

**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)

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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>