

**Personnel**

**CIVIL AND LEGAL RIGHTS**

The Board of Trustees 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 performing his/her duties.

An employee's personal beliefs and activities, including religious, political, cultural, social, or other beliefs or activities, or lack thereof, shall not be grounds for disciplinary action against the employee, provided that the beliefs or activities do not violate law, Board policy, or administrative regulation.

(cf. 4030 - Nondiscrimination in Employment)  
(cf. 4119.21/4219.21/4319.21 - 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.

Employees do not have a reasonable expectation of privacy with regards to district property under an employee's control including, but not limited to, desks, classrooms, offices, file cabinets, computers, or phones. As necessary to protect the health, welfare, or safety of students and staff, school officials may search such items in order to uncover evidence that the employee is violating the law, Board policy, administrative regulation, or other rules of the district or school.

No employee shall be disciplined or retaliated against solely for acting to protect a student engaged in conduct authorized under Education Code 48907 or 48950.

**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, 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 or noncompliance with a state or federal rule or regulation, he/she 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

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telephone number of the whistleblower hotline maintained by the office of the California Attorney General. (Labor Code 1102.8)

No employee shall use or attempt to use his/her official authority or influence 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. 3515 - Campus Security)  
(cf. 4040 - Employee Use of Technology)

An employee who has disclosed improper governmental activity and believes that he/she has subsequently been subjected to acts or attempted acts of reprisal 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, 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 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, district policy, or administrative regulation; or when 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.

(cf. 3320 - Claims and Actions Against the District)  
(cf. 9260 - Legal Protection)

The protection against liability shall not apply when:

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.

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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

Legal Reference:

**EDUCATION CODE**

200-262.4 Prohibition of discrimination on the basis of sex  
7050-7058 Political activities of school officers and employees  
44040 Discrimination based on employee's appearance before certain boards or committees  
44110-44114 Reporting by school employees of improper governmental activity  
48907 Student freedom of expression; employee's protection of student rights  
48950 Speech and other communication  
49091.24 Teacher rights to refuse evaluation/survey of personal life

**CIVIL CODE**

51 Unruh Civil Rights Act

**GOVERNMENT CODE**

815.3 Intentional torts  
820-823 Tort Claims Act  
825.6 Indemnification of public entity  
3540.1 Public employment definitions  
3543.5 Interference with employee's rights prohibited  
12650-12656 False claims actions  
12940-12951 Discrimination prohibited; unlawful practices

**LABOR CODE**

1102.5-1106 Whistleblower protections

**UNITED STATES CODE, TITLE 18**

16 Crime of violence defined

**UNITED STATES CODE, TITLE 20**

6731-6738 Teacher liability protection

**UNITED STATES CODE, TITLE 42**

2000d-2000d-7 Title VI, Civil Rights Act  
2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended  
2000h-2000h-6 Title IX, 1972 Education Act Amendments  
12101-12213 Americans with Disabilities Act

**COURT DECISIONS**

Hartnett v. Crosier, (2012) 205 Cal.App.4<sup>th</sup> 685

Johnson v. Poway Unified School District, (2011) 658 F.3d 954

Ohton v. CSU San Diego, (2007) 56 Cal.Rptr.3d 111

Legal Reference continued: (see next page)

**CIVIL AND LEGAL RIGHTS (continued)**

Legal Reference: (continued)

Garcetti v. Ceballos, (2006) 543 U.S. 1186

O'Conner v. Ortega, (1987) 480 U.S. 709

New Jersey v. T.L.O., (1985) 468 U.S. 325

Management Resources:

**WEB SITES**

California Attorney General: <http://www.oag.ca.gov>