

All Personnel

CIVIL AND LEGAL RIGHTS

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 duties.

(cf. 2300 - Conflict of Interest: Designated Personnel)

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 regulations.

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4119.25 - Political Activities of Employees)

(cf. 4144 - Complaints)

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 appraisal 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.

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 School Safety and 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, County Superintendent of Schools, or the

Board Policy 4119.1(b)

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, incompetence 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 441212, 44113; Labor Code 1102.5)

The Superintendent or designee shall prominently display in lettering larger than size 14 pica 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 California Attorney General. (Labor Code 1102.8)

No employee shall use or attempt to use his/her official authority to influence to intimidate, threaten, coerce or command another employee for the purpose of interfering with that employee's right to disclose improper government 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 shall file a written complaint in accordance with the district's complaint procedures. After filing a complaint with the district, he/she 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 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)

Board Policy 4119.1(c)

The protection against liability shall not apply when: (20 USC 6736)

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.

Nondiscrimination

The conditions of employment in the district, including wages, hours, terms and benefits, shall be applied without regard to race, color, creed, gender, religion, ancestry, national origin, age or non job-related disability. Employees shall observe all laws, policies and regulations prohibiting discrimination or harassment.

Grievances

No employee, employee association representative, member of any employee organization or any other participant in a grievance procedure shall suffer reprisals in any way or suffer any professional disadvantage by reason of participation in the processing of any grievance.

(cf. 4144/4244 - Grievances/Complaints)

Association Membership

No employee shall suffer any professional disadvantage by reason of the employee's membership or non-membership in an employee association or participation in its lawful activities.

Rights in Legal Proceedings

All employees have the right, if contacted by an attorney or the representative of a law firm not employed by the district about any claim, complaint, lawsuit or other legal proceeding against the district, to:

1. Speak to the attorney or the representative without fear of punishment in retaliation for such communication
2. Contact their supervisor before answering questions or responding in any way
3. Refuse to speak to the attorney or representative
4. Notify the district that the attorney or representative has requested an interview

Board Policy 4119.1(d)

5. Consult with the employee's own attorney or an attorney employed by the district or bargaining unit
6. Be represented at any interview either by the employee's own attorney or an attorney employed by the district.

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*

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*

12940-12951 *Discrimination prohibited; Unlawful practices*

LABOR CODE

1102.5-1106 *Whistleblower protections*

UNITED STATES CODE, TITLE 18

16 *Crimes 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

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://caag.state.ca.us>

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1/16/13

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WEST SONOMA COUNTY UHSD
Sebastopol, California