



## Uniform Complaint Procedures

The California Department of Education's Inadequate Oversight Has Led to a Lack of Uniformity and Compliance in the Processing of Complaints and Appeals

Report 2016-109

COMMITMENT  
INTEGRITY  
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January 31, 2017

2016-109

The Governor of California  
President pro Tempore of the Senate  
Speaker of the Assembly  
State Capitol  
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As requested by the Joint Legislative Audit Committee, the California State Auditor presents this audit report concerning the Uniform Complaint Procedures (UCP). The UCP was established to provide a uniform process for investigating complaints that allege that schools or school districts have violated laws or regulations related to certain educational programs or issues.

This report concludes that the California Department of Education (Education) has not provided adequate oversight necessary to ensure that it processes complaints and appeals uniformly and that its divisions and local educational agencies (LEAs) comply with UCP requirements. Specifically, Education has designated 14 divisions as contacts for UCP complaints and appeals—eight of which received complaints and appeals during the three fiscal years ending June 30, 2016. The lack of a central office for its intake of UCP complaints and appeals has resulted in delays in forwarding some complaints and appeals to the correct division for handling. Further, Education did not always complete investigations of complaints and reviews of appeals within 60 days. The lack of a uniform time frame for completing investigations of complaints and reviews of appeals in the UCP regulations has resulted in its divisions adopting inconsistent practices for addressing complaints and appeals. Although federal regulations specify time frames for some programs and state regulations and law for some others, we also noted that there are no specific time frames in UCP regulations for other types of appeals. These differences create inequities and may lead to frustration for complainants. We also noted that Education has not always ensured adherence to UCP requirements requiring notifications to complainants for extensions of investigations and notifications about the results of the investigations.

Of the three LEAs we reviewed—Los Angeles Unified School District (Los Angeles Unified), San Diego Unified School District, and San Juan Unified School District (San Juan Unified)—two have not ensured that their processes are efficient for addressing UCP complaints. Los Angeles Unified and San Juan Unified received many complaints that were not covered by the UCP. The time that LEA staff spent processing these non-UCP complaints is time they could have otherwise dedicated to investigating UCP complaints. Moreover, the three LEAs did not always complete investigations within required time frames and did not always obtain agreements from the complainants to extend investigations as required. Finally, we noted that Education can improve its monitoring of LEAs for compliance with the UCP. Specifically, Education's monitoring did not identify that San Juan Unified's investigation reports did not always comply with state regulations. Education also does not monitor the more than 1,100 LEA-authorized charter schools for compliance with the UCP.

Respectfully submitted,



ELAINE M. HOWLE, CPA  
State Auditor

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## SUMMARY

California established the Uniform Complaint Procedures (UCP) in September 1991 to provide a uniform process for investigating complaints that allege that schools or school districts have violated federal or state laws and regulations related to certain educational programs or issues. Under the UCP, local educational agencies (LEAs)—which are primarily school districts and county offices of education—are responsible for investigating most complaints, while the California Department of Education (Education) is responsible for processing any appeals of LEA investigation results. In addition, to comply with federal requirements, Education directly investigates complaints related to two programs—Special Education and Nutrition Services—and in certain instances, it may intervene to investigate other complaints as well. For this audit, we reviewed the processes that Education and three selected LEAs used to administer the UCP for fiscal years 2013–14 through 2015–16. This report draws the following conclusions:

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### **Education has not provided the oversight necessary to ensure its divisions comply with UCP requirements.**

Education has not designated a central office to be responsible for its intake of UCP complaints and appeals. Instead, 14 different offices and divisions (divisions) receive and process complaints and appeals, resulting in delays in forwarding some complaints and appeals to the correct divisions responsible for acting on them. In addition, Education has not established standard policies and procedures for its divisions to follow when investigating complaints and reviewing appeals.

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### **LEAs have not ensured that their processes for addressing UCP complaints are efficient and meet all state requirements.**

During fiscal years 2013–14 through 2015–16, both Los Angeles Unified School District (Los Angeles Unified) and San Juan Unified School District (San Juan Unified) received many complaints through their UCP processes that did not fall within the purview of state UCP regulations, indicating a need for a mechanism that allows individuals to discuss with the LEAs whether their complaints are subject to the UCP before they file them. Additionally, all three of the LEAs we reviewed—Los Angeles Unified, San Juan Unified, and San Diego Unified School District (San Diego Unified)—had instances when they did not meet certain UCP requirements, including the requirement that they complete investigations within 60 days of receiving complaints. Further, the LEAs did not always secure agreements from complainants before extending investigations as required by UCP regulations. Los Angeles Unified staff told us that complainants often do not respond when the LEA requests an extension. However, the UCP regulations do not allow an LEA to extend the investigation timeline without first obtaining a written extension agreement from complainants.

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### Oversight of charter schools' compliance with the UCP can be improved.

Two of the LEAs we reviewed did not identify instances in which four charter schools—two that one LEA monitors and two that the other LEA monitors—did not comply with state law and UCP regulations. Additionally, Education does not include the State's more than 1,100 LEA-authorized charter schools as part of its monitoring for compliance with UCP. Its decision not to monitor charter schools seems particularly problematic given that we found that UCP policies and procedures of two Los Angeles Unified-authorized charter schools and two San Diego Unified-authorized charter schools did not fully comply with UCP regulations. Additionally, although Education monitors LEAs to ensure their compliance with UCP regulations, its most recent review did not identify instances of noncompliance by one LEA we reviewed.

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## Summary of Recommendations

### *Legislature*

To strengthen accountability for all parties and to make the requirements more uniform, the Legislature should codify UCP regulations into the Education Code to ensure, among other things, the following:

- There are consistent time frames for Education to complete all investigations of complaints and reviews of appeals.
- In the absence of an agreement from the complainant, LEAs can extend an investigation under exceptional circumstances that constitute good cause if the LEAs document and support with evidence the reasons for the extensions.

### *Education*

To ensure that it consistently processes UCP complaints and appeals in a timely manner that complies with regulations, Education should designate a central office to receive all complaints and appeals and to monitor its divisions to ensure they meet the required time frames. This central office should also be responsible for establishing a single database to record and track certain information related to all the divisions' investigations of complaints and reviews of appeals to ensure Education has the information necessary to effectively make informed decisions related to UCP complaints and appeals.

To ensure that it uniformly investigates and reviews all UCP complaints and appeals, Education should establish standard policies and procedures for its divisions to follow when investigating complaints and reviewing appeals.

To ensure that charter schools comply with state law and regulations related to the UCP, Education should include these schools in its reviews of their authorizing LEAs.

To ensure that it provides adequate monitoring of LEAs' compliance with UCP requirements, Education should revise its monitoring criteria to increase its selection of files to sufficiently detect noncompliance with state laws and regulations.

### **LEAs**

To minimize the number of complaints they receive through the UCP process that do not fall within the purview of UCP regulations, Los Angeles Unified and San Juan Unified should establish a mechanism that allows specified individuals for the districts to promptly discuss with complainants how best to address their issues or complaints and to determine whether their complaints fall under the purview of the UCP before they file complaints.

To ensure that they can defend complaint investigations that exceed the required time frame, Los Angeles Unified, San Juan Unified, and San Diego Unified should obtain agreements from complainants before extending the investigations beyond 60 days.

### **Agency Comments**

Education agreed with some of our recommendations and indicated it will take steps to implement them. However, it disagreed with other recommendations. For example, it disagreed with our recommendation to designate a central office to ensure it consistently processes UCP complaints in a timely manner.

All three LEAs agreed with our recommendations and indicated that they will take steps to implement them. Los Angeles Unified also provided comments on specific sections.

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# INTRODUCTION

## Background

Education is responsible for administering and enforcing the laws governing the State’s educational programs. Some of these programs require processes for responding to complaints from students, parents, or community members of schools or school districts. For a number of years, Education handled such complaints by developing individual complaint procedures for each program. However, this approach resulted in a variety of complaint procedures that were confusing to both complainants and LEAs. In 1990 Education proposed new regulations to establish a UCP for its then-existing educational programs that required complaint procedures—the Special Education and Consolidated Categorical Aid programs—as well as for numerous other programs. The UCP became effective in September 1991 and provides a formal system for processing complaints from individuals, public agencies, or organizations alleging violations of state or federal laws that govern specified educational programs.

Since 1991 both federal and state laws have required additional educational programs to be subject to the UCP. As shown in Table 1, as of June 30, 2016, the UCP covered complaints involving discrimination, harassment, intimidation, or bullying; various educational programs, such as Adult Education, Child Nutrition, and Special Education; pupil fees; and school facilities.

**Table 1**  
California Department of Education Programs Covered Under the Uniform Complaint Procedures as of June 30, 2016

EDUCATION PROGRAM OFFICE OR DIVISION PROCESSING COMPLAINTS OR APPEALS	EDUCATION PROGRAM OR SUBJECT AREA	FIRST DATE COVERED UNDER THE UNIFORM COMPLAINT PROCEDURES (UCP)
Career and College Transition Division	Agricultural Vocational Education	September 25, 1991
	Career Technical Education	
Career Tech Ed Leadership and Instructional Support Office	Adult Education and Regional Occupational Centers and Programs	September 25, 1991
Categorical Programs Complaints Management Office	No Child Left Behind Act (2001) programs (Titles I–VII)*	January 1, 2005
	Pupil Instruction: Course Periods Without Educational Content or Previously Completed Courses	January 1, 2016
	Unlawful Pupil Fees	January 1, 2013
Coordinated School Health and Safety Office	Education Rights of Foster and Homeless Students	January 1, 2016
	Tobacco-Use Prevention Education	January 1, 2002

continued on next page . . .

EDUCATION PROGRAM OFFICE OR DIVISION PROCESSING COMPLAINTS OR APPEALS	EDUCATION PROGRAM OR SUBJECT AREA	FIRST DATE COVERED UNDER THE UNIFORM COMPLAINT PROCEDURES (UCP)
Coordinated Student Support Division	American Indian Education Centers and Early Childhood Education Program Assessments	January 1, 2007
Early Education and Support Division	Child Care and Development	September 25, 1991
Educational Equity UCP Appeals Office	Discrimination; harassment; intimidation; bullying; student lactation accommodations; and lesbian, gay, bisexual, transgender, and questioning resources <sup>†</sup>	September 25, 1991 and January 1, 2016 (Lactation)
Expanded Learning Division <sup>‡</sup>	After School Education and Safety	August 19, 1998
Local Agency Systems Support Office <sup>§</sup>	Local Control Funding Formula (LCFF)	July 1, 2013
School Fiscal Services Division <sup>§</sup>	Local Control and Accountability Plans (LCAP)	July 1, 2013
Nutrition Services Division	Child Nutrition	September 25, 1991
School Facilities and Transportation Services Division	School Facilities (Williams Complaints)	September 29, 2004
Science, Technology, Engineering, and Mathematics Office	Physical Education: Instructional Minutes	October 9, 2015
Special Education Division	Special Education	September 25, 1991

Sources: California Department of Education's *Uniform Complaint Procedures Brochure*; California Code of Regulations, title 5, section 4610; Education Code, sections 222, 32289-35186, 48853-52334.

\* No Child Left Behind Act (2001) includes improving academic achievement, compensatory education, English learner programs, and migrant education (to be replaced by the Every Student Succeeds Act beginning in school year 2016–17).

<sup>†</sup> Student lactation accommodations became subject to the UCP effective January 1, 2016.

<sup>‡</sup> Formerly the After School Division.

<sup>§</sup> Local Agency Systems Support Office handles content- and procedure-related complaints and appeals for the LCFF and the LCAP. The School Fiscal Services Division handles fiscal-related complaints and appeals for these two programs. According to a fiscal consultant for the School Fiscal Services Division, the division has not received any fiscal-related complaints or appeals for LCFF and LCAP from July 1, 2013, through June 30, 2016.

## LEAs' Responsibilities Under UCP Regulations

LEAs have the primary responsibility for ensuring that the education programs they administer comply with applicable state and federal laws and regulations. Consequently, Education's UCP regulations state that complaints against LEAs, with specified exceptions, should be filed with the LEAs. The regulations require the LEAs to adopt policies and procedures for the investigation and resolution of UCP complaints and to annually notify in writing interested parties—including students, employees, and parents or guardians of students—of their complaint procedures. Further, the regulations require the LEAs to designate the staff or unit responsible for receiving, investigating, and resolving complaints and to ensure that the designated staff or unit is knowledgeable about the laws and programs that it is assigned to investigate.

UCP regulations also establish certain requirements related to the investigations LEAs must conduct after receiving UCP complaints. For example, when LEAs receive complaints, they must give the complainants an opportunity to present relevant information or evidence. As shown in Figure 1 on page 8, LEAs

have 60 calendar days from their receipt of complaints to complete their investigations and issue their written decisions. However, if the complaints involve instructional materials, school facilities, or teacher vacancies or misassignments—known as Williams complaints—this time frame is 45 working days. The regulations also authorize LEAs to resolve complaints before they are formally filed and to use methods other than those prescribed in UCP regulations to reach resolutions.

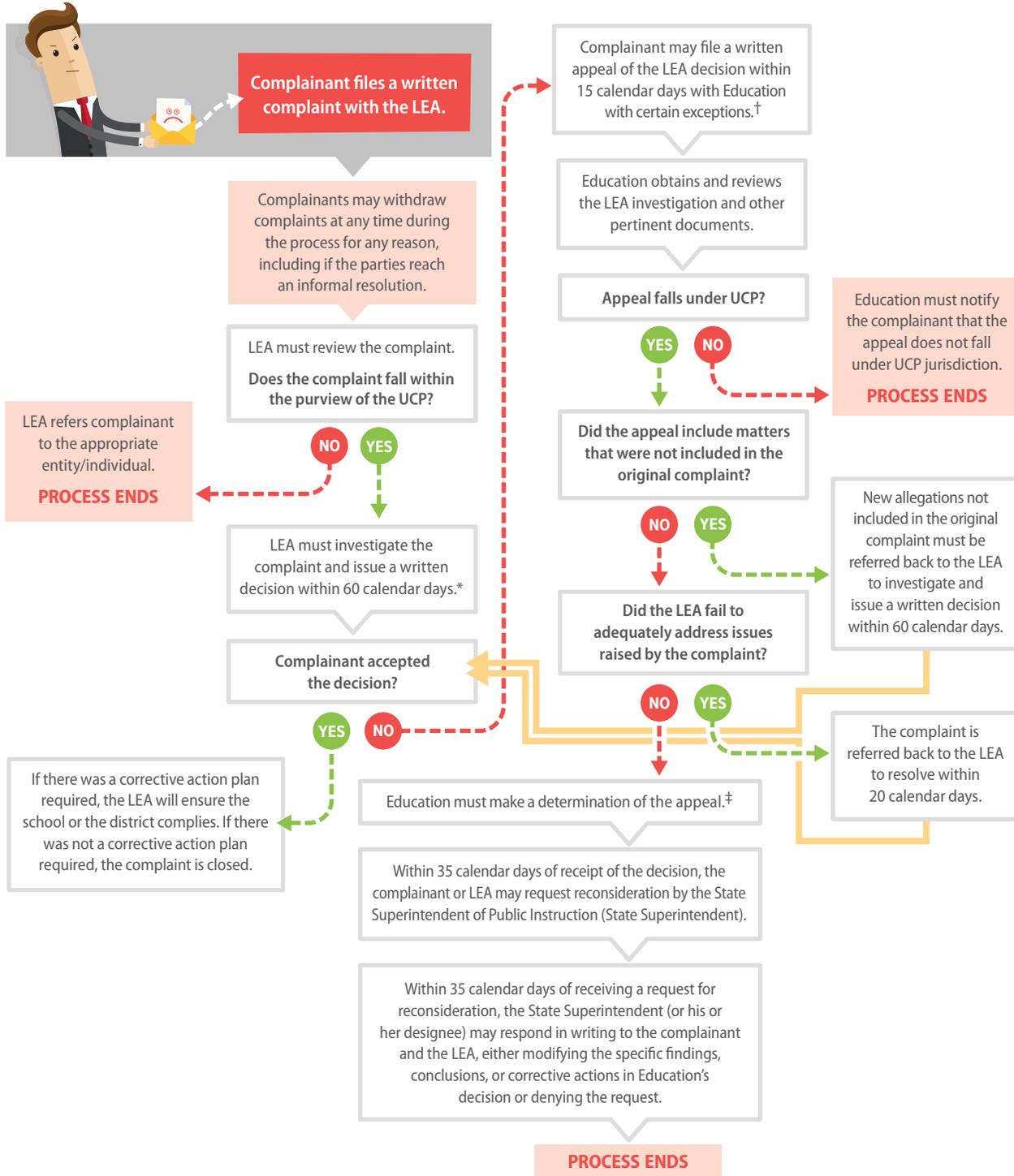
### **Education's Responsibilities Under UCP Regulations**

UCP regulations establish that complainants may appeal LEAs' decisions to Education within 15 days of receiving those decisions. A complainant who chooses to appeal must state in writing to Education the basis for the appeal—whether the facts were incorrect or the law was misapplied. Education then notifies the LEA, which forwards its investigation file to Education for review. Based on the facts in the file, Education determines whether the LEA followed its complaint procedures, whether the evidence supports the relevant findings of fact in the decision, and whether the LEA's conclusions of law are correct.

Depending on the result of its review, Education may take a number of different actions. Specifically, if Education finds that the LEA's decision is supported by substantial evidence and that its legal conclusions are not contrary to law, it must deny the appeal. However, if Education determines that the LEA's decision is inadequate because it fails to address an issue raised in the complaint, it lacks findings of fact, or it misapplies the law, Education may return the decision to the LEA, which must correct the deficiencies within 20 days. Further, if an appeal raises an issue that was not included in the original complaint, Education must refer the new issue to the LEA for resolution as a new complaint. The LEA then has 60 days to complete the investigation.

Finally, if Education finds that the appeal has merit, it may issue a decision based on the evidence in the investigation file, remand the investigation to the LEA for further investigation of the allegations, or conduct a further investigation of the allegations itself if necessary. If Education finds adequate evidence in the investigation file or investigates the allegations itself, it must issue a decision on the appeal. The decision must include a finding that the LEA did or did not comply with its complaint procedures, Education's findings of fact and conclusions of law regarding the issue on appeal, and whether the LEA complied with applicable state or federal regulations. If Education determines the LEA violated a legal requirement, Education must prescribe remedial orders or corrective actions to address the violation.

**Figure 1**  
**General Process for Resolving Complaints Filed With Local Educational Agencies Under the Uniform Complaint Procedures**



Sources: California Code of Regulations, title 5, sections 4600 through 4687, and California State Auditor's review of complaints and appeals at Education and the following school districts: Los Angeles Unified, San Diego Unified, and San Juan Unified.

\* According to state regulations, the principal or LEA must remedy a valid Williams complaint—complaint regarding instructional materials, teacher vacancy or misassignment, or school facilities—within a reasonable time period not to exceed 30 working days from the date the complaint was received. The principal or LEA must report to the complainant the resolution of the complaint, or in other words issue a decision, within 45 working days of the initial filing if the complainant identifies himself or herself and requests a response.

† Under UCP regulations, not all Williams complaints can be appealed. Only those complaints involving a condition of a facility that poses an emergency or urgent threat can be appealed.

‡ The timeline varies depending on the type of complaint and whether additional investigation by Education is necessary.

The time in which Education is required to consider certain complaints and appeals and issue its decisions is governed by a variety of legal authority, depending on the program involved. For example, complaints related to special education are required by federal regulations to be completed and sent to the complainant within 60 days. Similarly, an appeal relating to pupil fees is required by state law to be completed and a decision issued to the appellant within 60 days of Education receiving the appeal. However, other appeals have no specific timeline for completion, which potentially leads to confusion among appellants and LEAs. After Education issues its decision on an investigation report, both the complainants and the LEAs have 35 days to request reconsideration by the State Superintendent of Public Instruction (State Superintendent). A request for reconsideration must designate the specific basis for reconsidering any of the findings, conclusions, or corrective actions in Education's decision. The request must also specify whether the findings of fact are incorrect or whether the law has been misapplied. According to state regulation, the State Superintendent may respond in writing to the parties indicating a modification of the specific findings, conclusions, or corrective actions, or may deny the request for reconsideration.

Regulations also allow Education to accept requests that it directly investigate complaints in certain circumstances. For instance, Education can directly intervene if complainants request anonymity because they assert that they would be in danger of retaliation and would suffer immediate and irreparable harm if they filed the complaints with the LEAs. Further, federal regulations require that Education directly investigate and resolve all complaints it receives related to nutrition services and children with disabilities. Education refers to complaints it investigates directly as *direct intervention*. When Education determines that direct intervention is warranted, it must complete its investigation within 60 days of receiving a request and then issue a report within 60 days of completing the investigation. If Education determines that a request does not meet the specified criteria to investigate a complaint directly, it must refer the complaint to the LEA or appropriate state or federal agency for investigation.

### **Education's Monitoring of LEAs**

Federal and state laws and federal regulations require Education to monitor LEAs to ensure their compliance with a broad range of federal education program requirements, including requirements related to the UCP. To manage its monitoring process, Education has divided the State's 1,887 LEAs into four groups. According to Education, each year it selects for review a total of about 120 LEAs from two of the four groups. It performs on-site reviews of the selected LEAs from one of these two groups and conducts

desk reviews of the selected LEAs from the other. The LEAs in the two groups not scheduled for review in a given year receive follow-up reviews as needed. Education alternates the groups that receive on-site and desk reviews to ensure it reviews all groups equally. According to Education's website, its Federal Program Monitoring office coordinates the review of LEAs' compliance with the various requirements for 14 programs, including UCP. Education's Categorical Programs Complaints Management Office (Categorical Complaints Management) is responsible for both the on-site and desk reviews of LEAs' compliance with laws and regulations related to UCP.

As part of its on-site review, Categorical Complaints Management reviews LEAs' UCP policies and procedures to ensure they include complaint procedures for all relevant programs. It also reviews a random selection of LEAs' UCP files and decisions to ensure that they meet specified regulatory requirements. Categorical Complaints Management performs similar reviews during its desk reviews, but relies on LEAs to self-certify that they met specified regulatory requirements. When the review team identifies findings of noncompliance, Education's protocols require the LEAs in question to provide evidence that they have corrected the findings.

## Education Has Not Provided the Oversight Necessary to Ensure Its Divisions Comply With UCP Requirements

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### Key Points:

- Education's lack of central oversight of its intake of UCP complaints and appeals has resulted in significant delays in its processing of some complaints and appeals. Specifically, we noted the wrong divisions received complaints and appeals and sometimes did not forward them to the appropriate divisions in a timely manner. Additionally, although various state laws and federal and state regulations specify completion of investigations and appeals within certain time frames, we noted some divisions do not initiate the start of these time frames until the correct division receives the complaint or appeal, resulting in Education not accurately measuring the number of days to complete investigations of complaints and reviews of appeals.
- Because Education has not established standardized UCP policies and procedures for its divisions to follow, its divisions have processed complaints and appeals inconsistently. Further, Education has not ensured that its divisions adhere to regulations regarding the time frames for completing investigations and reviews, nor has it ensured that the reports the divisions issue contain all the elements the regulations require.

### Education's Weak Oversight of the Intake Process

Education does not have a central entity for receiving and processing its intake of complaints and appeals. Instead, Education has designated 14 divisions as contacts for complaints and appeals related to programs and services covered under the UCP. Of these 14, eight divisions received complaints or appeals during our audit period, which was from July 1, 2013, through June 30, 2016.<sup>1</sup> Because of the low number of appeals, one of these divisions did not maintain a database to track the appeals. The remaining seven divisions tracked complaints and appeals; however, they did not each record the same data about the complaints and appeals they received. For example, the Nutrition Services Division (Nutrition Services) recorded the school district names and numbers of the LEAs involved, the file numbers, descriptions of the complaints, the dates it received the complaints, and the dates it closed the complaints. However, Categorical Complaints Management tracked significantly more information, such as the names of the complainants, the staff it assigned to the complaints and appeals, the dates it sent decisions, the dates corrective actions were due, and dates related to pertinent correspondence. Because the data the divisions collect and track vary, Education does not have a core set of data with which to measure its performance and to ensure that the divisions comply with UCP requirements.

<sup>1</sup> Staff for six of the 14 divisions told us that they did not receive any UCP complaints and appeals from July 1, 2013, through June 30, 2016.

Education's lack of a central division for intake has also led to some complaints and appeals not reaching the appropriate divisions in a timely manner. For example, our review found that the wrong division received 57 of the 675 appeals sent to Education from July 2013 through June 2016. In 15 of these 57 instances, the division that incorrectly received the appeal did not refer the appeal to the correct division for 30 days or more. In fact, one appeal was not referred to the correct division for 473 days. Similarly, the wrong division received 36 of the 2,958 complaints during the audit period. In Appendix A beginning on page 55 we show the 57 appeals by type in Table A.1 and the 36 complaints in Table A.2.

The most egregious examples we found of complaints and appeals not promptly reaching the correct divisions involved the Educational Equity UCP Appeals Office (Educational Equity). According to an education administrator, Education formed Educational Equity in April 2015 to address UCP complaints and appeals that had been filed with the Office of Equal Opportunity (Equal Opportunity). When Educational Equity was formed, it inherited a backlog of 70 complaints and 162 appeals received between July 2013 and April 2015. This backlog included 10 complaints and nine appeals that Equal Opportunity had received incorrectly and should have forwarded to other divisions for processing. Of these, eight complaints and eight appeals were not referred to other divisions for 30 days or more.

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**Education's lack of a central division for intake has also led to some complaints and appeals not reaching the appropriate divisions in a timely manner.**

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In one particularly problematic instance, Equal Opportunity received an appeal in June 2014 from a parent regarding an LEA's decision. The parent had complained to the LEA that his child was removed from the After School Education and Safety Program at an elementary school as an act of retaliation because the parent had criticized district policies and procedures. According to correspondence in the appeal review file, Education's Expanded Learning Division (formerly the After School Division) received this appeal in late August 2015, more than a year after Equal Opportunity had received it. In this instance, the Expanded Learning Division ultimately agreed with the LEA's decision; however, had the appeal decision been in favor of the parent, the delay could have potentially impeded the student's educational opportunities.

Further, although various state laws and federal and state regulations require Education to complete investigations of complaints and reviews of some appeals within certain time frames, we noted that some of its divisions do not initiate the start of these time frames until the correct division receives the complaint or appeal. Also, according to an educational administrator, Educational Equity does not start the clock on its time frame until it receives a complete file, including all information requested from the LEA and the complainant. When Education does not ensure that complaints and appeals received by the wrong division are redirected promptly, it increases the risk that the division responsible for addressing the complaint or appeal will not complete it in a timely manner. Additionally, by using the date that the appropriate division receives the complaint or appeal, or when a division receives the file from the LEA, to initiate its time frame, rather than the actual date it was first received by the division within Education to which it was addressed, Education is not accurately measuring the number of days to complete investigations of complaints and reviews of appeals. Further, the inconsistent criteria applied to starting the clock on the time frame can cause confusion for complainants who wish to determine when reports or decisions are due to them.

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**Education is not accurately measuring the number of days to complete investigations of complaints and reviews of appeals.**

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To determine whether an alternative approach could improve Education's intake of complaints and appeals, we reviewed 11 other states' processes for handling complaints and appeals related to schools and school districts. We believe the process that the Texas Education Agency (Texas Education) uses for receiving complaints could resolve the issues we identified in Education's intake. Texas Education has one central office that receives all complaints. The complaint procedures on its website clearly identify this office as the location where individuals should submit complaints. According to a manager in Texas Education's Office of Complaints, Investigations, and Enforcement, this central office records all the complaints it receives in one central database and then refers each to the appropriate division for investigation and resolution. A similar central intake at Education would prevent complaints and appeals from going to the wrong divisions. Further, a central log for tracking the complaints would allow Education to effectively monitor the progress and resolutions to UCP complaints and appeals.

When we asked Education about having a central office for receiving and managing UCP complaints and appeals, Education's chief deputy superintendent (chief deputy) stated that Education has been looking at ways to develop and implement a shared or centralized database. She also stated that a centralized office for UCP is not required by law and that Education currently has systems in place. Moreover, she stated having a centralized office to receive all complaints would delay the process for beginning the substantive review of an appeal or request for direct intervention. However, as we have already discussed, the current practices and systems Education has in place have resulted in many complaints and appeals being received by the wrong division and not redirected to the correct division promptly. We believe that a central office for receiving complaints and appeals would help eliminate complainants' confusion about where to send a complaint or appeal and would streamline the process by preventing complaints and appeals from going to an incorrect division.

### **Lack of Timely Investigations and Reviews**

Lack of a uniform time frame for completing investigations of complaints and reviews of appeals in the UCP regulations has resulted in the divisions adopting inconsistent practices for addressing complaints and appeals. This lack of uniformity creates inequities and may lead to frustration for complainants. Federal regulations specify time frames for some programs, while state regulations and law specify time frames for others. For example, federal regulations require Education to issue decisions within 60 days of receiving complaints related to special education. Similarly, state law requires Education to issue decisions within 60 days of receiving appeals related to courses without educational content or to homeless or foster youth. Moreover, both state law and UCP regulations state a 60-day time frame for completing appeals related to pupil fees.

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**Lack of uniformity creates inequities and may lead to frustration for complainants.**

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However, there are no specific time frames in UCP regulations for other types of appeals subject to the UCP, which has caused confusion among some divisions. For example, the education administrator for Categorical Complaints Management, which handles complaints and appeals related to federal No Child Left Behind programs and unlawful pupil fees, stated that outside of pupil fees and courses without educational content, there is

no deadline for completing appeals in Categorical Complaints Management. However, she added that her division still works to complete reviews within 60 days. Similarly, in discussing the time frames related to complaints and appeals that Educational Equity handles, an education administrator stated that there is no requirement in regulation that prescribes the time limit for appeals. Instead, she stated that Educational Equity makes every effort to use the 60-day timeline to comply with requirements of a lawsuit settlement agreement signed in November 2015.

Further adding to the complexity, UCP regulations provide a 60-day time frame to complete an investigation of a complaint that Education has accepted as direct intervention. The regulations also provide a 60-day time frame to complete a review of an appeal that requires additional investigation by Education. In both cases, the regulations allow Education an additional 60 days to issue the decision, for a total of 120 days. The existing regulations do not impose any time limit on appeals that do not require additional investigation. This results in the paradoxical situation in which appeals that require additional work have defined time limits, but appeals that do not require additional work have no defined time limit. This lack of consistency in timelines is confusing to complainants and LEAs alike, and leads to uncertainty even among the divisions of Education.

To ensure consistency in its processing of complaints and appeals and to provide clarity to LEAs and complainants, Education should establish a uniform time frame for issuing decisions for all complaints and appeals. As noted previously, various provisions of state law, federal regulations, and the UCP regulations impose 60-day time frames for the completion of complaints and appeals related to specific programs. Moreover, UCP regulations require LEAs to complete investigations and issue decisions within 60 days of receiving complaints. Therefore, we believe that 60 days is a reasonable time frame for Education to issue decisions on all complaints and appeals.

Consequently, to determine whether Education was performing investigations and reviews in a timely manner, we measured whether it issued decisions on complaints and appeals it received within 60 days of receiving them. As shown in Table 2 on the following page, in our review of 30 files in eight divisions, we identified 13 instances in which four divisions did not complete investigations and reviews within 60 days. Education exceeded the 60-day mark by a range of 10 to 585 days for eight complaints and five appeals.

**Table 2**  
**Timeliness of a Selection of the California Department of Education's**  
**Investigations of Complaints and Reviews of Appeals**  
**July 1, 2013, Through June 30, 2016**

DIVISION OR OFFICE	NUMBER REVIEWED			INVESTIGATIONS AND REVIEWS THAT EXCEEDED 60 DAYS*
	COMPLAINTS	APPEALS	TOTAL	
Categorical Programs Complaints Management Office	1	7*	8	–
Early Education and Support Division	–	1	1	–
Educational Equity Uniform Complaint Procedures Appeals Office	3	5	8	6
Expanded Learning Division	–	1	1	1
Local Agency Systems Support Office	1	–	1	1
Nutrition Services Division	5	–	5	5
Special Education Division	5†	–	5	–
School Facilities and Transportation Services Division	1	–	1	–
<b>Totals</b>	<b>16</b>	<b>14</b>	<b>30</b>	<b>13</b>

Source: California State Auditor's analysis of California Department of Education's (Education) complaint files and appeal files.

\* This number includes one appeal that contained a new complaint allegation that the local educational agency had not previously investigated. The complainant requested direct intervention from Education.

† This number includes three requests for reconsideration. Such requests allow either party involved with a complaint an opportunity to request the State Superintendent of Public Instruction's reconsideration of Education's previous decision on a complaint.

We asked each of the four divisions whether staffing issues contributed to their delays in addressing the 13 UCP complaints and appeals. Two divisions—Nutrition Services and Educational Equity—indicated staffing concerns. We discuss Nutrition Services later in this section. Educational Equity requested additional staffing to support the processing, review, and investigation of complex UCP appeals and complaints in a timely manner. The 2016 Budget Bill included an additional position for Education to support Educational Equity's activities associated with its UCP complaints and appeals. The remaining two divisions indicated that staffing issues did not cause delays in their addressing UCP complaints and appeals.

When it exceeded the time frames for completing investigations and reviews, Education did not always request extensions from the complainants. Where an investigation is necessary to complete an appeal or a direct intervention that will exceed required time frames, regulations require Education to seek extensions and to document its rationale. Of the 13 cases, one was an appeal related to the After School Education and Safety Program, which was reviewed by the Expanded Learning Division. UCP regulations do not require a time frame for completing appeals related to this program, and the review for this appeal did not require additional investigation. Therefore, the Expanded Learning Division was not required to seek an extension or document its rationale for extending the review. Further, although Educational Equity exceeded the 60-day mark for four appeals and two complaints, three of the four appeals occurred before Education signed the settlement agreement in November 2015, which requires

Education to notify complainants if the appeals will take longer than 60 days. Educational Equity and Education's other divisions were required to notify the complainant, or seek an extension and document their rationale for extending the investigations or reviews of the remaining nine complaints and appeals.

Division staff gave us various reasons for why it did not request extensions and document justifications for extensions for these nine complaints and appeals. For example, Nutrition Services' director stated that her division does not always adhere to UCP regulations and a lack of staffing may be the reason. For another division—Educational Equity—an education administrator explained that some of the complaints were filed before April 2015, when Educational Equity was established, and therefore were not addressed before that time. She stated that Educational Equity was working through the backlog as quickly as possible, was focused on getting requests for information out, and was addressing the cases in the order the responses from the districts were received. When Education does not document requests for extensions and the reasons for extending investigations and reviews, it cannot demonstrate that it is complying with state regulations or that the extended time is justified. Further, it risks unnecessarily placing the welfare and educational rights of students in jeopardy.

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**Education's Local Agency Systems Support Office (LASSO) did not issue a decision on a complaint until 384 days after receiving it—at which point it concluded that the district that was the subject of the complaint had been noncompliant.**

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In one of the cases we reviewed, Education's Local Agency Systems Support Office (LASSO) did not issue a decision on a complaint until 384 days after receiving it—at which point it concluded that the district that was the subject of the complaint had been noncompliant. LASSO handles complaints and appeals related to local control funding formulas or local control and accountability plans, which a state law made subject to UCP effective July 2013. According to the LASSO education programs consultant (programs consultant) responsible for investigating the complaint, the delays in this investigation were caused by the district's failure to provide documentation Education repeatedly requested for nearly eight months. He explained that Education even conducted an on-site visit to the district, but that the district could not locate the documents pertinent to the complaint. Although regulations

state that the failure of a party to cooperate may result in a decision adverse to the party, the programs consultant stated that Education had little previous occasion to consider application of this regulation because the statute requiring the use of UCP for these types of complaints and appeals was new. He also stated that Education generally attempts to support LEAs to help them understand their obligations. However, given that Education ultimately required the district to take corrective actions, a delay in issuing its decision resulted in the district unnecessarily remaining out of compliance for more than a year.

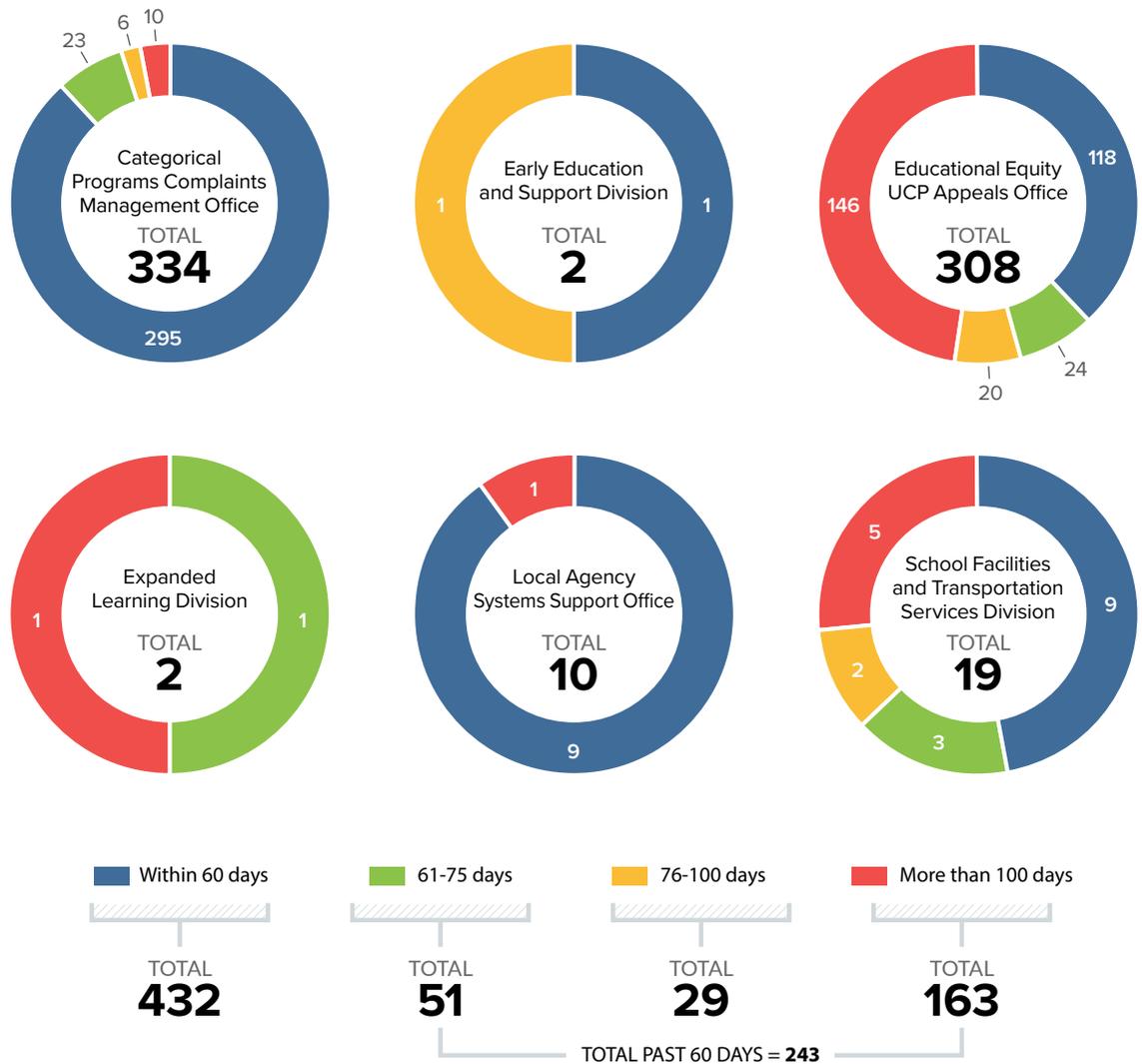
We also found that Education took more than 60 days to complete many of the other investigations and reviews it performed during fiscal years 2013–14 through 2015–16. As we discussed earlier, Education’s divisions do not consistently record the same data about the complaints and appeals they receive. Therefore, we compiled our own database of complaints and appeals for seven of the eight divisions that received complaints or appeals during our audit period by reviewing their files and capturing certain information about the complaints and appeals they processed. The only division for which we did not compile a database was the Special Education Division (Special Education), which records its complaints in an electronic database that we obtained. As shown in Figure 2, six divisions received 675 appeals during fiscal years 2013–14 through 2015–16. The divisions closed 243, or 36 percent, of these appeals more than 60 days after receiving them.

Additionally, Education received more than 2,900 complaints during fiscal years 2013–14 through 2015–16. As Figure 3 on page 20 shows, the divisions closed 249 complaints, or 8 percent, more than 60 days after receiving them. Although Education closed most complaints within 60 days, some divisions performed better than others. Specifically, as Figure 3 demonstrates, Special Education received 2,551 of the complaints and completed 2,505, or nearly all of them, within 60 days.

However, some divisions did not fare as well. In particular, Nutrition Services did not close more than 86 percent of its investigations within 60 days. As shown in Figure 3, Nutrition Services only completed 20 of its complaint cases within 60 days, as required. Using the database we compiled, we determined that 199 days, or nearly seven months, was the median number of days—the midpoint of the range—that Nutrition Services took to complete its investigations, with the longest case taking just over two years to complete. Because UCP regulations specify a time frame for completing complaint investigations, Nutrition Services should have requested an extension before exceeding 60 days to complete an investigation. However, it did not request extensions of time to complete any of the investigations that extended beyond 60 days,

nor did it document exceptional circumstances that constituted good cause for extending the investigations, as required by UCP regulations. Nutrition Services' director acknowledged that Nutrition Services has not always adhered to regulations and that it does not have policies and procedures for handling UCP complaints. Although she believes that a lack of staffing may be the reason for its noncompliance, she stated that Nutrition Services has not performed any analysis to assess or justify requesting additional staff.

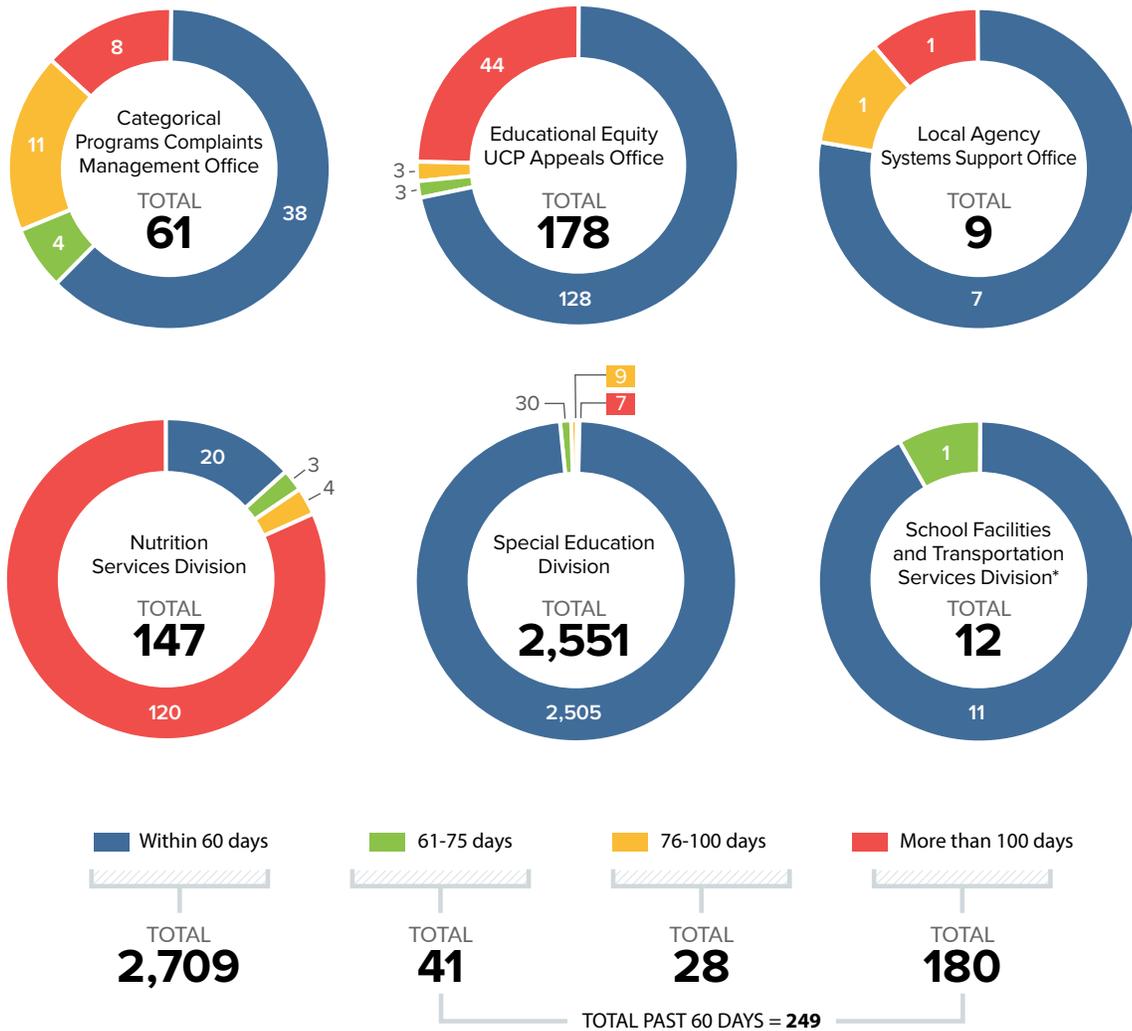
**Figure 2**  
**Timeliness of the California Department of Education's Reviews of Appeals by Division**  
**July 1, 2013, Through June 30, 2016**



Source: California State Auditor's review of Education's appeal files.

Note: This figure does not include divisions that indicated that they did not receive UCP appeals during our audit period.

**Figure 3**  
Timeliness of the California Department of Education’s Processing of Complaints by Division  
July 1, 2013, Through June 30, 2016



Sources: California State Auditor’s analysis of data obtained from Education’s Special Education Complaint Resolution System and review of Education’s complaint files.

Note 1: Refer to Table 8 on page 53 for discussion on the reliability of data presented here for the Special Education Division.

Note 2: This figure does not include divisions that indicated that they did not receive UCP complaints during our audit period.

\* Although state regulations allow a complainant to appeal to Education a district’s decision on a complaint involving a condition of a facility that poses an emergency or urgent threat, such complaints must first be filed with the principal of the school, or his or her designee, in which the complaint arises. State regulations exclude these complaints from Education’s authority to directly intervene. Therefore, the School Facilities and Transportation Services Division either referred the complaints to the local educational agencies for investigation or denied the complaint.

Moreover, we noted that the State’s UCP regulations do not conform to federal regulations for the Nutrition Services program requiring it to investigate all complaints at the state level. Specifically, federal regulations require state educational agencies to investigate complaints received or irregularities noted related to their nutrition services programs and to take appropriate action to correct any irregularities.

To comply with these regulations, the division director stated that Nutrition Services accepts all complaints as direct intervention, which Education investigates directly without first allowing an LEA to investigate. However, the State's UCP regulations do not specify that Nutrition Services may accept all complaints as direct intervention without waiting for the LEAs to investigate complaints first. The division director acknowledged that Education adopted regulations in 1991, before many of the current staff members were in the division. She stated the division will look at the need for amended regulations in response to this audit.

**We believe that complying with UCP regulations, particularly its timelines, would achieve Education's obligation under federal nutrition regulations to investigate complaints promptly.**

When we asked Education's chief deputy why state regulations do not allow Nutrition Services to accept all UCP complaints under direct intervention so that UCP regulations can align with federal requirements, she referred to state regulations, which indicate that only complaints that meet specific criteria may be handled under direct intervention. She also cited federal regulations for nutrition programs, which require Education to promptly investigate all irregularities noted in connection with the programs. However, she stated that investigation is governed by Education's own procedures, subject to federal oversight and not by UCP or its timelines. She added that Education is willing to discuss this situation with the United States Department of Agriculture to determine whether it would allow the use of the UCP process to handle future complaints that Education receives directly. However, we noted that the programs administered by Nutrition Services have been specifically covered by UCP regulations since the regulations were first adopted. Nevertheless, the State's UCP regulations do not specify that Nutrition Services may accept all complaints as direct intervention. We believe that complying with UCP regulations, particularly its timelines, would achieve Education's obligation under federal nutrition regulations to investigate complaints promptly. Therefore, it is important for Education to clarify its regulations to specifically allow Nutrition Services to investigate all complaints it receives as direct intervention.

We also noted that Education has not complied with several UCP provisions related to handling direct intervention complaints. For example, state UCP regulations require that upon receipt of a complaint requesting direct state intervention, Education must immediately notify the complainant by first-class mail of its determination to accept the complaint without an LEA investigation or decision. UCP regulations also require Education to provide each complainant with written notification of the investigator's name, the investigation date, and an explanation of the investigation process. Nonetheless, Nutrition Services could not provide documentation that it complied with these requirements for any of the 147 complaints that it investigated and closed between July 2013 and June 2016.

**State regulations require Education to issue an investigation report that includes the following within 60 days of the completion of the investigation:**

- A summary of the allegations in the complaint.
- A description of the general investigative procedures.
- Citations of applicable law and regulations.
- Findings of fact.
- Conclusions.
- Required or recommended corrective actions for the LEA to perform.
- A timeline for any corrective actions.
- Notice that any party may request reconsideration of Education's report within 35 days of receipt of the report.

Source: California Code of Regulations, title 5, section 4664.

Further, Nutrition Services did not always meet the requirements related to issuing investigation reports. As the text box shows, UCP regulations require Education to provide complainants with investigation reports that include specific information. However, Nutrition Services did not send three of the five investigation reports we reviewed to the complainants. When we raised this issue, Nutrition Services' director stated that her staff acknowledged that they had confused *anonymous* with *confidential* in their interpretation of regulations. She stated that once Nutrition Services identifies a complaint as anonymous, it does not respond in writing to the complainant, and in most cases, it does not provide the complainant with the results of the investigation. State regulations require that Education allow for anonymity if complainants are in danger of retaliation and would suffer immediate and irreparable harm if they filed their complaints with the LEAs. However, regulations require that the complainants must present Education with

verifiable evidence that supports their requests to remain anonymous. The division director acknowledged that Nutrition Services is not requiring verifiable evidence from complainants. Further, even if these complainants had requested to remain anonymous, the regulations still require Education to provide them with investigation reports.

Moreover, in our review of the five files, we also found that Nutrition Services did not notify the complainants of their right to request reconsideration. When we raised this concern with Nutrition Services, the director acknowledged that neither its investigation reports nor its closing letters include such notice. Nutrition Services' director further stated that Nutrition Services

does not have a standardized investigative report template that complies with state regulations. She stated she will consider implementing a standardized format to ensure compliance and consistency in the future.

Further, in our reviews of files across all divisions of Education, we also noted inconsistencies in the ways the divisions reported the results of their investigations of complaints or reviews of appeals. Some divisions sent cover letters with their reports attached, some sent the reports only, and some sent only letters summarizing the reports or decisions. Also, some divisions clearly labeled the required elements of their reports, such as the findings of fact and any corrective actions required, while others wrote them in paragraph form, without identifying the required components.

We believe that Education's lack of central oversight has resulted in these inconsistencies as well as the problems we previously identified among its divisions processing UCP investigations and appeals. Other than Special Education, none of the divisions has established written policies and procedures for investigating UCP complaints and reviewing appeals. Without standard policies and procedures, the divisions are left to interpret the regulations, which cause different divisions to apply different standards and sometimes miss regulatory requirements. As we discuss in the Introduction, state regulations require that LEAs have policies and procedures for the investigation and resolution of UCP complaints. However, the regulations do not include such a requirement for Education's divisions. When we asked Education's chief deputy why Education has not required its divisions to have UCP policies and procedures, she responded that Education follows specific guidelines set forth for handling appeals in its regulations. However, as we note, Education's divisions are not always following the regulations, and the regulations do not always specify time frames for completing reviews of appeals.

## **Recommendations**

### ***Legislature***

To ensure the requirements of the UCP are consistent for complaints and appeals Education handles, the Legislature should codify the UCP regulations to, among other things, do the following:

- Prescribe consistent time frames for completing all investigations of complaints and reviews of appeals by Education.
- Identify a consistent time limit for filing UCP complaints.

### ***Education***

To ensure that it consistently processes complaints and appeals in a timely manner and that it investigates and reviews all UCP complaints and appeals in compliance with state law and regulations, by July 2017 Education should designate a central office to receive all complaints and appeals. This central office should do the following:

- Distribute complaints and appeals to the correct divisions for investigation or review.
- Establish a single database to record and track all investigations of complaints and reviews of appeals. This database should capture all data necessary for Education to effectively make informed decisions related to UCP complaints or appeals. At a minimum, the database should capture the date on which Education received each complaint or appeal, the date on which it forwarded the complaint or appeal to the appropriate division for investigation or review, and the date on which it sent the decision to the complainant. The database should also include the type of complaint or appeal, the LEA involved, and the decision.
- Track the divisions' progress in processing complaints and appeals to ensure the divisions meet all UCP requirements, including documenting exceptional circumstances that constitute good cause for extending investigations beyond 60 days.
- Work with divisions to establish policies and procedures for the divisions to follow when investigating UCP complaints and reviewing appeals. The procedures should identify the individuals or units responsible for investigating complaints and reviewing appeals, the steps and time frames for conducting investigations and reviews, the requirements for issuing decisions, and the documentation that should be retained in the files.
- Establish and distribute a standard investigation report format that includes the required elements for the divisions to use when processing UCP complaints.
- Monitor the divisions' decisions and reports on complaints and appeals to ensure that they comply with requirements.

To ensure that its regulations are consistent and align with state and federal requirements, by July 2017 Education should initiate revising its regulations as follows:

- Require its divisions to complete investigations of complaints and reviews of appeals related to all programs within 60 days of Education receiving them, including providing its decisions in writing to complainants, unless otherwise specified in statute or federal regulations.
- Allow Nutrition Services to investigate all complaints as direct intervention.

To ensure that it complies with UCP regulations and makes complainants aware of the outcome of investigations, beginning February 2017 Nutrition Services should provide them with investigation reports, even when the complainants request anonymity from the LEAs involved.

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## LEAs Have Not Ensured That Their Processes for Addressing UCP Complaints Are Efficient and Meet All State Requirements

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### Key Points:

- Both Los Angeles Unified and San Juan Unified received many complaints during fiscal years 2013–14 through 2015–16 that did not fall within the purview of the State’s UCP regulations. The time that LEA staff spent processing non-UCP complaints is time they could have otherwise used to address UCP complaints.
- The three LEAs we reviewed did not always complete their investigations within the 60-day time frame state regulations require. For some of these investigations, the LEAs also did not obtain agreements from the complainants to extend the time frame even though the regulations require such agreements.

### Weaknesses in LEAs’ Intake Processes

As the Introduction discusses, the UCP covers many types of complaints, which the LEAs have primary responsibility for investigating. However, similar to the divisions at Education, the three LEAs we reviewed record and maintain different information about the complaints they process. Therefore, to identify the number and type of UCP complaints each of the LEAs received and closed in fiscal years 2013–14 through 2015–16, we reviewed their files and compiled our own databases.

However, Los Angeles Unified staff informed us very late in the audit process that it had not identified all UCP complaints as we requested. Specifically, when we first visited Los Angeles Unified, we asked for all UCP complaints that it received during our review period. Although Williams complaints—complaints about instructional materials, teacher vacancies or misassignments, and school facilities—have different requirements for the timeliness of issuing decisions, the content of the decisions, and for appeals, they are covered under UCP regulations. Los Angeles Unified staff informed us, after we completed our fieldwork and met with them to discuss our findings, that they tracked Williams complaints separately because of the differences in the requirements and that they had not provided those to us as part of the UCP complaints. We found that Los Angeles Unified received nearly 1,700 Williams complaints during our review period. Although we compiled our own database of non-Williams complaints that Los Angeles Unified received, because Los Angeles Unified did not inform us that it tracked the Williams complaints separately and because of the large volume of such complaints, we used the data that Los Angeles Unified captures in its tracking summary for Williams complaints.

Excluding the Williams complaints that Los Angeles Unified received, as shown in Table 3 on the following page, our review at Los Angeles Unified, San Diego Unified, and San Juan Unified found that a large portion of the UCP complaints they received related to bullying, discrimination, and harassment. The remaining complaints mostly

related to special education or pupil fees. The predominant types of complaints for each LEA varied. For example, although only 1 percent of the 785 non-Williams complaints that Los Angeles Unified received involved pupil fees, 66 of the 133 non-Williams complaints that San Diego Unified received, or 50 percent, were related to pupil fees. However, we noted that one individual filed 64 of the 66 complaints with San Diego Unified.

**Table 3**  
**Number and Types of Complaints Received and Closed**  
**Fiscal Years 2013–14 Through 2015–16**

TYPE OF COMPLAINT	LOCAL EDUCATIONAL AGENCY					
	LOS ANGELES UNIFIED		SAN DIEGO UNIFIED		SAN JUAN UNIFIED	
	NUMBER OF COMPLAINTS RECEIVED	PERCENT OF COMPLAINTS RECEIVED	NUMBER OF COMPLAINTS RECEIVED	PERCENT OF COMPLAINTS RECEIVED	NUMBER OF COMPLAINTS RECEIVED	PERCENT OF COMPLAINTS RECEIVED
Not UCP*	340	43%	10	8%	41	55%
Bullying, discrimination, and harassment	262	33	44	33	22	29
Categorical programs	3	1	6	4	0	0
Other†	24	3	0	0	1	1
Pupil fees‡	9	1	66	50	7	10
School site council and committees	56	7	2	1	0	0
Special education	91	12	5	4	4	5
<b>Subtotals</b>	<b>785</b>	<b>100%</b>	<b>133</b>	<b>100%</b>	<b>75</b>	<b>100%</b>
Williams complaints§	1,653		6		0	
<b>Totals</b>	<b>2,438</b>		<b>139</b>		<b>75</b>	

Sources: California State Auditor's review of files related to complaints received and investigated by Los Angeles Unified, San Diego Unified, and San Juan Unified between July 1, 2013, and June 30, 2016; and Los Angeles Unified's Williams Complaint Tracking Summary for July 1, 2013, through June 30, 2016.

Note: Refer to Table 8 on page 53 for discussion on the reliability of data presented here for Los Angeles Unified's Williams complaints.

\* Not UCP includes 29 personnel-related complaints that San Juan Unified investigated through the UCP.

† Other includes types of UCP complaints where the total complaints received among all three LEAs was less than three. Further, it includes UCP complaints that did not fit under any of the other types of complaints listed in this table.

‡ In San Diego Unified, 64 of 66 pupil fee complaints were submitted by the same complainant.

§ Williams complaints are those regarding instructional materials, teacher vacancies or misassignments, and school facilities.

Both Los Angeles Unified and San Juan Unified received a significant portion of complaints that were not covered by the UCP. Specifically, Los Angeles Unified concluded that 340, or 43 percent, of the 785 non-Williams complaints it received from July 2013 through June 2016 did not fall within the UCP's purview. Of the 75 complaints San Juan Unified received in the same period, 41 complaints, or 55 percent, did not meet UCP criteria.

The time that LEA staff spent processing non-UCP complaints is time they could have otherwise dedicated to investigating UCP complaints. The director of Los Angeles Unified's Educational Equity Compliance Office within its Office of the General Counsel—its

designated UCP office—stated that her office does not formally track the hours that staff spend on each complaint. However, she estimates that her staff spend between two and 16 hours to review each complaint and related evidence before determining whether the complaint is covered under the UCP. The director's estimate suggests that staff spent at least 680 hours and perhaps as much as 5,440 hours on the 340 non-UCP complaints it received during fiscal years 2013–14 through 2015–16. Similarly, San Juan Unified averaged more than 30 days from the day it received 41 complaints to the day it determined they were not UCP or sent the decisions for those complaints. These 41 complaints included 12 complaints that San Juan Unified determined were not UCP and 29 employee personnel-related complaints that it incorrectly investigated as UCP, as we discuss later.

When LEAs spend significant amounts of time on non-UCP complaints, it may be more difficult for them to meet the required time frames for completing investigations. For example, as we discuss in more detail later, Los Angeles Unified did not issue decisions within the required 60 days for 216 of the 785 non-Williams complaints it received during the three-year period we reviewed. Moreover, Los Angeles Unified took more than 100 days to finish 27 of these investigations. Although San Juan Unified exceeded the 60-day time frame for only one of its 75 complaints, the point remains that receiving a larger number of complaints that are not covered by the UCP can take time away from investigating those that do meet UCP criteria, making LEAs' processes less efficient.

The complainants' lack of understanding of UCP criteria may have contributed to the large number of complaints that the LEAs received that did not meet those criteria. In fact, as we discuss in Appendix B beginning on page 59, 16 of the 84 LEAs that responded to our survey indicated that parents and students are generally not aware of the UCP process, and 36 other LEAs indicated that parents and students are aware that a UCP process exists, but do not understand where to submit their UCP complaint or what issues the UCP covers. In alignment with regulations, the LEAs we reviewed have policies that require them to notify parents of their LEA complaint procedures. However, the director at Los Angeles Unified told us that parents receive a large amount of literature and may not always have the opportunity to review all the information provided.

Los Angeles Unified's director also stated that when individuals search LEAs' websites for information, they use keyword searches for complaints. As part of its Special Education Division, Los Angeles Unified has a complaints response unit specifically responsible for addressing concerns of parents of students with disabilities, which the director stated is also advertised in a variety of ways. However, its

website advertises its UCP office as the primary contact for a variety of other types of complaints. As a result, many parents researching contact information for filing a complaint—regardless of whether it fell within the purview of UCP—would be redirected to the UCP complaint process.

Establishing a mechanism that allows a structured but less formal process for individuals to discuss with LEAs how best to address their complaints and to determine whether those complaints fall under the purview of the UCP could help LEAs more efficiently process UCP complaints. In contrast to Los Angeles Unified and San Juan Unified, San Diego Unified received a relatively small percentage of complaints that were not covered by the UCP. As shown in Table 3 on page 28, San Diego Unified—whose Legal Services Office handles its UCP complaints—identified only 10, or 8 percent, of the 133 non-Williams complaints it received during fiscal years 2013–14 through 2015–16 as falling outside UCP criteria.

When we analyzed why San Diego Unified had fewer non-UCP complaints, we noted that it had established a Quality Assurance Office to enable students and their families, staff, and community members to ask questions or voice concerns related to its educational programs and services. Although San Diego Unified annually provides information related to the UCP to all students and parents, its website directs users with concerns or complaints to the Quality Assurance Office rather than to its Legal Services Office. According to its data, the Quality Assurance Office received 11,400 complaints or inquiries from July 2014—when the office began tracking the information electronically—to July 2016, many of which did not fall under the UCP.

The Quality Assurance Office's internal procedures state that it will explain the UCP and provide the UCP form when allegations fall under the UCP. Notwithstanding these procedures, the Quality Assurance Office's director stated that it also handles complaints informally that could fall under the formal UCP process and that it is generally able to resolve such issues using an informal process, as UCP regulations allow. This approach helps San Diego Unified minimize the number of complaints that its Legal Services Office has to address. In fact, as we discuss later in Appendix B on page 59, of the 84 LEAs that responded to our survey, 77 indicated that they attempt to informally resolve complaints.

In addition to informally resolving complaints, two of the LEAs that responded to our survey indicated that they were aware of other complaint process models that might serve the State more effectively than the UCP. One suggested alternative dispute resolution (ADR), which its assistant superintendent described as a structured process in which the parties involved in a dispute agree to meet and work

together to resolve the issues with an uninvolved third party who mediates and gives each party an opportunity to speak and share their side of the dispute. She also explained that the mediator then helps the parties brainstorm ideas to resolve the issues, which often requires compromises by both parties. She further explained that if the parties are unable to reach an agreement, they discuss what the next steps would be, for example, filing a UCP complaint.

The other district suggested restorative practices, or mediation. The district's superintendent explained that this process is one in which the parties involved acknowledge a wrongdoing and meet to restore the situation or relationship. She also explained that in relation to the UCP, the restorative practice would be an informal first step to resolve an issue or complaint before a formal UCP complaint is filed. Under UCP regulations, LEAs have the ability to use alternative methods to resolve complaints, including mediation. Therefore, LEAs could use processes such as ADR or restorative practices as part of their UCP to resolve complaints.

We also found some evidence suggesting that some LEAs may have struggled at times to understand whether certain complaints fall under the UCP's purview. Specifically, of the 75 complaints San Juan Unified received and closed from July 2013 through June 2016, 29 were employee personnel complaints. According to San Juan Unified's general counsel, it investigates these complaints under the UCP because she and legal staff interpret the state law as requiring them to do so when complainants allege bullying, discrimination, or harassment. However, we disagree with San Juan Unified's interpretation of law.

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**Some LEAs may have struggled at times to understand whether certain complaints fall under the UCP's purview.**

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Although UCP regulations refer to unlawful discrimination, harassment, intimidation, or bullying in any program or activity conducted by an LEA, the regulatory structure and history make clear that these requirements apply only to the recipients of those programs or activities—that is, pupils. Moreover, UCP regulations state that the UCP does not cover employment discrimination complaints, which should be forwarded to the Department of Fair Employment and Housing.

In an additional interpretation concern, the director of Los Angeles Unified's UCP office stated that although discrimination and bullying have legal definitions under state and federal law, complainants often use more common colloquial meanings when filing their complaints. She stated she therefore believes that in many instances UCP regulations obligate the LEA to investigate these complaints under the UCP. However, she told us that the investigations often result in reports stating that the alleged actions did not rise to the legal bar of discrimination or bullying. The general counsel at San Juan Unified shared a similar concern and stated that it would be beneficial for Education to provide more guidance regarding what types of complaints do or do not fall under the UCP.

### **LEAs' Inconsistent Compliance With UCP Regulations**

Our review found that the three LEAs did not consistently comply with all UCP requirements. Most significantly, two of the three LEAs we reviewed did not always obtain the required agreements from complainants before extending investigations beyond 60 days for non-Williams complaints. UCP regulations require an LEA to conduct and complete an investigation of the complaint and prepare a written decision within 60 days from the date of the receipt of the complaint. The regulations state that this period may be extended by a written agreement of the complainant. As Table 4 shows, not including Williams complaints, which have different time frames for investigations, the three LEAs did not complete investigations within the 60 days for 276 of their 993 non-Williams complaints received during fiscal years 2013–14 through 2015–16.<sup>2</sup> The investigations that exceeded the required time frame ranged from 61 days to 213 days. In 141 of these 276 cases, the LEAs did not obtain extension agreements from the complainants. We found evidence of extension agreements for only two of the 59 investigations that San Diego Unified completed after the required 60 days.

Staff at the LEAs identified a number of reasons why investigations might exceed the required time frame without the complainants' agreement. For example, staff at Los Angeles Unified told us that complainants often do not respond when it asks for extensions. They further stated that complaints are frequently complex and may contain multiple allegations. Further, both Los Angeles Unified and San Diego Unified stated that it is challenging to complete investigations during extended school breaks when staff members

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<sup>2</sup> Under UCP regulations, an LEA must remedy the issue identified in a Williams complaint and issue a decision within 30 working days and 45 working days, respectively, of receiving the complaint. As a result, we assessed LEAs' compliance with UCP requirements for investigating Williams complaints separately from all other complaints that LEAs received and investigated during our review period. We discuss our results later in this section.

and parents are usually unavailable. In fact, staff at San Diego Unified stated that school breaks can prevent it from closing complaints within the time limit. The staff for Los Angeles Unified stated that although it makes every effort to complete investigations within 60 days in the absence of agreements for extension, it cannot always collect sufficient information to make comprehensive conclusions or findings in that time frame.

**Table 4**  
**Timeliness of Complaint Investigation by Three Local Educational Agencies**  
**July 1, 2013, Through June 30, 2016**

LEA	TOTAL NUMBER OF NON-WILLIAMS COMPLAINTS	NUMBER OF COMPLAINTS CLOSED WITHIN 60 DAYS	COMPLAINTS CLOSED AFTER 60 DAYS			EXTENSION AGREEMENT		
			TOTAL COMPLAINTS	61-75 DAYS	76-100 DAYS	MORE THAN 100 DAYS	REQUESTED	NOT REQUESTED
Los Angeles Unified	785	569	216	119	70	27	133	83
San Diego Unified	133	74	59	36	10	13	2	57
San Juan Unified	75	74	1	0	0	1	0	1
<b>Totals</b>	<b>993</b>	<b>717</b>	<b>276</b>	<b>155</b>	<b>80</b>	<b>41</b>	<b>135</b>	<b>141</b>

Sources: Review of files maintained by Los Angeles Unified, San Diego Unified, and San Juan Unified for all complaints they received and investigated from July 1, 2013, through June 30, 2016.

Note: The UCP regulations apply to all complaints that LEAs receive through their UCP process. Although LEAs may ultimately issue a decision that a complaint is not within the purview of the UCP, until it makes that determination, it must follow UCP requirements. Therefore, we included in this table the *Not UCP* complaints that LEAs received, as shown in Table 3 on page 28.

Our review of 15 complaint investigations at Los Angeles Unified found some support for the assertion that completing comprehensive investigations within 60 days is not always possible. For example, Los Angeles Unified received a complaint alleging that a school's single-sex classes constituted gender discrimination. The information in the investigation file demonstrates that Los Angeles Unified devoted many resources to the investigation. The investigation entailed evaluating 16 classrooms, administering 31 student surveys, and reviewing written statements or interviews from four individuals. Los Angeles Unified issued its report in 62 days, or two days late. However, according to the director of the UCP office, this investigation would have taken at least 90 days to complete had she not assigned the case to herself to investigate. The complainant appealed Los Angeles Unified's decision to Education, and Education spent more than 90 days reviewing the investigation and findings. Eventually, Education referred the complaint back to Los Angeles Unified for further investigation because the decision lacked findings of fact and conclusions of law for two of the five allegations. After reviewing the revised decision, Education took an additional 66 days to make its final decision.

In addition to difficulties completing complex investigations within the required 60 days, we also found 61 instances in which Los Angeles Unified missed its investigation deadlines by one to three days. In

its Federal Program Monitoring review in March and April 2015, Education concluded that the district had not consistently issued written decisions within the 60-day timeline and had not consistently received written agreements to extend the timelines. The director of Los Angeles Unified's UCP office also explained that in many of these cases, staff had incorrectly calculated the investigations' deadlines as two months from the receipt of the complaint rather than 60 days, and that she has implemented immediate changes to rectify this disparity. We found a significant reduction in past-due investigations from fiscal year 2013–14 through fiscal year 2015–16. Because the LEAs cannot guarantee that complainants will grant extensions upon request, Los Angeles Unified's director stated that she no longer anticipates this option and therefore uses any resources available to complete investigations within the 60 days. In the absence of extension agreements, the director stated that Los Angeles Unified has at times expended significant resources to meet its deadlines. Considering that UCP regulations allow Education to extend the investigation time under exceptional circumstances by adequately documenting its reasons in the absence of an agreement from the complainant, we believe that similar provisions for LEAs can help address some of the difficulties that they sometimes face.

In addition, we did not always find evidence that San Diego Unified requested extensions for its investigations when needed. For example, in our review of 15 of San Diego Unified's investigation files, we identified six investigations that it completed after 60 days, with the length of the investigations ranging from 66 to 189 days. However, the files did not contain evidence that San Diego Unified had requested extensions for four of these investigations. Staff could not explain why San Diego Unified had failed to request extensions in these instances.

In the absence of an agreed-upon extension, parents, students, and community members cannot be assured that the delays in investigations are justified. For example, one of the 15 complaint investigations we reviewed at San Diego Unified alleged illegal pupil fees. San Diego Unified issued a decision on this complaint 182 days after it received the complaint, or 122 days late. However, we did not find documentation that San Diego Unified requested an extension as required. Further, we did not find evidence in the investigation file to support that the additional time was warranted.

Of the three LEAs we reviewed, San Juan Unified was the only one that consistently closed investigations within 60 days. In fact, of the 75 complaints San Juan Unified investigated and closed from July 2013 through June 2016, we found only one investigation that exceeded 60 days. When we asked San Juan Unified's general counsel why it exceeded the time frame and did not request an

extension in this one instance, she explained the complainant sent the complaint to a school and the general counsel's office was not aware of it until it later received notice from Education. We verified her explanation through our review of the complaint file.

However, San Juan Unified did not always include all of the required elements when it issued decisions regarding complaints. As the text box shows, UCP regulations identify a number of elements that LEAs must include when issuing their decisions. For example, UCP regulations require that the LEA must include in its decision a conclusion of the law—whether the school or the LEA violated the law as alleged in the complaint. Nevertheless, San Juan Unified's decisions did not consistently conclude whether the LEA or its schools violated laws. In one complaint regarding pupil fees, for instance, San Juan Unified's investigation report did not clearly conclude whether the school in question had violated a state law by requiring students to pay for uniforms. Instead, the investigation report concluded in part that while it was not the intent of the school to suggest that school supplies were required to be purchased by families, the complainant understood it that way. The general counsel for San Juan Unified acknowledged that the district's written decisions did not always specifically state whether the district or the school was in compliance with statutory requirements. However, she did not explain why the decisions did not include this required element.

**The Uniform Complaint Procedures regulations require that local educational agencies issue written decisions to complainants that include the following:**

- Findings of fact based on the evidence.
- A conclusion of law.
- The disposition of the complaint.
- The rationale for such disposition.
- Corrective actions if warranted.
- Notice of the complainant's right to appeal the decision to the California Department of Education (Education).
- The procedures to be followed for initiating an appeal to Education.

Source: California Code of Regulations, title 5, section 4631.

Further, in some instances, San Juan Unified's decisions for substantiated complaints did not contain actions that we would consider corrective actions. In fact, of the 75 complaints that it received and completed during our review period, San Juan Unified did not provide corrective actions with a specific timeline in its reports for three of the seven substantiated complaints. For example, in one complaint decision, San Juan Unified acknowledged that a teacher discriminated against a student and possibly denied him an opportunity. However, instead of requiring a corrective action with a specific timeline for implementation, the district simply recommended that the teacher be provided professional training, with no timeline for completing the training.

Another decision included a recommendation without a specific timeline for implementation, and a third decision included action the district expected schools to take to address noncompliance, but did not specify a timeline for completing this action. When we asked the general counsel at San Juan Unified about the lack of corrective actions and timelines, she told us that she considers

the recommendations included in the reports to be the corrective actions. However, we believe that without specific required actions and timelines, schools and district departments may be unsure of what is required of them, and the issue causing the noncompliance may not be remedied promptly.

Our review for a selection of Williams complaints at two of the three LEAs that received such complaints found that Los Angeles Unified did not always meet the required time frames for Williams complaints. State law requires an LEA to remedy the issue identified in a Williams complaint and issue a decision within 30 working days and 45 working days, respectively, of receiving the complaint. Of the 29 Williams complaints we reviewed at Los Angeles Unified, it did not remedy the issues in the complaint within 30 working days for three complaints. For example, one complaint alleged that the heating, ventilation, and air conditioning were not functioning at one of its schools. According to the available documentation, Los Angeles Unified did not remedy this issue until 40 working days after it received the complaint, which is 10 working days more than allowed. Similarly, it exceeded the required time frame for the other two complaints by 11 working days. Further, it did not provide documentation to identify the remedy date or the documentation did not identify the remedy date for seven other complaints.

## **Recommendations**

### ***Legislature***

To emphasize LEAs' ability to use alternative methods to resolve complaints, including mediation, alternative dispute resolution, or restorative practices, when codifying the UCP regulations, the Legislature should specify these as possible methods for resolving complaints.

To make the provisions for extending investigations consistent between Education and LEAs, when codifying the UCP regulations, the Legislature should allow LEAs to extend investigations. Specifically, in the absence of an agreement from the complainant, allow LEAs to extend an investigation under exceptional circumstances that constitute good cause if the LEAs document and support with evidence the reasons for the extensions.

**LEAs**

To minimize the number of complaints they receive through the UCP process that do not fall within the purview of UCP regulations, Los Angeles Unified and San Juan Unified should establish a mechanism that allows specified individuals for the districts to promptly discuss with complainants how best to address their issues or complaints and to determine whether their complaints fall under the purview of the UCP before they file complaints. To increase the efficiency and effectiveness of LEAs' UCP processes, Education should work with those LEAs throughout the State that receive a disproportionately high number of non-UCP complaints through the UCP process to assess the potential benefits of establishing similar mechanisms.

To ensure that they can defend their extensions of complaint investigations that are authorized by existing UCP regulations, Los Angeles Unified, San Juan Unified, and San Diego Unified should obtain agreements from complainants before extending investigations beyond the required 60 days.

To ensure its decisions are clear and comply with state regulations, San Juan Unified should include in its investigation reports all required elements, including clear conclusions of law and corrective actions with specific actions and timelines for completion. If it believes the requirements in UCP regulations are not clear, San Juan Unified should seek guidance from Education.

To ensure that it meets the legally required time frames for remedying issues alleged in Williams complaints, Los Angeles Unified's Educational Equity Compliance Office should work closely with the divisions responsible for addressing issues in the Williams complaints to ensure they are completed within the required time frame. Further, it should ensure that it maintains the appropriate documentation to demonstrate that it complied with requirements for remedying the issues in Williams complaints within 30 working days.

**Education**

To ensure that its regulations are consistent and align with state and federal requirements, Education should revise its regulations to allow LEAs to extend investigations under exceptional circumstances that constitute good cause if the LEAs document and support with evidence the reasons for the extensions.

After it makes the recommended regulatory changes to allow extensions under exceptional circumstances, Education should review LEAs' extensions to investigations as part of its Federal Program Monitoring to ensure that LEAs' documentation is sufficient and that their reasons adequately justify such extensions.

## Oversight of Charter Schools' Compliance With the UCP Can Be Improved

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### Key Points:

- Two of the LEAs we reviewed did not identify instances in which four of the charter schools—two that one LEA monitors and two that the other LEA monitors—did not comply with state law and UCP regulations. Additionally, Education does not review charter schools authorized by LEAs as part of its monitoring activities.
- Education's monitoring of LEAs' compliance with UCP regulations did not identify instances of noncompliance by one LEA we reviewed.

### LEAs and Education Did Not Identify Noncompliance by Charter Schools

Two of three LEAs we reviewed—Los Angeles Unified and San Diego Unified—did not always identify instances of noncompliance with UCP by charter schools. Charter schools are individual LEAs that have been authorized by either a school district's governing board, a county board of education, or the State Board of Education (board). According to Education's Charter Schools Division staff, there are about 1,140 charter schools in California—including fewer than 30 state-authorized charter schools and more than 1,100 LEA-authorized charter schools. Nearly 300 of these 1,140 charter schools operated in Los Angeles Unified, accounting for nearly a quarter of its total student population. According to state law and Education's website, each charter school's authorizing entity is responsible for ensuring it operates in compliance with all applicable laws and the terms of its charter. Therefore, we reviewed both districts' processes for ensuring the two charter schools that we selected in each district complied with UCP requirements in general.

Los Angeles Unified's process requires it to conduct annual oversight reviews of its charter schools that include evaluations of their compliance with the UCP. However, in its fiscal year 2015–16 reviews, Los Angeles Unified did not identify the deficiencies we noted for the two charter schools we reviewed. Specifically, we found that one of the charter school's UCP notices, policies, and procedures did not meet the requirements of UCP regulations. The charter school's notices, policies, and procedures did not identify all programs or activities the UCP covers, such as pupil fees, child nutrition programs, and special education programs. In fact, it only specifically identifies discrimination, harassment, intimidation, and bullying, yet it does not advise of civil law remedies that may be available under state and federal laws for such complaints and it does not ensure complainants are protected from retaliation as required. When we asked Los Angeles Unified why it did not identify these same deficiencies in its annual oversight review of this charter school, a senior coordinator in the Charter Schools Division stated that oversight of independent charter schools involves a review of the systems and process in place and referred to Los Angeles Unified's annual site visit report. However, in our review of the fiscal year 2015–16 annual site visit report, which was provided by Los Angeles Unified as the most recent review for this charter school, we did not find any noted areas of improvement or corrective actions related to the UCP.

We also identified that the other charter school's UCP notice and policy were not consistent with UCP regulations in that it did not include the person or unit responsible for receiving complaints, investigating complaints, and ensuring compliance. The senior coordinator responsible for ensuring this charter school's compliance stated that the person or unit responsible for receiving complaints is identified on the UCP complaint form. According to the senior coordinator, the school staff explained to her that the procedures, policies, and forms are combined to collectively represent policies and procedures, and therefore she believed the school was compliant. However, we disagree with her determination because UCP regulations specifically state that this information must be included in the school's notice and policy. Additionally, the notice and policy did not inform stakeholders of civil law remedies that may be available under state and federal discrimination, harassment, intimidation, and bullying laws, or notice of the requirements relating to pupil fees. Further, the policy stated that the school would investigate and resolve UCP complaints in accordance with the school's complaint procedures. However, Los Angeles Unified did not disclose that the school had not developed the procedures it referenced in its policy.

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**UCP regulations specifically state that the school's notice and policy must include the person or unit responsible for receiving complaints, investigating complaints, and ensuring compliance.**

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Similar to Los Angeles Unified, San Diego Unified conducted reviews of charter schools it authorized that included determining whether the two charter schools we reviewed have policies, procedures, and forms. State law and UCP regulations require LEAs to translate all written materials sent to parents or guardians to languages other than English if that other language is the primary language for at least 15 percent of the pupils enrolled in a public school. However, San Diego Unified did not note in its fiscal year 2015–16 review reports that the two charter schools had not provided UCP information in Somali, even though it was a required language. According to a program manager in San Diego's Office of Charter Schools, the district conducts reviews of where the charter school has UCP information available and ensures that it posts and provides all necessary UCP notices, brochures, and forms. However, she stated that the district does not currently review whether charter schools provide UCP information in all required languages, but told us the

district could adopt that practice. Furthermore, after we shared our concerns about the two charter schools, San Diego Unified contacted both of them to ensure that they translated UCP information into Somali. San Diego Unified requested that the two charter schools provide the district with documentation of the translations once they are complete.

Because of the large number of charter schools in the State and the deficiencies we found with the two charter schools in Los Angeles Unified and the two in San Diego Unified, we are concerned that Education does not include LEA-authorized charter schools in its UCP compliance reviews. The director of Education's Charter School Division (division director) stated that the division monitors only state-authorized charter schools and provides technical support to authorizing LEAs. Education requires state-authorized charter schools to post their complaint procedures to their websites. According to the division director, staff monitors the state-authorized charter schools' websites prior to each annual visit and on an ongoing basis to determine whether there is a concern that requires corrective action. However, Education does not monitor compliance with the UCP for the more than 1,100 LEA-authorized charter schools. Although Education's Categorical Complaints Management completed reviews of Los Angeles Unified and San Diego Unified in fiscal year 2014–15, it did not review any LEA-authorized charter schools for UCP compliance. An education administrator for Categorical Complaints Management stated that Education does not include LEA-authorized charter schools in the review process because Education is unsure how to apply UCP requirements to charter schools.

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**Education does not monitor compliance  
with the UCP for the more than  
1,100 LEA-authorized charter schools.**

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Although charter schools are exempt from many requirements that apply to public schools, they are not exempt from the responsibility to protect pupils' rights related to specified state and federal programs, such as Special Education and No Child Left Behind, including the responsibility to adopt a UCP. Therefore, we believe Education should apply UCP requirements to all charter schools in the same manner as it applies those requirements to other LEAs.

### Education Can Improve Its Monitoring of LEAs

As we describe in the Introduction, federal laws and regulations, as well as state laws, require Education to monitor LEAs to ensure their compliance with a broad range of fiscal and program requirements of federal education programs. To perform this monitoring, Education's Federal Program Monitoring office coordinates with its other divisions that specialize in monitoring its various programs. According to its administrator, after the Federal Program Monitoring office has selected the LEAs for review in a given year, it publishes the list online and each of the programs decides the extent of its participation in the review.

According to Education, it selects the majority of the LEAs it reviews each year based on four main criteria: academic achievement, fiscal analysis, program size, and compliance history. It randomly selects the remaining LEAs (about 5 percent or about six LEAs). According to the administrator of the Federal Program Monitoring office, program managers from participating program divisions occasionally recommend additions and substitutions to the initial list of LEAs based on programmatic requirements. For example, a division may request additions or substitutions based on an LEA's audit history or total entitlement.

Categorical Complaints Management, the office within Education that is responsible for reviewing LEAs' compliance with UCP requirements during the Federal Program Monitoring reviews, selects LEAs for UCP review based on several risk factors. Some of these risk factors include whether the LEAs have had appeals processed by Categorical Complaints Management within the previous two years, LEAs' compliance histories, and whether LEAs have had a UCP review in the past four years. Therefore, depending on the specific information about a selected LEA, such as its history of UCP compliance and appeals, Categorical Complaints Management may opt not to review a selected LEA.

Categorical Complaints Management's latest review of San Juan Unified's compliance with UCP requirements did not identify issues we found during our audit. Specifically, Education uses a tool when reviewing complaint files to determine whether LEAs' decisions contain all of the required elements, such as findings of the facts, conclusions of law, and corrective actions, if warranted. As we discussed previously, our review of complaint files at San Juan Unified found that its decisions did not include some of the required elements, such as conclusion of the law and a corrective action, if warranted. Nevertheless, Education's last review of San Juan Unified's compliance with the UCP, which was in fiscal year 2012–13, did not identify any deficiencies with its decisions. Although our review focused on complaints from

fiscal years 2013–14 through 2015–16, San Juan Unified’s general counsel acknowledged that the general decision format has not changed over the last several years. Based on the frequency of the deficiencies we noted in our review, we would have expected Categorical Complaints Management’s review to have identified some of the same deficiencies we did, but this was not the case.

When we asked the administrator for Education’s Categorical Complaints Management to explain why her office did not identify these deficiencies, she stated that Education’s on-site monitoring process involves randomly selecting and reviewing a minimum of 10 percent of an LEA’s UCP complaint files from the preceding 12-month period. She explained that if the reviewer finds any deficiencies in these sample files, he or she is expected to issue a finding of noncompliance. San Juan Unified received and closed 75 complaint files between July 2013 and June 2016, or an average of about 25 complaints per year. If Education reviewed 10 percent of these 25 complaints as part of its monitoring process, it would only review two or three UCP files. However, in our review of 15 UCP complaint files over three fiscal years, we found that San Juan Unified did not include all of the required components in seven of its investigative reports.

We explained the types of deficiencies we found to Education’s chief deputy and asked why Education reviews such a small percentage of complaint files as part of its Federal Program Monitoring and whether Education considers its reviews adequate to ensure compliance. She stated that Federal Program Monitoring is one part of Education’s monitoring activities. She stated that Education monitors compliance with the UCP each time it reviews an appeal, and that the Federal Program Monitoring is an additional mechanism for ensuring compliance. However, given that we noted several instances of noncompliance in the 15 complaints we reviewed at San Juan Unified, we believe that by increasing the number of complaint files it reviews, Education can improve its effectiveness in identifying noncompliance that may exist.

## Recommendations

To ensure that all charter schools comply with state law and regulations related to the UCP, to the extent a charter school engages in programs that are subject to UCP, Education and LEAs should do the following:

- Education should by July 2017 include LEA-authorized charter schools as part of its selection of LEAs when conducting Federal Program Monitoring reviews.

- San Diego Unified should by June 2017 establish procedures to include a review of translation requirements during its monitoring of UCP policies, procedures, and complaint forms at its charter schools.
- Los Angeles Unified should by June 2017 revise its review procedures to verify that all charter schools' policies and procedures meet the requirements of UCP regulations, including required content, during its monitoring reviews. Los Angeles Unified should implement these revised procedures for oversight beginning in the 2017–18 school year.

To ensure it examines sufficient review samples to detect LEAs' noncompliance with UCP laws and regulations, Education should revise its UCP monitoring criteria by July 2017 to increase its random selection of complaint files at each LEA to a minimum of 10 percent or 10 complaint files, whichever is greater.

## OTHER AREAS WE REVIEWED

To address the audit objectives that the Joint Legislative Audit Committee (Audit Committee) approved, we reviewed the subject areas shown in Table 5. In the table, we indicate the results of our review and any associated recommendations that we do not discuss in other sections of this report.

**Table 5**  
Other Areas Reviewed as Part of This Audit

Education's Prioritization of Complaints
<ul style="list-style-type: none"> <li>• With the exception of Nutrition Services, the divisions within Education that received UCP complaints and appeals did not prioritize the complaints or appeals they received. According to managers in Nutrition Services, the division prioritized health and safety complaints first. However, it was unable to provide documentation to support its assertion.</li> <li>• The other divisions that received UCP complaints or appeals during our review period indicated that they did not prioritize the complaints or appeals they received other than based on their date of receipt. Four of the divisions—the Expanded Learning Division, the Early Education and Support Division, Local Agency System Support Office, and the School Facilities and Transportation Services Division—told us that they receive so few complaints or appeals that it is not necessary to prioritize them. These three divisions and one office received a combined total of 21 complaints and 33 appeals from July 1, 2013, through June 30, 2016.</li> <li>• Educational Equity UCP Appeals Office receives complaints and appeals related to bullying, harassment, and intimidation, which we believe would make it difficult to determine the severity of one case over another in order to prioritize them.</li> <li>• Special Education indicated that it prioritizes complaints based only on receipt date. Special Education completed its investigations within 60 days for more than 98 percent of the complaints it received during the three-year period we reviewed, indicating that the lack of prioritization has not affected its ability to investigate complaints timely.</li> <li>• Categorical Complaints Management staff stated that they address the complaints and appeals they receive on a first-in, first-out basis. During our review period, Categorical Complaints Management completed within 60 days more than 88 percent of the appeals and 62 percent of the complaints it received.</li> </ul>

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#### Completion of Corrective Actions

- Education found LEAs to be noncompliant and required corrective actions for seven of the 30 complaints and appeals we reviewed.
- The corrective actions Education required for these seven complaints appropriately addressed the issues in the complaints. For example, Education received an appeal alleging that a dance teacher had discriminated against a student based on a medical condition. Education found that the evidence substantiated the complainant's allegation. Even though the LEA ultimately removed the teacher from the school, Education required that the LEA provide updated training to all teachers at the school addressing bullying, discrimination, harassment, and intimidation.
- Education also ensured that the LEAs completed six of the seven corrective actions it ordered. For example, for the corrective action just discussed, Education required that the LEA provide it with evidence by a specified date that the staff had received the required training. The district provided the evidence to Education by the specified date.
- For the seventh corrective action it ordered, Education indicated that it would monitor the district for a period of two years, which has not yet ended. Education has been monitoring the district and has required the district to provide documentation that it is implementing the corrective actions.

#### Guidance on the Time to File Complaints

- UCP regulations specify the time limit for filing complaints related to discrimination, harassment, intimidation, bullying, and pupil fees. However, regulations do not specify a time limit for filing any other types of UCP complaints.
- According to guidance provided by Education, in these cases the period is assumed to be three years based on record retention requirements. Because UCP regulations do not clearly specify this time limit for various types of complaints, the public may not be aware of such time constraints for filing certain UCP complaints. The director of Los Angeles Unified's Educational Compliance Office, which investigates UCP complaints, stated that the district has invested time in establishing that the necessary records were not available to investigate a complaint involving school council-related incidents that occurred more than three years ago.
- The director of Los Angeles Unified's Educational Equity Compliance Office stated that the process would be more efficient and clear to all parties, including complainants, if Education formally designated a time limit for filing all types of UCP complaints.
- Education's chief deputy superintendent stated that the majority of cases that Education handles pursuant to UCP have a time limit. She stated that the department does not have a position as to whether any remaining and less numerous UCP complaints, for which time limits for filing do not exist, should have a specific time limit. However, the time limits she describes are not uniform, which may cause confusion among complainants.

#### **Recommendation**

*Education should revise UCP regulations to formally establish uniform time limits for filing all types of complaints.*

### San Diego Unified's Noncompliance with Its Translation Policies

- UCP regulations require that LEAs create policies and procedures related to the complaints.
- San Diego Unified's UCP procedures state that its responses to complaints will be in the languages of the students in question when appropriate.
- San Diego Unified did not always translate its decisions for some complainants. Although San Diego Unified received six complaints in Spanish, it did not provide its final investigation reports in Spanish for three of the complaints. As a result, these three complainants received investigation reports that they may not have been able to understand.
- According to a deputy general counsel and an assistant general counsel who investigated the three complaints, the reports were not provided to the complainants in Spanish because of an oversight.

#### **Recommendation**

*To ensure it complies with its UCP procedures, San Diego Unified should by March 2017 establish additional measures to verify it sends its final investigation reports in the languages in which the complainants submit their complaints.*

### Resolution of Complaints at the Local Level

- Except for the instances in which direct intervention is necessary, UCP regulations require that complainants file their complaints first with LEAs. Complainants may then appeal LEAs' decisions to Education for all complaints except those related to instructional materials, teacher vacancies, and teacher misassignments.
- The three LEAs that we reviewed were generally able to resolve the complaints they received. As Table 6 on the following page shows, complainants appealed to Education only 34 of the 269 complaints Los Angeles Unified investigated but did not substantiate and four of the 20 complaints San Juan Unified investigated but did not substantiate. In contrast, complainants appealed 39 of the 105 complaints San Diego Unified investigated but did not substantiate. However, one individual submitted 31 of these 39 appeals. Absent that one individual, complainants appealed only eight of the complaints San Diego Unified investigated and did not substantiate.
- Complainants also appealed to Education some of the complaints that the three LEAs investigated and substantiated or determined were not covered under UCP. Specifically, complainants appealed these types of complaints from Los Angeles Unified for 15 complaints, from San Juan Unified for one complaint, and from San Diego Unified for five complaints.
- Education generally upheld LEAs' decisions when it investigated appeals. Specifically, Education only overturned 75 (about 11 percent) of the 675 appeals it received and closed for all LEAs from July 1, 2013, through June 30, 2016.

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### Using Number of Appeals Information for Monitoring Selection

- The number appeals received by Education's divisions did not always identify a pattern of noncompliance by LEAs. Further, when a pattern of noncompliance was evident, Education's criteria for selecting LEAs for monitoring ensured that those LEAs were selected.
- Four of the divisions that received appeals from fiscal years 2013–14 through 2015–16 received less than 20 appeals each during those three fiscal years, which did not identify a pattern of noncompliance by an LEA.
- Further, 207 of 214 LEAs for which the divisions received appeals had an average of three or fewer appeals per fiscal year, and 156 of those 207 LEAs had an average of fewer than one appeal per fiscal year. Of the remaining seven LEAs, three averaged more than 10 appeals for each of the three fiscal years and were selected for a Federal Program Monitoring review in the last three years.
- Nutrition Services and Special Education divisions receive only direct intervention complaints and monitor LEAs separately from Education's Federal Program Monitoring.
- Federal regulations specify the number of institutions, sponsors, or school food authorities that Nutrition Services must review and also specify the timing for reviews.
- Special Education monitors every LEA's compliance with the provisions of the federal Individuals with Disabilities Education Act every year. In addition, Special Education selects some LEAs for a comprehensive review based on compliance history scores, which take into account UCP complaints filed with the division.

Sources: California State Auditor's review of records at Education, Los Angeles Unified, San Diego Unified, and San Juan Unified and interviews with key staff members about the subject areas identified in the table.

**Table 6**  
**Number and Types of Unsubstantiated Complaints Reviewed by Three Local Educational Agencies**  
**July 1, 2013, Through June 30, 2016**

TYPE OF COMPLAINT	LOCAL EDUCATIONAL AGENCY					
	LOS ANGELES UNIFIED		SAN DIEGO UNIFIED		SAN JUAN UNIFIED	
	NUMBER OF UNSUBSTANTIATED COMPLAINTS	NUMBER OF UNSUBSTANTIATED COMPLAINTS APPEALED	NUMBER OF UNSUBSTANTIATED COMPLAINTS	NUMBER OF UNSUBSTANTIATED COMPLAINTS APPEALED	NUMBER OF UNSUBSTANTIATED COMPLAINTS	NUMBER OF UNSUBSTANTIATED COMPLAINTS APPEALED
Bullying, discrimination, and harassment	185	22	36	6	17	3
Categorical programs	1	0	5	1	0	0
Other*	11	2	0	0	1	0
Pupil fees <sup>†</sup>	4	2	61	31	2	1
School site council and committees	35	5	1	1	0	0
Special education	33	3	2	0	0	0
<b>Totals</b>	<b>269</b>	<b>34</b>	<b>105</b>	<b>39</b>	<b>20</b>	<b>4</b>

Sources: California State Auditor's review of files related to complaints received and investigated by Los Angeles Unified, San Diego Unified, and San Juan Unified from July 1, 2013, through June 30, 2016.

Note: This table does not include Williams complaints because Los Angeles Unified's tracking spreadsheets for the nearly 1,700 Williams complaints did not identify whether complaints were substantiated or appealed. Further, San Juan Unified did not receive any Williams complaints. Although San Diego Unified received six Williams complaints, none of these complaints were appealed.

\* Other includes any types of UCP complaints in which the three LEAs received a total of less than three complaints and complaints that did not fit under any of the defined programs covered under UCP.

<sup>†</sup> In San Diego Unified, the same complainant submitted 31 appeals, 29 of which were related to pupil fee complaints.

## SCOPE AND METHODOLOGY

The Audit Committee directed the California State Auditor to review Education’s UCP process. It further directed us to select and review three LEAs to determine whether the UCP process is effective and ensures a uniform resolution of complaints. Table 7 lists the objectives that the Audit Committee approved and the methods used to address those objectives.

**Table 7**  
**Audit Objectives and the Methods Used to Address Them**

AUDIT OBJECTIVE	METHOD
1 Review and evaluate the laws, rules, and regulations significant to the audit objectives.	Reviewed relevant laws, rules, and regulations related to the UCP.
2 For a selection of at least three LEAs, including one in which complainants have appealed a large number of complaints to Education, determine how the UCP functions and whether the process is manageable for the LEAs to administer. In doing so, for each LEA, determine whether the UCP:	<ul style="list-style-type: none"> <li>• Selected Los Angeles Unified, San Diego Unified, and San Juan Unified school districts based on their locations, the number of complaints appealed to Education, and the number of complaints they received during the most recent three fiscal years, as provided by the LEAs upon our request.</li> <li>• Used information from Education to identify the enrollment by district as part of our selection of LEAs to review. We used these data primarily as background or contextual information; as such, no data reliability assessment was necessary.</li> </ul>
a Promotes the efficient use of time and resources, including whether it is efficient to administer because it provides a uniform method to process different types of complaints.	<ul style="list-style-type: none"> <li>• Interviewed staff at the three LEAs and reviewed appropriate documents related to the UCP process.</li> <li>• Assessed whether each LEA’s UCP process complies with UCP regulations.</li> <li>• Reviewed timeliness of complaints received and closed from July 1, 2013, through June 30, 2016.</li> <li>• Selected and reviewed 15 complaint files at each LEA to determine whether the investigations exceeded required timelines and, if so, interviewed staff to understand the reasons.</li> </ul>
b. Is used for issues authorized or identified by statute or regulation.	<ul style="list-style-type: none"> <li>• Interviewed relevant LEA staff to understand the mechanism for determining whether a complaint should be investigated using the UCP or an alternative complaint process administered by the LEA.</li> <li>• Identified complaints each LEA identified as non-UCP from July 2013 through June 2016, and selected and reviewed five complaints from each LEA to determine whether they were appropriately identified as non-UCP. We did not identify any instances in which the LEAs incorrectly designated a complaint as non-UCP.</li> <li>• Reviewed a selection of 15 complaints at each LEA to determine whether the LEA appropriately processed them as UCP complaints.</li> </ul>
c. Encourages the resolution of complaints by LEAs or at the local level.	<ul style="list-style-type: none"> <li>• Interviewed appropriate LEA staff and reviewed relevant regulations and policies to assess whether the process encourages resolution at a local level.</li> <li>• Using the complaint data identified in 3a, determined the proportion of complaints being resolved at the LEA level.</li> </ul>
d. Ensures that remedies are applied to all affected pupils and, when appropriate, any underlying policies or practices are brought into compliance with the laws.	For 15 complaint files reviewed at each LEA, we determined that the corrective actions, when identified, were applied appropriately to either the single complainant or a larger portion of the student population and schools within the district, as appropriate.

*continued on next page . . .*

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AUDIT OBJECTIVE	METHOD
<p>e. Is easily accessible to parents, including those who do not speak fluent English.</p>	<ul style="list-style-type: none"> <li>• Interviewed staff and reviewed documentation to determine whether the district ensures that the UCP process is available to all parents, including those who do not speak English as their primary language, by making UCP documentation and forms available in different languages, using parent-friendly language to describe the process, and providing interpretation services during the investigation process.</li> <li>• Reviewed the results of monitoring reports by Education for the LEA's compliance with accessibility to UCP, including any corrective actions taken.</li> <li>• For the 15 selected complaint files at each LEA, determined whether interpretation services were made available to the complainant, if necessary or requested.</li> </ul>
<p>3 For the LEAs selected to address Objective 2, and using data covering the last three years, perform the following:</p> <p>a. Determine the number of complaints received by type, including, to the extent the information is available, the legal costs incurred by both parties for each complaint type.</p> <p>b. For a selection of individual complaints, determine whether the LEAs followed their investigation and resolution processes. This selection should cover a broad representation of complaint types and include some that have been appealed to Education.</p> <p>c. For the selection of complaints, determine whether they were addressed and resolved within established and/or reasonable timelines.</p>	<ul style="list-style-type: none"> <li>• Reviewed complaint files received and closed from July 2013 through June 2016 to create a database that includes the type of complaint, the date received, the date the investigation was completed, and the final outcome of the investigation.</li> <li>• Because Los Angeles Unified received and closed a large number of Williams complaints during our review period, we obtained its Williams complaint logs to identify the number of complaints.</li> <li>• Interviewed appropriate LEA staff and reviewed available documentation and determined that the three selected LEAs do not track the legal costs specific to UCP complaints incurred by either party.</li> <li>• Interviewed appropriate LEA staff and reviewed documents to understand LEAs' UCP investigation processes.</li> <li>• Judgmentally selected 15 complaints for each LEA, including five complaints that were appealed to Education. In selecting the 15 complaints, ensured a mix of different types of complaints that resulted in corrective actions for some and not for others, and appealed complaints that resulted in corrective actions for some and not for others.</li> <li>• For LEAs that received Williams complaints during our review period, we reviewed the smaller of 29 complaints or 25 percent of the Williams complaints the LEA received.</li> <li>• For the selected complaints reviewed at each LEA, reviewed the complaint files to determine whether the LEA conducted the investigation according to its own investigation processes.</li> <li>• For the selected complaints reviewed at each LEA, determined whether the LEA completed the investigation within the required time frame.</li> <li>• For five selected complaints at Los Angeles Unified and San Diego Unified and the one complaint at San Juan Unified that had remained open for more than 60 days, reviewed the complaint files to determine the reasons and whether the LEA followed required protocols for extension.</li> </ul>
<p>4 Review and assess Education's complaint appeals process, including the process used to ensure that the remedies it orders are applied and effectively resolved any problems. For the last three years, determine the following:</p> <p>a. The number and types of complaints that are appealed, the number and types of complaints that have been referred back to the LEAs, and the reasons for such referrals.</p>	<p>In addition to appeals, Education is also responsible for investigating complaints under UCP regulations, if a complainant files a complaint directly with Education and the complaint meets specified criteria. Therefore, we assessed both complaints and appeals at Education as part of this objective.</p> <ul style="list-style-type: none"> <li>• Reviewed all complaint files received and closed from July 2013 through June 2016 to create a database that includes the type of complaint, the date received, the date the investigation was completed, and the final outcome of the investigation.</li> <li>• For Special Education, we obtained Education's data and identified the same information as the previous step.</li> <li>• Using the database we compiled and the Special Education data obtained, we identified the number and types of complaints appealed, the number and types of complaints referred back to the LEA, and the reasons for such referrals, where this information was available. We present the information related to appeals and complaints in Appendix A in Tables A.1 and A.2, respectively, beginning on page 56.</li> </ul>

AUDIT OBJECTIVE	METHOD
<p>b. The efficiency and timeliness with which Education processes appeals and whether it has sufficient resources to promptly process appeals including, but not limited to, determining the following:</p>	<p>Using the data obtained from Education in 4a, selected a proportional number of complaints and appeals received by each division for a total of 30 complaints and appeals. In selecting these complaints and appeals, ensured a mix of denied, sustained, direct intervention, and those returned to the LEA for further investigation.</p>
<p>i. Education’s prioritization of appeals being addressed. For instance, whether severe problems or repeat offenses are handled differently than routine issues.</p>	<ul style="list-style-type: none"> <li>• Interviewed staff at the eight program divisions within Education that received UCP appeals or complaints to determine whether Education prioritizes complaints and appeals.</li> <li>• Assessed Education’s rationale for not prioritizing complaints or appeals.</li> </ul>
<p>ii. Whether sufficient information is available in the written complaints to resolve appeals without an on-site investigation.</p>	<ul style="list-style-type: none"> <li>• Interviewed appropriate staff to identify the criteria that Education uses to determine whether to perform an on-site investigation or a desk review.</li> <li>• Reviewed the level of information included in the written complaint files for the 30 selected complaint and appeal files.</li> <li>• Reviewed the level of additional information Education had to request outside of the original file in order to fully resolve the 30 selected complaint and appeal files.</li> <li>• Determined that Education is able to resolve appeals without an on-site investigation.</li> </ul>
<p>iii. Whether Education has addressed complaints directly without a local complaint being filed and the nature of those complaint(s). Further, determine the criteria for direct state involvement.</p>	<ul style="list-style-type: none"> <li>• Interviewed appropriate staff and reviewed regulations to determine the criteria for direct state involvement in resolving a complaint.</li> <li>• Determined for each program the number of complaints in which Education had direct intervention. We provide this information in Appendix A in Table A.2 on page 57.</li> </ul>
<p>iv. If applicable, whether the State ensures that remedies are applied to all affected pupils or, when appropriate, ensures that any underlying policies or practices are brought into compliance with the law.</p>	<ul style="list-style-type: none"> <li>• For the 30 selected complaint and appeal files, determined whether Education required the LEA to take corrective actions, when necessary.</li> <li>• If corrective actions were required, determined whether the corrective actions aimed to remedy only the complaint or to remedy the broader issue by changing the underlying practice or policy.</li> <li>• Determined whether Education ensured that the corrective actions were completed by the LEA or that Education took appropriate steps to compel the LEA to take corrective measures.</li> <li>• Nothing came to our attention to suggest that Education’s corrective actions were not appropriate or were not enforced appropriately.</li> </ul>
<p>v. Whether appeals are addressed and resolved within established and/or reasonable timelines.</p>	<ul style="list-style-type: none"> <li>• For the 30 selected files, determined whether complaints and appeals were resolved within established timelines. If timelines do not exist, determined whether they were resolved within 60 days.</li> <li>• For those complaints and appeals that were not resolved within established timelines, determine whether Education requested an extension and documented its reasons in the files.</li> <li>• For the divisions that received a large number of complaints or appeals, interviewed relevant staff to determine whether they have adequate resources to complete the complaints and appeals within 60 days.</li> </ul>
<p>c. For a selection of appeals covering a broad representation of complaint types, determine whether Education effectively followed its investigation and resolution processes.</p>	<ul style="list-style-type: none"> <li>• Interviewed appropriate staff within each division that handles complaints or appeals to understand the investigation and resolution process.</li> <li>• Reviewed the files for 30 selected complaints and appeals to determine whether the various program divisions followed their investigation and resolution processes.</li> </ul>
<p>d. The extent to which Education has used information from its processing of appealed complaints to inform its compliance monitoring activities of LEAs.</p>	<ul style="list-style-type: none"> <li>• Interviewed appropriate staff and obtained documentation of the process used to monitor LEAs, including how Education selects the LEAs to monitor.</li> <li>• Reviewed appropriate documentation to determine whether each program considers the number of appeals and complaints from a particular LEA when selecting LEAs for monitoring purposes.</li> </ul>

AUDIT OBJECTIVE	METHOD
<p>5 Determine whether other complaint process models—those of other states or others in California, such as the alternative dispute resolution process used in special education—might serve the State more effectively than the UCP.</p>	<ul style="list-style-type: none"> <li>• Identified other states and complaint processes that can be used by Education.</li> <li>• Researched 11 other state education agencies' processes. Determined that nearly all of them were similar to California's UCP process, did not focus on local resolution, or were not feasible for California given its size. Interviewed staff in certain states to further understand their processes.</li> <li>• Interviewed appropriate staff at Education and LEAs to determine how the special education's alternative dispute resolution process works.</li> <li>• Determined whether the alternative dispute resolution process can be used for all complaints currently covered by the UCP.</li> </ul>
<p>6 Review and assess any other issues that are significant to the audit.</p>	<ul style="list-style-type: none"> <li>• Surveyed 98 LEAs of different sizes throughout the State to understand how well the UCP process works at the LEAs. We present the summary of survey results in Appendix B beginning on page 59.</li> <li>• Used information from Education to identify the enrollment by district for the selection of LEAs across the State for our survey. We used these data primarily as background or contextual information; as such, no data reliability assessment was necessary.</li> <li>• Reviewed Education's and two selected LEAs' oversight of charter schools for UCP compliance.</li> </ul>

Sources: California State Auditor's analysis of the Joint Legislative Audit Committee's audit request number 2016-109 as well as information and documentation identified in the column titled *Method*.

### Assessment of Data Reliability

In performing this audit, we relied on various electronic data files that we obtained from the entities listed in Table 8. The U.S. Government Accountability Office, whose standards we are statutorily required to follow, requires us to assess the sufficiency and appropriateness of computer-processed information that we use to support our findings, conclusions, or recommendations. Table 8 describes the analyses we conducted using data from these information systems, our methodology for testing them, and the limitations we identified in the data. Although we recognize that these limitations may affect the precision of the numbers we present, there is sufficient evidence in total to support our audit findings, conclusions, and recommendations. Specifically, although we base certain conclusions about the number, length, and resolutions of Special Education's UCP complaint investigations on these data, our overall findings and the recommendations we make as a result of those findings are supported by our review of additional documentation and evidence, such as individual complaint files.

**Table 8**  
**Methods Used to Assess Data Reliability**

INFORMATION SYSTEM	PURPOSE	METHOD AND RESULT	CONCLUSION
Education  Special Education Complaint Resolution System (SECRS) (as of August 2016)	To determine the number and the time to complete investigations of special education-related UCP complaints received and closed from fiscal years 2013–14 through 2015–16.	<ul style="list-style-type: none"> <li>• We performed data-set verification and electronic testing of key data elements and found no errors.</li> <li>• We performed accuracy testing for a sample of 29 electronic UCP complaint records and verified that the supporting documentation matched key data elements. These data elements included the date fields that we used to determine the total number of investigations within our review period, the length of complaint investigations, and types of resolution for the investigation. We identified a total of seven errors. Specifically, we found one error in the resolution type and six errors in date fields. In one case the date was incorrect by a day. However, in the remaining five cases, the date fields were blank.</li> <li>• To perform completeness testing of the electronic database that Special Education provided, we selected a haphazard sample of 29 hard-copy UCP complaint files and compared them to the electronic database to ensure the electronic database contained all the complaint files.</li> </ul>	<p><b>Not sufficiently reliable.</b></p> <p>Although this determination may affect the precision of the numbers we present, sufficient evidence exists in total to support our audit findings, conclusions, and recommendations. Further, we present these data because they represent the best available data source of this information.</p>
	To select UCP complaint records for review.	This purpose did not require a data reliability assessment. Instead, we gained assurance that the population was complete. See completeness testing described above.	We determined that the universe from which we made our selection was complete.
Los Angeles Unified  Williams Complaint Tracking Summary (as of December 2016)	To determine the number of Williams complaints received and closed from fiscal years 2013–14 through 2015–16.	<ul style="list-style-type: none"> <li>• We performed data-set verification and electronic testing of key data elements and found no errors.</li> <li>• We performed accuracy testing for a sample of 29 electronic Williams complaint records and verified that the supporting documentation matched key data elements. These data elements included the date fields that we used to determine the total number of investigations within our review period. We identified 11 errors in date fields. Specifically, the date fields contained incorrect dates for 10 complaints. These errors ranged from one to 11 working days. Additionally, in one case the date field was blank.</li> <li>• To perform completeness testing of the electronic tracking summary that Los Angeles Unified provided, we selected a haphazard sample of 29 hard-copy Williams complaint files and compared them to the electronic tracking summary to ensure the electronic tracking summary contained all the complaint files.</li> </ul>	<p><b>Not sufficiently reliable.</b></p> <p>Although this determination may affect the precision of the numbers we present, sufficient evidence exists in total to support our audit findings, conclusions, and recommendations. Further, we present these data because they represent the best available data source of this information.</p>
	To select Williams complaint records for review.	This purpose did not require a data reliability assessment. Instead, we gained assurance that the population was complete. See completeness testing described above.	We determined that the universe from which we made our selection was complete.

Source: California State Auditor’s analysis of various documents, interviews, and data from Education and Los Angeles Unified.

We conducted this audit under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives specified in the Scope and Methodology section of the report. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Respectfully submitted,



ELAINE M. HOWLE, CPA  
State Auditor

Date: January 31, 2017

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For questions regarding the contents of this report, please contact Margarita Fernández, Chief of Public Affairs, at 916.445.0255.

## Appendix A

### Resolutions of Education's Appeal Reviews and Complaint Investigations

Under the state UCP regulations, Education is responsible for reviewing appeals of LEAs' complaint investigation decisions. As described in the Introduction, state regulations establish the requirements related to such appeals and specify time limits for filing them. Table A.1 on the following page shows the number of appeals that Education received and closed from July 1, 2013, through June 30, 2016. During this period, Education referred 109 appeals back to LEAs because their investigations or decisions were inadequate. It also referred 67 appeals back to LEAs because the appeals raised new issues that were not part of the original complaints. Education ultimately reviewed and issued decisions on 291 appeals: it overturned LEAs' decisions for 75 of these appeals and upheld their decisions for the other 216. Table A.1 shows the outcomes for the remaining appeals.

Additionally, UCP regulations require Education to directly intervene and investigate complaints under certain circumstances without waiting for LEAs to investigate, as the Introduction describes. As Table A.2 on page 57 shows, Education received 2,958 complaints and requests for direct intervention during our audit period, most of which involved Special Education. Education's divisions did not accept 131 of these complaints, while 367 complaints were either withdrawn, referred to other divisions, or resolved through other means. Education referred 121 complaints to LEAs for investigation and investigated the remaining 2,847 complaints itself. It did not substantiate 1,515 complaints and substantiated 1,332 complaints.

**Table A.1**  
**Resolutions by Type of Appeals That the California Department of Education Received and Closed**  
**July 1, 2013, Through June 30, 2016**

TYPE OF APPEAL	NUMBER OF APPEALS	REFERRED BACK TO LEA DUE TO INADEQUATE INVESTIGATION OR DECISION	REFERRED BACK TO LEA DUE TO NEW ISSUE NOT INVESTIGATED BY LEA	APPEAL NOT ACCEPTED*	LEA DECISION UPHELD	LEA DECISION OVERTURNED	WITHDRAWN†	REFERRED TO ANOTHER DIVISION WITHIN EDUCATION	OTHER RESOLUTION‡
Bullying, discrimination, and harassment§	215	12	6	80	88	16	4	13	2
Categorical programs	26	6	6	6	5	6	0	2	2
Local Control Accountability Plan/Local Control Funding Formula	12	1	0	7	1	1	0	2	0
Migrant Education	14	4	0	5	2	0	0	3	1
Not UCP	64	NA	5	62	NA	NA	NA	NA	NA
Nutrition Services	2	0	0	0	0	0	0	2	0
Other	3	0	1	0	0	0	0	1	1
Pupil fees	257	81	41	5	101	42	3	3	10
School site council and committees	27	5	6	2	5	9	0	5	2
Special Education	33	0	1	3	4	0	0	25	0
Williams complaint#	22	0	1	9	10	1	0	1	0
<b>Totals</b>	<b>675</b>	<b>109</b>	<b>67</b>	<b>179</b>	<b>216</b>	<b>75</b>	<b>7</b>	<b>57</b>	<b>18</b>

Source: California State Auditor's review of files related to complaints and appeals received and closed by Education between July 1, 2013, and June 30, 2016.

Note 1: The sum of the totals for the different types of resolutions do not equal the total number of appeals because multiple allegations within an appeal may have different resolutions. For example, a division may uphold an LEA decision for one allegation and refer another allegation back to the LEA as part of the same appeal, resulting in two resolutions.

Note 2: Some of the complaints and appeals may be included in both tables A.1 and A.2 because a complainant may file a complaint or request for direct state intervention and request an appeal simultaneously. As a result, the request and resolution would be reflected within each table.

NA = Not applicable.

\* This column includes appeals that did not fall within the scope of the UCP, fell outside of the time frame for appeal, or warranted no action.

† This column includes appeals closed because of the complainant rescinding or withdrawing the appeal.

‡ This column includes files closed by the LEA before Education issued a decision, either through a mediation resolution or because the appeal was filed with Education before completion of the LEA's investigation.

§ This row includes retaliation and civil rights appeals.

|| This row includes No Child Left Behind, Every Student Succeeds Act, School Safety Plan, and Elementary and Secondary Education Act appeals.

# Williams complaints are those regarding instructional materials, teacher vacancies or misassignments, and school facilities.

**Table A.2**  
**Resolutions by Type of Complaints That the California Department of Education Received and Closed**  
**July 1, 2013, Through June 30, 2016**

TYPE OF COMPLAINT	NUMBER OF COMPLAINTS	COMPLAINT NOT ACCEPTED*	REFERRED TO LEA	COMPLAINT UNSUBSTANTIATED	COMPLAINT SUBSTANTIATED	WITHDRAWN†	REFERRED TO ANOTHER DIVISION WITHIN EDUCATION	OTHER RESOLUTION‡
Bullying, discrimination, and harassment§	88	25	59	2	0	2	1	3
Categorical programs	8	2	5	0	1	0	0	0
Local Control Accountability Plan/Local Control Funding Formula	13	3	6	0	1	0	4	1
Migrant Education	2	0	2	0	0	0	0	0
Not UCP	44	41	2	NA	NA	NA	1	NA
Nutrition Services	144	2	3	73	48	5	2	11
Other	18	3	9	0	0	0	6	1
Pupil fees	21	1	15	3	2	0	0	3
School site council and committees	23	12	2	7	2	0	0	0
Special Education	2,583	39	9	1,429	1,278	189	21	116
Williams complaint#	14	3	9	1	0	0	1	0
<b>Totals</b>	<b>2,958</b>	<b>131</b>	<b>121</b>	<b>1,515</b>	<b>1,332</b>	<b>196</b>	<b>36</b>	<b>135</b>

Sources: California State Auditor's analysis of data obtained from Education's Special Education Complaint Resolution System and California State Auditor's review of files related to complaints received and closed by Education from July 1, 2013, through June 30, 2016.

Note 1: Refer to Table 8 on page 53 for discussion on the reliability of data presented here for Special Education.

Note 2: The sum of the totals for the different types of resolutions do not equal the total number of complaints because multiple allegations within a complaint may have different resolutions. For example, a division may substantiate one allegation and refer another allegation to the LEA as part of the same complaint.

Note 3: Some of the complaints and appeals may be included in both tables A.1 and A.2 because a complainant may file a complaint or request for direct state intervention and request an appeal simultaneously. As a result, the request and resolution would be reflected within each table.

NA = Not applicable.

\* This column includes complaints that did not fall within the scope of the UCP or warranted no action.

† This column also includes complaints closed due to unresponsive complainants.

‡ This column includes files closed via settlement agreement and files closed by the LEA.

§ This row includes retaliation complaints.

|| This row includes No Child Left Behind, Every Student Succeeds Act, School Safety Plan, and Elementary and Secondary Education Act complaints.

# Williams complaints are those regarding instructional materials, teacher vacancies or misassignments, and school facilities.

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## Appendix B

### Survey Results of Selected California LEAs

To better understand how well the UCP process works, we surveyed 98 LEAs throughout the State. Using enrollment data available on Education's website, we selected the largest LEA from each of the 58 counties in California. We also selected another 40 LEAs to ensure a mix of large, medium, and small LEAs from various parts of the State. Our survey asked LEAs a series of questions to determine how they process complaints under the UCP and to gain their perspectives on the UCP process.

Of the 84 LEAs that responded to our survey, 82 indicated that they are generally able to meet the required 60-day time frame for investigating UCP complaints. Further, 77 of the 84 responded that they attempt to informally resolve complaints, and 66 of these noted that they have established processes that require their staff to attempt to informally resolve complaints. However, 16 of the survey responses also indicated that parents and students are generally not aware of the UCP, and 36 other responses indicated that parents and students are aware of the UCP process, but do not know what issues the UCP covers or where to submit their UCP complaints. Nevertheless, most LEAs did not have suggestions for improving the UCP process. Table B beginning on page 60 shows the questions we asked and summarizes LEAs' responses.

The following 14 LEAs that we selected did not respond to our survey:

- Bogus Elementary
- Dixie Elementary
- Fontana Unified
- Garden Grove Unified
- Green Point Elementary
- Mariposa County Unified
- Moreno Valley Unified
- Mt. Diablo Unified
- Pajaro Valley Unified
- Panoche Elementary
- Poway Unified
- San Bernardino City Unified
- Santa Ana Unified
- Union Joint Elementary

**Table B**  
**Survey Results From Selected Local Educational Agencies**

**How many UCP complaints has your LEA received on or after July 1, 2013?**

None	25
1-25	45
26-50	3
51-75	5
76-100	2
More than 100	4

**According to state regulation, within 60 days from the date of the receipt of the complaint, an LEA shall conduct and complete an investigation of the complaint and prepare a written LEA decision. Is your LEA able to resolve most UCP complaints within the mandated time limit?**

Yes	70
Yes, but we had to use additional resources (i.e., overtime, additional staff, etc.)	12
No, we are not able to meet the mandated time limit	2

**For those LEAs that are unable to resolve most UCP complaints within the mandated time limit, what are the main reasons your LEA is unable to resolve all UCP complaints within the mandated time limit? (Check all that apply.)**

Number of complaints your LEA received	2
Complexity of the complaints your LEA received	2
Timeliness for resolving the complaints your LEA received overlapped with days off (i.e., winter/summer breaks, holidays, etc.)	1
Difficulty reaching the parties involved	1
Other (please specify): sufficiency of staffing	2

**Generally, how long does it take your LEA to resolve UCP complaints?**

0-15 days	25
16-30 days	20
31-45 days	15
46-60 days	22
More than 60 days	2

**Does your LEA prioritize UCP complaints? For instance, you may handle severe problems or repeat complaints differently than routine issues (for example, pupil fees or classroom temperature).**

Yes	59
No (please explain why not): Responses were that the LEA has received very few or no UCP complaints, LEA resolves complaints as it receives complaints, or LEA gives all UCP complaints priority.	25

**Does your LEA attempt to informally resolve complaints that would otherwise fall under the UCP?**

Yes	77
No (please explain why not): Responses were that the LEA prefers to resolve all complaints formally, LEA does not believe it has the ability to resolve complaints informally, or LEA has not received any UCP complaints.	7

**For the LEAs that do attempt to informally resolve complaints, does your LEA have an established process that requires staff to attempt to informally resolve UCP complaints?**

Yes	66
No	11

**For the LEAs that attempt to informally resolve complaints, how many UCP complaints has your LEA resolved informally on or after July 1, 2013?**

None	23
1-25	45
26-50	5
51-75	2
76-100	0
More than 100	2

**In your interactions with parents and students, generally how aware are they of the UCP process?**

1. Are not aware of the UCP process and send their complaints to incorrect office or staff.	1
2. Are not aware of the UCP process and have to ask around for information on filing a complaint.	15
3. Are aware that a UCP process exists but do not know what issues it covers or where to file a complaint.	36
4. Are aware of what issues the UCP process covers and where to file a complaint.	32

**What methods does your LEA use to inform parents and students of their right to file a UCP complaint? (Select all that apply.)**

Posters in classrooms/offices	61
Parent handbook	68
Flyer sent home with students	20
Email correspondence	9
District website	72
Social media (i.e., Facebook, Twitter, etc.)	1
Other (please specify): District committee and board meetings, annual notices, or brochures	21

**Are you aware of other complaint process models that might serve the State more effectively than the UCP?**

Yes (please explain): Alternative dispute resolution and mediation.	2
No	82

**Do you have suggestions for how the UCP process could be improved?**

Yes (please explain): Responses identified by two or more LEAs were to make the time limit 60 school days rather than 60 calendar days, more guidance from Education, and make the process more clear, concise, and user-friendly.	17
No	67

Source: California State Auditor's analysis of survey responses from California LEAs.

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CALIFORNIA  
DEPARTMENT OF  
EDUCATION

**TOM TORLAKSON**

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

January 11, 2017

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California State Auditor  
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Subject: *"Uniform Complaint Procedures: The California Department of Education's Inadequate Oversight Has Led to a Lack of Uniformity and Compliance in the Processing of Complaints and Appeals,"* Report No. 2016-109, January 2017

The California Department of Education (Education) appreciates the opportunity to comment and provide proposed corrective actions to the recommendations outlined in the California State Auditor's (CSA) Audit Report No. 2016-109, titled: *"Uniform Complaint Procedures: The California Department of Education's Inadequate Oversight Has Led to a Lack of Uniformity and Compliance in the Processing of Complaints and Appeals."*

### Perspective Comments

To provide better perspective to the CSA's audit report, Education has the following comments.

There is a disconnect between the report title and headers within the report, which could lead the public to believe that Education has failed to properly implement the Uniform Complaint Procedure (UCP) process. In fact, the information and data contained in the report indicates that Education has substantially complied with the UCP, and demonstrates that when a 60-day timeline applies to complaints, Education typically met that deadline. Furthermore, Education reaffirms that a 60-day timeline does not apply to the majority of programs subject to the UCP appeal process, and the data fails to distinguish between appeals in which such a timeline did or did not apply. Consequently, the CSA's determination of whether Education met 60-day timelines, which did not exist, is misleading and subjective. ①

### Recommendation No. 1:

To ensure that it consistently processes complaints and appeals in a timely manner and that it investigates and reviews all UCP complaints and appeals in compliance with state law and regulations, Education should designate a central office to receive all complaints and appeals by July 2017. This central office should do the following:

\* California State Auditor's comments begin on page 71.

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- Distribute complaints and appeals to the correct divisions for investigation or review.
- Establish a single database to record and track all investigations of complaints and reviews of appeals. This database should capture all data necessary for Education to effectively make informed decisions related to UCP complaints or appeals. At a minimum, the database should capture the date on which Education received each complaint or appeal, the date on which it forwarded the complaint or appeal to the appropriate division for investigation or review, and the date on which it sent the decision to the complainant. The database should also include the type of complaint or appeal, the LEA involved, and the decision.
- Track the divisions' progress in processing complaints and appeals to ensure the divisions meet all UCP requirements, including documenting exceptional circumstances that constitute good cause for extending investigations beyond 60 days.
- Work with divisions to establish policies and procedures for the divisions to follow when investigating UCP complaints and reviewing appeals. The procedures should identify the individuals or units responsible for investigating complaints and reviewing appeals, the steps and time frames for conducting investigations and reviews, the requirements for issuing decisions, and the documentation that should be retained in the files.
- Establish and distribute a standard investigation report format that includes the required elements for the divisions to use when processing UCP complaints.
- Monitor the divisions' decisions and reports on complaints and appeals to ensure that they comply with requirements.

#### Education's Comments and Corrective Actions

- ② Education does not concur with the recommendation to establish a central UCP office. Education currently has systems and processes in place to ensure that complaints and appeals are addressed in compliance with state law and regulations. A centralized office for the oversight of all UCP
- ③ complaints and appeals is not required in law. Furthermore, in order to comply with the CSA's recommendation to establish a centralized office, additional staff and funding would be required to manage the work as recommended by the CSA. Moreover, this recommendation is inconsistent with CSA's recommendation that a standard 60-day timeline should apply regardless of the subject matter of the complaint; creation of a centralized office could actually incur additional time, complexity, and bureaucracy to the current process. Since the UCP process applies to many programs across Education,

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no one office has the expertise or program knowledge to substantively respond to all complaints and appeals. Therefore, a centralized office taking in and distributing all UCP complaints and appeals could delay the time for when a program office would begin to consider the substance of the complaint or appeal.

Education partially concurs with the recommendation to establish a database; neither a single database nor a common set of data are required in law. Nevertheless, as Education informed the CSA, it is in the process of creating a centralized tracking database system which could be utilized by program offices to enter receipt and important deadlines for complaints and appeals. Education has been actively developing a Sharepoint, or similar program, which it intends to roll out this spring or summer. This program will enable Education to track and monitor program offices progress in processing UCP complaints and appeals. ④

Education does not concur with the CSA's 60-day recommendation. The CSA has improperly imposed a uniform 60-day rule for appeals that does not exist in law, applied it to Education, and determined that Education was in certain instances out of compliance. Separate from the issue of whether or not a uniform 60-day rule is desirable, it is inappropriate for the CSA to find Education noncompliant with a nonexistent law, and then base recommendations on this presumed noncompliance. In this regard, the CSA reports that Education failed to complete certain matters within 60 days, without identifying whether, in each of those instances, Education had a legal obligation to do so. In addition, in certain cases, the CSA appears to have incorrectly classified appeals as complaints and improperly imposed a 60-day timeline. Finally, with respect to complaints, the report fails to emphasize that the CSA's data, shows that 86% of all complaints were received by the Special Education Division (SED), and 98% of them were completed within 60 days. ⑤

Education does not concur with the CSA's conclusion that no offices besides SED have procedures and policies in place. For example, the Nutrition Services Division (NSD) and Categorical Programs Complaints Management office have well-established policies and procedures for processing complaints and appeals. As for policies and procedures, the UCP regulations provide significant guidance on how complaints and appeals must be handled by Education. While policies and procedures and a standard investigation report are not required in law, Education will review whether policies and procedures for processing complaints and appeals are necessary. ⑥

Additional Comments: Education takes timeliness seriously. The CSA has overstated and/or misstated timeliness problems. Specifically, with respect to ⑦

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initial receipt of complaints, the CSA's data shows that 2,562 of 2,598 complaints, or 98.6%, were initially received in the correct division; 618 of 675 appeals, or 91.2%, were initially received in the correct division; and only 15 of 675 appeals, or 2.2%, were delayed by 30 days or more in arriving in the correct division. Furthermore, although the CSA cites examples relating to the UCP complaints and appeals that have been filed with the Office of Equal Opportunity, Education addressed this issue nearly two years ago when it formed the new Educational Equity UCP Appeals Office (Educational Equity). Finally, the CSA cites delays in Educational Equity "starting the clock;" however, the CSA fails to note that the law does not in fact provide a timeline for Educational Equity appeals.

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### Recommendation No. 2:

To ensure that its regulations are consistent and align with state and federal requirements, by July 2017 Education should initiate revising its regulations as follows:

- Require its divisions to complete investigations of complaints and reviews of appeals related to all programs within 60 days of Education receiving them, including providing its decisions in writing to complainants, unless otherwise specified in statute or federal regulations.

#### Education's Comments and Corrective Actions

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Education cannot comment on this recommendation. The reference to "align with state and federal requirements" in this recommendation is unclear, as the CSA fails to identify any state or federal requirement with which Education's UCP is not currently aligned.

- Allow Nutrition Services to investigate all complaints as direct intervention.

#### Education's Comments and Corrective Actions

Education partially concurs with this recommendation. Education is willing to discuss this recommendation with the United States Department of Agriculture (USDA) to determine if Education would be allowed to utilize the UCP process to handle future complaints that Education receives directly. The requirement to have a complaint process at the state level is a condition of federal law, and is required where necessary. With regard to nutrition programs, the USDA has mandated that complaints be handled in a particular manner if they are received by the state. There are policies and procedures established by the USDA for processing such complaints, depending on the food program at issue (see, e.g. <http://www.cde.ca.gov/ls/nu/fd/mb04405.asp>). In addition, any

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appeals received by the state of a complaint filed with the LEA is handled in compliance with the UCP regulations.

Under *Title 5, California Code of Regulations (5 CCR) 4610*, the UCP applies to "(6) Child Nutrition Programs established pursuant to *Education Code* sections 49490 through 49570." These sections implement various federal nutrition programs, including the school lunch and breakfast programs, special milk program, child care food program, and summer food service program. Furthermore, the UCP process does allow for Education to accept complaints under direct intervention in certain instances (see *5 CCR 4650*).

In parallel with UCP provisions, each of the programs under applicable federal regulations has the same complaint investigation requirement for the state agency:

Investigations. Each State agency shall promptly investigate complaints received or irregularities noted in connection with the operation of the Program, and shall take appropriate action to correct any irregularities. State agencies shall maintain on file, evidence of such investigations and actions. FNS and OIG may make reviews or investigations at the request of the State agency or where FNS or OIG determines reviews or investigations are appropriate.

Although the UCP applies to nutrition programs, it applies only to complaints at the school district level which go through the usual UCP process of investigation by the district and possible appeal to Education. However, if a parent calls or contacts Education directly (which is the majority of the complaints Education receives) and does not elect to file a UCP complaint with the school district, Education has a federal obligation to investigate the complaint "promptly." However, that investigation is governed by Education's own procedures (which is subject to federal oversight) and not by the UCP or its timelines. The USDA recently approved of this process during a Civil Rights Compliance Review that was conducted on August 24–28, 2015.

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### **Recommendation No. 3:**

To ensure that it complies with UCP regulations and makes complainants aware of the outcome of investigations, beginning February 2017 Nutrition Services should provide them with investigation reports, even when the complainants request anonymity from the LEAs involved.

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#### Education's Comments and Corrective Actions

Education concurs with this recommendation. If contact information is submitted, Education will provide investigation reports to complainants.

#### **Recommendation No. 4:**

To ensure that its regulations are consistent and align with state and federal requirements, Education should revise its regulations to allow LEAs to extend investigations under exceptional circumstances that constitute good cause if the LEAs document and support with evidence the reasons for the extensions.

#### Education's Comments and Corrective Actions

- ⑮ Education partially concurs with this recommendation. Education will review the recommendation to determine what is feasible. However, the regulations at issue are approved by the State Board of Education (SBE), therefore, Education does not have authority to make the recommended changes.
- ⑯ Furthermore, the reference to "align with state and federal requirements" is unclear, as the report does not identify a state or federal requirement that provides for LEAs to do this. The UCP regulations currently provide that when Education conducts a direct investigation, it may extend its time if (1) exceptional circumstances exist that constitute good cause with respect to the particular complaint, and provided that (2) the complainant is informed of the extension and the reasons therefore and (3) the facts supporting the extension are documented and maintained in the complaint file. 5 CCR, Section 4662(b). With respect to special education complaints, this regulation is consistent with the portion of the relevant federal special education regulation that states that the state education agency may extend its time if exceptional circumstances exist with respect to a particular complaint [see *Title 34 Code of Federal Regulations*, 300.152(b)(1)(i)]. Separately, the UCP regulations currently provide that an LEA may extend its investigation time if the complainant agrees in writing [see 5 CCR, Section 4631(a)].
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#### **Recommendation No. 5:**

After it makes the recommended regulatory changes to allow extensions under exceptional circumstances, Education should review LEAs' extensions to investigations as part of its Federal Program Monitoring to ensure that the LEAs' documentation is sufficient and that their reasons adequately justify such extensions.

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#### Education's Comments and Corrective Actions

Education partially concurs with this recommendation. In regard to Federal Program Monitoring, the UCP regulations currently provide that, in reviewing a LEA decision on a complaint investigation, the CDE determines whether substantial evidence exists that the LEA followed its complaint procedures [see 5 CCR, Section 4633(d)(1)]. To the extent the recommendation seeks to have Education monitor and oversee whether LEAs have properly provided extensions based on good cause, this recommendation would require additional resources and staff.

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#### **Recommendation No. 6:**

To ensure that all charter schools comply with state law and regulations related to the UCP, to the extent a charter school engages in programs that are subject to UCP, Education should do the following:

- Education should include LEA-authorized charter schools as part of its selection of LEAs when conducting Federal Program Monitoring reviews by July 2017.

#### Education's Comments and Corrective Actions

Education concurs with this recommendation. Education will include charter schools in its selection of LEAs as part of the federal program monitoring process (UCP 1-3), just as it selects any other type of school (i.e. high schools, middle schools, elementary schools). However, charter school authorizers are responsible for oversight of charter schools they authorized, dependent charter schools are schools of the LEA. In this regard, the charter schools are subject to review when the LEA is reviewed. In addition, appeals about a charter school regarding particular programs, such as pupil fees, are reviewed for compliance with UCP processes and procedures.

#### **Recommendation No. 7:**

To ensure it examines sufficient review samples to detect LEAs' noncompliance with UCP laws and regulations, Education should revise its UCP monitoring criteria by July 2017, to increase its random selection of complaint files at each LEA to a minimum of 10 percent or 10 complaint files, whichever is greater.

#### Education's Comments and Corrective Actions

Education concurs with this recommendation. Education's UCP monitoring criteria will be revised to select a minimum of 10 percent or 10 complaint files, whichever is greater. Federal program monitoring is one part of the

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Education's monitoring activities. In handling individual UCP appeals, Education is required to review whether the LEA followed its UCP processes, whether the LEA's decision contains necessary findings of fact and conclusions of law, whether the LEA's decision contains appropriate corrective actions and whether the LEA ensured that corrective actions were completed (see 5 CCR, sections 4632 and 4633). Therefore, Education monitors compliance with the UCP process each time it reviews an appeal; this is an additional mechanism for ensuring LEA compliance with applicable laws and regulations.

**Recommendation No. 8:**

Education should revise the UCP regulations to formally establish a uniform time limits for filing all types of complaints.

Education's Comments and Corrective Actions

Education partially concurs with this recommendation. Education will review the recommendation and take appropriate action as necessary. However, the regulations at issue are approved by the SBE; therefore, Education does not have authority to make the recommended changes.

If you have any questions regarding Education's comments or corrective actions, please contact Kevin W. Chan, Director, Audits and Investigations Division, by e-mail at [kchan@cde.ca.gov](mailto:kchan@cde.ca.gov).

Sincerely,



Michelle Zumot  
Chief Deputy Superintendent of Public Instruction

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## COMMENTS

### CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE CALIFORNIA DEPARTMENT OF EDUCATION

To provide clarity and perspective, we are commenting on the response to our audit from Education. The numbers below correspond to the numbers we have placed in the margin of Education's response.

Our report title and headings are consistent and accurately reflect the issues we discuss in the report. For example, as we describe on pages 15 through 17, Education did not always meet specified time frames for completing investigations and reviews. Further, as we state on page 23, in our reviews of files across all divisions of Education, we also noted inconsistencies in the ways the divisions reported the results of their investigations of complaints or reviews of appeals. Moreover, as we state on page 9, federal and state laws and federal regulations require Education to monitor LEAs to ensure their compliance with a broad range of federal education program requirements, including requirements related to the UCP. However, as we discuss on page 41, because of the large number of charter schools in the State and the deficiencies we found with the two charter schools in Los Angeles Unified and two in San Diego Unified, we are concerned that Education does not include LEA-authorized charter schools in its UCP compliance reviews. Therefore, we stand by our report title and headings. Further, we disagree with Education's assertion that our report fails to distinguish between appeals in which a 60-day timeline did or did not apply or that our determination in this area is misleading and subjective. We discuss these differences on pages 14 and 15 and discuss our disagreement regarding Education's assertion further in Comment 5 on the following page.

We disagree that Education currently has systems and processes to ensure that complaints and appeals are addressed in compliance with state law and regulations. For example, as we describe on pages 15 through 17, it did not always meet specified time frames for completing investigations and reviews. Further, as we state on page 22, Nutrition Services did not always meet the requirements related to issuing investigation reports.

Education shared some of its concerns regarding the creation of a central office with us during the audit, and we include its perspective on page 14. However, as we state on that page, we believe that a central office for receiving complaints and appeals would help eliminate complainants' confusion about where to

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send a complaint or appeal and would streamline the process by preventing complaints and appeals from being delayed by going to an incorrect division. Our recommendation to Education is to designate a central UCP office, which we believe could be implemented with existing resources. For example, it could designate as the central UCP office one of its divisions that is currently responsible for addressing UCP complaints and appeals. Without first assessing these possibilities, we believe that Education prematurely asserts that additional staff and funding would be required to manage the work as recommended or that the creation of the central office could incur additional time, complexity, and bureaucracy. Finally, we believe Education can train the existing staff of the designated central office to effectively identify the division responsible for addressing the issue included in the complaint or appeal.

- ④ Education's response is unclear as to why it partially concurs with our recommendation to establish a single database to record and track all investigations of complaints and reviews of appeals. We can only presume that it is because we recommended that establishing the database be a duty of the central office that Education has concerns about. Nevertheless, Education's response indicates that it is actively developing such a database and indicates it will be completed by spring or summer of this year.
- ⑤ We disagree with Education's assertion. Our report clearly states which programs have a 60-day time frame specified in law or regulations. As we state on page 14, federal regulations require Education to issue decisions within 60 days of receiving complaints related to special education. Similarly, state law requires Education to issue decisions within 60 days of receiving appeals related to courses without educational content or to homeless or foster youth. Moreover, both state law and UCP regulations state a 60-day time frame for completing appeals related to pupil fees. Further, we state on page 15 that Education staff told us that the Educational Equity UCP Appeals Office (Educational Equity) makes every effort to use the 60-day timeline to comply with requirements of a lawsuit settlement agreement. As we state on that same page, in our review of 30 files in eight divisions, we identified 13 instances in which four divisions did not complete investigations and reviews within 60 days. Further, as we state on page 16, of the 13 cases, one was an appeal related to the After School Education and Safety Program, for which UCP regulations do not require a time frame for completion. We also modified the text on pages 16 and 17 to clarify that although Educational Equity exceeded the 60-day mark for four appeals and two complaints, three of the appeals occurred before Education signed the settlement agreement in November 2015. Nevertheless, because of the various provisions in federal regulations and state law and regulations we describe above, as we state on page 15, we

believe that 60 days is a reasonable time frame for Education to issue decisions on all complaints and appeals. Therefore, we recommended on page 25 that Education initiate revising its regulations so that all programs have the 60-day time frame for completing investigations of UCP complaints and reviewing UCP appeals.

We have accurately classified complaints and appeals in our report. Further, we note that Education's response does not provide any detail to support why it believes that we have incorrectly classified appeals as complaints.

We disagree with Education's assertion. We clearly state on page 18 that Education received more than 2,900 complaints during fiscal years 2013–14 through 2015–16. We further state that Special Education received 2,551 of the complaints and completed 2,505, or nearly all of them, within 60 days.

We stand by our conclusion. Education refers to two divisions—Nutrition Services and Categorical Complaints Management—as having well-established policies and procedures. However, as we state on page 19, Nutrition Services' director acknowledged that Nutrition Services has not always adhered to regulations and that it does not have policies and procedures for handling UCP complaints. Further, during our audit, the programs administrator for Categorical Complaints Management also told us that her office does not have written policies and procedures for processing UCP complaints and appeals.

We disagree that the UCP regulations provide significant guidance on how complaints and appeals must be handled by Education. For example, as we state on page 14, the lack of a uniform time frame for completing investigations of complaints and reviews of appeals in the UCP regulations has resulted in the divisions adopting inconsistent practices for addressing complaints and appeals.

We disagree that we have overstated or misstated timeliness problems. On page 12 we state that our review found that the wrong division received 57 of the 675 appeals sent to Education from July 2013 through June 2016. We also state that the wrong division received 36 of the 2,958 complaints during the audit period (Education incorrectly stated this total as 2,598). We believe that nearly 100 complaints and appeals sent to the wrong division is a problem as delays in processing can result. For example, we note on page 12 that 15 appeals were not referred to the correct division for 30 days or more, with one appeal taking 473 days to be referred.

Education misses the point of our finding. We acknowledge on page 12 that Education formed Educational Equity in April 2015 to address UCP complaints and appeals that had been filed with the

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Office of Equal Opportunity (Equal Opportunity). We further point out that the backlog of complaints and appeals that Educational Equity inherited included some that Equal Opportunity had received incorrectly and took more than 30 days to be forwarded to other divisions for processing. Our point is when a complaint or appeal is received in the incorrect division, Education risks that it may not get forwarded to the appropriate division in a timely manner.

- ⑫ Education's response is disingenuous. As we state on page 15, in discussing the time frames related to complaints and appeals that Educational Equity handles, an education administrator stated that there is no requirement in regulation that prescribes the time limit for appeals. Instead, she stated that Educational Equity makes every effort to use the 60-day timeline to comply with requirements of a lawsuit settlement agreement signed in November 2015. The lawsuit settlement agreement requires that Education use its best, good faith, and objectively reasonable endeavors to render a decision on an appeal within 60 days of the receipt of an appeal.
- ⑬ We are disappointed that Education did not ask us for clarification during the period it was reviewing the draft report if it believed this recommendation was unclear. Our recommendation on page 25 has two parts. The reference to aligning regulations with state and federal requirements refers to the second part of the recommendation to allow Nutrition Services to investigate all complaints as direct intervention.
- ⑭ We disagree with Education's statement, which indicates that a Nutrition Services complaint filed directly with Education is not covered under UCP. As we note in Table 1 on pages 5 and 6 and again on page 21, Nutrition Services complaints have been included under UCP since regulations were first adopted in 1991. Further, as we state on page 21, we believe that complying with UCP regulations, particularly its timelines, would achieve Education's obligation under federal regulations to investigate complaints promptly. Therefore, it is important for Education to clarify its regulations to specifically allow Nutrition Services to investigate all complaints it receives as direct intervention.
- ⑮ Although we agree that the State Board of Education (board) must approve changes to its regulations, it is Education's responsibility to initiate those changes. Therefore, Education should work with the board to implement our recommendation.
- ⑯ We disagree that our text is unclear. In implementing our recommendation, we expect Education to consider any state and federal requirements that might govern the programs being

covered under the UCP. For example, federal regulations governing Special Education complaints do not allow for an extension of the 60-day time frame.

Education misses the point of our recommendation. The regulations allow an LEA to extend its investigation time if the complainant agrees in writing. However, the regulations allow Education to extend investigations under exceptional circumstances that constitute good cause. We believe the regulations should similarly allow LEAs the ability to extend investigations under exceptional circumstances that constitute good cause.

We are puzzled by Education's response. As we state on page 10, Education's Categorical Complaints Management is responsible for both the on-site and desk reviews of LEAs' compliance with laws and regulations related to UCP. We further state on page 10 that Categorical Complaints Management also reviews a random selection of LEAs' UCP files and decisions to ensure that they meet specified regulatory requirements. Considering that Categorical Complaints Management already reviews complaint files and decisions, Education's existing reviews could evaluate LEAs' documentation and rationale for any extensions.

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January 2017

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January 11, 2017

Elaine M. Howle, CPA\*  
 State Auditor  
 621 Capitol Mall, Suite 1200  
 Sacramento, CA 95814

**Re: LAUSD Response to January 2017 Confidential Draft State Audit Report on Uniform Complaint Procedures**

Dear Ms. Howle,

The Los Angeles Unified School District (“LAUSD” or “District”) has reviewed the draft audit report pertaining to Uniform Complaint Procedures and appreciates the opportunity to submit the following response.

**A. LAUSD’s Response to State Audit Recommendations:**

1. **Recommendation:** “To minimize the number of complaints they receive through the UCP process that do not fall within the purview of the UCP regulations, Los Angeles Unified [redacted] should establish a mechanism that allows specified individuals for the district to discuss with complainants, in a timely manner, how best to address their issues or complaints and to determine whether their complaints fall under the purview of the UCP before they file complaints.”

**District Response:**

The District is committed to providing a safe working and learning environment and ensuring compliance with applicable state and federal laws. The District will maintain its efforts to minimize the number of complaints received through the UCP process that do not fall within the purview of the UCP regulations.

For example, the District through its Educational Equity Compliance Office (“EECO” or “office”), has made several adaptations to its website (e.g., posted frequently asked questions, additional resources) and created a new office specific email address this past school year in order to provide its stakeholders additional mechanisms for resolving their concerns. The District currently advocates to contact the office through a plethora of mediums, including but not limited to providing contact information for both District and community stakeholders to reach the office on prominently placed posters in schools and offices, brochures sent home to families and made available in school offices, policies directed to staff, and the annually distributed Parent Student Handbook. Many publications are issued annually to ensure wide dissemination of the information and to encourage communication with District and community

\* California State Auditor’s comments begin on page 81.

stakeholders. Additionally, the office regularly and proactively trains District and community stakeholders on this topic resulting in follow-up contacts or referrals to the office. Currently, the EECO provides daily phone assistance to callers to clarify appropriate complaint venues and remedies and redirects callers to appropriate resources when appropriate. However, the EECO has also fully implemented during the review the auditor's recommendation and has posted language on its frequently visited website explicitly encouraging District and community stakeholders to call for support with consideration of resources and complaint options.

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The EECO has refined its business practices dramatically over the last three years resulting in more efficient intake, timelier responses, and education of District and community stakeholders regarding referrals, resolutions and various informal and formal complaint venues. An analysis of the EECO's UCP data tracking reflects a reduction in UCPs filed during the 2015-16 school year as compared to the previous school year and the trend appears to continue in the 2016-17 school year. This analysis is supported by UCP logs provided to the auditors during the review.

2. **Recommendation:** "To ensure that they can defend their extensions of complaint investigations that are authorized by existing UCP regulations, Los Angeles [redacted] should obtain agreements from complainants before extending the investigations beyond the required 60 days."

**District Response:**

The District will maintain its efforts to ensure it can defend extensions of complaint investigations that are authorized by existing UCP regulations by obtaining agreements from complainants before extending the investigations beyond the required 60 days.

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The EECO in recent months has instituted the use of an electronic date calculator through its case management software ensuring accurate calculation of due dates within the 60 days. Further as articulated in the draft audit at page 24, the EECO subsequent to a previous Federal Program Monitoring audit uses any resources available to complete investigations within the 60 days. As a result, the EECO has increased the number of cases concluded within the 60 day timeline as noted on draft audit page 24 and has minimized the number of extensions requested as well. Nonetheless, the EECO agrees with the auditor's recommendation and in extenuating circumstances, EECO will seek to obtain extensions if needed in a manner consistent with the law.

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3. **Recommendation:** "To ensure that it meets the legally required time frames for remedying issues alleged in Williams complaints, Los Angeles Unified's Educational Equity Compliance Office should work closely with the divisions responsible for addressing issues in the Williams complaints to ensure they are completed timely. Further, it should ensure that it maintains the appropriate documentation to demonstrate that it complied with requirements for issuing decisions within 45 days."

**District response:**

The District will maintain its efforts to meet the legally required time frames for remedying issues alleged in Williams complaints. EECO will continue to work closely with the divisions responsible for addressing issues in the Williams complaints to ensure they are completed timely.

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For example, the EECO has contemporaneously revised its initial correspondence to parties addressing Williams complaints to emphasize the 30 business day timeline for job completion and has also initiated sending reminder messages to relevant District partners to include references to the 30 business day timeline in order to ensure compliance so that a written response can be finalized by the 45 business day timeline required under law. Additionally,

EECO will continue to maintain and refine electronic logs in its networked database tracking both job status and final case resolution timelines.

4. **Recommendation:** “To ensure that all charter schools comply with state law and regulations related to the UCP, to the extent a charter school engages in programs that are subject to UCP, Los Angeles Unified should by June 2017 revise its review procedures to verify that all charter schools’ policies and procedures meet the requirements of UCP regulations, including required content, during its monitoring reviews.”

**District response:**

The District will revise its charter oversight review procedure for charter schools’ UCP policies and procedures prior to June 2017 as stipulated and consequently for implementation in the 2017-18 school year as discussed with the auditors.

**B. Comments to Specific Sections:**

**pp. 15:** The draft report states, “However, Los Angeles Unified staff informed us very late in the audit process that it had not identified all UCP complaints to us. Specifically, when we first visited Los Angeles Unified, we asked for all UCP complaints that it received during our review period. Although Williams complaints have different time frames, as we discuss later, they are covered under UCP regulations. However, Los Angeles Unified staff did not tell us, until after we completed our field work and met with them to discuss our findings that it tracked Williams complaints separately and had not provided those to us.”

**District Response:**

The California State Auditor’s audit objectives relayed to the District were to review the State’s implementation of UCP, and representative LEAs as part of that. Based on prior California Department of Education (“CDE” or “State”) audits, the State’s cyclical Federal Program Monitoring (“FPM”) review of the District’s UCP process over several review cycles entailed a review of UCP logs, and specifically excludes Williams logs in those reviews. Further, the State defines UCP log in its most recent past review document as follows: “A UCP complaint log is an official record of *non-Williams* UCP complaints.” In fact, the State’s review instrument bifurcates UCP and Williams, as evidenced in various Federal Program Monitoring review related documents provided to the auditors.

Williams complaints have different notice requirements, postings, complaint forms, complaint processes, timelines, investigations/remedies, appeals, reporting to the Board/County, public hearings and charter school accountabilities (e.g., opt in).

The District provided the auditors UCP logs in a manner consistent with prior State audits on this topic. As stated on page 15 of the draft audit, the auditors requested UCP logs. At no point during their initial fieldwork and prior to the exit meeting, did the auditors request Williams logs specifically and as stated based on this office’s prior experience with CDE and FPM audits which bifurcated Williams complaints, it was reasonable for this office not to have raised the issue. Only when reference was made at the exit interview to Williams did this office alert the auditors that the information on Williams was not accurate and that there are separate logs/records for this type of complaint. As a result, three school years of Williams logs, along with supporting complaint files for approximately 1700 complaints, were provided to the auditors in 8 business days.

**pp. 31:** The report states, “According to Education’s website each charter school’s authorizing entity is responsible for ensuring it operates in compliance with all applicable laws and its charter.”

**District Response:**

⑦ The charter school, as a Local Education Agency with its own governing board, is responsible for ensuring compliance with conducting investigations and the District is responsible for oversight but ultimate responsibility for implementation of UCP policy and procedures and compliance with complaint investigations is the school.

pp. 32: The report states, "However, in our review of the 2015-2016 site annual report which was provided by Los Angeles Unified School District as the most recent review for this charter school, we did not find any areas noted for improvement or corrective actions related to UCP."

**District Response:**

⑧ The District requests the report acknowledge that areas of improvement for UCP were noted for Lashon Academy in its 2014-2015 oversight report which was provided to the auditors.

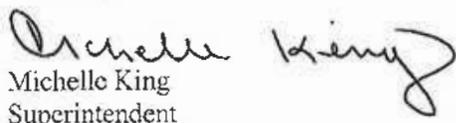
pp. 32: The report states, "The senior coordinator responsible for ensuring this charter school's compliance stated that the person or unit responsible for receiving complaints is identified on the UCP complaint form. According to the senior coordinator, the school staff explained to her that the procedures, policies, and forms are combined to collectively represent policies and procedures, and therefore she believed the school was compliant."

**District Response:**

⑨ The District requests that the statement attributing ensuring compliance to the senior coordinator be amended to clarify that the role of the Charter Schools Division is to oversee whether the charter school has appropriate UCP policies and procedures consistent with law and not necessarily to ensure the charter schools' or local education agency and its governing board's compliance with implementation of UCP policy and procedures and the underlying investigation and outcome of a complaint.

Additionally, the District wishes to acknowledge and express gratitude for the informal conversations with the auditors to address some accuracies and changes to the language in the draft audit report that are not reflected here. The time and effort of the audit team in engaging this review are appreciated. Should you have any questions, please contact Julie Hall-Panameño, Director, Educational Equity Compliance Office at (213) 241-7682, or [Julie.hall@lausd.net](mailto:Julie.hall@lausd.net).

Sincerely,

  
Michelle King  
Superintendent

## COMMENTS

### CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE LOS ANGELES UNIFIED SCHOOL DISTRICT

To provide clarity and perspective, we are commenting on the response to our audit from Los Angeles Unified. The numbers below correspond to the numbers we have placed in the margin of Los Angeles Unified's response.

As we indicate on page 27 and throughout the report, our audit focused on complaints received and closed in fiscal years 2013–14 through 2015–16. Therefore, we cannot verify Los Angeles Unified's claim that it has fully implemented our recommendation. However, we look forward to reviewing the documentation Los Angeles Unified provides to us to demonstrate its implementation of this recommendation in its 60-day response to our recommendations.

We disagree with Los Angeles Unified's assertion that its business practices have resulted in more efficient intake. Although the total number of complaints it received decreased from 319 in fiscal year 2013–14 to 218 in fiscal year 2015–16, the number of complaints it received during these years that were not under the purview of UCP regulations has remained relatively constant, ranging from 112 in fiscal year 2013–14 to 115 in fiscal year 2015–16. As a result, the percentage of complaints filed that fall outside of UCP regulations has increased during the three years we reviewed, from 35 percent in fiscal year 2013–14 to 53 percent in fiscal year 2015–16. This further supports our recommendation on page 37 that Los Angeles Unified establish a mechanism that allows specified individuals for the district to promptly discuss with complainants how best to address their issues and complaints and to determine whether their complaints fall under the purview of the UCP before they file complaints.

We provided Los Angeles Unified with a redacted draft report that contained only those portions relevant to Los Angeles Unified. Therefore, the page numbers that Los Angeles Unified cites in its response do not correspond to the page numbers in our final report.

We revised this recommendation from the draft report that we provided to Los Angeles Unified for its review and response. As we state on page 27, Los Angeles Unified staff informed us very late in the audit process that it had not identified all UCP complaints as we requested. As a result, we asked for additional information regarding these Williams complaints from Los Angeles Unified, but we did not receive all of the information in time to complete our assessment before we provided the draft report to Los Angeles Unified. Based

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on our review of the additional documentation provided, we revised the second sentence of the recommendation, as shown on page 37, to state that Los Angeles Unified should ensure that it maintains the appropriate documentation to demonstrate that it complied with requirements for *remedying the issues* in Williams complaints within *30 working days*.

- ⑤ We look forward to receiving documentation, as part of Los Angeles Unified's 60-day response to our recommendations, for the revised correspondence to which Los Angeles Unified refers, as well as any other actions it takes, to demonstrate implementation of this recommendation.
- ⑥ We disagree with Los Angeles Unified's characterization of our request. As we state on page 27, when we first visited Los Angeles Unified, we asked for **all** UCP complaints that it received during our review period. Although Williams complaints—complaints about instructional materials, teacher vacancies or misassignments, and school facilities—have different requirements for the timeliness of issuing decisions, the content of the decisions, and for appeals, these complaints are covered under UCP regulations and are therefore UCP complaints. Further, as we also state on page 27, Los Angeles Unified staff informed us, after we completed our fieldwork and met with them to discuss our findings, that it tracks Williams complaints separately because of the differences in the requirements and had not provided those to us.
- ⑦ We are perplexed by Los Angeles Unified's comment. We do not state in our report that a charter school's authorizing entity, such as Los Angeles Unified, is responsible for *implementation* of a charter school's UCP policy and procedures and compliance with complaint investigations. However, we do state on page 39 that according to state law and Education's website, each charter school's authorizing entity is responsible for ensuring it operates in compliance with all applicable laws and the terms of its charter. In fact, Los Angeles Unified's own website includes the same language.
- ⑧ Los Angeles Unified misses the point of our finding. We reviewed the most recent annual oversight review in fiscal year 2015–16 for this charter school because we expected that these reviews would identify current deficiencies such as those we identified during our review of the charter school's compliance with UCP regulations. Regardless of the areas of improvement that Los Angeles Unified identified in its earlier reports, as we state on page 39, in our review of the fiscal year 2015–16 annual site visit report for this charter school, we did not find any noted areas of improvement or corrective actions related to the UCP.
- ⑨ Los Angeles Unified is referring to our text on page 40 that describes the senior coordinator as being *responsible for ensuring this charter school's compliance*. We did not amend the text for the reasons noted in Comment 7.



**San Juan**  
Unified School District

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**Kent Kern, Superintendent of Schools**  
**Linda C. T. Simlick, General Counsel**

Via email ([KrisP@auditor.ca.gov](mailto:KrisP@auditor.ca.gov)) only

January 11, 2017

Elaine M. Howle, CPA\*  
State Auditor  
621 Capitol Mall, Suite 1200  
Sacramento, CA 95814

Re: Response to Draft Audit Report – Uniform Complaint Procedures  
January 2017

Dear Ms. Howle:

Thank you for the opportunity for the San Juan Unified School District (“District”) to respond to the draft audit report, “Uniform Complaint Procedures,” number 2016-109, dated January 2017.

The District appreciates the feedback from the California State Auditor’s office concerning the recommendations to improve the District’s Uniform Complaint Procedure (“UCP”) process, and is always willing to receive additional recommendations to assist in this endeavor. The District acknowledges the findings of your report which:

- encourage the District to continue to ensure that its process for addressing UCP complaints are efficient and meet all state requirements,
- recommend establishing a mechanism that allows specified district individuals to discuss with complainants, in a timely manner, how best to address their issues or complaints, and to determine whether their complaints fall under the purview of the UCP process before they are filed, and
- recommend including in its UCP responses all required elements.

In response to these findings/recommendations, the District will review its complaint processes to respond to complaints in a timely and appropriate manner. The District is in the process of revising its formal Board Policy (BP) and Administrative Regulation (AR) 1312.3 concerning the UCP process, and will have the revised BP/AR in place no later than May 1, 2017. The District will ensure that BP/AR 1312.3 specifically identifies:

- the timelines for investigating and responding to UCP complaints, and
- all elements that are required to be included in the District’s UCP responses.

The District will also ensure that its responses to UCP complaints include the legally required elements identified in the BP/AR 1312.3.

The District believes it has informal processes in place to discuss with individuals how best to address their issues and complaints, and to determine whether their issues and complaints fall

\* California State Auditor’s comment appears on page 85.

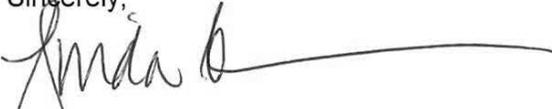
January 2017

Elaine Howle, CPA  
State Auditor  
January 11, 2017  
Page 2

under the UCP process, but will further discuss and identify ways to ensure that such processes are more prominently displayed on the District's website as well as ensure that District administrators are aware of the various processes.

Thank you for the opportunity to work with your department on our mutual efforts to ensure that the District has an appropriate and legally viable UCP process, and we look forward to continuing to improve for student and community access.

Sincerely,



Linda C. T. Simlick  
General Counsel  
San Juan Unified School District

c: Kent Kern, Superintendent  
Donna O'Neil, Associate Superintendent, Schools and Student Support  
Paul Oropallo, Assistant Superintendent, Human Resources  
Trent Allen, Senior Director, Community Relations

## COMMENT

### CALIFORNIA STATE AUDITOR'S COMMENT ON THE RESPONSE FROM THE SAN JUAN UNIFIED SCHOOL DISTRICT

To provide clarity and perspective, we are commenting on the response to our audit from San Juan Unified. The number below corresponds to the number we have placed in the margin of San Juan Unified's response.

We are puzzled by San Juan Unified's assertion that it believes it has informal processes to discuss with individuals how best to address their issues and complaints and to determine whether their issues and complaints fall under the UCP process. During our audit, San Juan Unified's general counsel told us that she usually does not attempt to resolve matters informally because it is her understanding that the LEA has to provide a written response to all filed complaints. Therefore, she almost always conducts a formal investigation. As we state on page 28, of the 75 complaints San Juan Unified received from July 2013 through June 2016, 41 complaints, or 55 percent, did not meet UCP criteria. Also, as we discuss on page 30, establishing a mechanism that allows a structured but less formal process for individuals to discuss with LEAs how best to address their complaints and to determine whether those complaints fall under the purview of the UCP could help LEAs more efficiently process UCP complaints.

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January 2017



**San Diego Unified**  
SCHOOL DISTRICT

**LEGAL SERVICES**

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January 11, 2017

Elaine M. Howle, CPA  
California State Auditor  
621 Capitol Mall, Suite 1200  
Sacramento, CA 95814

Re: Report Regarding Uniform Complaint Procedures Review 2016-109

Dear Ms. Howle:

San Diego Unified School District has received the draft report in the above matter. We have read the report and understand the recommendations. We will proceed to implement the recommendations.

Very truly yours,

A handwritten signature in black ink, appearing to read 'ANDRA M. DONOVAN', with a long horizontal line extending to the right.

ANDRA M. DONOVAN  
General Counsel

AMD/dmh

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