



PERSONNEL – MANAGEMENT AND SUPERVISORY EMPLOYEES

BOARD POLICY – CIVIL AND LEGAL RIGHTS

BP 4319.1

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.

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