

Regulation 4241.6: Concerted Action/Work Stoppage

Status: ADOPTED

Original Adopted Date: 12/01/1989 01/23/2013| **Last Revised Date:** 03/01/2022 | **Last Reviewed Date:** 06/01/1997 03/01/2022

Maintenance of District Operations

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During any work stoppage, strike, or other concerted employee activity, the Superintendent Chief Learning Officer or designee shall take measures to minimize disruption to district operations and student learning. At the discretion of the Superintendent Chief Learning Officer or designee, employees reporting for duty may be temporarily assigned to other duties. In addition, the Superintendent Chief Learning Officer or designee may hire qualified substitute and/or temporary employees as needed to maintain district operations and shall recommend to the Governing Board an appropriate rate of pay for such employees for the period of the work stoppage.

~~(cf. 4113 - Assignment)~~

~~(cf. 4121 - Temporary/Substitute Personnel)~~

~~Days of instruction lost due to a work stoppage may be made up following the end of the normal school year.~~

~~(cf. 6111 - School Calendar)~~

Strike Plan

The Superintendent Chief Learning Officer or designee may establish a committee to develop a plan in the event of a work stoppage. This committee may include district-level staff, legal counsel, the district's negotiator and parents/guardians.

The strike plan shall address, at a minimum, the following elements:

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- ~~1.~~ **1.** Roles and responsibilities during a work stoppage, including roles of the Board, Superintendent Chief Learning Officer, district-level staff, legal counsel, principals, certificated or classified staff when they are not participating in the strike, substitutes and other employees
- ~~2.~~ **2.** Criteria for keeping schools open during a work stoppage, including potential costs, availability of qualified substitutes or other staffing, **and** the ability to maintain the quality of the educational program and other essential services; and the ability to ensure the safety of students and staff
- ~~3.~~ **3.** Maintenance of the educational program, including availability of lesson plans and instructional materials, alternatives for handling special education and other programs as

appropriate

4. ~~4.~~ Internal communications among district staff and the Board during a work stoppage
5. ~~5.~~ Plans for obtaining, **and paying for the services of** and communicating with temporary or substitute employees
6. ~~6.~~ Status of district-paid benefits, including health care, insurance, vacation and sick leave benefits

~~(cf. 4154/4254/4354 – Health and Welfare Benefits)~~

~~(cf. 4161.1/4361.1 – Personal Illness/Injury Leave)~~

~~(cf. 4161.2/4261.2/4361.3 – Personal Leaves)~~

~~(cf. 4261.1 – Personal Illness/Injury Leave)~~

7. ~~7.~~ Communications with parents/guardians, the media, business partners, public officials and other community members that identify key messages, strategies and district spokespersons

~~(cf. 1100 – Communications with the Public)~~

~~(cf. 1112 – Media Relations)~~

~~(cf. 4143.1/4243.1 – Public Notice – Personnel Negotiations)~~

8. ~~8.~~ Equipment and supply needs
9. ~~9.~~ Desirability and feasibility of conducting extracurricular activities during a work stoppage including an analysis of the number of events and activities that would be affected, the availability of staffing, the degree of student and/or community participation and the ability to provide adequate security at events

~~(cf. 6145 – Extracurricular and Cocurricular Activities)~~

10. ~~10.~~ Contingency plans for transportation

~~(cf. 3541 – Transportation Routes and Services)~~

11. ~~11.~~ Contingency plans for the provision of food services

~~(cf. 3550 – Food Service/Child Nutrition Program)~~

12. ~~12.~~ Identification of outside resources who may be called upon to help with school operations
13. ~~13.~~ Coordination with law enforcement and other agencies

~~(cf. 1020 – Youth Services)~~

~~(cf. 1400 – Relations Between Other Governmental Agencies and the Schools)~~

~~(cf. 1700 – Relations Between Private Industry and the Schools)~~

- ~~14. 14.~~ Appropriate safeguards for the safety of students, working employees, substitutes, volunteers, parent/guardians and Board members

~~(cf. 0450 – Comprehensive Safety Plan)~~

- ~~15. 15.~~ Provisions for safe, effective board meetings
- ~~16. 16.~~ Cost estimates for the various strategies to be implemented during a work stoppage
- ~~17. 17.~~ Legal remedies available to enjoin the work stoppage if possible or to file unfair labor practice charges against the employee organization
- ~~18. 18.~~ Continuation of negotiations during a work stoppage

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

- ~~19. 19.~~ Plans for resuming normal district operations, rebuilding relations and disciplining employees if necessary after the work stoppage

Activities of Employees

The district shall not impose or threaten to impose reprisals, discriminate or threaten to discriminate, or otherwise interfere with, restrain or coerce employees for the exercise of their rights. (Government Code 3543.5-3543.6)

Employees engaging in a work stoppage shall not prevent access to school facilities by other employees, substitutes or students; use or threaten physical violence or bodily injury; trespass; distribute malicious or defamatory leaflets or materials; or otherwise coerce or intimidate individuals in the conduct of school business.

During an actual or threatened work stoppage, an employee shall not retain in his/her possession any district property, including but not limited to student attendance and grading records, lesson plans, keys, equipment and supplies.

~~(cf. 3512 – Equipment)~~

Employees shall not use students to distribute messages that promote or explain the position of any employee organization that is contemplating or engaged in a work stoppage. In addition, employees shall not use classroom or other duty time to promote an employee organization's position in negotiations or in a work stoppage.

When students raise questions related to a work stoppage, teachers shall approach the

subject in accordance with the district's policy on controversial issues and shall not allow such discussions to interfere with their regular teaching responsibilities.

(cf. 6144 - Controversial Issues)

Salary and Benefits

Employees withholding services shall not receive salary or unemployment benefits during the period of the work stoppage.

Any employee withholding services may be subject to the loss of payroll deduction privileges.

~~The district may not pay contributions to health care benefits if employees fail to work~~

~~Throughout the minimum number~~ **duration of hours per month as specified** ~~any enrolled employee's participation in the collective bargaining agreement, Board policy or administrative regulation. However~~ **an authorized strike**, the district shall offer employees the option of paying ~~their own~~ **not fail or refuse to maintain and pay for the employee's continued health care or other medical** coverage under COBRA. (29 USC 1161-1169)

~~If or the coverage of their enrolled dependents, nor shall the district determine that it will withhold its~~ **fail to collect and remit the employee's contributions to employees' life and any such coverage. The district shall maintain the coverage at the same level and under the same conditions that the coverage would have been provided if the employee had continued to work in the employee's position for the duration of the strike. Health care or other medical coverage for this purpose includes coverage for medical, dental, vision, behavioral health, disability, accidental death and dismemberment, life, and supplemental health insurance,** ~~employees shall be offered an opportunity to retain these coverages by paying the contributions themselves. (Insurance~~ **benefits. (Government Code 10116)**

3141-3142)

"Authorized strike" means a strike sanctioned by the central labor council or the membership of an employee organization that represents the striking employees, or one that is engaged in by unrepresented employees. (Government Code 3141)

Employees whose vacation leave has been authorized prior to the work stoppage shall receive vacation pay for the authorized period.

If an employee is on a paid sick or disability leave when the work stoppage begins, ~~he/she~~ **the employee** shall be entitled to continued payment as long as ~~he/she~~ **the employee** remains ill or disabled and is otherwise eligible according to Board policy and collective bargaining agreements.

The Superintendent Chief Learning Officer or designee may determine that credit shall not be applied toward probationary service, salary schedule advancement, permanent status, vacation earnings, retirement credit or sick leave accrual during the period of time that employees withhold services.

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
Ed. Code 35204	Contract with attorney in private practice
Ed. Code 35205	Contract for legal services
Ed. Code 37200	School calendar
Gov. Code 3140-3142	Public Employee Health Protection Act
Gov. Code 3540-3549.3	Educational Employment Relations Act
Gov. Code 3543.5-3543.6	Unfair labor practices
Gov. Code 3548.3548.8	Impasse procedures
Management Resources	Description
Public Employment Relations Board Decision	Fresno Unified School District, 1982, PERB Dec. No. 208, 6 PERC 13110
Public Employment Relations Board Decision	Konocti Unified School District, 1982, PERB Dec. No. 217, 6 PERC 13152
Website	<u>CSBA District and County Office of Education Legal Services</u>
Website	<u>State Mediation and Conciliation Service (SMCS)</u>
Website	<u>California Public Employment Relations Board</u>
Website	<u>CSBA</u>

Cross References

Code	Description
0400	<u>Comprehensive Plans</u>
0450	<u>Comprehensive Safety Plan</u>
0450	<u>Comprehensive Safety Plan</u>
1100	<u>Communication With The Public</u>
1112	<u>Media Relations</u>
1400	<u>Relations Between Other Governmental Agencies And The Schools</u>
1700	<u>Relations Between Private Industry And The Schools</u>
3512	<u>Equipment</u>
3512-E PDF(1)	<u>Equipment</u>
3541	<u>Transportation Routes And Services</u>
3550	<u>Food Service/Child Nutrition Program</u>
3550	<u>Food Service/Child Nutrition Program</u>

4113	<u>Assignment</u>
4113	<u>Assignment</u>
4118	<u>Dismissal/Suspension/Disciplinary Action</u>
4121	<u>Temporary/Substitute Personnel</u>
4121	<u>Temporary/Substitute Personnel</u>
4141	<u>Collective Bargaining Agreement</u>
4143	<u>Negotiations/Consultation</u>
4143.1	<u>Public Notice – Personnel Negotiations</u>
4143.1	<u>Public Notice – Personnel Negotiations</u>
4154	<u>Health And Welfare Benefits</u>
4154	<u>Health And Welfare Benefits</u>
4161.1	<u>Personal Illness/Injury Leave</u>
4161.2	<u>Personal Leaves</u>
4218	<u>Dismissal/Suspension/Disciplinary Action</u>
4241	<u>Collective Bargaining Agreement</u>
4243	<u>Negotiations/Consultation</u>
4243.1	<u>Public Notice – Personnel Negotiations</u>
4243.1	<u>Public Notice – Personnel Negotiations</u>
4254	<u>Health And Welfare Benefits</u>
4254	<u>Health And Welfare Benefits</u>
4261.1	<u>Personal Illness/Injury Leave</u>
4261.2	<u>Personal Leaves</u>
4354	<u>Health And Welfare Benefits</u>
4354	<u>Health And Welfare Benefits</u>
4361.1	<u>Personal Illness/Injury Leave</u>
4361.2	<u>Personal Leaves</u>
6111	<u>School Calendar</u>
6144	<u>Controversial Issues</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
9000	<u>Role Of The Board</u>
9320	<u>Meetings And Notices</u>
