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**Understanding UCP Requirements**

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This slide features a dark blue header with the Y&M&C logo and firm name. The main content area is yellow and contains the title 'Understanding UCP Requirements' and the presenter's name and email. To the left of the yellow area are three small images: a compass with 'QUESTIONS' and 'ANSWERS' written on it, a photograph of a state capitol building, and a photograph of people in a meeting with their hands raised.

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This slide has a dark blue header with the word 'Disclaimer' in white. The main content area is white and contains a bulleted list of five disclaimer points. The bottom of the slide features the Y&M&C logo and firm name. A small compass graphic is visible in the top right corner of the slide.

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## YM&C Firm Overview



- Partners have over 125 years of collective experience working with charter schools
- 35 attorneys working with charter schools throughout the state in all areas of charter school law (e.g., employment/labor, special education, nonprofits, litigation, audits, facilities, etc.)
- Represent more than half of California's charter schools
- Conduct workshops for charter schools in all areas of legal compliance



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## Overview of Training



- Uniform Complaint Procedures (UCP)
  - Scope of the UCP
  - UCP Complaint Process
  - Appeals of UCP Complaints to the CDE
  - Policy and Notice Requirements



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## Scope of the UCP



- What is the UCP?
  - A uniform system of processing for complaints alleging a violation of federal or state law or regulations governing certain educational programs and other specified subject matter. (Ed. Code Section 33315; 5 CCR 4610)



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## Scope of the UCP



- What Programs and Activities Fall Within the Scope of the UCP?
  - Education Code Section 33315(a)(1) states that the UCP shall apply to:
    1. Adult education programs
    2. Consolidated Categorical Aid
    3. Migrant Child Education
    4. Career technical and technical education and career technical and technical training programs
    5. Child care and development programs (including ASES)



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## Scope of the UCP

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6. Complaints that allege unlawful discrimination, harassment, intimidation, or bullying against any protected group as identified . . . , including any actual or perceived characteristic as set forth in Section 422.55 of the Penal Code, or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics, in any program or activity conducted by an educational institution, . . . that is funded directly by, or that receives or benefits from, any state financial assistance.



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## Scope of the UCP



7. Lactation accommodations
8. Educational rights of foster youth and graduation requirements for foster, homeless and other youth
9. Pupil fees
10. Courses of study pursuant to Section 51228.3
11. Instructional minutes for physical education
12. Local control and accountability plans
13. Juvenile court schools
14. School safety plans
15. Deficiencies related to state preschool health and safety
16. Any other state or federal educational program the SSPI deems appropriate



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## Scope of the UCP



- Other Education Code sections specifically provide that the UCP will apply to certain programs or activities. Examples include:
  - Accommodations for Pregnant and Parenting Pupils (EC 46015)
  - School Plans for Student Achievement (EC 64001)
- See UCP Policy for a list of applicable programs and activities



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## Complaint Process



- Steps in the Complaint Process
  - Filing of the complaint
  - Investigation of the complaint
  - Corrective actions, if any
  - Written investigation report/decision



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## Complaint Process



- Filing of the Complaint
  - “Complaint” and “Complainant” are defined in 5 CCR 4600
  - Must be in writing and signed
    - Electronic/typed signature acceptable
    - Certain types of complaints may be anonymous
    - May need to assist the complainant in putting complaint into writing
  - Does not have to be written on a specific form
  - Must be filed within the respective timeframe unless the deadline for filing is extended



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## Complaint Process



- Investigating the Complaint
  - Investigators must be knowledgeable about the laws/programs they are assigned to investigate
  - Create an investigation plan based on the allegations
  - Allow complainant to present evidence or information leading to evidence to support the allegations
  - For discrimination, harassment, intimidation or bullying complaints, maintain confidentiality of the parties as appropriate
  - Complainants must be protected from retaliation
  - Take corrective actions as necessary/appropriate



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## Complaint Process

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- **Written Investigation Report**
  - Issued within 60 days from the date of the receipt of the complaint
  - Must include:
    - Findings of fact based on the evidence
    - Conclusion providing a clear determination as to each allegation as to whether the school is in compliance
    - If there is merit in the complaint, corrective actions
    - Notice of the complainant's right to appeal to the CDE
    - Procedures for initiating an appeal to the CDE



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## CDE Appeals



- Complainants may appeal the School's decision to the CDE.
- Appeal must be in writing and filed with CDE within 30 days.
- Appeal must specify one of the permitted grounds for appeal.
- If the appeal raises new issues, the CDE will refer those new issues back to the School for resolution as a new complaint.
- If the School's report failed to address an allegation raised by the complaint and subject to the UCP, the CDE will direct the School to investigate and address such allegation(s). The School must provide an amended investigation report within 20 days, which must inform the appellant of the right to separately appeal.



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## CDE Appeals



- Upon notification by the CDE that the School's report has been appealed, the School must forward the following to the CDE within 10 days:
  - A copy of the original complaint;
  - A copy of the LEA Investigation Report;
  - 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;
  - A report of any action taken to resolve the complaint;
  - A copy of the LEA complaint procedures; and
  - Such other relevant information as the CDE may request.



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## CDE Appeals



- CDE generally will not consider any information not previously presented to the School investigator during the investigation.
- CDE will review the documents received from the School and determine whether:
  - The School followed its complaint procedures;
  - The School's report includes material findings of fact necessary to reach a conclusion of law on the subject of the appeal;
  - The material findings of fact in the School's report are supported by substantial evidence;
  - The School's report includes a legal conclusion(s) that is consistent with the law; and
  - In a case in which the School found noncompliance, the corrective actions provide a proper remedy.



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## CDE Appeals



- With some exceptions, the CDE must issue a written decision to the appellant within 60 days of the CDE's receipt of the appeal.
- If the CDE determines the criteria is met, the appeal will be denied.
- If the CDE determines the criteria is not met, the CDE may:
  - Instruct the School to provide an amended report within 20 days, which must include notice of the right to appeal; or
  - Issue a decision based on the evidence in the investigation file received from the School; or
  - Conduct a further investigation of the allegations which are the basis for the appeal and issue a decision.
- The CDE may issue corrective actions as appropriate.



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## CDE Appeals



- Request for Reconsideration
  - Either party may request reconsideration in 30 days of CDE decision.
  - Must specify and explain the reason(s) for contesting the findings of fact, conclusions of law, or corrective actions in the CDE's decision.
  - SSPI or designee generally will not consider information not previously submitted to the CDE during the appeal.
  - SSPI or designee must issue a written response in 60 days.
  - During reconsideration, CDE decision remains in effect and enforceable, unless stayed by a court.




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## Policy and Annual Notice



- UCP policy must identify the person(s) or position(s) responsible for receiving complaints, investigating complaints and ensuring compliance.
- Annual notice must be provided in writing to the School's students, employees, parents/guardians, advisory committees, appropriate private school officials or representatives, and other interested parties and must include:
  - The person(s)/position(s) responsible for processing UCP complaints;
  - Notice of right to appeal the School's report on a complaint subject to the UCP to the CDE;
  - Notice of civil law remedies that may be available under state or federal discrimination, harassment, intimidation or bullying laws, if applicable, and of the appeal pursuant to EC section 262.3;
  - Information required by EC section 33315(a)(7); and
  - Information regarding the requirements of EC sections 49010-49013.


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## QUESTIONS?

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