to a remedy where a LEA has found a violation of the following laws:

- Course Periods without Educational Content;
- Reasonable Accommodations to a Lactating Pupil; and/or
- Education of Pupils in Foster Care, Pupils who are Homeless, former Juvenile Court Pupils now enrolled in the school district and pupils of military families.

Governing Boards should consider adopting the CDE Sample Uniform Complaint Procedures to avoid a finding that they are out of compliance, if audited by the CDE.

Please contact our office with questions regarding this Legal Update or any other legal matter.

*The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.*

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