

## **All Personnel**

BP 4119.1 (a)

4219.1

4319.1

## **CIVIL AND LEGAL RIGHTS**

The Board of Education 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 their duties.

District 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 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.

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 district property under an employee's control.

### **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, 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 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

## **CIVIL AND LEGAL RIGHTS (Continued)**

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 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 the employee, in accordance with Education Code 44114.

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 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 their 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)

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### **Protection Against Liability**

No employee shall be liable for harm caused by his/her act or omission when acting within the scope of employment or district responsibilities. For the protection against liability to apply, the act or omission must be in conformity with federal, state, and local laws, district 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

## **CIVIL AND LEGAL RIGHTS (Continued)**

conscious, flagrant indifference to the harmed person's right to safety.

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.

### *State References and Description*

*CA Constitution Article 1, Section 1 Inalienable rights*

*Ed. Code 200-262.4 Prohibition of discrimination -*

*<https://simbli.eboardsolutions.com/SU/ytTLslshoozWGUAbNL6kKkgxQ==>*

*Ed. Code 44040 Discrimination based on employee's appearance before certain boards or committees*

*Ed. Code 44110-44114 Reporting by school employees of improper governmental activity*

*Ed. Code 48907 Exercise of free expression; time, place and manner rules and regulations*

*Ed. Code 48950 Speech and other communication*

*Ed. Code 49091.24 Teacher rights to refuse evaluation/survey of personal life*

*Ed. Code 7050-7058 Political activities of school officers and employees*

*Gov. Code 12650-12656 False claims actions*

*Gov. Code 12940-12953 Discrimination prohibited; unlawful practices*

*Gov. Code 3540.1 Public employment; definitions*

*Gov. Code 3543.5 Interference with employee's rights prohibited*

*Gov. Code 815.3 Intentional torts*

*Gov. Code 820-823 Tort claims act*

*Gov. Code 825.6 Indemnification of public entity*

*Lab. Code 1102.5-1106 Whistleblower protections*

### *Federal References and Description*

*18 USC 16 Crime of violence; definition*

*20 USC 1681-1688 Title IX of the Education Amendments of 1972; discrimination based on sex*

*20 USC 7941-7948 Teacher liability protection*

*42 USC 12101-12213 Americans with Disabilities Act*

*42 USC 2000d-2000d-7 Title VI, Civil Rights Act of 1964*

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## **CIVIL AND LEGAL RIGHTS (Continued)**

*42 USC 2000e-2000e-17 Title VII, Civil Rights Act of 1964, as amended*  
*U.S. Constitution Amendment 1, Free exercise, free speech, and establishment clauses*

### *Management Resources References and Description*

*Court Decision Kennedy v. Bremerton (2022) 142 S.Ct. 2407 Court Decision New Jersey v. T.L.O. (1985) 469 U.S. 325*

*Court Decision Garcetti v. Ceballos (2006) 547 U.S. 410 3*

*Court Decision Hartnett v. Crosier (2012) 205 Cal.App.4th 685*

*Court Decision Johnson v. Poway Unified School District (2011) 658 F.3d 954*

*Court Decision O'Conner v. Ortega (1987) 480 U.S. 709*

*Court Decision Ohton v. CSU San Diego (2007) 56 Cal.Rptr.3d 111 Website CSBA District and County Office of Education Legal Services - <https://simbli.eboardsolutions.com/SU/UdykszdmPETuDslshXk6R5akQ>==*

*Website California Office of the Attorney General -*

*<https://simbli.eboardsolutions.com/SU/5qNslsh5DoKuytasYcv9khGiA>==*

Policy

Adopted: September 1, 2005

Revised: December 13, 2007; November 16, 2023

**VACAVILLE UNIFIED SCHOOL DISTRICT**

Vacaville, California