



## PERSONNEL – CLASSIFIED EMPLOYEES

### BOARD POLICY – CIVIL AND LEGAL RIGHTS

BP 4219.1

The County Board of Education and the County Superintendent of Schools believe that the personal life of an employee is not an appropriate concern of the SBCEO, except as it may directly relate to the performance of the employee's duties.

SBCEO 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 SBCEO shall make no inquiry concerning the personal values, attitudes, and beliefs of SBCEO employees or their sexual orientation or political or religious affiliations, beliefs, or opinions except when authorized by law. In addition, no SBCEO employee shall be required to provide critical appraisals of other individuals with whom the employee has a familial relationship. However, the SBCEO 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 SBCEO property under an employee's control.

#### **Whistleblower Protection**

An employee shall have the right to disclose to 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 SBCEO or an SBCEO 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 County 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 SBCEO's complaint procedures. After filing a complaint with the SBCEO, 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 SBCEO responsibilities, the employee's act or omission is in conformity with federal, state, and local laws, SBCEO 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)

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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**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 County Superintendent of Schools or designee 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  
Ed. Code 44040

Ed. Code 44110-44114  
Ed. Code 48907

Ed. Code 48950  
Ed. Code 49091.24  
Ed. Code 7050-7058  
Gov. Code 12650-12656  
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

**Description**

Inalienable rights  
[Prohibition of discrimination](#)  
Discrimination based on employee's appearance before certain boards or committees  
Reporting by school employees of improper governmental activity  
Exercise of free expression; time, place and manner rules and regulations  
Speech and other communication  
Teacher rights to refuse evaluation/survey of personal life  
Political activities of school officers and employees  
False claims actions  
Discrimination prohibited; unlawful practices  
Public employment; definitions  
Interference with employee's rights prohibited  
Intentional torts  
Tort claims act  
Indemnification of public entity  
Whistleblower protections

**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

**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  
Amendment 1, Free exercise, free speech, and establishment clauses

**Management Resources**

Court Decision  
Court Decision  
Court Decision  
Court Decision  
Court Decision  
Court Decision  
Court Decision  
Website  
Website

**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](#)

ADOPTED BY COUNTY BOARD:  
REVISED:

February 2, 2023