

Policy 4119.1: Civil And Legal Rights

Status: ADOPTED

Original Adopted Date: 03/01/2004 | **Last Revised Date:**
09/01/2022 | **Last Reviewed Date:** 09/01/2022

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 performance of the employee's duties.

District employees may engage in private, personal activities, including the exercise of their religious, political, cultural, social or other beliefs or activities, during personal time including when employees are not on duty or engaged in the supervision or 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.

When necessary to protect the health, welfare, or safety of students and staff, school officials may search district 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, 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 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 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, 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)

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.
 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.
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State	Description
CA Constitution Article 1, Section 1	<u>Inalienable rights</u>
Ed. Code 200-262.4	<u>Prohibition of discrimination</u>
Ed. Code 44040	<u>Discrimination based on employee's appearance before certain boards or committees</u>
Ed. Code 44110-44114	<u>Reporting by school employees of improper governmental activity</u>
Ed. Code 48907	<u>Exercise of free expression; time, place, and manner rules and regulations</u>
Ed. Code 48950	<u>Speech and other communication</u>
Ed. Code 49091.24	<u>Teacher rights to refuse evaluation/survey of personal life</u>
Ed. Code 7050-7058	<u>Political activities of school officers and employees</u>
Gov. Code 12650-12656	<u>False claims actions</u>

Gov. Code 12940-12953
 Gov. Code 3540.1
 Gov. Code 3543.5
 Gov. Code 815.3
 Gov. Code 820-823
 Gov. Code 825.6
 Lab. Code 1102.5-1106
Federal
 18 USC 16
 20 USC 1681-1688

 20 USC 7941-7948
 42 USC 12101-12213
 42 USC 2000d-2000d-7
 42 USC 2000e-2000e-17
 U.S. Constitution, First Amendment
Management Resources
 Court Decision
 Court Decision
 Court Decision
 Court Decision
 Court Decision
 Court Decision
 Court Decision
 Website
 Website

Code
 1312.1
 1312.1
 1312.3
 1312.3
 1312.3-E(1)
 1312.3-E(2)
 3320
 3320
 3400
 3400
 3515
 3515
 4030
 4030
 4040
 4040-E(1)
 4118
 4118
 4119.21
 4119.21-E(1)
 4119.23
 4119.25
 4119.25
 4132
 4136
 4140
 4144
 4144
 4218
 4218
 4218.1
 4219.21
 4219.21-E(1)

Discrimination prohibited; unlawful practices
Public employment; definitions
Interference with employee's rights prohibited
Intentional torts
Tort claims act
Indemnification of public entity
Whistleblower protections
Description
 Crime of violence; definition
 Title IX of the Education Amendments of 1972; discrimination based on sex
 Teacher liability protection
 Americans with Disabilities Act
 Title VI, Civil Rights Act of 1964
 Title VII, Civil Rights Act of 1964, as amended
Free exercise, free speech, and establishment clauses
Description
 Kennedy v. Bremerton (2022) 142 S.Ct. 2407
 New Jersey v. T.L.O. (1985) 469 U.S. 325
 Garcetti v. Ceballos (2006) 547 U.S. 410
 Hartnett v. Crosier (2012) 205 Cal.App.4th 685
 Johnson v. Poway Unified School District (2011) 658 F.3d 954
 O'Conner v. Ortega (1987) 480 U.S. 709
 Ohton v. CSU San Diego (2007) 56 Cal.Rptr.3d 111
CSBA District and County Office of Education Legal Services
California Office of the Attorney General

Description
Complaints Concerning District Employees
Complaints Concerning District Employees
Uniform Complaint Procedures
Uniform Complaint Procedures
Uniform Complaint Procedures
Uniform Complaint Procedures
Claims And Actions Against The District
Claims And Actions Against The District
Management Of District Assets/Accounts
Management Of District Assets/Accounts
Campus Security
Campus Security
Nondiscrimination In Employment
Nondiscrimination In Employment
Employee Use Of Technology
Employee Use Of Technology
Dismissal/Suspension/Disciplinary Action
Dismissal/Suspension/Disciplinary Action
Professional Standards
Professional Standards
Unauthorized Release Of Confidential/Privileged Information
Political Activities Of Employees
Political Activities Of Employees
Publication Or Creation Of Materials
Nonschool Employment
Bargaining Units
Complaints
Complaints
Dismissal/Suspension/Disciplinary Action
Dismissal/Suspension/Disciplinary Action
Dismissal/Suspension/Disciplinary Action (Merit System)
Professional Standards
Professional Standards

4219.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4219.25	<u>Political Activities Of Employees</u>
4219.25	<u>Political Activities Of Employees</u>
4232	<u>Publication Or Creation Of Materials</u>
4236	<u>Nonschool Employment</u>
4240	<u>Bargaining Units</u>
4244	<u>Complaints</u>
4244	<u>Complaints</u>
4319.21	<u>Professional Standards</u>
4319.21-E(1)	<u>Professional Standards</u>
4319.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4319.25	<u>Political Activities Of Employees</u>
4319.25	<u>Political Activities Of Employees</u>
4332	<u>Publication Or Creation Of Materials</u>
4336	<u>Nonschool Employment</u>
4340	<u>Bargaining Units</u>
4344	<u>Complaints</u>
4344	<u>Complaints</u>
9260	<u>Legal Protection</u>