

Please Note  
This meeting is recorded.  
Aviso:  
Esta junta se grabará en cinta.

**LOS BANOS UNIFIED SCHOOL DISTRICT  
GOVERNING BOARD OF EDUCATION  
SPECIAL MEETING**

**Los Banos Unified School District Boardroom  
1717 S. 11<sup>th</sup> Street, Los Banos, CA 93635  
Monday, April 1, 2019  
5:00 P.M. Closed Session  
6:00 P.M. Regular Meeting**

**AGENDA**

The District welcomes Spanish speakers to Board meetings. Anyone planning to attend and needing an interpreter should call 826-3801, 48 hours in advance of the meeting, so arrangements can be made for an interpreter.  
*El Distrito da la bienvenida a las personas de habla hispana a las juntas de la Mesa Directiva. Si planea asistir y necesita interpretación llame al 826-3801, 48 horas antes de la junta, para poder hacer arreglos de interpretación.*

**I. OPENING BUSINESS**

**A. Call Public Session to Order**

**B. Roll Call of Board Members Present**

Margaret Benton      Anthony Parreira  
Megan Goin            Anahi Rodriguez  
Ray Martinez         Marlene Smith  
Gary Munoz

**C. Closed Session (5:00 P.M.)**

- 1. Public Employees: Discipline/Dismissal/Release/Reassignment (Section 54957)  
(No Action)
- 2. Conference with Labor Negotiator (Section 54957.6) Agency Negotiators: Tammie Calzadillas, Paul Enos, Don Laursen, Mark Marshall and Paula Mastrangelo; Employee Organization: LBTA/CSEA/Non Represented Groups (No Action)

**II. OPEN REGULAR MEETING (6:00 P.M.)**

**III. PLEDGE OF ALLEGIANCE**

**IV. APPROVAL OF AGENDA**

Motion by \_\_\_\_\_ Seconded by \_\_\_\_\_  
**Proposed Action:** Approve Agenda

V. **PUBLIC HEARING**

**Public Presentations:**

Members of the public may request an item be placed on the agenda of a regular meeting by submitting a request in writing, with all supporting documents, if any, to the Superintendent at least two weeks before the scheduled meeting date. [BB 9322(a)]

**General Public Comment:**

Individuals wishing to address the Board on items not on the agenda may do so by approaching the podium. Once recognized, individuals shall identify themselves and make their statement. Speakers are limited to three (3) minutes, with the total time for public input at twenty (20) minutes per non-agenda item. [BB 9323]

**Public Comment on Agenda Items:**

Members of the community may address specific items on the agenda as they are taken up by the Board in open session or prior to the Board going into closed session. The Board President will recognize individuals who wish to speak. Speakers are limited to three (3) minutes, with the total time for public input at twenty (20) minutes per agenda item. Once public comment on the agenda item is concluded and the Board begins deliberations or recesses to closed session, no further public comment shall be permitted on the agenda item. [BB 9323]

VI. **NEW BUSINESS**

A. Resolution #8-19 Declaring Intention to Annex Territory (Pg 4)

**5 Min**

It is recommended the Board adopt Resolution No. 8-19 entitled: Resolution Declaring Intention to Annex Territory to Los Banos Unified School District Community Facilities District No. 2 (Mitigation Agreement) and to Levy a Special Tax to Pay For Certain Public Facilities.

Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_

**Proposed Action:** Approve (ROLL CALL VOTE)

B. Award Recommendation Los Banos Elementary School Fire Alarm Project (Pg 21)

**5 Min**

It is recommended the Board approve the low bid from Reliable Fire and Security Solutions, Inc. for the Los Banos Elementary School Fire Alarm Project and authorize the Superintendent or Designee to sign contract documents and issue the Notice to Proceed.

Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_

**Proposed Action:** Approve

C. Change Order Approval Process (Pg 25)

**5 Min**

It is recommended the Board approve the proposed Change Order Process

Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_

**Proposed Action:** Approve

D. Mandated Policy Changes/Updates (First Reading) (Pg 26)

5 Min

It is recommended the Board declare its intent to adopt the following mandated updates:

BP 1312.3	Uniform Complaint Procedures; Community Relations
AR 1312.3	Uniform Complaint Procedures; Community Relations
AR 1312.4	Williams Uniform Complaint Procedures; Community Relations
E 1312.4	Williams Uniform Complaint Procedures; Community Relations

Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_

**Proposed Action:** Declare Intent to Adopt

VII. CONSENT CALENDAR

The Consent Calendar represents routine items acted upon in one motion by roll call vote. The recommendation is for adoption, unless otherwise specified. Any item can be removed for discussion upon request.

A. Contracts/Agreements (Pg 60)

1. Forensic Analytical Consulting Services, WUES Fire Alarm Project (pr)

VIII. REPORTING CLOSED SESSION ACTION

The Board will report action taken at the closed session held prior to the start of the meeting

IX. CLOSED SESSION (If necessary)

X. REPORT OF CLOSED SESSION ACTION (If necessary)

The Board will report if action was taken in closed session

XI. ADJOURNMENT

Americans with Disabilities Act Assistance: Auxiliary aids and services include a wide range of services and devices that promote effective communications for individuals with disabilities. If you require such assistance, please notify the Office of the Superintendent at 826-3801 as soon as possible. Every effort will be made to give primary consideration to expressed preferences or provide equally effective means of communication to insure equal access to Los Banos Unified School District programs and events.

**Board Reference Material**

**SUBJECT TITLE: Annexation of Territory into Community Facilities District No. 2 (Mitigation Agreement) of Los Banos Unified School District – Resolution 08-19**

**REQUESTED ACTION:** Adopt Resolution

Action   X  

Discussion/Information \_\_\_\_\_

**RECOMMENDATION:**

It is recommended the Board adopt Resolution No. 8-19 entitled: Resolution Declaring Intention to Annex Territory to Los Banos Unified School District Community Facilities District No. 2 (Mitigation Agreement) and to Levy a Special Tax to Pay For Certain Public Facilities.

**BACKGROUND INFORMATION:**

On October 13, 2005, the Board of Education approved Resolution No. 25-05, forming Los Banos Unified School District Community Facilities District No. 2 (Mitigation Agreement) (“CFD No. 2”). From time to time, as was done in 2006, the District is authorized by the Mello-Roos Community Facilities Act of 1982 (the “Act”), to annex territory into CFD No. 2.

The District has previously executed a mitigation agreement with the developer for a housing development within its boundaries currently known as “Shaunessy Village.” As a condition of the mitigation agreement, the developer has agreed to annex the territory into CFD No. 2.

Resolution No. 8-19 declares the District’s intention to annex the territory known as Shaunessy Village into CFD No. 2, and sets the date of the public hearing on the matter, which shall be a date no less than thirty (30) days, but no more than sixty (60) days, from the date of adoption of Resolution No. 8-19.

Exhibit A to Resolution No. 8-19 is a boundary map provided by the District’s CFD Administrator, Koppel & Gruber Public Finance, as required by law, showing the territory proposed to be annexed into CFD No. 2.

Exhibit B to Resolution No. 8-19 contains a description of the public school facilities and services that are financed by tax and/or bond proceeds of CFD No. 2. The qualified voters who will be voting on the proposed annexation will be the present landowners of the parcels that are to be annexed into CFD No. 2.

Exhibit C to Resolution No. 8-19 is a special tax formula entitled “Rate, Method of Apportionment, and Manner of Collection of Special Tax” (“RMA”). The RMA provides for an annual special tax for residential units, which is subject to an annual inflation adjustment. Special taxes are subject to annual increases not to exceed two percent (2%), consistent with the requirements of the Act. Certain properties, such as governmental property and undeveloped property, are not subject to the special tax. The special taxes may be prepaid under certain circumstances. In no event shall any developed property be subject to the annual tax for more than thirty (30) years following the date the property is first subject to the tax.

**HOW DOES THIS ACTIVITY SUPPORT BOARD GOALS?**

By securing revenue sources needed to build facilities to keep pace with student enrollment growth, adoption of Resolution No. 8-19 supports Board Goal Nos. 4 and 5.

**ALTERNATIVES/IDENTIFIED OPPOSITION:**

None.

**SPECIFIC FINANCIAL IMPACT (Include Impact on School District Facilities):**

Adoption of this Resolution is a necessary step to the collection of special taxes within the territory proposed to be annexed into CFD No. 2.

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ORIGINATOR: Don Laursen, Assistant Superintendent-Administrative Services  
Date: April 1, 2019

**RESOLUTION NO. 08-19**

**BEFORE THE BOARD OF EDUCATION  
OF THE LOS BANOS UNIFIED SCHOOL DISTRICT  
OF MERCED COUNTY, CALIFORNIA**

**RESOLUTION DECLARING INTENTION TO ANNEX TERRITORY TO LOS BANOS  
UNIFIED SCHOOL DISTRICT COMMUNITY FACILITIES DISTRICT NO. 2  
(MITIGATION AGREEMENT) AND TO LEVY A SPECIAL TAX TO PAY FOR CERTAIN  
PUBLIC FACILITIES**

**WHEREAS**, pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"), the Board of Education (the "Board") of Los Banos Unified School District (the "District"), on October 13, 2005, approved Resolution No. 25-05, forming Los Banos Unified School District Community Facilities District No. 2 (Mitigation Agreement) ("CFD No. 2"); and

**WHEREAS**, at a special election held on October 13, 2005, the questions of levying a special tax, establishing an appropriations limit and incurring bonded indebtedness with respect to CFD No. 2 were submitted to the qualified electors within CFD No. 2; and

**WHEREAS**, on October 13, 2005, the Board adopted Resolution No. 26-05 determining the results of the special election and finding that more than two-thirds ( $\frac{2}{3}$ ) of all votes cast at the special election were cast in favor of the propositions presented, and such propositions passed; and

**WHEREAS**, the Board may declare its intention to annex territory to an existing community facilities district in accordance with Section 53339, *et seq.*, of the Act whenever the public convenience and necessity require such annexation; and

**WHEREAS**, since its formation, certain additional parcels of real property have been annexed into CFD No. 2; and

**WHEREAS**, the Board has determined, because of the proposed development of certain property within the District, to initiate proceedings for the annexation of territory on behalf of CFD No. 2 in accordance with the Act.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Education of Los Banos Unified School District as follows:

Section 1. Recitals. The foregoing recitals are true and correct, and the Board so finds and determines.

Section 2. Public Convenience and Necessity. The public convenience and necessity so require, and this Board proposes and intends to annex territory to CFD No. 2 pursuant to the provisions of the Act.

Section 3. Description of Territory to Be Annexed. The territory to be annexed into CFD No. 2 (“Territory”) is described and depicted in the map attached hereto as *Exhibit A*, and on file with the Secretary of the Board. Said map, entitled “Annexation Map No. 2 of Community Facilities District No. 2 (Mitigation Agreement) of Los Banos Unified School District, Merced County, California” (the “Map”), has been filed with the District Superintendent. The Board hereby approves the Map and adopts the boundaries shown on the Map as describing the extent of the territory proposed to be annexed to CFD No. 2. The Board hereby finds that the Map is in the form and contains the matters prescribed by Section 3110 of the California Streets and Highways Code. The Board hereby directs the Clerk of the Board to certify the adoption of this Resolution on the face of the Map and at least one copy, and to file the original Map in his/her office, and file a copy of the Map with the County Recorder for placement in its book of Maps of Assessment and Community Facilities Districts within fifteen (15) days of the adoption of this Resolution, but in no event later than fifteen (15) days prior to the public hearing described below.

Section 4. Types of Public Facilities Provided. The types of public school facilities to be provided in the Territory proposed to be annexed to CFD No. 2 are the same as those provided in the existing CFD No. 2 and are more particularly described in *Exhibit B* attached hereto, and by reference incorporated herein. It is the intention of the Board to order the purchase, construction, expansion, improvement or rehabilitation of certain public facilities with an estimated useful life of five (5) years or longer which are necessary to meet increased demands upon the District as the result of development occurring within the Territory.

Section 5. Application of CEQA. The Board finds that the proposed annexation of Territory is exempt from the California Environmental Quality Act (“CEQA”), pursuant to Public Resources Code section 21080(b)(8) and section 15273 of the State CEQA Guidelines, in that the annexation is for the purpose of establishing, modifying, structuring, restructuring, and approving special taxes to be levied by the District upon the annexed territory for the purpose of:

- (a) Purchasing or leasing supplies, equipment, or materials;
- (b) Meeting financial reserve needs and requirements; and/or
- (c) Obtaining funds for capital projects, necessary to maintain service within existing service areas of the District.

Section 6. Determination Regarding Demand for Facilities. In accordance with California Government Code Section 53326(b), the Board finds and determines that the proposed public facilities are necessary to meet increased demands put upon the District as the result of new development occurring within the Territory proposed to be annexed to CFD No. 2.

Section 7. Plan for Sharing Facilities in Common with Existing CFD No. 2. The public facilities that are financed and provided from taxes collected in CFD No. 2 will be used by residents of the current CFD No. 2 and residents of the Territory (or shared between them) in accordance with the District’s current attendance policies.

Section 8. Specification of Special Taxes to Be Levied: Alteration of the Special Tax Levied in the Existing CFD No. 2. Except where funds are otherwise available, a special tax sufficient to pay for all facilities and services to be provided in or for the Territory, including the payment of principal and interest on bonds proposed to be issued to finance such facilities, and secured by a continuing lien against all nonexempt real property in CFD No. 2, will be annually levied within the Territory. The rate and method of apportionment, and manner of collection of such special tax is set forth in *Exhibit C* attached hereto, and incorporated by reference herein, in sufficient detail to allow each landowner or resident within the Territory to estimate the maximum annual amount that such person will be required to pay. The maximum tax currently in effect in the existing CFD No. 2 will not be increased as a result of annexation.

Section 9. Tax Subject to Election. The levy of a special tax shall be subject to the approval of the qualified electors of the Territory at an election to be held in the District for such purpose.

Section 10. Property Acquired by Public Entity Not Exempt. Pursuant to Section 53317.3 of the Act, a special tax shall be levied against all property that is not expressly exempt from the special tax, and against all property that is acquired by a public entity through a negotiated transaction, by gift, or devise.

Section 11. Taxation of Property Acquired by Eminent Domain. Pursuant to Section 53317.5 of the Act, any special tax levied against property that is acquired by a public entity through eminent domain proceedings shall be treated as if it were a special annual assessment.

Section 12. Inclusion of Lands Devoted to Agricultural Uses. Pursuant to Section 53325.6 of the Act, land that is devoted primarily to agricultural, timber or livestock uses and is being used for the commercial production of agricultural, timber or livestock products shall be benefited by the public facilities provided within CFD No. 2.

Section 13. Leasehold and Possessory Interests. Pursuant to Section 53340.1 of the Act, the special tax shall be levied against all leasehold or possessory interests in property owned by a public entity if such leasehold or possessory interest is held by a non-exempt person or entity.

Section 14. Notice of Hearing. NOTICE IS HEREBY GIVEN THAT the Board has fixed a date to hold a public hearing to consider annexation of such Territory to CFD No. 2, which is no sooner than thirty (30) days and no later than sixty (60) days from the adoption of this Resolution. At the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, on May 9, 2019, in the regular meeting place of the Board, 520 J St, Los Banos, California, is hereby appointed and fixed as the time and place when and where the Board will hold a public hearing to consider the annexation of such Territory to CFD No. 2. At said hearing, the testimony of all interested persons or taxpayers for or against the annexation or the levying of special taxes within the Territory will be heard. Any protests may be made orally or in writing, except that any protests pertaining to the regularity or sufficiency of the proceedings shall be in writing and shall clearly set forth the irregularities and defects to which objection is made. All written protests shall be filed with the Secretary of the Board on or before the time fixed for the hearing, and any written protests may be withdrawn, in writing, at any time prior to the conclusion of the hearing.



Section 15. Publication of Notice of Hearing. The Secretary of the Board shall publish a notice of said hearing once in the Los Banos Enterprise, a newspaper of general circulation in the boundaries of CFD No. 2, and shall mail, or cause to be mailed, notice of such hearing by first-class mail, postage prepaid, to each registered voter and to each landowner within the Territory. Said publication shall be completed at least seven (7) days prior to said hearing, and said mailing shall be completed at least fifteen (15) days prior to said hearing.

Section 16. Said notice shall be headed "Notice of Public Hearing," and shall contain:

- (a) A summary of this Resolution;
- (b) The time and place of the hearing on the proposed annexation of said Territory to CFD No. 2;
- (c) A statement that at the hearing the testimony of all interested persons or taxpayers for or against the annexation of said Territory to CFD No. 2 or the levying of special taxes within the Territory proposed to be annexed will be heard;
- (d) A description and summary of the effect of protests made by registered voters or landowners against the annexation of territory to CFD No. 2, or the levying of special taxes within the territory to be annexed; and
- (e) A description of the proposed voting procedure.

\* \* \* \* \*

The foregoing Resolution was adopted by the Board of Education of Los Banos Unified School District at a meeting of the Board on the 1st day of April, 2019, by the following vote:

**AYES:** \_\_\_\_\_

**NOES:** \_\_\_\_\_

**ABSENT:** \_\_\_\_\_

**ABSTAIN:** \_\_\_\_\_

\_\_\_\_\_  
President, Board of Education  
Los Banos Unified School District

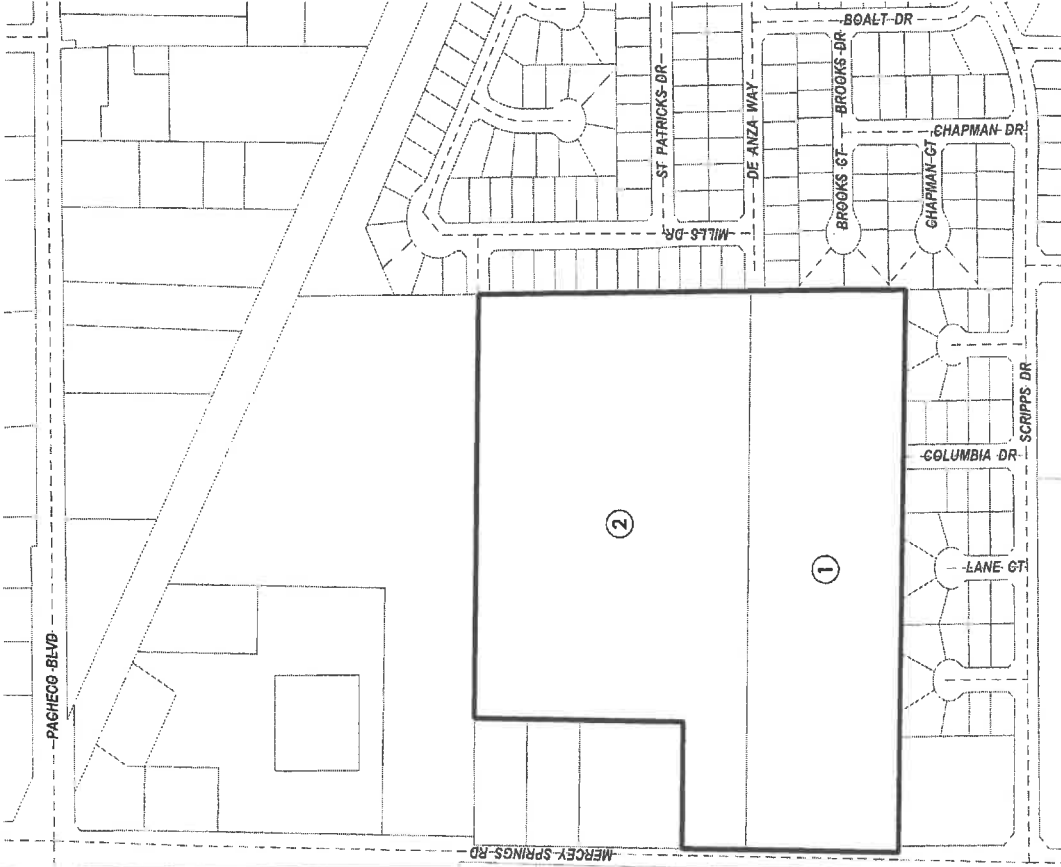
ATTEST:

\_\_\_\_\_  
Clerk, Board of Education  
Los Banos Unified School District

**EXHIBIT A**  
Map of Territory Proposed to be Annexed into CFD No. 2

[ATTACH]

ANNEXATION MAP NO. 2 OF  
 COMMUNITY FACILITIES DISTRICT NO. 2  
 (MITIGATION AGREEMENT)  
 OF THE LOS BANOS UNIFIED SCHOOL DISTRICT  
 MERCED COUNTY  
 STATE OF CALIFORNIA



FILED IN THE OFFICE OF THE CLERK OF THE BOARD OF EDUCATION THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2015.

CLERK OF THE BOARD OF EDUCATION  
 LOS BANOS UNIFIED SCHOOL DISTRICT

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF ANNEXATION NO. 2 TO THE LOS BANOS UNIFIED SCHOOL DISTRICT COMMUNITY FACILITIES DISTRICT NO. 2, COUNTY OF MERCED, STATE OF CALIFORNIA, WAS APPROVED BY THE BOARD OF EDUCATION OF THE LOS BANOS UNIFIED SCHOOL DISTRICT AT A REGULAR MEETING THEREOF, HELD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2015, BY ITS RESOLUTION NO. \_\_\_\_\_.

CLERK OF THE BOARD OF EDUCATION  
 LOS BANOS UNIFIED SCHOOL DISTRICT

FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2015, AT THE HOUR OF \_\_\_\_\_ O'CLOCK \_\_\_\_\_ OF THE \_\_\_\_\_ OF MAP \_\_\_\_\_ ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, PAGE \_\_\_\_\_ AND AS INSTRUMENT NO. \_\_\_\_\_ IN THE OFFICE OF THE COUNTY RECORDER IN THE COUNTY OF MERCED, STATE OF CALIFORNIA.

COUNTY RECORDER  
 COUNTY OF MERCED  
 STATE OF CALIFORNIA

REFERENCE IS MADE TO THAT AMENDED BOUNDARY MAP OF MITIGATION AGREEMENT COMMUNITY FACILITIES DISTRICT NO. 2 OF THE LOS BANOS UNIFIED SCHOOL DISTRICT FILED WITH THE COUNTY RECORDER IN THE COUNTY OF MERCED, STATE OF CALIFORNIA, ON \_\_\_\_\_, THE MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, PAGES 1 TO 5 AS INSTRUMENT NO. 2005-084785.

THE LINES AND DIMENSIONS OF EACH LOT OR PARCEL SHOWN ON THIS DIAGRAM SHALL BE THOSE LINES AND DIMENSIONS AS SHOWN ON THE MERCED COUNTY ASSESSOR'S MAPS FOR THOSE PARCELS LISTED.

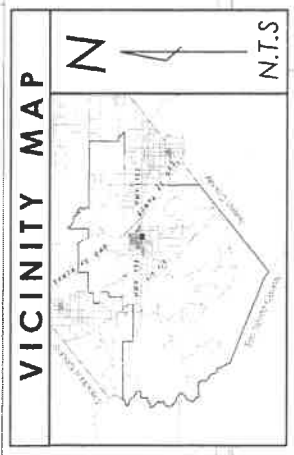
THE MERCED COUNTY ASSESSOR'S MAPS SHALL GOVERN FOR ALL THE DETAILS CONCERNING THE LINES AND DIMENSIONS OF SUCH LOTS OF PARCELS.

MAP REF. NO.	ASSESSOR'S PARCEL NO.
1	083-100-005
2	083-100-006

- PROPOSED BOUNDARY
- SURROUNDING PARCELS
- MAP REFERENCE NUMBER

**KOPPEL & GRUBER**  
 PUBLIC UTILITIES ENGINEERS & ARCHITECTS  
 334 Via Vera Cruz  
 Suite 236  
 San Marcos, California 92078  
 Phone (760) 510-0290 Fax (760) 510-0288

Date Prepared: FEBRUARY 2015



## **EXHIBIT B**

### Description of Public School Facilities and Services

The types of facilities and improvements to facilities and services to be financed by CFD No. 2, shall be as follows:

- The acquisition, construction and installation of new school facilities, including portable classroom buildings, together with related site acquisitions, all necessary appurtenances, integrated technology systems, equipment and furnishings therefor.
- The expansion of current school facilities, including portable classroom buildings, together with related site acquisitions, all necessary appurtenances, integrated technology systems, equipment and furnishings therefor.
- The acquisition, construction and installation of support facilities, together with related site acquisitions, all necessary appurtenances, integrated technology systems, equipment and furnishings therefor.

All facilities and equipment financed by CFD No. 2 will have an estimated useful life of five years or longer.

CFD No. 2 shall also finance incidental expenses directly related to acquisition, construction and installation of the aforementioned school facilities, including but not limited to, the cost of planning, engineering, inspecting, and designing the facilities (including the cost of environmental evaluation thereof); costs associated with the creation of CFD No. 2 and annexation of territory into CFD No. 2; issuance of bonds; determination of the amount of taxes and collection and payment thereof; costs otherwise incurred to carry out the authorized purposes of CFD No. 2; and any other expenses incidental to construction, completion and inspection of those facilities.

**EXHIBIT C**  
**RATE AND METHOD OF APPORTIONMENT**

[ATTACH]

**LOS BANOS UNIFIED SCHOOL DISTRICT  
COMMUNITY FACILITIES DISTRICT NO. 2 (MITIGATION AGREEMENT)**

**RATE, METHOD OF APPORTIONMENT,  
AND MANNER OF COLLECTION OF SPECIAL TAX**

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Special Taxes, determined as shown below, shall be levied each year by the Board of Trustees of the Los Banos Unified School District (the "District") within the boundaries of Community Facilities District No. 2 (Mitigation Agreement) (the "CFD No. 2"):

**I. DEFINITIONS.** The terms hereinafter set forth have the following meanings:

**"Act"** means the Mello-Roos Community Facilities Act of 1982, as amended, Section 53311 and following of the California Government Code.

**"Annual Tax"** or **"Annual Taxes"** means the special tax levied each year against Developed Residential Property.

**"Board"** means the Board of Trustees of the Los Banos Unified School District.

**"Bond(s)"** means bond(s) issued by the District under the Act for CFD No. 2.

**"City"** means the City of Los Banos, California.

**"County"** means the County of Merced, California.

**"Developed Residential Property"** means all Taxable Property (i) that has improvements suitable for residential use, (ii) for which a residential certificate of occupancy has been issued, (iii) where there is a residential use that does not require a building permit, or (iv) that is otherwise used for residential purposes.

**"Fiscal Year"** means the period starting on July 1 and ending on the following June 30.

**"Governmental Property"** means property owned by the state, federal, or local government.

**"Parcel"** means any County Assessor's Parcel in CFD No. 2 whether or not included in the equalized tax rolls of the County as of January 1 preceding the Fiscal Year.

**"Pre-Existing Residential Property"** means any Parcel constituting Taxable Property in CFD No. 2 upon which an occupied Residential Unit is located at the time of the public hearing related to the formation of CFD No. 2. In the event of annexation of property into CFD No. 2, Pre-Existing Residential Property means any Parcel constituting Taxable Property within the

area subject to the annexation upon which an occupied Residential Unit is located at the time of the public hearing date for such annexation.

**“Residential Unit”** or **“Residential Units”** means any improvement or improvements on a Parcel or portion thereof for residential use or suitable for residential use.

**“Special Tax Rates”** for any Fiscal Year means the amounts of special taxes that may be levied against any Residential Unit in that Fiscal Year.

**“Special Taxes”** means Annual Taxes.

**“Taxable Property”** means all Parcels within the boundaries of CFD No. 2 that are not exempt from the Special Tax.

**“Undeveloped Property”** means all Taxable Property in CFD No. 2 for which no residential use exists and no certificate of occupancy has been issued as of the June 1 immediately preceding the Fiscal Year for which the Annual Special Tax is to be levied.

## II. ANNUAL TAXES.

A. Levy and Amount of Annual Tax; Subsequent Adjustment. An Annual Tax shall be levied on each Parcel or portion thereof that is Developed Residential Property as of the June 1 immediately preceding the Fiscal Year for which the Annual Special Tax is to be levied as follows:

1. Single-Family Dwelling: A Parcel on which at least one single-family house is located shall be assessed an Annual Tax of three hundred thirty nine dollars (\$339) per Residential Unit.
2. Mobile Dwelling Units: A Parcel on which a mobile home or mobile homes are located shall be assessed an Annual Tax of three hundred thirty nine dollars (\$339) per mobile home.
3. Multi-Family Dwellings: A Parcel on which a structure that contains more than one Residential Unit is located, including but not limited to an apartment building, a duplex or a halfplex, shall be assessed an Annual Tax of three hundred thirty nine dollars (\$339) per each Residential Unit.

Once a property has been classified as Developed Residential Property, it may not be reclassified as any other property and shall be taxed in the manner set forth above unless taxes are prepaid and fully satisfied for the otherwise applicable remaining term of the tax.

B. Annual Escalation. Each Special Tax Rate described in paragraph A above is subject to annual increase, prior to its application to any specific Parcel or Residential Unit, of the greater of: (1) the change in the Construction Cost Index (CCI) set forth in the Engineering News Record (“ENR”) for the California Region – All Construction (consisting of the total average CCI of the cities of Los Angeles, San Francisco, and any other cities or areas added to the list of ENR California cities) if available; or (2) the rate of increase on the District’s school



impact fee authorized by Government Code Section 65995 to be applied and increased on an annual basis. In the event that the increase is based on Government Code Section 65995, then the annual rate of increase shall be based on the change in the Class B construction cost index, as maintained by the State Allocation Board, for the previous one year period, converted to an annual rate of increase. Once the Special Tax Rate is assigned to any specific Parcel or Residential Unit, the escalation process defined immediately above shall cease and instead, such Special Tax Rate shall be subject to annual increases of not-to-exceed two percent (2.0%), compounded.

C. Collection of Annual Tax.

The Annual Tax shall be collected each year upon the applicable Parcels in the same manner as ordinary *ad valorem* property taxes are collected and shall be subject to the same penalties, procedures, and lien priorities in the case of delinquency as is provided for *ad valorem* taxes. Notwithstanding the above, the District reserves the right to collect the Annual Tax pursuant to any other lawful procedure as determined by the Board.

**III. ANNEXATION PARCELS**

Parcels may be annexed to CFD No. 2 after CFD No. 2 has been formed. In the event a Parcel is annexed to CFD No. 2, the Special Tax shall be assigned using the procedures described herein unless modified by the Board by way of the proceedings of annexation.

**IV. EXEMPT PROPERTY**

A. Governmental Property. Governmental Property will not be taxed, except:

1. In accordance with Government Code Section 53340.1, if the public agency owning Governmental Property, including property held in trust for any beneficiary, grants a leasehold or other possessory interest in the property to a nonexempt person or entity after August 1, 2005, the Special Taxes shall, notwithstanding Government Code Section 53340(c), be levied on the leasehold or possessory interest and shall be payable by the owner of the leasehold or possessory interest.
2. In accordance with Government Code Section 53317.3, if property not otherwise exempt from the Special Taxes levied pursuant to this formula is acquired by a public entity through a negotiated transaction, or by gift or devise, the Special Taxes shall, notwithstanding Government Code Section 53340(c), continue to be levied on the property acquired and shall be enforceable against the public entity that acquired the property.
3. In accordance with Government Code Section 53317.5, if property subject to a Special Tax levied pursuant to this formula is acquired by a public entity through eminent domain proceedings, the obligation to pay the Special Taxes shall be treated as if it were a special annual assessment. For this purpose, the present value of the obligation to pay the Special Taxes to pay the principal and interest on any indebtedness incurred by the

District prior to the date of apportionment determined pursuant to Section 5082 of the Revenue and Taxation Code shall be treated the same as a fixed lien special assessment.

- B. Non-Governmental Tax Exempt Uses: Any Parcel that is exempt by law from *ad valorem* taxes will not be taxed except as otherwise provided herein.
- C. Undeveloped Property: Undeveloped Property shall not be subject to the Annual Special Tax.
- D. Pre-Existing Residential Property: Pre-Existing Residential Property shall not be subject to the Annual Special Tax as long as the number of Residential Units on such property existing at the time of the exemption are not increased.

**V. ANNUAL ESTABLISHMENT OF SPECIAL TAX RATES.**

The District shall cause the actions required above to be done for each Fiscal Year in a timely manner to assure that the schedule of the Annual Taxes to be collected is received by the Auditor of the County of Merced for inclusion with billings for such *ad valorem* taxes for the applicable Fiscal Year.

**VI. APPEALS AND INTERPRETATION PROCEDURE.**

Any taxpayer claiming that the amount or application of a Special Tax is in error may file a notice with the District appealing the levy of the Special Tax. The Superintendent or designee will promptly review the appeal and, if necessary, meet with the applicant and decide the appeal. If the findings of the Superintendent or designee verify that the tax should be modified or changed, the Special Tax levy shall be corrected and, if applicable, a refund shall be granted. Any dispute over the decision of the Superintendent or designee shall be referred to the Board and the decision of the Board shall be final.

Interpretations may be made by resolution of the Board for purposes of clarifying any vagueness or uncertainty as it relates to the application of the Special Tax Rate, or application of the method of apportionment, or the classification of properties or any definition applicable to the CFD.

**VII. TERM OF COLLECTION OF SPECIAL TAXES.**

Term of Annual Taxes. Annual Taxes shall be levied and collected only so long as they are needed to pay the principal of and interest on debt incurred in order to acquire and/or construct the facilities of the CFD, or so long as they are needed to pay the costs or expenses related to the construction of facilities authorized. However, in no event shall any Developed Residential Property be subject to the Annual Tax for more than thirty (30) years following the date such property is first subject to the payment of such tax.

**VIII. PREPAYMENT OF TAX.**

The Annual Tax applicable to a Taxable Property in CFD No. 2 may be prepaid and the obligation of the Taxable Property to pay any Annual Tax permanently satisfied as described herein. An owner of a Taxable Property intending to prepay the Annual Tax obligation shall provide the District (or its designee) with written notice of intent to prepay and identify the company or agency that will be acting as the escrow agent, if any. The District shall provide such property owner with a statement of the prepayment amount for such Taxable Property within thirty (30) days of the request and may charge a reasonable fee for providing this service. Within the District's sole discretion, prepayment may be required to be made 60 or more days prior to any redemption date for CFD No. 2 Bonds to be redeemed with the proceeds of such prepaid Special Taxes.

The Prepayment Amount (defined below) may be calculated as summarized below:

$P = PVT + \text{Premium} + F$ , where

P = Prepayment Amount

PVT = Present Value of Special Taxes

F = Fees

Present Value of Special Taxes (PVT) shall mean the present value of the Annual Tax applicable to the subject lot or parcel in each year remaining until the year ending thirty (30) years after a property is first subject to the Annual Tax using the yield on the Bonds as the discount rate if Bonds have been issued and sold and using a discount rate determined by District Superintendent at the time of prepayment if Bonds have not been issued and sold.

The Annual Tax used in such calculation shall be determined by the classification of parcels shown above.

Premium shall mean, if Bonds have been issued, the bond call costs (not to exceed three percent (3%) of PVT) associated with the redemption of Bonds. If no Bonds have been issued, no premium shall be applied.

Fees shall mean the fees of CFD No. 2, the District, the special tax consultant and any consultants retained by CFD No. 2 in connection with the prepayment calculation, and bond redemption, if any.

In addition, any property owner prepaying its Special Taxes must pay current and any delinquent Special Taxes and penalties prior to prepayment.

**IX. CLAIMS FOR REFUND.**

All claims for refund of Special Taxes collected on behalf of the CFD shall be filed with the Superintendent of the District no later than one year after the date the Special Tax was due and payable to the County or the District as applicable. The claimant shall file the claim within this time period and the claim shall be finally acted upon by the Board as a prerequisite to the

claimant's bringing suit thereon. Pursuant to Government Code Section 935(b), the claim shall be subject to the provisions of Government Code Sections 945.6 and 946.

The Board, acting on its own behalf and on behalf of CFD No. 2, shall act on a timely claim within the time period required by Government Code Section 912.4.

The procedure described above shall be the exclusive claimant procedure for claims seeking a refund of Special Taxes. The decision of the Board in response to the claim for refund of taxes shall be final.

**Board Reference Material**

**SUBJECT TITLE:** Award Recommendation – Los Banos Elementary School Fire Alarm Project

**REQUESTED ACTION:** Approve

Action   X  

Discussion/Information \_\_\_\_\_

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**RECOMMENDATION:**

It is recommended the Board approve the low bid from Reliable Fire and Security Solutions, Inc. for the Los Banos Elementary School Fire Alarm Project and authorize the Superintendent or Designee to sign contract documents and issue the Notice to Proceed.

**BACKGROUND INFORMATION:**

The bid process for the Los Banos Elementary School Fire Alarm Project is complete and the bid results are as follows:

<u>Contractor</u>	<u>Bid Amount</u>
Reliable Fire and Security Solutions, Inc.	\$223,950
Sebastian	\$450,000
Collins Electrical Co, Inc.	\$480,444

**HOW DOES THIS ACTIVITY SUPPORT BOARD GOALS?**

This activity directly supports Board Goal #5.

**ALTERNATIVE/IDENTIFIED OPPOSITION:**

None.

**SPECIFIC FINANCIAL IMPACT:**

Paid from the Capital Improvement Fund #40.

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ORIGINATOR: Don Laursen - Assistant Superintendent, Administrative Services  
DATE: April 1, 2019

**BID FORM**

**LOS BANOS UNIFIED SCHOOL DISTRICT  
LOS BANOS ELEMENTARY SCHOOL  
CAMPUS WIDE FIRE ALARM REPLACEMENT**

Los Banos Unified School District  
ATTN: Don Laursen  
1717 South 11th Street  
Los Banos, CA 93635

Dear Board Members:

The undersigned doing business under the firm name of:

Reliable Fire & Security Systems Inc.

hereby propose and agree to enter into a Contract, to furnish any and all labor, materials, applicable taxes, equipment and services for the completion of Work described hereinafter and in the Contract Documents:

***LOS BANOS UNIFIED SCHOOL DISTRICT  
LOS BANOS ELEMENTARY SCHOOL  
CAMPUS WIDE FIRE ALARM REPLACEMENT***

**LOS BANOS ELEMENTARY SCHOOL**  
1260 7<sup>TH</sup> Street, Los Banos, CA 93635

prepared by:

***TETER, LLP  
7535 NORTH PALM AVE., SUITE 201  
FRESNO, CALIFORNIA 93711  
PHONE: (559) 437-0887***

**LOS BANOS ELEMENTARY SCHOOL CAMPUS WIDE FIRE ALARM REPLACEMENT BASE BID AMOUNT:** Lump sum Base bid for this project is for the project to be completed in accordance with architectural drawings and specs, contract documents, including all costs to the school district including, but not limited to, materials, labor, tools, insurance, cleanup, and warranties, shall be

Two Hundred Twenty-Three Thousand Nine Hundred Fifty Dollars Dollars

(\$ 223,950.00 )

If written notice of the Award of Contract is mailed, faxed, or delivered to the undersigned at any time before this bid is withdrawn, the undersigned shall, within ten (10) days after the date of such mailing, faxing, or delivering of such notice, execute and deliver an agreement in the form of agreement present in these Contract Documents and give Performance and Payment Bonds in accordance with the specifications and bid as accepted.

The undersigned hereby designates as the office to which such Notice of Award of Contract may be mailed, faxed, or delivered:  
6339 Highway 145, Madera, CA 93637

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Our Public Liability and Property Damage Insurance is placed with:  
Everest National Insurance Co.

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Our Workers' Compensation Insurance is placed with:  
Everest National Insurance Co.

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Circular letters, bulletins, addenda, etc., bound with the specifications or issued during the time of bidding are included in the bid, and, in completing the Contract, they are to become a part thereof.

The receipt of the following addenda to the specifications is acknowledged:

LOS BANOS ELEMENTARY SCHOOL CAMPUS WIDE FIRE ALARM REPLACEMENT:

Addendum No. 1 Date 2/13/19 Addendum No. 2 Date 2/15/19  
Addendum No. 3 Date 2/21/19 Addendum No. 4 Date 3/4/19  
Addendum No. 5 Date 3/7/19

This bid may be withdrawn at any time prior to the scheduled time for the opening of bids or any authorized postponement thereof.

A bidder shall not submit a bid unless the bidder's California contractor's license number appears clearly on the bid, the license expiration date and class are stated, and the bid contains a statement that the representations made therein are made under penalty of perjury. Any bid submitted by a contractor who is not licensed pursuant to Business and Professions Code section 7028.15 shall be considered nonresponsive and shall be rejected. Any bid not containing the above information may be considered nonresponsive and may be rejected.

**NOTE:** Each bid must give the full business address of the bidder and be signed by bidder with bidder's usual signature. Bids by partnerships must furnish the full name of all partners and must be signed in the partnership name by a general partner with authority to bind the partnership in such matters,

followed by the signature and designation of the person signing. The name of the person signing shall also be typed or printed below the signature. Bids by corporations must be signed with the legal name of the corporation, followed by the name of the state of incorporation and by the signature and designation of the chairman of the board, president or any vice president, and then followed by a second signature by the secretary, assistant secretary, the chief financial officer or assistant treasurer. All persons signing must be authorized to bind the corporation in the matter. The name of each person signing shall also be typed or printed below the signature. Satisfactory evidence of the authority of the officer signing on behalf of a corporation shall be furnished.

The undersigned declares under penalty of perjury under the laws of the State of California that the representations made in this bid are true and correct.

Print or Type Name : Obed Guerrero

Title: President

Name of Company as Licensed: Reliable Fire & Security Systems Inc.

Business Address: 6339 Highway 145  
Madera, CA 93637

Telephone Number: (559) 548-0087

California Contractor License No.: 928226

Class and Expiration Date: 03/31/2019

State of Incorporation, if Applicable: CA

Evidence of authority to bind corporation is attached.

Dated: March 12, 2019

Signed: 

Los Banos Unified School District



## Board Reference Material

**SUBJECT TITLE:** Change Order Approval Process

**REQUESTED ACTION:** Approve

Action   X  

Discussion/Information           

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### **RECOMMENDATION:**

It is recommended the Board approve the proposed Change Order Process outlined below for the New Elementary School Project.

### **BACKGROUND INFORMATION:**

The New Elementary School construction has begun and we have need of a Change Order Approval Process. Even though we're utilizing the Lease Leaseback project delivery method in order to minimize change orders, it is a complicated endeavor and architects aren't perfect. Change orders often require an immediate response in order to keep construction moving. Staff proposes that Tom Worthy – Facilities, Operations, Transportation Director be given authority to approve change orders up to \$10,000. Mr. Worthy will consult with Mr. Laursen and Dr. Marshall, as needed, for amounts over that.

Change orders are tracked against the construction contingency amount in order to know their cumulative magnitude.

### **HOW DOES THIS ACTIVITY SUPPORT BOARD GOALS?**

This directly supports District Goal #5: Provide student capacity in our schools for a single-track schedule throughout the District.

### **ALTERNATIVES/IDENTIFIED OPPOSITION:**

N/A

### **SPECIFIC FINANCIAL IMPACT (Include Impact on School District Facilities):**

Potential costs are unknown, but keeping the project running smoothly and minimizing delays can potentially provide savings.

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ORIGINATOR: Don Laursen, Assistant Superintendent-Administrative Services

Date: April 1, 2019

**Board Reference Material**

**SUBJECT TITLE:**            **Mandated Policy Changes/Updates-First Reading**

**REQUESTED ACTION:**    Declare Intent to Adopt

   Action   X  

   Discussion/Information \_\_\_\_\_

**RECOMMENDATION:**

It is recommended the Board declare its intent to adopt the following mandated updates:

- |           |  |
|-----------|--|
| BP 1312.3 | Uniform Complaint Procedures; Community Relations          |
| AR 1312.3 | Uniform Complaint Procedures; Community Relations          |
| AR 1312.4 | Williams Uniform Complaint Procedures; Community Relations |
| E 1312.4  | Williams Uniform Complaint Procedures; Community Relations |

**BACKGROUND INFORMATION:**

These Board Policies, Administrative Regulations and have been updated to meet current legal and state mandated requirements. The changes are mandated by law and the District must take action to update these policies.

**HOW DOES THIS ACTIVITY SUPPORT BOARD GOALS?**

This activity is operational in nature, and does support a specific Board Goal.

**ALTERNATIVES/IDENTIFIED OPPOSITION:**

Mandated policies must be acted upon; optional policies are recommended, but are adopted at the discretion of the Board.

**SPECIFIC FINANCIAL IMPACT:**

None.

ORIGINATOR: Paul Enos, Assistant Superintendent

DATE: April 1, 2019

# Los Banos USD

## Board Policy

### Uniform Complaint Procedures

BP 1312.3

#### Community Relations

The Governing Board recognizes that the district has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs. The Board encourages ~~the early, informal~~ resolution of complaints whenever possible and appropriate. To resolve complaints which **may require a more** ~~cannot be resolved through such informal~~ process, the Board shall adopt **S a the** uniform system of complaint processes specified in 5 CCR 4600-4670 and the accompanying administrative regulation.

#### Complaints Subject to UCP

The district's uniform complaint procedures (UCP) shall be used to investigate and resolve the following complaints:

1. Any complaint alleging district violation of applicable state or federal law or regulations governing **any program subject to the UCP which is offered by the district, including adult education programs; After School Education and Safety programs; agricultural career technical education; American Indian education centers and early childhood education program assessments; bilingual education; California Peer Assistance and Review programs for teachers; state career technical and technical education, career technical, and technical training programs; federal career technical education; child care and development programs; child nutrition programs; compensatory education; consolidated categorical aid programs; Economic Impact Aid; the federal Every Student Succeeds Act; migrant education; Regional Occupational Centers and Programs; school safety plans; special education programs; California State Preschool Programs; Tobacco-Use Prevention Education programs; and any other district-implemented state categorical program that is not funded through the local control funding formula pursuant to Education Code 64000** ~~adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and training programs, child care and development programs, child nutrition programs, and special education programs (5 CCR 4610)~~

(cf. 3553 - Free and Reduced Price Meals)

(cf. 3555 - Nutrition Program Compliance)

**(cf. 5131.62 - Tobacco)**

~~(cf. 5141.4 - Child Abuse Prevention and Reporting)~~

(cf. 5148 - Child Care and Development)

**(cf. 5148.2 - Before/After School Programs)**

**(cf. 5148.3 - Preschool/Early Childhood Education)**

- (cf. 6159 - Individualized Education Program)
- (cf. 6171 - Title I Programs)
- (cf. 6174 - Education for English Language Learners)
- (cf. 6175 - Migrant Education Program)
- (cf. 6178 - Career Technical Education)
- (cf. 6178.1 - Work-Based Learning)
- (cf. 6178.2 - Regional Occupational Center/Program)
- (cf. 6200 - Adult Education)

2. Any complaint, by a student, employee, or other person participating in a district program or activity, alleging the occurrence of unlawful discrimination (such as **discriminatory harassment, intimidation, or bullying**) ~~discriminatory harassment, intimidation, or bullying,~~ in district programs and activities against any person **including in those programs or activities funded directly by or that receive or benefit from any state financial assistance,** based on his/her **the person's** actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, **immigration status,** ethnic group identification, age, religion, marital or parental status, , **pregnancy, parental status,** physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code 200 or 220, Government Code 11135, or Penal Code 422.55, or based on his/her **the person's** association with a person or group with one or more of these actual or perceived characteristics (5 CCR 4610)

- (cf. 0410 - Nondiscrimination in District Programs and Activities)
- ~~(cf. 4030 - Nondiscrimination in Employment)~~
- ~~(cf. 4031 - Complaints Concerning Discrimination in Employment)~~
- (cf. 5145.3 - Nondiscrimination/Harassment)
- (cf. 5145.7 - Sexual Harassment)

3. Any complaint alleging ~~bullying in district programs and activities, regardless of whether the bullying is based on a person's actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code 200 or 220, Government Code 11135, or Penal Code 422.55, or based on his/her association with a person or group with one or more of these actual or perceived characteristics~~ **district noncompliance with the requirement to provide reasonable accommodation to a lactating student on school campus to express breast milk, breastfeed an infant child, or address other breastfeeding-related needs of the student (Education Code 222)**

**(cf. 5146 - Married/Pregnant/Parenting Students)**

- ~~(cf. 5131.2 - Bullying)~~

4. Any complaint alleging ~~district violation of the prohibition against requiring students to~~

~~pay fees, deposits, or other charges for participation in educational activities (5 CCR 4610)~~

~~(cf. 3260 - Fees and Charges)~~

~~(cf. 3320 - Claims and Actions Against the District)~~ **district noncompliance with requirements to provide a pregnant or parenting student the accommodations specified in Education Code 46015, including those related to the provision of parental leave, right of return to the school of previous enrollment or to an alternative education program, if desired, and possible enrollment in school for a fifth year of instruction to enable the student to complete state and Board-imposed graduation requirements (Education Code 46015)**

5. Any complaint alleging ~~that the district has not complied with legal requirements related to the implementation of the local control and accountability plan (Education Code 52075)~~

~~(cf. 0460 - Local Control and Accountability Plan)~~ **district noncompliance with the prohibition against requiring students to pay fees, deposits, or other charges for participation in educational activities (5 CCR 4610)**

~~(cf. 3260 - Fees and Charges)~~

~~(cf. 3320 - Claims and Actions Against the District)~~

6. Any complaint alleging ~~retaliation against a complainant or other participant in the complaint process or anyone who has acted to uncover or report a violation subject to this policy~~ **district noncompliance with applicable requirements of Education Code 52060-52077 related to the implementation of the local control and accountability plan, including the development of a local control funding formula budget overview for parents/guardians (Education Code 52075)**

~~(cf. 0460 - Local Control and Accountability Plan)~~

~~(cf. 3100 - Budget)~~

7. ~~Any other complaint as specified in a district policy~~ **complaint alleging noncompliance with requirements related to the development of a school plan for student achievement or the establishment of a school site council, as required for the consolidated application for specified federal and/or state categorical funding (Education Code 64000-64001, 65000-65001)**

~~(cf. 0420 - School Plans/Site Councils)~~

8. Any complaint, by or on behalf of a student who is a foster youth as defined in Education Code 51225.2, alleging district noncompliance with any requirement applicable to the student regarding placement decisions; the responsibilities of the district's educational liaison to the student; the award of credit for coursework satisfactorily completed in another school, district, or country; school or records transfer; or the grant of

**an exemption from Board-imposed graduation requirements (Education Code 48853, 48853.5, 49069.5, 51225.1, 51225.2)**

**(cf. 6173.1 - Education for Foster Youth)**

**9. Any complaint, by or on behalf of a student who transfers into the district after the second year of high school and is a homeless child or youth as defined in 42 USC 11434a, a former juvenile court school student currently enrolled in the district, a child of a military family as defined in Education Code 49701, or a migrant student as defined in Education Code 54441, or by or on behalf of an immigrant student participating in a newcomer program as defined in Education Code 51225.2 in the third or fourth year of high school, alleging district noncompliance with any requirement applicable to the student regarding the grant of an exemption from Board-imposed graduation requirements (Education Code 51225.1)**

**(cf. 6173 - Education for Homeless Children)**

**(cf. 6173.2 - Education of Children of Military Families)**

**(cf. 6173.3 - Education for Juvenile Court School Students)**

**10. Any complaint, by or on behalf of a student who is a homeless child or youth as defined in 42 USC 11434a, a former juvenile court school student, a child of a military family as defined in Education Code 49701, a migrant child as defined in Education Code 54441, or a newly arrived immigrant student who is participating in a newcomer program as defined in Education Code 51225.2, alleging district noncompliance with requirements for the award of credit for coursework satisfactorily completed in another school, district, or country (Education Code 51225.2)**

**11. Any complaint alleging district noncompliance with the requirements of Education Code 51228.1 and 51228.2 that prohibit the assignment of a student in grades 9-12 to a course without educational content for more than one week in any semester or to a course the student has previously satisfactorily completed, without meeting specified conditions (Education Code 51228.3)**

**(cf. 6152 - Class Assignment)**

**12. Any complaint alleging district noncompliance with the physical education instructional minutes requirement for students in elementary school (Education Code 51210, 51223)**

**(cf. 6142.7 - Physical Education and Activity)**

**13. Any complaint alleging retaliation against a complainant or other participant in the complaint process or anyone who has acted to uncover or report a violation subject to this policy**

**14. Any other complaint as specified in a district policy**

The Board recognizes that alternative dispute resolution (ADR) can, depending on the nature of the allegations, offer a process to reach a resolution to the complaint that is agreeable to all parties. **ADR such as mediation may be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint involving sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. The Superintendent or designee shall ensure that the use of ADR is consistent with state and federal laws and regulations.**

~~In filing and investigating complaints, the confidentiality of the parties involved shall be protected as required by law. As appropriate for any complaint alleging retaliation, unlawful discrimination, or bullying,~~ **The district shall protect all complainants from retaliation. In investigating complaints, the confidentiality of the parties involved shall be protected as required by law. For any complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying),** the Superintendent or designee shall keep ~~confidential~~ the identity of the complainant and/or the subject of the complaint, if ~~he/she is~~ different from the complainant, **confidential when appropriate and** as long as the integrity of the complaint process is maintained.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)  
(cf. 5125 - Student Records)  
(cf. 9011 - Disclosure of Confidential/Privileged Information)

When an allegation that is not subject to the UCP is included in a UCP complaint, the district shall refer the non-UCP allegation to the appropriate staff or agency and shall **investigate and, if appropriate,** resolve the UCP-related allegation(s) through the district's UCP.

The Superintendent or designee shall provide training to district staff to ensure awareness and knowledge of current law and related requirements **related to UCP**, including the steps and timelines specified in this policy and the accompanying administrative regulation.

(cf. 4131 - Staff Development)  
(cf. 4231 - Staff Development)  
(cf. 4331 - Staff Development)

The Superintendent or designee shall maintain records of ~~all UCP~~ **each complaint** ~~and the investigations of those complaints. All such records shall be destroyed in accordance with applicable state law and district policy.~~ **and subsequent related actions, including steps taken during the investigation and all information required for compliance with 5 CCR 4631 and 4633.**

(cf. 3580 - District Records)

Non-UCP Complaints

The following complaints shall not be subject to the district's UCP but shall be referred to the specified agency: (5 CCR 4611)

1. Any complaint alleging child abuse or neglect shall be referred to the County Department of Social Services, the County Protective Services Division, and the appropriate law enforcement agency.

**(cf. 5141.4 - Child Abuse Prevention and Reporting)**

2. Any complaint alleging health and safety violations by a child development program shall, for licensed facilities, be referred to Department of Social Services and shall, for licensing-exempt facilities, be referred to the appropriate Child Development regional administrator.

~~3. Any complaint alleging employment discrimination shall be sent to the California Department of Fair Employment and Housing and the compliance officer shall notify the complainant by first class mail of the transfer.~~ 4. Any complaint alleging fraud shall be referred to the California Department of Education.

**Any complaint alleging employment discrimination or harassment shall be investigated and resolved by the district in accordance with the procedures specified in AR 4030 - Nondiscrimination in Employment, including the right to file the complaint with the California Department of Fair Employment and Housing.**

~~In addition, the district's Williams Uniform Complaint Procedures, AR 1312.4, shall be used to investigate and resolve~~ Any complaint related to sufficiency of textbooks or instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff, or teacher vacancies and misassignments , **or health and safety violations in any license-exempt California State Preschool Program shall be investigated and resolved in accordance with the procedures in AR 1312.4 - Williams Uniform Complaint Procedures. (Education Code 8235.5, 35186)**  
~~(Education Code 35186)~~

(cf. 1312.4 - Williams Uniform Complaint Procedures)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

8200-8498 Child care and development programs

8500-8538 Adult basic education

18100-18203 School libraries

**32280-32289 School safety plan, uniform complaint procedures**

**33380-33384 California Indian Education Centers**



35186 Williams uniform complaint procedures  
**44500-44508 California Peer Assistance and Review Program for Teachers**  
**46015 Parental leave for students**  
**48853-48853.5 Foster youth**  
48985 Notices in language other than English  
49010-49013 Student fees  
49060-49079 Student records, especially:  
**49069.5 Records of foster youth**  
49490-49590 Child nutrition programs  
**49701 Interstate Compact on Educational Opportunity for Military Children**  
**51210 Courses of study grades 1-6**  
**51223 Physical education, elementary schools**  
**51225.1-51225.2 Foster youth, homeless children, former juvenile court school students, military-connected students, migrant students, and newly arrived immigrant students; course credits; graduation requirements**  
**51226-51226.1 Career technical education**  
**51228.1-51228.3 Course periods without educational content**  
52060-52077 Local control and accountability plan, especially  
52075 Complaint for lack of compliance with local control and accountability plan requirements  
52160-52178 Bilingual education programs  
52300-52490 Career technical education  
52500-52616.24 Adult schools  
**54000-54029 Economic Impact Aid**  
~~52800-52870 School-based program coordination~~  
54400-54425 Compensatory education programs  
54440-54445 Migrant education  
54460-54529 Compensatory education programs  
56000-56867 Special education programs  
59000-59300 Special schools and centers  
64000-64001 Consolidated application process  
**65000-65001 School site councils**  
GOVERNMENT CODE  
11135 Nondiscrimination in programs or activities funded by state  
12900-12996 Fair Employment and Housing Act  
**HEALTH AND SAFETY CODE**  
**1596.792 California Child Day Care Act; general provisions and definitions**  
**1596.7925 California Child Day Care Act; health and safety regulations**  
**104420 Tobacco-Use Prevention Education**  
PENAL CODE  
422.55 Hate crime; definition  
422.6 Interference with constitutional right or privilege  
**CODE OF REGULATIONS, TITLE 2**  
**11023 Harassment and discrimination prevention and correction**  
CODE OF REGULATIONS, TITLE 5  
3080 ~~Application of section~~ **Applicability of uniform complaint procedures to complaints**

**regarding students with disabilities**

4600-4687 **70** Uniform complaint procedures

**4680-4687 Williams uniform complaint procedures**

4900-4965 Nondiscrimination in elementary and secondary education programs

UNITED STATES CODE, TITLE 20

1221 Application of laws

1232g Family Educational Rights and Privacy Act

1681-1688 Title IX of the Education Amendments of 1972

6301-6577 Title I basic programs

6801-6871 Title III language instruction for limited English proficient and immigrant students

~~7101-7184 Safe and Drug-Free Schools and Communities Act~~

~~7201-7283g Title V promoting informed parental choice and innovative programs~~

~~7301-7372 Title V rural and low-income school programs~~

~~12101-12213 Title II equal opportunity for individuals with disabilities~~

UNITED STATES CODE, TITLE 29

794 Section 504 of Rehabilitation Act of 1973

UNITED STATES CODE, TITLE 42

2000d-2000e-17 Title VI and Title VII Civil Rights Act of 1964, as amended

2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964

6101-6107 Age Discrimination Act of 1975

**12101-12213 Title II equal opportunity for individuals with disabilities**

CODE OF FEDERAL REGULATIONS, TITLE 28

35.107 Nondiscrimination on basis of disability; complaints

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.67 Family Educational Rights and Privacy

100.3 Prohibition of discrimination on basis of race, color or national origin

104.7 Designation of responsible employee for Section 504

106.8 Designation of responsible employee for Title IX

106.9 Notification of nondiscrimination on basis of sex

110.25 Notification of nondiscrimination on the basis of age

Management Resources:

**CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS**

**Sample UCP Board Policies and Procedures**

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

**Dear Colleague Letter, September 22, 2017**

**Dear Colleague Letter: Title IX Coordinators, April 2015**

**Dear Colleague Letter: Responding to Bullying of Students with Disabilities, October 2014**

~~Questions and Answers on Title IX and Sexual Violence, April 2014~~

~~Dear Colleague Letter: Bullying of Students with Disabilities, August 2013~~

~~Dear Colleague Letter: Sexual Violence, April 2011~~

Dear Colleague Letter: Harassment and Bullying, October 2010

Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001 **U.S. DEPARTMENT OF JUSTICE**

**PUBLICATIONS**

**Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition**

**Against National Origin Discrimination Affecting Limited English Proficient Persons, 2002**  
**WEB SITES**

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

California Department of Education: <http://www.cde.ca.gov>

**Family Policy Compliance Office: <https://www2.ed.gov/policy/gen/guid/fpc>**

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr>

Policy           LOS BANOS UNIFIED SCHOOL DISTRICT  
adopted:        October 2014 Los Banos, California  
revised:         December 11, 2014  
**revised:        April 11, 2019**

# Los Banos USD

## Administrative Regulation

### Uniform Complaint Procedures

AR 1312.3

#### Community Relations

Except as the Governing Board may otherwise specifically provide in other district policies, these general uniform complaint procedures (UCP) shall be used to investigate and resolve only the complaints specified in BP 1312.3.

- (cf. 1312.1 - Complaints Concerning District Employees)
- (cf. 1312.2 - Complaints Concerning Instructional Materials)
- (cf. 1312.4 - Williams Uniform Complaint Procedures)
- (cf. 4031 - Complaints Concerning Discrimination in Employment)

#### Compliance Officers

The district designates the individual(s) identified below as the employee(s) responsible for coordinating the district's response to complaints and for complying with state and federal civil rights laws. The individual(s) also serve as the compliance officer(s) specified in AR 5145.3 - Nondiscrimination/Harassment as the responsible employee to handle complaints regarding sex discrimination. The individual(s) shall receive and coordinate the investigation of complaints and shall ensure district compliance with law.

- (cf. 5145.3 - Nondiscrimination/Harassment)
- (cf. 5145.7 - Sexual Harassment)

Assistant Superintendent-Human Resources  
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The compliance officer who receives a complaint may assign another compliance officer to investigate the complaint. The compliance officer shall promptly notify the complainant if another compliance officer is designated to investigate the complaint.

In no instance shall a compliance officer be designated to investigate a complaint if he/she is mentioned in the complaint or has a conflict of interest that would prohibit him/her from fairly investigating the complaint. Any complaint filed against or implicating a compliance officer may be filed with the Superintendent or designee.

The Superintendent or designee shall ensure that employees designated to investigate complaints

receive training and are knowledgeable about the laws and programs which they are assigned to investigate. Training provided to such designated employees shall include current state and federal laws and regulations governing the program, applicable processes for investigating complaints, including those involving alleged discrimination, applicable standards for reaching decisions on complaints, and appropriate corrective measures. Designated employees may have access to legal counsel as determined by the Superintendent or designee.

(cf. 4331 - Staff Development)  
(cf. 9124 - Attorney)

The compliance officer or, if necessary, any appropriate administrator shall determine whether interim measures are necessary during and pending the results of an investigation. If interim measures are determined to be necessary, the compliance officer or the administrator shall consult with the Superintendent, the Superintendent's designee, or, if appropriate, the site principal to implement, if possible, one or more of the interim measures. The interim measures may remain in place until the compliance officer determines that they are no longer necessary or until the district issues its final written decision, whichever occurs first.

#### Notifications

The district's UCP policy and administrative regulation shall be posted in all district schools and offices, including staff lounges and student government meeting rooms. (Education Code 234.1)

The Superintendent or designee shall annually provide written notification of the district's UCP to students, employees, parents/guardians, the district advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties. (Education Code 262.3, 49013, 52075; 5 CCR 4622)

(cf. 0420 - School Plans/Site Councils)  
(cf. 1220 - Citizen Advisory Committees)  
(cf. 3260 - Fees and Charges)  
(cf. 4112.9/4212.9/4312.9 - Employee Notifications)  
(cf. 5145.6 - Parental Notifications)

The Superintendent or designee shall ensure that all students and parents/guardians, including students and parents/guardians with limited English proficiency, have access to the relevant information provided in the district's policy, regulation, forms, and notices concerning the UCP.

If 15 percent or more of students enrolled in a particular district school speak a single primary language other than English, the district's policy, regulation, forms, and notices concerning the UCP shall be translated into that language, in accordance with Education Code 234.1 and 48985. In all other instances, the district shall ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

The notice shall:

1. Identify the person(s), position(s), or unit(s) responsible for receiving complaints
2. Advise the complainant of any civil law remedies that may be available to him/her under state or federal discrimination laws, if applicable
3. Advise the complainant of the appeal process, including, if applicable, the complainant's right to take a complaint directly to the California Department of Education (CDE) or to pursue remedies before civil courts or other public agencies, such as the U.S. Department of Education's Office for Civil Rights (OCR) in cases involving unlawful discrimination.
4. Include statements that:
  - a. The district has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs.
  - b. The complaint review shall be completed within 60 calendar days from the date of receipt of the complaint unless the complainant agrees in writing to an extension of the timeline.
  - c. A complaint alleging retaliation, unlawful discrimination, or bullying must be filed not later than six months from the date it occurred, or six months from the date the complainant first obtained knowledge of the facts of the alleged discrimination. The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension.
  - d. A student enrolled in a public school shall not be required to pay a fee for his/her participation in an educational activity that constitutes an integral fundamental part of the district's educational program, including curricular and extracurricular activities.
  - e. The Board is required to adopt and annually update a local control and accountability plan (LCAP), in a manner that includes meaningful engagement of parents/guardians, students, and other stakeholders in the development and/or review of the LCAP.  
  
(cf. 0460 - Local Control and Accountability Plan)
  - f. The complainant has a right to appeal the district's decision to the CDE by filing a written appeal within 15 calendar days of receiving the district's decision.
  - g. The appeal to the CDE must include a copy of the complaint filed with the district and a copy of the district's decision.
  - h. Copies of the district's UCP are available free of charge.

#### District Responsibilities

All UCP-related complaints shall be investigated and resolved within 60 calendar days of the

district's receipt of the complaint unless the complainant agrees in writing to an extension of the timeline. (5 CCR 4631)

The compliance officer shall maintain a record of each complaint and subsequent related actions, including steps taken during the investigation and all information required for compliance with 5 CCR 4631 and 4633.

All parties involved in the allegations shall be notified when a complaint is filed and when a decision or ruling is made. However, the compliance officer shall keep all complaints or allegations of retaliation, unlawful discrimination, or bullying confidential except when disclosure is necessary to carry out the investigation, take subsequent corrective action, conduct ongoing monitoring, or maintain the integrity of the process. (5 CCR 4630, 4964)

#### Filing of Complaint

The complaint shall be presented to the compliance officer who shall maintain a log of complaints received, providing each with a code number and a date stamp.

All complaints shall be filed in accordance with the following:

1. A written complaint alleging district violation of applicable state or federal law or regulations governing any program or activity conducted by the district, which is funded directly by, or that receives or benefits from any state financial assistance. (GC 11135, EC 200, 220, 234.1, 5 CCR 4610, PC 422.55.)

2. Any complaint alleging noncompliance with law regarding the prohibition against requiring students to pay student fees, deposits, and charges or any requirement related to the LCAP may be filed anonymously if the complaint provides evidence, or information leading to evidence, to support an allegation of noncompliance. (Education Code 49013, 52075)

3. A complaint alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying, may be filed only by a person who alleges that he/she personally suffered unlawful discrimination or by a person who believes that an individual or any specific class of individuals has been subjected to it. The complaint shall be initiated no later than six months from the date when the alleged discrimination occurred, or six months from the date when the complainant first obtained knowledge of the facts of the alleged discrimination. The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension. (5 CCR 4630)

4. When a complaint alleging unlawful discrimination or bullying is filed anonymously, the compliance officer shall pursue an investigation or other response as appropriate, depending on the specificity and reliability of the information provided and the seriousness of the allegation.

5. When the complainant or alleged victim of unlawful discrimination or bullying requests confidentiality, the compliance officer shall inform him/her that the request may limit the

district's ability to investigate the conduct or take other necessary action. When honoring a request for confidentiality, the district will nevertheless take all reasonable steps to investigate and respond to the complaint consistent with the request.

6. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, district staff shall assist him/her in the filing of the complaint. (5 CCR 4600)

### Investigation of Complaint

Within 10 business days after the compliance officer receives the complaint, the compliance officer shall begin an investigation into the complaint.

Within one business day of initiating the investigation, the compliance officer shall provide the complainant and/or his/her representative with the opportunity to present the information contained in complaint to the compliance officer and shall notify the complainant and/or his/her representative of the opportunity to present the compliance officer with any evidence, or information leading to evidence, to support the allegations in the complaint. Such evidence or information may be presented at any time during the investigation.

In conducting the investigation, the compliance officer shall collect all available documents and review all available records, notes, or statements related to the complaint, including any additional evidence or information received from the parties during the course of the investigation, shall individually interview all available witnesses with information pertinent to the complaint, and may visit any reasonably accessible location where the relevant actions are alleged to have taken place. To resolve a complaint alleging retaliation, unlawful discrimination, or bullying, the compliance officer shall interview the alleged victim(s), any alleged offenders, and other relevant witnesses privately, separately, and in a confidential manner. As necessary, additional staff or legal counsel may conduct or support the investigation.

A complainant's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or engagement in any other obstruction of the investigation may result in the dismissal of the complaint because of a lack of evidence to support the allegation. (5 CCR 4631)

In accordance with law, the district shall provide the investigator with access to records and other information related to the allegation in the complaint and shall not in any way obstruct the investigation. Failure or refusal of the district to cooperate in the investigation may result in a finding based on evidence collected that a violation has occurred and in the imposition of a remedy in favor of the complainant. (5 CCR 4631)

The compliance officer shall apply a "preponderance of the evidence" standard in determining the veracity of the factual allegations in a complaint. This standard is met if the allegation is more likely to be true than not.

### Report of Findings



Unless extended by written agreement with the complainant, a final decision shall be sent to the complainant within 60 calendar days of the district's receipt of the complaint. Within 30 calendar days of receiving the complaint, the compliance officer shall prepare and send to the complainant a written report of the district's investigation and decision, as described in the section "Final Written Decision" below. If the complainant is dissatisfied with the compliance officer's decision, he/she may, within five business days, file his/her complaint in writing with the Board.

The Board may consider the matter at its next regular Board meeting or at a special Board meeting convened in order to meet the 60-day time limit within which the complaint must be answered. The Board may decide not to hear the complaint, in which case the compliance officer's decision shall be final.

If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 60 calendar days of the district's initial receipt of the complaint or within the time period that has been specified in a written agreement with the complainant. (5 CCR 4631)

#### Final Written Decision

The district's decision shall be in writing and shall be sent to the complainant. (5 CCR 4631)

In consultation with district legal counsel, information about the relevant part of a decision may be communicated to a victim who is not the complainant and to other parties that may be involved in implementing the decision or affected by the complaint, as long as the privacy of the parties is protected.

If the complaint involves a limited-English-proficient student or parent/guardian and the student involved attends a school at which 15 percent or more of the students speak a single primary language other than English, then the decision shall also be translated into that language. In other all other instances, the district shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

For all complaints, the decision shall include: (5 CCR 4631)

1. The findings of fact based on the evidence gathered. In reaching a factual determination, the following factors may be taken into account:
  - a. Statements made by any witnesses
  - b. The relative credibility of the individuals involved
  - c. How the complaining individual reacted to the incident
  - d. Any documentary or other evidence relating to the alleged conduct

- e. Past instances of similar conduct by any alleged offenders
- f. Past false allegations made by the complainant
- 2. The conclusion(s) of law
- 3. Disposition of the complaint
- 4. Rationale for such disposition

For complaints of retaliation or unlawful discrimination, including discriminatory harassment, intimidation, or bullying, the disposition of the complaint shall include a determination for each allegation as to whether retaliation or unlawful discrimination has occurred.

The determination of whether a hostile environment exists may involve consideration of the following:

- a. How the misconduct affected one or more students' education
  - b. The type, frequency, and duration of the misconduct
  - c. The relationship between the alleged victim(s) and offender(s)
  - d. The number of persons engaged in the conduct and at whom the conduct was directed
  - e. The size of the school, location of the incidents, and context in which they occurred
  - f. Other incidents at the school involving different individuals
5. Corrective action(s), including any actions that have been taken or will be taken to address the allegations in the complaint and including, with respect to a student fees complaint, the district will attempt in good faith by engaging in reasonable efforts to identify and fully reimburse all pupils, parents and guardians who paid a pupil fee within one year prior to the filing of the complaint. Education Code 49013 and 5 CCR 4600

A pupil fee complaint shall be filed no later than one year from the date the alleged violation occurred. (5 CCR 4630(c)(2))

For complaints of unlawful discrimination, including discriminatory harassment, intimidation, or bullying, the notice may, as required by law, include:

- a. The corrective actions imposed on the individual found to have engaged in the conduct that relate directly to the subject of the complaint
- b. Individual remedies offered or provided to the subject of the complaint

c. Systemic measures the school has taken to eliminate a hostile environment and prevent recurrence

6. Notice of the complainant's right to appeal the district's decision within 15 calendar days to the CDE and procedures to be followed for initiating such an appeal

The decision may also include follow-up procedures to prevent recurrence or retaliation and for reporting any subsequent problems.

For complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, and bullying, based on state law, the decision shall also include a notice to the complainant that:

1. He/she may pursue available civil law remedies outside of the district's complaint procedures, including seeking assistance from mediation centers or public/private interest attorneys, 60 calendar days after the filing of an appeal with the CDE. (Education Code 262.3)

2. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law. (Education Code 262.3)

3. Complaints alleging discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the U.S. Department of Education, Office for Civil Rights at [www.ed.gov/ocr](http://www.ed.gov/ocr) within 180 days of the alleged discrimination.

#### Corrective Actions

When a complaint is found to have merit, the compliance officer shall adopt any appropriate corrective action permitted by law. Appropriate corrective actions that focus on the larger school or district environment may include, but are not limited to, actions to reinforce district policies, training for faculty, staff, and students, updates to school policies, or school climate surveys.

For complaints involving retaliation, unlawful discrimination, or bullying, appropriate corrective actions that focus on the victim may include, but are not limited to, the following:

1. Counseling

2. Academic support

3. Health services

4. Assignment of an escort to allow the victim to move safely about campus

5. Information regarding available resources and how to report similar incidents or retaliation

6. Separation of the victim from any other individuals involved, provided the separation does not penalize the victim.

7. Restorative justice

8. Follow-up inquiries to ensure that the conduct has stopped and there has been no retaliation

9. Determination of whether any past actions of the victim that resulted in discipline were related to the treatment the victim received and described in the complaint

For complaints involving retaliation, unlawful discrimination, or bullying, appropriate corrective actions that focus on a student offender may include, but are not limited to, the following:

1. Transfer from a class or school as permitted by law

2. Parent/guardian conference

3. Education regarding the impact of the conduct on others

4. Positive behavior support

5. Referral to a student success team

6. Denial of participation in extracurricular or co-curricular activities or other privileges as permitted by law

7. Disciplinary action, such as suspension or expulsion, as permitted by law

The district may also consider training and other interventions for the larger school community to ensure that students, staff, and parents/guardians understand the types of behavior that constitute unlawful discrimination, including discriminatory harassment, intimidation, or bullying, that the district does not tolerate it, and how to report and respond to it.

If a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges or any requirement related to the LCAP is found to have merit, the district shall provide a remedy to all affected students and parents/guardians. (Education Code 49013, 52075)

For complaints alleging noncompliance with the laws regarding student fees, such remedies, where applicable, the district will attempt in good faith by engaging in reasonable efforts to identify and fully reimburse all pupils, parents and guardians who paid a pupil fee within one year prior to the filing of the complaint. Education Code 49013 and 5 CCR 4600

A pupil fee complaint shall be filed no later than one year from the date the alleged violation occurred. (5 CCR 4630(c)(2))

## Appeals to the California Department of Education

Any complainant who is dissatisfied with the district's final written decision may file an appeal in writing with the CDE within 15 calendar days of receiving the district's decision. (Education Code 49013, 52075; 5 CCR 4632)

The complainant shall specify the basis for the appeal of the decision and whether the facts are incorrect and/or the law has been misapplied. The appeal shall be accompanied by a copy of the locally filed complaint and a copy of the district's decision. (5 CCR 4632)

Upon notification by the CDE that the complainant has appealed the district's decision, the Superintendent or designee shall forward the following documents to the CDE: (5 CCR 4633)

1. A copy of the original complaint
2. A copy of the decision
3. A summary of the nature and extent of the investigation conducted by the district, if not covered by the decision
4. A copy of the investigation file including, but not limited to, all notes, interviews, and documents submitted by the parties and gathered by the investigator
5. A report of any action taken to resolve the complaint
6. A copy of the district's uniform complaint procedures
7. Other relevant information requested by the CDE

Regulation LOS BANOS UNIFIED SCHOOL DISTRICT  
approved: October 2014 Los Banos, California  
revised: September 10, 2015

# Los Banos USD

## Exhibit

### Williams Uniform Complaint Procedures

E 1312.4

#### Community Relations

~~Cautionary Notice:—As added and amended by SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009), ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), and SB 70 (Ch. 7, Statutes of 2011), Education Code 42605 grants districts flexibility in "Tier 3" categorical programs. The Los Banos Unified School District has accepted this flexibility and thus is deemed in compliance with the statutory or regulatory program and funding requirements for these programs for the 2008-09 through 2014-15 fiscal years.—As a result, the district may temporarily suspend certain provisions of the following policy or regulation that reflect these requirements.—For further information, please contact the Superintendent or designee.~~

#### Exhibit 1

#### NOTICE TO PARENTS/GUARDIANS, PUPILS, AND TEACHERS: COMPLAINT RIGHTS

Parents/Guardians, Pupils, and Teachers:

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

1. ~~There should be sufficient textbooks and instructional materials. For there to be sufficient textbooks and instructional materials, each pupil~~ **That means each student**, including an English learner~~s~~, 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.
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 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. A complaint form can be obtained at the school office or district office, or downloaded from the school or district web site at <http://www.losbanosusd.k12.ca.us>. You may also download a copy of the California Department of Education complaint form from the following web site: <http://www.cde.ca.gov/re/ep/uc>. Complainants need not use the Williams complaint form to file a complaint.~~

**If you choose to file a complaint alleging that any of the above conditions is not being met, your complaint will be addressed through the district's Williams uniform complaint procedures as required by law. A complaint form may be obtained at the school office or district office, or downloaded from the school or district web site:**

**<http://www.losbanosusd.org/> You may also download a copy of the California Department of Education complaint form from the following web site: <http://www.cde.ca.gov/re/ep/uc>. However, a complaint need not be filed using either the district's complaint form or the complaint form from the California Department of Education.**

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Exhibit (2) 1312.4

## WILLIAMS UNIFORM COMPLAINT PROCEDURES

~~Cautionary Notice: As added and amended by SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009), ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), and SB 70 (Ch. 7, Statutes of 2011), Education Code 42605 grants districts flexibility in "Tier 3" categorical programs. The Los Banos Unified School District has accepted this flexibility and thus is deemed in compliance with the statutory or regulatory program and funding requirements for these programs for the 2008-09 through 2014-15 fiscal years. As a result, the district may temporarily suspend certain provisions of the following policy or regulation that reflect these requirements. For further information, please contact the Superintendent or designee.~~

### **K-12 COMPLAINT FORM: WILLIAMS UNIFORM COMPLAINT PROCEDURES**

Education Code 35186 creates a procedure for the filing of complaints concerning deficiencies related to instructional materials, conditions of facilities that are not maintained in a clean or safe manner or in good repair or teacher vacancy or misassignment, ~~or the lack of opportunity to receive intensive instruction and services to pupils who did not pass one or both parts of the high school exit examination by the end of grade 12.~~ The complaint and response are public

documents as provided by law. 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

Contact information: (if response is requested)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone number: Day: \_\_\_\_\_ Evening: \_\_\_\_\_

E-mail address, if any: \_\_\_\_\_

Date problem was observed: \_\_\_\_\_

Location of the problem that is the subject of this complaint:

School name/address: \_\_\_\_\_

Course title/grade level and teacher name: \_\_\_\_\_

Room number/name of room/location of facility: \_\_\_\_\_

Only the following issues may be the subject of this complaint process. If you wish to complain about an issue not specified below, please contact the school or district for the appropriate district complaint procedure.

Specific issue(s) of the complaint: (Please check all that apply. A complaint may contain more than one allegation.)

1. Textbooks and instructional materials: (Education Code 35186; 5 CCR 4681)

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.

A student does not have access to textbooks or 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 from only a portion of a textbook or instructional materials to address a shortage of textbooks or instructional materials.

2. Teacher vacancy or misassignment: (Education Code 35186; 5 CCR 4682)

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 school 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.

\_\_\_ A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20 percent English learners in the class.

\_\_\_ A teacher is assigned to teach a class for which the teacher lacks subject matter competency.

3. Facilities conditions: (Education Code 17592.72, 35186, 35292.5, 35292.6; 5 CCR 4683)

\_\_\_ A condition exists that poses an emergency or urgent threat to the health or safety of students or staff including 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 students or staff; structural damage creating a hazardous or uninhabitable condition; and any other condition deemed appropriate by the district.

\_\_\_ A school restroom has not been cleaned or maintained regularly, is not fully operational, or has not been stocked at all times with toilet paper, soap, or paper towels or functional hand dryers.

~~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. ~~Pupil, including English Learners, who have not passed or both parts of the high school examination by the of the 12th grade are to be provide the opportunities to receive intensive instructions and services for up to two consecutives academic years after completion of grade 12.~~

5. ~~A complaint form may be obtained at the school office, district office, or downloaded from the bottom of the district's web site at <http://www.losbanosusd.k12.ca.us/> You may also download a copy of the California Department of Education complaint form from the following web site: <http://www.cde.ca.gov/re/ep/uc/>. Complainants need not use the Williams complaint form to file a complaint.~~

Response requested? ~~\_\_\_ Yes \_\_\_ No~~

Contact information:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone number: Day: \_\_\_\_\_ Evening: \_\_\_\_\_

E-mail address, if any: \_\_\_\_\_

Location of the problem that is the subject of this complaint:

School name/address: \_\_\_\_\_

Course title/grade level and teacher name: \_\_\_\_\_

Room number/name of room/location of facility: \_\_\_\_\_

Date problem was observed: \_\_\_\_\_

~~Only the following issues may be the subject of this complaint process. If you wish to complain about an issue not specified below, please use the appropriate district complaint procedure.~~

~~Specific issue(s) of the complaint: (Please check all that apply. A complaint may contain more than one allegation.)~~

~~\_\_\_ For a school that serves students in any of grades 6-12 with 40 percent of more of its students from low-income families, as defined, the school has not stocked at least half of its restrooms with feminine products at all times and made those products available to students at no cost.~~

~~\_\_\_ The school has not kept all restrooms open during school hours when students are not in classes and has not kept a sufficient number of restrooms open during school hours when students are in classes. This does not apply when temporary closing of the restroom is necessary for student safety or to make repairs.~~

~~Please describe the issue of your complaint in detail. You may attach additional pages and include as much text as necessary to fully describe the situation. For complaints regarding facilities conditions, please describe the emergency or urgent facilities condition and how that condition poses a threat to the health or safety of students or staff.~~

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**Please file this complaint at the following location:**

\_\_\_\_\_  
**(principal or designee)**

\_\_\_\_\_  
**(address)**

**Please provide a signature below. If you wish to remain anonymous, a signature is not required. However, all complaints, even anonymous ones, should be dated.**

\_\_\_\_\_

**(Signature)**

**(Date)**

1. ~~Textbooks and instructional materials: (Education Code 35186; 5 CCR 4681)~~

~~\_\_\_\_\_ A pupil, 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.~~

~~\_\_\_\_\_ A pupil does not have access to textbooks or 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 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. ~~Teacher vacancy or misassignment: (Education Code 35186; 5 CCR 4681)~~

~~\_\_\_\_\_ 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 school 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.~~

~~\_\_\_\_\_ A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20 percent English learners in the class.~~

~~\_\_\_\_\_ A teacher is assigned to teach a class for which the teacher lacks subject matter competency.~~

3. ~~\_\_\_\_\_ Facility conditions: (Education Code 17592.72, 35186, 35292.5; 5 CCR 4683)~~

~~\_\_\_\_\_ A condition exists that poses an emergency or urgent threat to the health or safety of pupils or staff including 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 deemed appropriate by the district.~~

~~\_\_\_\_\_ A school restroom has not been cleaned or maintained regularly, is not fully operational, or has not been stocked at all times with toilet paper, soap, or 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. This does not apply when temporary closing of the restroom is necessary for pupil safety or to make repairs.~~

4. ~~\_\_\_\_\_ High school exit exam intensive instruction and services: (Education Code 35186)~~

~~\_\_\_\_\_ Pupils who have not passed the high school exit exam by the end of grade 12 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. You may attach additional pages and include as much text as necessary to fully describe the situation. For complaints regarding facilities conditions, please describe the emergency or urgent facilities condition and how that condition poses a threat to the health or safety of pupils or staff.~~

~~\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_~~

~~Please file this complaint at the following location:~~

~~\_\_\_\_\_  
\_\_\_\_\_  
(principal or title of designee of the Superintendent)~~

1717 S. 11th Street  
Los Banos, CA, 93635

~~Please provide a signature below. If you wish to remain anonymous, a signature is not required. However, all complaints, even anonymous ones, should be dated.~~

(signature) \_\_\_\_\_  
(date)

Exhibit           LOS BANOS UNIFIED SCHOOL DISTRICT  
version:           September 13, 2007   Los Banos, California  
revised:           July 17, 2008  
revised:           September 13, 2012  
**revised:           April 11, 2019**

# Los Banos USD

## Administrative Regulation

### Williams Uniform Complaint Procedures

AR 1312.4  
Community Relations

~~Cautionary Notice:—As added and amended by SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009), ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), and SB 70 (Ch. 7, Statutes of 2011), Education Code 42605 grants districts flexibility in "Tier 3" categorical programs. The Los Banos Unified School District has accepted this flexibility and thus is deemed in compliance with the statutory or regulatory program and funding requirements for these programs for the 2008-09 through 2014-15 fiscal years. As a result, the district may temporarily suspend certain provisions of the following policy or regulation that reflect these requirements. For further information, please contact the Superintendent or designee.~~

#### Types of Complaints

The district shall use the following procedures **described in this administrative regulation only** to investigate and resolve **the following**: ~~complaints when the complainant alleges that any of the following has occurred: (Education Code 35186; 5 CCR 4681, 4682, 4683)~~

1. **Complaints regarding the insufficiency of textbooks and instructional materials, including any complaint alleging that: (Education Code 35186; 5 CCR 4681)**

a. A ~~pupil~~ **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 ~~pupil~~ **student** does not have access to textbooks or instructional materials to use at home or after school. This does not require two sets of textbooks or instructional materials for each pupil.

c. Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.

d. A ~~pupil~~ **student** was provided photocopied sheets from only a portion of a textbook or instructional materials to address a shortage of textbooks or instructional materials.

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

2. **Complaints regarding teacher vacancy or misassignment, including any complaint alleging that: (Education Code 35186; 5 CCR 4682)**

- a. A semester begins and a teacher vacancy exists.
- b. A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20 percent English learners ~~pupils~~ in the class.

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

- c. 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 the semester for an entire semester. (Education Code 35186; 5 CCR 4600)

Beginning of the year or semester means the first day classes necessary to serve all the ~~pupils~~ **students** enrolled are established with a single designated certificated employee assigned for the duration of the class, but not later than 20 working days after the first day ~~pupils~~ **students** attend classes for that semester. (5 CCR 4600)

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; 5 CCR 4600)

(cf. 4112.2 - Certification)

(cf. 4113 - Assignment)

**3. Complaints regarding the condition of school facilities, including any complaint alleging that: (Education Code 35186; 5 CCR 4683)**

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

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

Clean or maintained school restroom means a school restroom has been cleaned or maintained regularly, is fully operational, or has been stocked at all times with toilet paper, soap, or paper towels or functional hand dryers. (Education Code 35292.5)

Open restroom means the school has kept all restrooms open during school hours when pupils students are not in classes and has kept a sufficient number of restrooms open during school hours when pupils students are in classes. This does not apply when the temporary closing of the restroom is necessary for pupil student safety or to make repairs. (Education Code 35292.5)

**In any district school serving any of grades 6-12 in which 40 percent or more of the students in the school or school attendance area are from low-income families, as defined in 20 USC 6314, a complaint may be filed alleging noncompliance with the requirement of Education Code 35292.6 to stock, at all times, at least half of the restrooms in the school with feminine hygiene products and to not charge students for the use of such products.**

**(cf. 3514 - Environmental Safety)  
(cf. 3517 - Facilities Inspection)**

~~4. High school exit examination intensive instruction and services~~

~~A pupil, including an English learner, who has not passed the exit exam by the end of grade 12 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 pupil has passed both parts of the exam, whichever comes first. (Education Code 35186)~~

~~(cf. 6162.52 High School Exit Examination)  
(cf. 6179 Supplemental Instruction)~~

#### Filing of Complaint

~~A complaint alleging any condition(s) specified in items #1-3 in the section entitled "Types of Complaints" 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 in the section entitled "Types of Complaints" above shall be filed with a district official designated by the Superintendent. Such complaints may be filed at the district office or school site and shall be immediately forwarded to the Superintendent or designee. (Education Code 35186)~~



## Forms and Notices

**The Superintendent or designee shall ensure a Williams complaint form is available at each school. However, complainants need not use the district's complaint form in order to file a complaint. (Education Code 35186; 5 CCR 4680)**

**The Superintendent or designee shall ensure that the district's complaint form specifies the location for filing a complaint and contains a space to indicate whether the complainant desires a response to the complaint. A complainant may add as much text to explain the complaint as desired. (Education Code 8235.5, 35186; 5 CCR 4680)**

**The Superintendent or designee shall post in each K-12 classroom in each school a notice containing the components specified in Education Code 35186. In each license-exempt CSPP classroom, a notice containing the components specified in Education Code 8235.5 shall be posted. (Education Code 8235.5, 35186)**

## Filing of Complaint

**A complaint alleging any condition(s) specified in the section "Types of Complaints" above shall be filed with the principal or designee, or the preschool administrator or designee as appropriate, at the school in which the complaint arises. A complaint about problems beyond the authority of the principal or preschool administrator shall be forwarded to the Superintendent or designee in a timely manner, but not to exceed 10 working days. Complaints may be filed anonymously. (Education Code 8235.5, 35186; 5 CCR 4680)**

## Investigation and Response

~~The principal/preschool administrator or designee of the Superintendent shall make all reasonable efforts to investigate any problem within his/her their 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 8235.5, 35186; 5 CCR 4685)

**Investigation of a complaint regarding preschool health or safety issues shall begin within 10 calendar days of receipt of the complaint. (Education Code 8235.5)**

**The principal/preschool administrator or Superintendent's designee 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 8235.5, 35186; 5 CCR 4685)**

~~Complaints may be filed anonymously. If the complainant has indicated on the complaint form a desire to receive that he/she would like a response to the complaint, the principal/preschool administrator or Superintendent's 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.~~ **the principal/preschool administrator makes this report, the information**

**shall be reported** at the same time **to the Superintendent** ~~the principal~~ or designee shall report the same information to the Superintendent or designee. (Education Code **8235.5**, 35186; 5 CCR 4680, 4685)

When Education Code 48985 is applicable and the complainant has requested a response, the response shall be written in English and in the primary language in which the complaint was filed. (Education Code 35186)

If a complainant is not satisfied with the resolution of a complaint, ~~he/she~~ **the complainant** has the right to describe the complaint to the Governing Board at a regularly scheduled meeting. (Education Code **8235.5**, 35186; 5 CCR 4686)

For any complaint concerning a facilities condition that poses an emergency or urgent threat to the health or safety of ~~pupils~~ **students** or staff as described in item #3a **or #4** in the section entitled "Types of Complaints" above, a complainant who is not satisfied with the resolution proffered by the principal/**preschool administrator** or Superintendent or designee may file an appeal to the Superintendent of Public Instruction within 15 days of receiving the district's response. The complainant shall comply with the appeal requirements specified in 5 CCR 4632. (Education Code **8235.5**, 35186; 5 CCR 4687)

All complaints and written responses shall be public records. (Education Code **8235.5**, 35186; 5 CCR 4686)

(cf. 1340 - Access to District Records)

#### Reports

**On a quarterly basis**, the Superintendent or designee shall report ~~summarized data on the nature and resolution of all complaints~~ to the Board **at a regularly scheduled public Board meeting** and to the County Superintendent of Schools, **summarized data on the nature and resolution of all complaints. 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 **8235.5**, 35186; 5 CCR 4686)

#### Forms and Notices

~~The Superintendent or designee shall ensure a Williams complaint form is available at each school. However, complainants need not use the district's complaint form in order to file a complaint.~~ (Education Code 35186; 5 CCR 4680)

~~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; 5 CCR 4680)

~~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 234.1 Prohibition of discrimination, harassment, intimidation, and bullying**

1240 County superintendent of schools, duties

**8235-8239.1 California State Preschool Programs, especially:**

**8235.5 California State Preschool Program, complaints regarding health and safety issues**

17592.72 Urgent or emergency repairs, School Facility Emergency Repair Account

33126 School accountability report card

35186 Williams uniform complaint procedure

35292.5 ~~-35292.6~~ Restrooms, maintenance and cleanliness

~~37254 Supplemental instruction based on failure to pass exit exam by end of grade 12~~

48985 Notice to parents in language other than English

60119 Hearing on sufficiency of instructional materials

**HEALTH AND SAFETY CODE**

**1596.792 California Child Day Care Act; general provisions and definitions**

**1596.7925 California Child Day Care Act; health and safety regulations**

**CODE OF REGULATIONS, TITLE 5**

4600-4687 Uniform complaint procedures, especially:

4680-4687 Williams complaints

**UNITED STATES CODE, TITLE 20**

**6314 Title I schoolwide program**

Management Resources:

**WEB SITES**

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

California County Superintendents Educational Services Association: <http://www.ccsesa.org>

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

State Allocation Board, Office of Public School Construction: <http://www.opsc.dgs.ca.gov>

Regulation approved: **LOS BANOS UNIFIED SCHOOL DISTRICT**  
January 20, 2005 Los Banos, California  
revised: June 12, 2007  
revised: May 14, 2009  
revised: September 13, 2012  
revised: **April 11, 2019**

## **Board Reference Material**

**SUBJECT TITLE:** **Proposal: Forensic Analytical Consulting Services**

**REQUESTED ACTION:** Approve

Action   X  

Discussion/Information           

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### **RECOMMENDATION:**

It is recommended the Board approve the proposal from Forensic Analytical Consulting Services to perform an Asbestos and Lead Paint Survey for the WUES Fire Alarm Project.

### **BACKGROUND INFORMATION:**

Due to the nature of the WUES Fire Alarm Project, an Asbestos and Lead Paint Survey is a required element for the construction phase.

### **HOW DOES THIS ACTIVITY SUPPORT BOARD GOALS?**

This directly supports District Goal #3: Create and sustain inspirational learning environments that are safe, drug-free, and conducive to learning.

### **ALTERNATIVES/IDENTIFIED OPPOSITION:**

N/A

### **SPECIFIC FINANCIAL IMPACT (Include Impact on School District Facilities):**

The proposal estimate is not to exceed \$5,808. The cost will be paid from Facilities Fund #40.

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ORIGINATOR: Don Laursen, Assistant Superintendent-Administrative Services

Date: April 1, 2019



# Forensic Analytical

ENVIRONMENTAL HEALTH CONSULTANTS

March 28, 2019

Project #:PJ41616

**To:** Mr. Don Laursen  
Los Banos Unified School District  
1717 S. 11<sup>th</sup> St.  
Los Banos, CA 93635

[dlaursen@losbanosusd.k12.ca.us](mailto:dlaursen@losbanosusd.k12.ca.us)  
Phone: 209-826-3801

**From:** Joseph Vuglia, Project Manager  
Forensic Analytical Consulting Services  
371 E. Bullard Ave., Suite 109  
Fresno, CA 93710

[jvuglia@forensicanalytical.com](mailto:jvuglia@forensicanalytical.com)  
Phone: 559-436-0277

**Subject: Proposal for Asbestos and Lead Survey  
Westside Elementary School Campus-wide Fire Alarm Replacement**

Dear Mr. Laursen:

Forensic Analytical Consulting Services, Inc. (FACS), is pleased to provide Los Banos Unified School District with the following proposal for an asbestos and lead paint survey in support of the fire alarm replacement project at Westside Elementary School, located at 659 K Street in Los Banos, California. The survey is intended to fulfill the requirements of the San Joaquin Valley Air Pollution Control District (SJVAPCD) and US EPA for a pre-renovation asbestos survey. The survey is also intended to identify lead-containing paints or coatings for compliance with California Department of Public Health, Cal/OSHA, and US EPA rules and regulations for lead.

## OBJECTIVES

We understand that the fire alarm replacement project at this site is campus-wide and will impact wall and ceiling materials in permanent buildings and portable structures. The project will include removal of existing fire alarm system equipment and installation of new equipment.

We understand that there is an expedited time-frame for conducting this inspection due to the contractor bidding process. FACS will endeavor to complete the inspection and generate a report as quickly as possible. We can schedule the site visit once we have notice to proceed provided by either completing and returning the authorization form (page 5), or by our reception of a LBUSD purchase order.

## FACS SCOPE OF WORK

1. FACS will perform a pre-renovation asbestos and lead survey of suspect building materials that will be impacted during this project, as established by architectural drawings provided by Teter, LLC.
2. The asbestos survey will be performed by personnel with the EPA AHERA-accreditation as an asbestos Building Inspector and Cal/OSHA certification as an asbestos Certified Site Surveillance Technician or as a Certified Asbestos Consultant. The survey will be supervised, directed and reviewed by a Cal/OSHA Certified Asbestos Consultant as required by regulation.

3. Bulk samples will be collected in accordance with EPA AHERA and NESHAP sampling protocols. Where possible, homogeneous materials will be grouped between areas where allowed to limit the total number of samples needed.
4. All samples will be analyzed by PLM using EPA Method 600/R-93-116, Visual Area Estimation, by Forensic Analytical Laboratories, Inc. (FALI).
5. Based on sample results, all materials will be categorized as Asbestos-Containing Material (ACM, >1% asbestos) per EPA or as non-ACM (no asbestos detected).
6. Materials with analytical results ranging from Trace to 10% will be categorized as ACM (>1% asbestos) as required by EPA unless point-count analysis is performed on each sample of the homogeneous material with detectable asbestos to determine if the material is non-ACM.
7. ACM will be categorized as Regulated Asbestos-Containing Material (RACM), Category I ACM, or Category II ACM.
8. The lead survey will be performed by personnel with California Department of Public Health (CDPH) certification as a lead Sampling Technician or lead Inspector / Risk Assessor. The lead survey will be supervised, directed and reviewed by a CDPH lead Inspector / Risk Assessor as required by regulation.
9. The lead survey will be performed using an X-Ray Fluorescence Spectrum (XRF) analyzer to identify lead-containing materials, with bulk sample collection to verify “no lead” XRF test readings as needed. The lead survey will be conducted in accordance with the CDPH Lead-Related Construction Program and will be modeled on the sampling protocol established in the US HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing.
10. Any bulk samples collected to verify XRF results will be analyzed by Atomic Absorption Spectrometry using EPA Method 3050B/7420 by FALI.
11. Based on XRF testing and bulk sample results, all materials suspect for containing lead will be categorized as lead-free, lead-containing, or lead-based.
12. If lead-based paints are identified, a determination will be made regarding applicability of the US EPA Renovation, Repair and Painting (RRP) rule, which regulates construction-related disturbance of lead-based paint in child-occupied facilities constructed prior to 1978.
13. The survey report will include:
  - a. Introduction and summary
  - b. Table of materials and analytical results
  - c. EPA Category of identified or assumed ACM
  - d. Quantities of ACM
  - e. Identification of lead-based and lead-containing materials and quantities
  - f. Conclusions and recommendations
  - g. Laboratory analytical reports
  - h. Sample data sheets and chain of custody forms
  - i. Diagrams of sample locations
  - j. Photographs of project areas and materials to be disturbed
  - k. Certifications of personnel and laboratories

The table on the following page shows the estimated rates and fees for labor, expenses, and analysis of samples for the proposed services.



## ASBESTOS & LEAD SURVEY COSTS

<u>Task</u>	<u>Rate/Unit</u>	<u>Unit</u>		<u>Total</u>
Travel	\$ 75.00	5	Hrs.	\$ 375.00
Asbestos Survey (Technician)	\$ 75.00	16	Hrs.	\$ 1,200.00
XRF Lead Survey	\$ 125.00	4	Hrs.	\$ 500.00
Review and Report Generation (Project Manager)	\$ 75.00	6	Hrs.	\$ 450.00
Technical Oversight (Sr. PM)	\$ 165.00	1	Hrs.	\$ 165.00
Lab Analysis - Asbestos	\$ 22.00	85	Ea.	\$ 1,870.00
Lab Analysis - Lead	\$ 50.00	12	Ea.	\$ 600.00
Shipping	\$ 30.00	1	Ea.	\$ 30.00
Administrative/Project Coordination	\$ 45.00	2	Hrs.	\$ 90.00
Contingency (10%)				\$ 528.00
<b>Total Estimated Cost</b>				<b>\$5,808.00</b>

Lab analytical costs are based on a next business-day laboratory turnaround time. If interpretation of PLM results indicates a potential benefit from point-count analysis, we will inform you in a phone call or e-mail and provide an estimate of additional costs if they exceed the contingency amount.

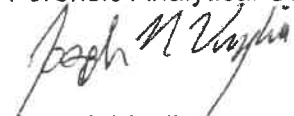
## LIMITATIONS

1. Sample quantity estimates are based on FACS experience with similar structures and variety of building materials or finishes typically contained therein. Where possible, homogeneous materials found in multiple areas within structures and between homogeneous structures will be grouped to limit the total number of samples required; however, until our inspectors perform an on-site space-by-space inventory of existing materials we cannot determine in advance the extent of such homogeneous material grouping that may be possible. The estimated sampling costs assume a "worst-case" scenario in which limited grouping of materials is possible.
2. FACS may find areas that are inaccessible or unsafe to inspect, which may contain suspect materials. FACS will note such areas in our survey report.
3. Collection of bulk samples is destructive. Inspectors will sample in discrete locations where possible, and limited repairs will be made, such as caulking of holes; however, FACS does not provide any warranty for such repair work.
4. As noted above, the costs of point-count analysis are not included in this estimate.
5. LBUSD will only be invoiced for actual services rendered, which may total less than the estimated costs. If additional labor or sampling is required, the above rates will apply. Total project cost will not exceed the estimate total without your pre-approval.
6. This proposal is for survey-related costs only. If asbestos-containing or lead-containing materials are identified in the survey and remediation is needed to facilitate the project, a separate proposal will be submitted for drafting of remediation specifications, bid and job walk attendance, consultation, project monitoring, and clearance sampling. Costs for these services, or even if they are needed, are dependent on the survey results and cannot be accurately determined in advance.

The total not-to-exceed cost for this project is **\$5,808.00**.

FACS appreciates the opportunity to provide you with this proposal. Please do not hesitate to contact our office at 559-436-0277 if you have any additional questions or concerns. Thank you for the opportunity to assist LBUSD with protecting students and staff, protecting contractor personnel and facilitating their compliance with the applicable rules and regulations, and in promoting a more healthful environment.

Best regards,  
Forensic Analytical Consulting Services



Joseph Vuglia  
Project Manager  
Cal/OSHA CAC 13-5005  
CDPH I/RA 22314

Reviewed by  
Forensic Analytical Consulting Services



Fred Tarazon  
Local Director, Fresno Office



**ACKNOWLEDGMENT**

The terms and conditions established in this proposal and the attached form between FACS and LBUSD are acceptable and within the approval authority of the undersigned. This acknowledgement shall have the force and effect of Notice to Proceed to provide the proposed services in accordance with stated rates.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name and Title: \_\_\_\_\_

Purchase Order or Work Order Identification: \_\_\_\_\_