

Policy 4140: Bargaining Units

Status: ADOPTED

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Last Reviewed Date: 06/01/2023

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

~~(cf. 4141/4241–~~

~~Collective Bargaining Agreement)~~

~~(cf. 4143/4243–Negotiations/Consultation)~~

~~(cf. 9000 – Role of the Board)~~

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 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)

~~The district may recognize a~~

A bargaining unit of supervisory employees may be recognized if:~~(Government Code 3545)~~

1. ~~The~~ **the** bargaining unit includes all supervisory employees.

2. ~~The supervisors are~~ **and is** not represented by ~~the same~~**an employee** organization that represents **district employees whomwho are supervised by** the supervisory employees supervise.

~~(cf. 4300 – Administrative and Supervisory Personnel)~~

~~(cf. 4301 -~~ (Government Code 3545)

~~Administrative Staff Organization)~~

~~(cf. 4312.1 - Contracts)~~

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, 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. (Government Code 3540.1)

Employees serving in management, senior management, or confidential positions shall not be represented by an exclusive representative. ~~Such~~ **In the employment relationship with the district, 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. ~~When represented by an~~ **An** employee organization; ~~that organization~~ **representing management or confidential employees shall not be permitted to meet and negotiate with the district.** ~~For this purpose:~~ **on behalf of the employees.** (Government Code ~~3540.1, 3543.4~~)

~~1.~~

Management employee means ~~any~~ **an** employee ~~who has~~ **in a position having** significant responsibilities for formulating district policies or administering district programs, ~~and whose position is.~~ **Management positions shall be** designated as a management position **by the Board which may be subject to review** by the Board.

~~2.~~ **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)

~~(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)~~

, 3551.5)

The Superintendent Chief Learning Officer or designee may communicate with district employees regarding their rights ~~under the law~~ **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 to multiple employees any mass communication concerning employees' ~~right to join or support an employee organization or to refrain from joining or supporting an employee organization~~ **rights under the law**, such as a written document or script for oral or recorded presentation or message, the Superintendent Chief Learning Officer or designee 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 Chief Learning Officer 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 ~~and Contact Information~~

The district shall permit employee organizations access to new employee ~~orientations~~ **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. ~~However, in any specific instance where, a shorter notice may be provided.~~ **provided if** an unforeseeable, urgent need critical to the district's operation prevents the required 10 days' notice, ~~a shorter notice may be provided.~~ (Government Code 3555.5, 3556)

The

Following a request to negotiate by either party, the structure, time, and manner of ~~the~~ access to new employee orientations shall be determined by mutual agreement of the district and the exclusive representative, ~~following a request to negotiate by either party.~~ If the district and exclusive representative fail to reach an agreement, matters related to ~~the~~ 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. **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 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 ~~the~~ **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~~) **(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 Chief Learning Officer 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, during which 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 ~~inperson~~ meeting, the Superintendent Chief Learning Officer 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.

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 Chief Learning Officer 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 Chief Learning Officer or designee shall provide the **exclusive representative** the same information in regard to all employees in the bargaining unit ~~to an exclusive representative~~ at least every 120 days, unless more frequent or detailed lists are required by agreement with the exclusive representative. (~~Government Code 3558, 6254.3~~) **(Government Code 3558, 7928.300)**

However, the Superintendent Chief Learning Officer or designee shall not disclose: (Government Code 3558, 6207, 6215, 6215.2, 7928.300)

1. ~~However, the Superintendent Chief Learning Officer or designee shall not disclose the~~**The** home address and any phone numbers on file for employees performing law enforcement-related functions, ~~nor shall he/she disclose the~~
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 ~~or any~~
3. **The employee's home address, home telephone and personal cell phone numbers, and personal email address of an employee who provides written request that not performing law enforcement related functions if the information not be disclosed for this purpose.** Following receipt of **employee has submitted** a written request **to keep such information private.** In such instances, the ~~district~~**Superintendent Chief Learning Officer or designee** shall **also** remove the employee's home address, **and** home **telephone** 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)~~

~~(cf. 1340 – Access to District Records)~~

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

Within 20 calendar days after an exclusive representative notifies the Superintendent Chief Learning Officer or designee that a list of employees provided by the district is inaccurate or incomplete, the Superintendent Chief Learning Officer 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 Superintendent Chief Learning Officer 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

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)

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	Description
8 CCR 33015-33490	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 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 and confidential positions; 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 6215-6216	Address confidentiality for individuals who face threats or violence because of work for a public entity
Gov. Code 6503.5	Joint powers agencies; agreement
Gov. Code 7920.000-7930.215	California Public Records Act
Gov. Code 7928.300	Disclosure of employee contact Personal information of agency employee-organization
Management Resources	Description
Court Decision	County of Los Angeles v. Los Angeles County Employee Relations Commission (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
Website	California Federation of Teachers
Website	California Public Employment Relations Board
Website	California School Employees Association
Website	California Teachers Association

Website [Association of California School Administrators](#)

Website [CSBA](#)

Cross References

Code	Description
0450	Comprehensive Safety Plan Comprehensive Safety Plan
0450	Comprehensive Safety Plan Comprehensive Safety Plan
0460	Local Control And Accountability Plan Local Control And Accountability Plan
0460	Local Control And Accountability Plan Local Control And Accountability Plan
1340	Access To District Records Access To District Records
1340	Access To District Records Access To District Records
1431	Waivers Waivers
4113	Assignment Assignment
4113	Assignment Assignment
4115	Evaluation/Supervision Evaluation/Supervision
4115	Evaluation/Supervision Evaluation/Supervision
4119.1	Civil And Legal Rights Civil And Legal Rights
4119.25	Political Activities Of Employees Political Activities Of Employees
4119.25	Political Activities Of Employees Political Activities Of Employees
4121	Temporary/Substitute Personnel Temporary/Substitute Personnel
4121	Temporary/Substitute Personnel Temporary/Substitute Personnel
4141	Collective Bargaining Agreement Collective Bargaining Agreement
4143	Negotiations/Consultation Negotiations/Consultation
4151	Employee Compensation Employee Compensation
4154	Health And Welfare Benefits Health And Welfare Benefits
4154	Health And Welfare Benefits Health And Welfare Benefits
4161.2	Personal Leaves Personal Leaves
4219.1	Civil And Legal Rights Civil And Legal Rights

4219.25	Political Activities Of Employees Political Activities Of Employees
4219.25	Political Activities Of Employees Political Activities Of Employees
4241	Collective Bargaining Agreement Collective Bargaining Agreement
4243	Negotiations/Consultation Negotiations/Consultation
4251	Employee Compensation Employee Compensation
4254	Health And Welfare Benefits Health And Welfare Benefits
4254	Health And Welfare Benefits Health And Welfare Benefits
4261.2	Personal Leaves Personal Leaves
4300	Administrative And Supervisory Personnel
4300	Administrative And Supervisory Personnel
4301	Administrative Staff Organization
4312.1	Contracts Contracts
4315	Evaluation/Supervision Evaluation/Supervision
4319.1	Civil And Legal Rights Civil And Legal Rights
4319.25	Political Activities Of Employees Political Activities Of Employees
4319.25	Political Activities Of Employees Political Activities Of Employees
4351	Employee Compensation Employee Compensation
4351	Employee Compensation
4354	Health And Welfare Benefits Health And Welfare Benefits
4354	Health And Welfare Benefits Health And Welfare Benefits
4361.2	Personal Leaves Personal Leaves
9000	Role Of The Board Role Of The Board
9321	Closed Session
9321	Closed Session
9321	Closed Session