

Policy 4319.1: Civil And Legal Rights

Status: DRAFT

Original Adopted Date: 10/05/2010 | Last Revised Date: 12/11/2012 | Last Reviewed Date: 12/11/2012

The Governing Board believes that the personal life of an employee is not an appropriate concern of the district, except as it may directly relate to the employee's performance of his/her ~~the employee's~~ duties.
An employee's

District employees may engage in private, personal activities, including the exercise of their religious or, political activities, **, cultural, social or other beliefs** or lack thereof, shall not be grounds for any discrimination or disciplinary action by the district, provided that these activities do not violate law, Board policy, **, during personal time including when employees are not on duty or engaged in the supervision** or administrative regulation.
instruction of students.

The district shall make no inquiry concerning the personal values, attitudes, and beliefs of district employees or their sexual orientation or political or religious affiliations, beliefs, or opinions except when authorized by law. In addition, no district employee shall be required to provide critical appraisals of other individuals with whom the employee has a familial relationship. However, the district reserves the right to access any publicly available information about any employee.

No employee shall be **dismissed, suspended, disciplined, reassigned, transferred, or otherwise** retaliated against solely for acting to protect a student engaged in conduct authorized under Education Code 48907 or 48950. A teacher shall have the right to refuse to submit to any evaluation or survey conducted by the district concerning personal values, attitudes, and beliefs; sexual orientation; political affiliations or opinions; critical appraisals of other individuals with whom the teacher has a family relationship; or religious affiliations or beliefs. (Education Code 49091.24)

Employees do not have a reasonable expectation of privacy with regards to district property under an employee's control including, but not limited to, desks, classrooms, offices, file cabinets, computers, or phones. As

When necessary to protect the health, welfare, or safety of students and staff, school officials may search such items in order to uncover evidence that the employee is violating the law, Board policy, administrative regulation, or other rules of the district or school.
property under an employee's control.

Whistleblower Protection

An employee shall have the right to disclose to a Board member, a school administrator, a member of the County Board of Education, ~~the~~ County Superintendent of Schools, or the Superintendent of Public Instruction any improper governmental activity by the district or a district employee that violates state or federal law, is economically wasteful, or involves gross misconduct, incompetency, or inefficiency. When the employee has reasonable cause to believe that the information discloses a violation of state or federal statute or a violation ~~of~~ or noncompliance with a state or federal rule or regulation, ~~he/she~~ **the employee** has the right to disclose such information to a government or law enforcement agency or to refuse to participate in any such activity. (Education Code 44112, 44113; Labor Code 1102.5)

The Superintendent or designee shall prominently display in lettering larger than size 14 point type a list of employees' rights and responsibilities under the whistleblower laws, including the telephone number of the whistleblower hotline maintained by the office of the California Attorney General. (Labor Code ~~1102.7,~~ 1102.8)

No employee shall use or attempt to use his/her official authority **status** or influence to intimidate, threaten, coerce,

or command, **or attempt to intimidate, threaten, coerce, or command**, another employee for the purpose of interfering with that employee's right to disclose improper governmental activity. (Education Code 44113)

An employee who has disclosed improper governmental activity and believes that he/she has subsequently been subjected to acts or attempted acts of reprisal **have subsequently occurred** shall file a written complaint in accordance with the district's complaint procedures. After filing a complaint with the district, he/she may also file a copy of the complaint with local law enforcement in accordance with Education Code 44114. **the employee may also file a copy of the complaint with local law enforcement and/or seek civil law remedies against the supervisor or administrator who retaliated or attempted to retaliate against the employee, in accordance with Education Code 44114.**

Protection Against Liability

No employee shall be liable for harm caused by the employee's act or omission when acting within the scope of employment or district responsibilities, the employee's act or omission is in conformity with federal, state, and local laws, district policy, or administrative regulation, and the employee's act or omission is in furtherance of an effort to control, discipline, expel, or suspend a student or to maintain order or control in the classroom or school. (20 USC 7946)

The protection against liability shall not apply when: (20 USC 7946)

Protection Against Liability

No employee shall be liable for harm caused by his/her act or omission when acting within the scope of employment or district responsibilities. For the protection against liability to apply, the act or omission must be in conformity with federal, state, and local laws and must be in furtherance of an effort to control, discipline, expel, or suspend a student, or to maintain order or control in the classroom or school. (20 USC 6736)

The protection against liability shall not apply when: (20 USC 6736)

1. The employee acted with willful or criminal misconduct, gross negligence, recklessness, or a conscious, flagrant indifference to **rights or safety of the individual** harmed person's right to safety.
2. The employee caused harm by operating a motor vehicle or other vehicle requiring license or insurance.
3. The employee was not properly licensed, if required, by state law for such activities.
4. The employee was found by a court to have violated a federal or state civil rights law.
5. The employee was under the influence of alcohol or any drug at the time of the misconduct.
6. The misconduct constituted a crime of violence pursuant to 18 USC 16 or an act of terrorism for which the employee has been convicted in a court.
7. The misconduct involved a sexual offense for which the employee has been convicted in a court.
8. The misconduct occurred during background investigations, or other actions, involved in the employee's hiring.

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

CA Constitution Article 1, Section 1

Ed. Code 200-262.4

Description

Inalienable rights

Prohibition of discrimination -

<https://simbli.eboardsolutions.com/SU/ytTLslshoozWGUAbNL6kKkgxQ==>

Ed. Code 44040	Discrimination based on employee's appearance before certain boards or committees
Ed. Code 44110-44114	Reporting by school employees of improper governmental activity
Ed. Code 48907	Exercise of free expression; time, place and manner rules and regulations
Ed. Code 48950	Speech and other communication
Ed. Code 49091.24	Teacher rights to refuse evaluation/survey of personal life
Ed. Code 7050-7058	Political activities of school officers and employees
Gov. Code 12650-12656	False claims actions
Gov. Code 12940-12953	Discrimination prohibited; unlawful practices
Gov. Code 3540.1	Public employment; definitions
Gov. Code 3543.5	Interference with employee's rights prohibited
Gov. Code 815.3	Intentional torts
Gov. Code 820-823	Tort claims act
Gov. Code 825.6	Indemnification of public entity
Lab. Code 1102.5-1106	Whistleblower protections

Federal References

18 USC 16	Crime of violence; definition
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
20 USC 7941-7948	Teacher liability protection
42 USC 12101-12213	Americans with Disabilities Act
42 USC 2000d-2000d-7	Title VI, Civil Rights Act of 1964
42 USC 2000e-2000e-17	Title VII, Civil Rights Act of 1964, as amended
U.S. Constitution	Amendment 1, Free exercise, free speech, and establishment clauses

Management Resources References

Court Decision	Kennedy v. Bremerton (2022) 142 S.Ct. 2407
Court Decision	New Jersey v. T.L.O. (1985) 469 U.S. 325
Court Decision	Garcetti v. Ceballos (2006) 547 U.S. 410
Court Decision	Hartnett v. Crosier (2012) 205 Cal.App.4th 685
Court Decision	Johnson v. Poway Unified School District (2011) 658 F.3d 954
Court Decision	O'Conner v. Ortega (1987) 480 U.S. 709
Court Decision	Ohton v. CSU San Diego (2007) 56 Cal.Rptr.3d 111
Website	CSBA District and County Office of Education Legal Services - https://simbli.eboardsolutions.com/SU/UdykszdmPETuDslshXk6R5akQ==
Website	California Office of the Attorney General - https://simbli.eboardsolutions.com/SU/5qNslsh5DoKuytasYcv9khGiA==

Cross References

1312.1	Complaints Concerning District Employees - https://simbli.eboardsolutions.com/SU/UeCd2AJlxfBU7E37o1kmUg==
1312.1	Complaints Concerning District Employees - https://simbli.eboardsolutions.com/SU/3x1plusj0z5ZLMqRsshEIT6Q==
1312.1-E PDF(1)	Complaints Concerning District Employees - https://simbli.eboardsolutions.com/SU/eAlz50x7oMx0vq3x9PjTplusg==

1312.3	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/CfApluscpXRIZplusOj2ImuhfqBA==
1312.3	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/NaAoUplustL0gdMDg4YyrqkSQ==
1312.3-E PDF(1)	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/CGtJ1bS0fJ2qqnQzzY5qbQ==
1312.3-E PDF(2)	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/hYsgaF9LHjeplus4tINfVHZyg==
3320	Claims And Actions Against The District - https://simbli.eboardsolutions.com/SU/MViqQtii2jun4plusUR29Kq9A==
3320	Claims And Actions Against The District - https://simbli.eboardsolutions.com/SU/Qrp22NVkslshfb8KJT8vxFvVg==
3400	Management Of District Assets/Accounts - https://simbli.eboardsolutions.com/SU/lquTQBlymztolslshn5MKeW7w==
3400	Management Of District Assets/Accounts - https://simbli.eboardsolutions.com/SU/8TrCdaxJyMGDCoGDI8wO9g==
3515	Campus Security - https://simbli.eboardsolutions.com/SU/hqFPjAhd9goSoQpbplus4kjiQ==
3515	Campus Security - https://simbli.eboardsolutions.com/SU/TNTSaLuS8Nthk6qXGvHC9g==
4030	Nondiscrimination In Employment - https://simbli.eboardsolutions.com/SU/japlusF1fDZLwk4z1txs8TVw==
4030	Nondiscrimination In Employment - https://simbli.eboardsolutions.com/SU/1hR1nwwQdqhZCpluskI91M7LA==
4040	Employee Use Of Technology - https://simbli.eboardsolutions.com/SU/pCyVFWHxjPMeQ9hSFguPfw==
4040-E PDF(1)	Employee Use Of Technology - https://simbli.eboardsolutions.com/SU/SHiUEWDyslshNbm0aZ0gplusTpfw==
4118	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/rOKplusxHxHkrEBT6aplusTWhislshQ==
4119.21	Professional Standards - https://simbli.eboardsolutions.com/SU/UTGFaZorslshLeTKDloySlOfQ==
4119.21-E PDF(1)	Professional Standards - https://simbli.eboardsolutions.com/SU/mGplusvfvwZSZeWEomplumBplusTJTg==
4119.25	Political Activities Of Employees - https://simbli.eboardsolutions.com/SU/UslshRGVnhjBEeEDNrko7psQg==
4140	Bargaining Units - https://simbli.eboardsolutions.com/SU/Me9RciM9hArmlwaa2ObDsQ==
4144	Complaints - https://simbli.eboardsolutions.com/SU/KyKD8LDxrB2PwRRY0z7CWA==
4218	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/9plusE9V6WiAoDtbVijXcJb8Q==
4218	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/WsDw3plusjP9wlvJpaJpqnSA==
4219.21	Professional Standards - https://simbli.eboardsolutions.com/SU/cRQObj7EJcTiplushojXxDrw==
4219.21-E PDF(1)	Professional Standards - Code Of Ethics Classified Employees - https://simbli.eboardsolutions.com/SU/Yn4FDSgBUNsbsWF3lvpkIQ==
4219.25	Political Activities Of Employees - https://simbli.eboardsolutions.com/SU/seiEdh3poDGMpbcllNJXOQ==

4240 Bargaining Units -
<https://simbli.eboardsolutions.com/SU/Q7v5ZHk0L1RKpslbbtMO3w==>

4244 Complaints -
<https://simbli.eboardsolutions.com/SU/AG8XgRWjeslshpslshdhFTO2smwQ==>

4319.21 Professional Standards -
<https://simbli.eboardsolutions.com/SU/aVzvR2gnF6PxyE8OYjjAPA==>

4319.21-E PDF(1) Professional Standards -
<https://simbli.eboardsolutions.com/SU/sVVtgfkApxmtRMQLIsMRyQ==>

4319.25 Political Activities Of Employees -
<https://simbli.eboardsolutions.com/SU/HslshFplusldczqDEuoeLLia0ZiA==>

4340 Bargaining Units -
<https://simbli.eboardsolutions.com/SU/tg00qOmHqwh523KetmcluA==>

4344 Complaints -
<https://simbli.eboardsolutions.com/SU/qGrsXimwkCHTw02tO8UC4Q==>

9260 Legal Protection -
<https://simbli.eboardsolutions.com/SU/gk7CBMGp6zZxp2Pk0Sx2Ag==>