

Policy 4319.1: Civil And Legal Rights

Status: ADOPTED

Original Adopted Date: 03/01/2004 01/23/2013 | **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 ~~employee's~~ performance of his/her ~~the employee's~~ duties.

~~An employee's~~

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

~~(cf. 4030 – Nondiscrimination in Employment)~~

~~(cf. 4119.21/4219.21/4319.21 – instruction of students.~~

~~Professional Standards)~~

~~(cf. 4119.25/4219.25/4319.25 – Political Activities of Employees)~~

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.

~~(cf. 3515-~~

~~Campus Security)~~

~~(cf. 4040 - Employee Use of Technology)~~

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** ~~Chief Learning Officer~~ of Schools, or the Superintendent ~~Chief Learning Officer~~ 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 Chief Learning Officer 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)

~~(cf. 4118 - Suspension/Disciplinary Action)~~

~~(cf. 4218-~~

~~Dismissal/Suspension/Disciplinary Action)~~

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, 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 ~~him/her~~ **the employee**, in accordance with Education Code 44114.

~~(cf. 1312.1-~~

~~Complaints Concerning District Employees)~~

~~(cf. 1312.3 - Uniform Complaint Procedures)~~

(cf. 4144/4244/4344 - Complaints)

Protection Against Liability

No employee shall be liable for harm caused by ~~his/her~~**the employee's** act or omission when ~~he/she~~ is acting within the scope of employment or district responsibilities; ~~when,~~ the employee's act or omission is in conformity with federal ~~or, state-law,~~ **and local laws**, district policy, or administrative regulation; ~~or when,~~ **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)

(cf. 3320 - Claims and Actions Against the District)

(cf. 9260 - Legal Protection)

~~The protection against liability shall not apply when:~~

- ~~1.~~ ~~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.~~ ~~2-~~The employee caused harm by operating a motor vehicle or other vehicle requiring license or insurance.
- ~~3.~~ ~~3-~~The employee was not properly licensed, if required, by state law for such activities.
- ~~4.~~ ~~4-~~The employee was found by a court to have violated a federal or state civil rights law.
- ~~5.~~ ~~5-~~The employee was under the influence of alcohol or any drug at the time of the misconduct.
- ~~6.~~ ~~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.~~ ~~7-~~The misconduct involved a sexual offense for which the employee has been convicted in a court.
- ~~8.~~ ~~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

CA Constitution Article 1, Section 1

Ed. Code 200-262.4

Description

Inalienable rights

[Prohibition of discrimination](#)

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	Description
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	Description
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
Website [California Office of the Attorney General](#)

Cross References

Code	Description
1312.1	Complaints Concerning District Employees Complaints Concerning District Employees
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1312.3	Uniform Complaint Procedures Uniform Complaint Procedures
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1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
3320	Claims And Actions Against The District Claims And Actions Against The District
3320	Claims And Actions Against The District Claims And Actions Against The District
3400	Management Of District Assets/Accounts Management Of District Assets/Accounts
3400	Management Of District Assets/Accounts Management Of District Assets/Accounts
3515	Campus Security Campus Security
3515	Campus Security Campus Security
4030	Nondiscrimination In Employment Nondiscrimination In Employment
4030	Nondiscrimination In Employment Nondiscrimination In Employment
4040	Employee Use Of Technology Employee Use Of Technology
4040-E PDF(1)	Employee Use Of Technology Employee Use Of Technology
4118	Dismissal/Suspension/Disciplinary Action Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.21	Professional Standards Professional Standards
4119.21-E PDF(1)	Professional Standards Professional Standards

4119.23	Unauthorized Release Of Confidential/Privileged Information Unauthorized Release Of Confidential/Privileged Information
4119.25	Political Activities Of Employees Political Activities Of Employees
4119.25	Political Activities Of Employees Political Activities Of Employees
4132	Publication Or Creation Of Materials Publication Or Creation Of Materials
4136	Nonschool Employment Nonschool Employment
4140	Bargaining Units Bargaining Units
4144	Complaints Complaints
4144	Complaints Complaints
4218	Dismissal/Suspension/Disciplinary Action Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4218.1	Dismissal/Suspension/Disciplinary Action (Merit System)
4219.21	Professional Standards Professional Standards
4219.21-E PDF(1)	Professional Standards - Code Of Ethics Classified Employees Professional Standards
4219.23	Unauthorized Release Of Confidential/Privileged Information Unauthorized Release Of Confidential/Privileged Information
4219.25	Political Activities Of Employees Political Activities Of Employees
4219.25	Political Activities Of Employees Political Activities Of Employees
4232	Publication Or Creation Of Materials Publication Or Creation Of Materials
4236	Nonschool Employment Nonschool Employment
4240	Bargaining Units Bargaining Units
4244	Complaints Complaints
4244	Complaints Complaints
4319.21	Professional Standards Professional Standards
4319.21-E PDF(1)	Professional Standards Professional Standards
4319.23	Unauthorized Release Of Confidential/Privileged Information Unauthorized Release Of Confidential/Privileged Information

4319.25	Political Activities Of Employees Political Activities Of Employees
4319.25	Political Activities Of Employees Political Activities Of Employees
4332	Publication Or Creation Of Materials Publication Or Creation Of Materials
4336	Nonschool Employment Nonschool Employment
4340	Bargaining Units Bargaining Units
4344	Complaints Complaints
4344	Complaints Complaints
9260	Legal Protection Legal Protection