

**Policy 4140: Bargaining Units**

Status: DRAFT

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The Governing Board recognizes the right of district employees to form a bargaining unit and to select an employee organization as the exclusive representative to represent ~~for~~ the employees in the employees' employment relationship with the district. The Board is committed to negotiating in good faith with recognized employee organization ~~the exclusive representative~~ and respecting the rights of employees and employee organizations.

The district shall not dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it. (Government Code 3543.5)

Employees shall not be prohibited from wearing union buttons, ~~insignia~~, or other items ~~pictorial or written messages~~ that favor or oppose the formation of a bargaining unit or any matter that is the subject of negotiations.

### Formation of Bargaining Units

Certificated and classified employees shall not be included in the same bargaining unit. (Government Code 3545)

A bargaining unit of ~~certificated or classified~~ supervisory employees may ~~only~~ be recognized if the bargaining unit includes all ~~certificated or classified~~ supervisory employees, ~~respectively~~, and is not represented by ~~an~~ ~~the same~~ employee organization that represents district employees who are supervised by the supervisory employees. (Government Code 3545)

For this purpose, supervisory employee means any employee, regardless of job description, having authority, in the interest of the district, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to assign work to, direct, or adjust grievance of other employees, or effectively recommend that action, when the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment. (Government Code 3540.1)

Employees serving in management, senior management, or confidential positions shall not be represented by an exclusive representative. In the employment relationship with the district, ~~such employees~~ ~~who serve in a~~ ~~management, senior management, or confidential position~~ may represent themselves or be represented by an employee organization whose membership is composed entirely of employees designated as holding those positions. ~~An~~ ~~However, an~~ employee organization representing management, ~~senior management~~, or confidential employees shall not be permitted to meet and negotiate with the district on behalf of the employees. (Education Code 45100.5, Government Code 3543.4)

*Management employee* means an employee in a position having significant responsibilities for formulating district policies or administering district programs. ~~Management positions shall be designated by the Board which may be subject to review by the Public Employment Relations Board.~~ (Government Code 3540.1)

*Confidential employee* means any employee who is required to develop or present management positions with respect to employer employee relations or whose duties normally require access to confidential information that is used to contribute significantly to the development of management positions. (Government Code 3540.1)

### Membership

The district shall not deter or discourage employees or job applicants from becoming or remaining members of an employee organization, authorizing representation by an employee organization, or authorizing dues or fee deductions to an employee organization. In addition, the district shall not impose or threaten to impose reprisals on employees, discriminate or threaten to discriminate against employees, or otherwise interfere with, restrain, or coerce employees because of their membership or nonmembership in an employee organization. (Government Code 3543.5, 3550, 3551.5)

### District Communications to Employees

The Superintendent or designee may communicate with district employees regarding their rights to join and/or support an ~~officially recognized employee organization~~ or to refrain from joining or supporting an officially recognized employee organization. Such communications shall be factual and accurate, and may not promise a benefit, threaten a reprisal, or in any way deter or discourage employees from joining an employee organization or

paying dues.

However, before disseminating **The district may disseminate written documents, recorded messages, or other mass communications** to multiple **actual or perspective** employees any mass communication **represented by an exclusive representative** concerning employees' **their** rights under the law, such as a written document or script for oral or recorded presentation **to join and/or message, support, or refrain from joining and/or supporting, an employee organization only after** the Superintendent or designee shall **meet** and confer **confers** with the employees' exclusive representative regarding **concerning** the content of the **mass** communication. If the district and exclusive representative do not come to agreement on the content of the mass communication **and the district still chooses to disseminate it**, the Superintendent or designee may disseminate the district's mass communication, provided **shall request** that at the same time, copies of the exclusive representative's **representative provide a** communication, which shall be of reasonable length, **are also distributed. to the district that shall be disseminated to the employees at the same time as the district's own mass communication.** (Government Code 35533556)

### Access to New Employee Orientations

The district shall permit employee organizations **each exclusive representative** access to new employee orientation or onboarding process where newly hired employees **represented by the exclusive representative** are advised, whether in person, online, or through other means or mediums, of their employment status, rights, benefits, duties, responsibilities, or any other employment-related matters. The district shall provide employee organizations **the exclusive representative** at least 10 days' notice in advance of an orientation, except that a shorter notice may be provided **if where there is** an unforeseeable, urgent need critical to the district's operation **prevents the required 10 days' notice. operations that was not reasonably foreseeable.** (Government Code 3555-5, 3556)

Following a request to negotiate by either party, the structure, time, and manner of access to new employee orientations shall be determined by mutual agreement of the district and the exclusive representative. If the district and exclusive representative fail to reach an agreement, **matters related to the structure, time, and manner of** access to the new employee orientation shall be subject to compulsory interest arbitration. The district and employee organization **the exclusive representative** may mutually agree to submit any dispute to compulsory interest arbitration at any time. In addition, if any dispute arises during negotiations and is not resolved within 45 days after the first meeting or within 60 days after the initial request to negotiate, whichever is earlier, either party may make a demand for compulsory interest arbitration. **The arbitrator selection process shall commence within 14 days of a party's demand for compulsory interest arbitration.** When any such dispute arises during the summer when the district's administrative office is closed, the timeline shall commence on the first day the administrative office reopens. **The arbitrator's decision of the arbitrator shall be issued within 10 days and shall be final and binding on the parties.** (Government Code 3556, 3557)

The date, time, and place of a new employee orientation shall not be disclosed to anyone other than employees, the exclusive representative, or a vendor that is contracted to provide a service for purposes of the orientation. (Government Code 3556)

Until June 30, 2025, in addition to above provisions regarding new employee orientations, **unless** the district shall ensure **and** the following: (Government Code 3556)

1. When an in-person new employee orientation **exclusive representative have agreed otherwise, when the district** has not been conducted **an in-person orientation** within 30 days of hiring any a new employee who is working in person, the Superintendent or designee shall permit the exclusive representative to schedule an in-person **in-person** meeting which newly hired employees shall have an opportunity to attend, at the employee's worksite and during employment hours. Each newly hired employee within the bargaining unit shall be provided at least 30 minutes of paid time to attend the meeting **at the new employee's worksite**, during which the **new employee shall have the opportunity to attend and shall be relieved of other duties for the purpose of attending the meeting. The district shall provide appropriate space at the worksite within seven calendar days of receiving a request from the exclusive representative.** (Government Code 3556, 3557)

**During this meeting, the** exclusive representative shall be permitted to communicate directly with the newly hired employees.

Within seven days of an exclusive representative's request to schedule such an in-person meeting, the Superintendent or designee shall provide an appropriate on-site meeting space.

2. When, by reason of a state or local public health order limiting the size of gatherings, the district is prohibited

from organizing a new employee orientation, an exclusive representative may schedule multiple meetings to ensure that newly hired employees have an opportunity to attend without exceeding the maximum allowable number of people. If such an order prohibits all gatherings, the exclusive representative may schedule a meeting(s) once the order is lifted or modified to permit gatherings:

**new employees for up to 30 minutes of paid time. (Government Code 3556)**

Alternative access to these meetings shall be determined through mutual agreement between the district and the exclusive representative.

### **Access to Employee Contact Information**

The Superintendent or designee shall provide an exclusive representative with the name, job title, department, work location, telephone numbers (work, home, and personal cell phone), ~~personal email address(es) of all employees represented by the exclusive representative on file with the district, and home address of any newly hired.~~ **An employee's personal email address shall only be disclosed if it used by the employee to conduct district business.**

**Such information shall be provided** within 30 days of hire or by the first pay period of the month following hire **for all new employees represented by the exclusive representative**, unless the exclusive representative has agreed to a different interval for the provision of the information. ~~In addition~~ **Additionally**, the Superintendent or designee shall provide the exclusive representative **with** the same information ~~in regard to~~ **for** all employees in the bargaining unit at least ~~represented by the exclusive representative~~ every 120 days, unless more frequent or detailed lists ~~are~~ **disclosure is** required by agreement with the exclusive representative. (Government Code 3558, 7928.300)

However, the Superintendent or designee shall not disclose: (Government Code 3558, ~~6207~~**6205-6210**, 6215, ~~6215.2-6216~~, 7928.300)

1. The home address and any phone numbers on file for employees performing law enforcement-related functions
2. The home address, home telephone or personal cell phone number(s), or personal email address(es) of any employee who is a participant in the Safe at Home address confidentiality program pursuant to Government Code ~~6207~~**6205-6210 and 6215-16**
3. The employee's home address, home telephone and personal cell phone numbers, and personal email address of an employee not performing law enforcement related functions if the employee has submitted a written request to **the district to** keep such information private. In such instances, the Superintendent or designee shall also remove the employee's home address, ~~and home telephone number,~~ and personal cell phone ~~numbers~~**number** from any mailing list maintained by the district unless the list is only used by the district to contact the employee.

Within 20 calendar days after an exclusive representative notifies the Superintendent or designee that a list of employees provided by the district is inaccurate or incomplete, the Superintendent or designee shall take steps to correct the list and provide a new list of employees to the exclusive representative. (Government Code 3558)

~~To provide accurate information, the~~**The** Superintendent or designee shall review the list of contact information for district employees at the beginning of each school year, or more often as appropriate.

### **Communications with Employees by Employee Organizations**

**Subject to reasonable regulation by the district, employee organizations may** ~~shall~~ have access, at reasonable times, to **the work** areas in which ~~of~~ employees work **represented by the employee organization** and may use ~~to~~ district facilities at reasonable times for the purpose of meetings. ~~Subject to reasonable regulation~~ **meeting with employees represented by the employee organization. Access may be limited in instances where it would be disruptive to district operations. (Government Code 3543.1)**

**Additionally, subject to reasonable regulation by the district, employee organizations may also** ~~shall~~ **have the ability to** use institutional bulletin boards, mailboxes, and other means of communication to communicate with employees ~~represented by the employee organization.~~ (Government Code 3543.1)

Access to district means of communication shall be limited in cases where such access would be disruptive to district

operations.

### Membership Dues or Other Payments to an Employee Organization

When drawing an order for the salary or wage payment of a bargaining unit employee of an employee organization, the district shall deduct any amount ~~which~~**that** has been requested by the employee in a revocable written authorization for the purpose of paying dues or other payments for any service, program, or committee provided or sponsored by the employee organization. (Education Code 45060, 45168)

~~An~~**When an** employee organization that certifies **has certified to the district** that it has and will maintain individual employee authorizations shall ~~handle and process employee written authorizations for payroll deductions.~~ ~~When an employee organization provides such a certification to the district, the district shall rely on information from the employee organization regarding the amounts of such payroll deductions and from which~~**the employees.** ~~The~~**to whom they apply and shall not handle or process employee written authorizations for the employees represented by such** employee organization shall ~~not be required to submit to the~~. ~~The~~**district also shall not require** a copy of the written authorization in order for the payroll deductions to be effective. ~~However,~~**to be submitted by the employee organization, except** when there is a dispute about the existence or terms of the written authorization, ~~a copy of the employee's written authorization shall be submitted to the district. The employee organization shall indemnify the district for any employee claims regarding payroll deductions made by the district in reliance on notification from the employee organization.~~ (Education Code 45060, 45168)

~~When an employee organization which has declined to certify that it will handle and process employee written authorizations makes a request for payroll deductions, the district shall request a copy of the employee's written authorization before making the payroll deductions.~~ (Education Code 45060, 45168)

A written authorization shall remain in effect until expressly revoked in writing by the employee and pursuant to the terms of the written authorization. Employee requests to cancel or change authorizations for payroll deductions for employee organizations shall be directed to the employee organization **that represents the employee** rather than the district. The employee organization shall be responsible for processing these requests. The district shall rely on the information provided by the employee organization regarding whether deductions for an employee organization were properly canceled or changed. The employee organization shall be required to indemnify the district for any claims made by an employee for deductions made by the district in reliance on information from the employee organization. ~~(Education Code 45060, 45168)~~**(Education Code 45060, 45168)**

**When an employee organization has declined to certify that it will handle and process written authorizations from employee(s) represented by the employee organization and makes a request for payroll deductions, the district shall request a copy of the written authorization for an employee before making the payroll deductions for that employee. (Education Code 45060, 45168)**

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**Policy Reference Disclaimer:** These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

#### State References

8 CCR 33015-33490

#### Description

[Recognition of exclusive representative; proceedings](#)

8 CCR 33700-33710

[Severance of established unit](#)

Ed. Code 45060-45061.5

[Deduction of fees from salary or wage payment; certificated employees](#)

Ed. Code 45100.5

[Senior classified management positions](#)

Ed. Code 45104.5

[Abolishment of senior classified management positions](#)

Ed. Code 45108.5

[Definition of senior classified management employees](#)

Ed. Code 45108.7

[Waiver of provisions of Education Code 45108.5](#)

Ed. Code 45168

[Deduction of fees from salary or wage payment; classified employees](#)

Ed. Code 45220-45320

[Merit system; classified employees](#)

Gov. Code 3500-3511

[Local public employee organizations](#)

Gov. Code 3507.7

[Representation of temporary employees](#)

Gov. Code 3540-3549.3

[Educational Employment Relations Act](#)

Gov. Code 3540.1	<a href="#">Public employment; definitions</a>
Gov. Code 3543.4	<a href="#">Management and confidential positions; representation</a>
Gov. Code 3545	<a href="#">Appropriateness of unit; basis</a>
Gov. Code 3550-3552	<a href="#">Prohibition on public employers deterring or discouraging union membership</a>
Gov. Code 3555-3559	<a href="#">Public employee communication, information and orientation</a>
Gov. Code 53260-53264	<a href="#">Employment contracts</a>
Gov. Code 6205-6210	<a href="#">Confidentiality of addresses for victims of domestic violence, sexual assault, stalking, or child abduction</a>
Gov. Code 6215-6216	<a href="#">Address confidentiality for individuals who face threats or violence because of work for a public entity</a>
Gov. Code 6503.5	<a href="#">Joint powers agencies; agreement</a>
Gov. Code 7928.300	<a href="#">Disclosure of employee contact information to employee organization</a>

**Management Resources References**

Court Decision  
 Court Decision  
 Court Decision  
 Public Employment Relations Board Ruling  
 Public Employment Relations Board Ruling  
 Public Employment Relations Board Ruling  
 Public Employment Relations Board Ruling  
 Website  
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**Description**

[County of Los Angeles v. Los Angeles County Employee Relations Commission \(2013\) 56 Cal. 4th 905](#)  
[Friedrichs v. California Teachers Association, et al. \(2016\) 136 S.Ct. 1083](#)  
[Janus v. American Federation of State, County and Municipal Employees, Council 31 \(2018\) 138 S.Ct. 2448](#)  
[Regents of the University of California \(2004\) PERB Dec. No. 1700-H.](#)  
[Desert Community College District \(2007\) PERB Dec. No. 1921](#)  
[East Whittier School District \(2004\) PERB Dec. No. 1727](#)  
[City of Sacramento \(2019\) PERB Dec. No. 2702](#)  
[CSBA District and County Office of Education Legal Services](#)  
[California Federation of Teachers](#)  
[California Public Employment Relations Board](#)  
[California School Employees Association](#)  
[California Teachers Association](#)  
[Association of California School Administrators](#)  
[CSBA](#)

**Cross References**

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**Description**

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[Assignment](#)  
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[Evaluation/Supervision](#)  
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4119.25	<a href="#">Political Activities Of Employees</a>
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4143	<a href="#">Negotiations/Consultation</a>
4151	<a href="#">Employee Compensation</a>
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