

**Policy 4140: Bargaining Units**

Status: DRAFT

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

The Governing Board recognizes the right of public-school ~~district~~ employees to form a bargaining units, ~~unit and to~~ select an employee organization as the exclusive representative of their unit, and be represented by that organization ~~to represent the employees~~ in their ~~the employees'~~ employment relationship with the district. The Board is committed to negotiating in good faith with the ~~recognized~~ employee organizations and respecting the rights of employees and employee organizations.

The Board shall negotiate only with the exclusive representative of each bargaining unit. (Government Code 3543.3)  
Certificated and classified employees shall not be included in the same bargaining unit. (Government Code 3545)

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)

Neither the district nor the employee organization shall 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, 3543.6)

**Management and Supervisory**

**Employees**

Employees serving in a management, senior management, or confidential position shall not be represented by an exclusive representative. Such employees may represent themselves individually or may be represented by an employee organization whose membership is composed entirely of employees designated as holding those positions, but that organization shall not meet and negotiate with the district. (Government Code 3543.4)

However, the district may recognize ~~shall not be prohibited from wearing union buttons or other items 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 supervisors/supervisory employees may be recognized** if that ~~the bargaining~~ unit includes all supervisory employees and if the unit does ~~is not~~ represent ~~the represented by an~~ employee whom the supervisors supervise. ~~organization that represents district employees who are supervised by the supervisory employees.~~  
(Government Code 3545)

Management, supervisory, and confidential positions shall be classified as follows: (Government Code 3540.1)

1. Management employee means any employee who has significant responsibilities for formulating district policies or administering district programs, and whose position is designated as a management position by the Board.

1. Supervisory

**For this purpose, supervisory** employee means any employee, regardless of job description, having the authority, in the interest of the district, to hire, transfer, suspend, ~~layoff~~ ~~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. ~~The, when the~~ exercise of this ~~that~~ authority shall ~~is not be of a~~ merely routine or clerical in nature, but shall ~~require~~ ~~requires~~ the use of independent judgment.

1. **(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 may represent themselves or be represented by an employee organization whose membership is composed entirely of employees designated as holding those positions. An employee organization representing management or confidential employees shall not be permitted to meet and negotiate with the district on behalf of the employees. (Government Code 3543.4)**

***Management employee* means any employee who has significant responsibilities for formulating district policies or administering district programs, and whose position is designated as a management position by the 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.

#### **Payment of Dues or Service Fee**

Upon the written request of a recognized employee organization, the **(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)**

**The Superintendent or designee shall deduct the amount of organization dues or the fair share service fee, determined in accordance with Government Code 3546, from the wages and salary of each employee represented by that district employees regarding their rights under the law. 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 and shall pay that amount to the employee organization. (Education Code 45060, 45168; Government Code 3546)**

Any employee who is a member of a religious body whose traditional tenets or teachings include objections to joining or financially supporting employee organizations shall not be required **or paying dues.**

**However, before disseminating to multiple employees any mass communication concerning employees' right to join, maintain membership in, or financially or support any an employee organization or to refrain from joining or supporting an employee organization as a condition of employment. However, such an employee may be required to pay an amount equal to the service fee to a designated charitable fund. (Government Code 3546.3)**

Each employee organization shall, within 60 days after the end of its fiscal year, provide the Board and the employees who are members of the organization with a detailed financial report consisting of a balance sheet and an operating statement. If the employee organization fails to provide the financial report, the Board may issue an order compelling the organization to provide the financial report or any employee within the organization may petition the Board, **such as a written document or script** for such an order. (Government Code 3546.5)

The **oral or recorded presentation or message, the Superintendent or designee may provide an employee organization with the home address and home telephone number of employees shall meet and confer with the employees' exclusive representative regarding the content of the communication. If the district and exclusive representative do not come to agreement on the content of the mass communication, the Superintendent or designee may disseminate the district's mass communication, provided that at the same time, copies of the exclusive representative's communication, which shall be of reasonable length, are also distributed. (Government Code 3553)**

#### **Access to New Employee Orientations**

**The district shall permit employee organizations access to new employee orientation or onboarding process where newly hired employees 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 at least 10 days' notice in advance of an orientation, except any employees performing law enforcement-related functions and any employees who provide written request that the information not be disclosed for this purpose. (Government Code 6254.3) that a shorter notice may be provided if an unforeseeable, urgent need critical to the district's operation prevents the required 10 days' notice. (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 access to the new employee orientation shall be subject to compulsory interest arbitration. The district and employee organization 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. 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 decision of the arbitrator 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, the district shall ensure the following: (Government Code 3556)

1. When an inperson new employee orientation has not been conducted within 30 days of hiring any new employee who is working in person, the Superintendent or designee shall permit the exclusive representative to schedule an inperson 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.

Upon the request of an exclusive representative scheduling such an inperson meeting, the Superintendent or designee shall provide an appropriate on-site meeting space within seven days of receiving the exclusive representative's request.

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.

#### 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) on file with the district, and home address of any newly hired employee in the bargaining unit, within 30 days of hire or by the first pay period of the month following hire, unless the exclusive representative has agreed to a different interval for the provision of the information. In addition, the Superintendent or designee shall provide the exclusive representative the same information in regard to all employees in the bargaining unit at least every 120 days, unless more frequent or detailed lists are required by agreement with the exclusive representative. (Government Code 3558, 6254.3)

However, the Superintendent or designee shall not disclose the home address and any phone numbers on file for employees performing law enforcement-related functions, nor disclose the home address, home 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 or of any employee who provides a written request that the information not be disclosed to the exclusive representative. Following receipt of a written request, the district shall remove the employee's home address, home and personal cell phone numbers, and personal email address from any mailing list maintained by the district unless the list is only used by the district to contact the employee. (Government Code 3558, 6207, 6254.3)

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)

At least, at the beginning of each school year, the Superintendent or designee shall review the list of district employees to ensure that the list is complete and contains accurate information.

## Communications with Employees

Employee organizations may have access at reasonable times to areas in which employees work and may use district facilities at reasonable times for the purpose of meetings. Subject to reasonable regulation, employee organizations may also use institutional bulletin boards, mailboxes, and other means of communication to communicate with employees. (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 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 employee organization that certifies 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 employees. The employee organization shall not be required to submit to the district a copy of the written authorization in order for the payroll deductions to be effective. However, 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 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)

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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

	Description
8 CCR 33015-33490	Recognition of exclusive representative; proceedings
8 CCR 33700-33710	Severance of established unit
8 CCR 34020	Petition to rescind organizational security arrangement
8 CCR 34055	Reinstatement of organizational security arrangement
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 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 3540-3549.3	Educational Employment Relations Act
Gov. Code 3540.1	Public employment; definitions
Gov. Code 3543.4	Management position; representation
Gov. Code 3545	Appropriateness of unit; basis
Gov. Code 3550-3552	Prohibition on public employers deterring or discouraging union membership
Gov. Code 3555-3559	Public employee communication, information and orientation
Gov. Code 53260-53264	Employment contracts
Gov. Code 6205-6210	Confidentiality of addresses for victims of domestic violence, sexual assault or stalking
Gov. Code 6254.3	Disclosure of employee contact information to employee organization
Gov. Code 6503.5	Joint powers agencies

**Federal References**

8 CFR 33015-33490	Recognition of exclusive representative; proceedings
8 CFR 33700-33710	Severance of established unit
8 CFR 34020	Petition to rescind organizational security arrangement
8 CFR 34055	Reinstatement of organizational security arrangement

**Management Resources References**

	<b>Description</b>
Court Decision	County of Los Angeles v. Service Employees International Union, Local 721, (2013) 56 Cal. 4th 905
Court Decision	Friedrichs v. California Teachers Association, et al., (2016) 136 S.Ct. 1083
Court Decision	Janus v. American Federation of State, County and Municipal Employees, Council 31, (2018) 138 S.Ct. 2448
Public Employment Relations Board Ruling	East Whittier School District, (2004) PERB Dec. No. 1727
Public Employment Relations Board Ruling	City of Sacramento, (2019) PERB Dec. No. 2702m
Website	CSBA District and County Office of Education Legal Services - <a href="https://simbli.eboardsolutions.com/SU/UdykszdmPETuDsIshXk6R5akQ==">https://simbli.eboardsolutions.com/SU/UdykszdmPETuDsIshXk6R5akQ==</a>
Website	California Federation of Teachers - <a href="https://simbli.eboardsolutions.com/SU/6TJInbikoQhGwsWiH4ztXQ==">https://simbli.eboardsolutions.com/SU/6TJInbikoQhGwsWiH4ztXQ==</a>
Website	California Public Employment Relations Board - <a href="https://simbli.eboardsolutions.com/SU/7Fndg3k626KwCb511Tslsh2ew==">https://simbli.eboardsolutions.com/SU/7Fndg3k626KwCb511Tslsh2ew==</a>
Website	California School Employees Association - <a href="https://simbli.eboardsolutions.com/SU/NOB1plusNOcLNRMHnggHE1slshjg==">https://simbli.eboardsolutions.com/SU/NOB1plusNOcLNRMHnggHE1slshjg==</a>
Website	California Teachers Association - <a href="https://simbli.eboardsolutions.com/SU/w58tUBBtGnaF0rMUPlwN0g==">https://simbli.eboardsolutions.com/SU/w58tUBBtGnaF0rMUPlwN0g==</a>
Website	Association of California School Administrators - <a href="https://simbli.eboardsolutions.com/SU/DMWJqGR6N1ooUHyxBdPXeA==">https://simbli.eboardsolutions.com/SU/DMWJqGR6N1ooUHyxBdPXeA==</a>
Website	CSBA - <a href="https://simbli.eboardsolutions.com/SU/W3QxkK2FPsDsQBnMIENxGg==">https://simbli.eboardsolutions.com/SU/W3QxkK2FPsDsQBnMIENxGg==</a>

**Cross References**

	<b>Description</b>
0450	Comprehensive Safety Plan - <a href="https://simbli.eboardsolutions.com/SU/XVeModcEEplusmlKmlViNyG8g==">https://simbli.eboardsolutions.com/SU/XVeModcEEplusmlKmlViNyG8g==</a>
0450	Comprehensive Safety Plan - <a href="https://simbli.eboardsolutions.com/SU/vQZUWC8qslshfZpV1MmtaRBg==">https://simbli.eboardsolutions.com/SU/vQZUWC8qslshfZpV1MmtaRBg==</a>

0460 Local Control And Accountability Plan -  
<https://simbli.eboardsolutions.com/SU/Oa8UxEDuhq6BH2zsd274XA==>

0460 Local Control And Accountability Plan -  
<https://simbli.eboardsolutions.com/SU/8eaD94eHfVAA8KyIGL0hw==>

1340 Access To District Records -  
<https://simbli.eboardsolutions.com/SU/ilradJh510f82Bjhbu4vRw==>

1340 Access To District Records -  
<https://simbli.eboardsolutions.com/SU/zrxxplusFTeTpg8XDnadUSa6Q==>

1431 Waivers -  
<https://simbli.eboardsolutions.com/SU/Ced8z71xd34v2plusSLY5MSPA==>

4113 Assignment -  
<https://simbli.eboardsolutions.com/SU/sZzMn4gLi6zpkCi8VyJJUA==>

4113 Assignment -  
<https://simbli.eboardsolutions.com/SU/nuJniXqwYV0Ds3WwJ7z8bg==>

4115 Evaluation/Supervision -  
<https://simbli.eboardsolutions.com/SU/K13vNJ2xRPXslshg8qKWhKljw==>

4115 Evaluation/Supervision -  
<https://simbli.eboardsolutions.com/SU/TglGPP2slshE6zp6AAKq663BQ==>

4119.1 Civil And Legal Rights -  
<https://simbli.eboardsolutions.com/SU/24DUL3dM9A2IUAaOqbi3Og==>

4119.25 Political Activities Of Employees -  
<https://simbli.eboardsolutions.com/SU/UslshRGVNhjBEeEDNrko7psQg==>

4121 Temporary/Substitute Personnel -  
<https://simbli.eboardsolutions.com/SU/DcCmKPh09vg5JzXomtjUHA==>

4121 Temporary/Substitute Personnel -  
<https://simbli.eboardsolutions.com/SU/YykFd9RvVplus6GgB2BddENyw==>

4151 Employee Compensation -  
<https://simbli.eboardsolutions.com/SU/sKgclPNslshLxkivtjIWzWr7g==>

4154 Health And Welfare Benefits -  
<https://simbli.eboardsolutions.com/SU/6R1sBlgslshYgDslshAd2SuZj7eA==>

4154 Health And Welfare Benefits -  
<https://simbli.eboardsolutions.com/SU/WNoCah873JGR0slshZyGCtZtQ==>

4161.2 Personal Leaves -  
<https://simbli.eboardsolutions.com/SU/On8aJXm8vISRtdFTHYgumw==>

4219.1 Civil And Legal Rights -  
<https://simbli.eboardsolutions.com/SU/NNHd7ATUG21WUZfMslshC2esw==>

4219.25 Political Activities Of Employees -  
<https://simbli.eboardsolutions.com/SU/seiEdh3poDGMpbclINJXOQ==>

4254 Health And Welfare Benefits -  
<https://simbli.eboardsolutions.com/SU/IOQxocnnxc7t0zO4gNslshEig==>

4254 Health And Welfare Benefits -  
<https://simbli.eboardsolutions.com/SU/baiguAHICDz2MiTzMIQIOA==>

4261.2 Personal Leaves -  
<https://simbli.eboardsolutions.com/SU/847PCMzco4iw8hFQgZErUQ==>

4300 Administrative And Supervisory Personnel -  
<https://simbli.eboardsolutions.com/SU/zuSelJPD0gilsgIN1WCEbg==>

4300 Administrative And Supervisory Personnel -  
<https://simbli.eboardsolutions.com/SU/WFN9G8yzSCR0PXAwha26sg==>

4301 Administrative Staff Organization -  
<https://simbli.eboardsolutions.com/SU/lm60V7BcUgOUMplus6sRmBG0A==>

4312.1	Contracts - <a href="https://simbli.eboardsolutions.com/SU/ShpXl3Yv7zBIJplusQVkAdpg==">https://simbli.eboardsolutions.com/SU/ShpXl3Yv7zBIJplusQVkAdpg==</a>
4315	Evaluation/Supervision - <a href="https://simbli.eboardsolutions.com/SU/NYMW7pGPZmw6d2o7vwnvww==">https://simbli.eboardsolutions.com/SU/NYMW7pGPZmw6d2o7vwnvww==</a>
4319.1	Civil And Legal Rights - <a href="https://simbli.eboardsolutions.com/SU/S3pluswdN4h3ZfQBHYZ4pWXg==">https://simbli.eboardsolutions.com/SU/S3pluswdN4h3ZfQBHYZ4pWXg==</a>
4319.25	Political Activities Of Employees - <a href="https://simbli.eboardsolutions.com/SU/HslshFplusldczqDEuoeLLia0ZiA==">https://simbli.eboardsolutions.com/SU/HslshFplusldczqDEuoeLLia0ZiA==</a>
4351	Employee Compensation - <a href="https://simbli.eboardsolutions.com/SU/7ykl0pHAhelqH4DkAzNuTw==">https://simbli.eboardsolutions.com/SU/7ykl0pHAhelqH4DkAzNuTw==</a>
4354	Health And Welfare Benefits - <a href="https://simbli.eboardsolutions.com/SU/AUcC2pRXWApZWZErGJyJUg==">https://simbli.eboardsolutions.com/SU/AUcC2pRXWApZWZErGJyJUg==</a>
4354	Health And Welfare Benefits - <a href="https://simbli.eboardsolutions.com/SU/slsh0UxeGKSx3ebrYlspgJrSrg==">https://simbli.eboardsolutions.com/SU/slsh0UxeGKSx3ebrYlspgJrSrg==</a>
4361.2	Personal Leaves - <a href="https://simbli.eboardsolutions.com/SU/IJj2CGBYDwcCELCob3rSMA==">https://simbli.eboardsolutions.com/SU/IJj2CGBYDwcCELCob3rSMA==</a>
9000	Role Of The Board - <a href="https://simbli.eboardsolutions.com/SU/yCFHLIFLUDCtfgpluseQHTJg==">https://simbli.eboardsolutions.com/SU/yCFHLIFLUDCtfgpluseQHTJg==</a>
9321-E PDF(1)	Closed Session - <a href="https://simbli.eboardsolutions.com/SU/JouF3slshhdp1t8S6jR9jTrVg==">https://simbli.eboardsolutions.com/SU/JouF3slshhdp1t8S6jR9jTrVg==</a>
9321-E PDF(2)	Closed Session - <a href="https://simbli.eboardsolutions.com/SU/R7Dlslsh4Z8zkiT8c3evrPAg==">https://simbli.eboardsolutions.com/SU/R7Dlslsh4Z8zkiT8c3evrPAg==</a>
9321	Closed Session - <a href="https://simbli.eboardsolutions.com/SU/eQxvTE4sunzJru8wB8gc1g==">https://simbli.eboardsolutions.com/SU/eQxvTE4sunzJru8wB8gc1g==</a>