

Personnel

CONCERTED ACTION/WORK STOPPAGE

The Board of Trustees recognizes the importance of maintaining ongoing positive relations with employees and engaging in fair, respectful negotiations with employee organizations. The Board desires to reach agreement on employment contracts in a manner that does not disrupt school operations or impact student achievement.

The Board recognizes that advance planning is necessary to ensure that students receive the education to which they are entitled in the event of a work slowdown, sickout, strike, or other concerted activity by employees. The Superintendent or designee shall develop a written plan which shall include strategies for the provision of internal and external communications, preservation of student and staff safety, maintenance of district operations, and appropriate student instruction and supervision during a work slowdown or stoppage.

If an employee organization gives notice that it intends to strike, the Superintendent or designee shall notify the Public Employment Relations Board, Employment Development Department, employees in the striking unit, employees in the nonstriking unit, parents/guardians, students, law enforcement, the media, and others as appropriate.

Employees should be held accountable for their behavior during any labor dispute. The district may take disciplinary action against any employee who engages in an unlawful concerted action or in unlawful behavior in an otherwise protected activity, taking into account the seriousness of the behavior and the district's efforts to rebuild relations following the withholding of services by employees.

- (cf. 4141/4241 - Collective Bargaining Agreement)
- (cf. 4143/4243 - Negotiations/Consultation)
- (cf. 0450 - Comprehensive Safety Plan)
- (cf. 1100 - Communications with the Public)
- (cf. 1112 - Media Relations)
- (cf. 9000 - Role of the Board)
- (cf. 4118 - Suspension/Disciplinary Action)
- (cf. 4119.25/4219.25/4319.25 - Political Activities of Employees)
- (cf. 4218 - Suspension/Disciplinary Action)

Legal Reference:

EDUCATION CODE

- 35204 Contract with attorney in private practice
- 35205 Contract for legal services
- 37200-37202 Instructional days

CONCERTED ACTION/WORK STOPPAGE (continued)

GOVERNMENT CODE

3540-3549.3 Educational Employment Relations Act, especially:

3543.5-3543.6 Unfair labor practices

3548-3548.8 Impasse procedures

INSURANCE CODE

10116 Employee continuation of insurance coverage

UNITED STATES CODE, TITLE 29

1161-1169 Continuation coverage and additional standards for group health plan

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

Fresno Unified School District, 1982, PERB Dec. No. 208, 6 PERC 13110

Konocti Unified School District, 1982, PERB Dec. No. 217, 6 PERC 13152

Management Resources:

CSBA PUBLICATIONS

Collective Bargaining DVD-ROM

Maximizing School Board Governance: Collective Bargaining

Political Activities of School Districts: Legal Issues, rev. 2001

Before the Strike: Planning Ahead in Difficult Negotiations, 1996

WEB SITES

CSBA: <http://www.csba.org>

Public Employment Relations Board: <http://www.perb.ca.gov>

State Mediation and Conciliation Service (SMCS): <http://www.dir.ca.gov/csmcs/smcs.html>

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Maintenance of District Operations

At the discretion of the Superintendent or designee, employees reporting for duty may be temporarily assigned to other duties. In addition, the Superintendent or designee may hire qualified substitute and/or temporary employees as needed to maintain district operations and shall recommend to the Governing Board an appropriate rate of pay for such employees for the period of the work stoppage.

Days of instruction lost due to a work stoppage may be made up following the end of the normal school year.

Strike Plan

The Superintendent or designee may establish a committee to develop a plan in the event of a work stoppage. This committee may include district-level staff, legal counsel, the district's negotiator and parents/guardians.

The strike plan shall address, at a minimum, the following elements:

1. Roles and responsibilities during a work stoppage, including roles of the Board, Superintendent, district-level staff, legal counsel, principals, certificated or classified staff when they are not participating in the strike, substitutes and other employees
2. Criteria for keeping schools open during a work stoppage including potential costs, availability of qualified substitutes or other staffing, the ability to maintain the quality of the educational program and other essential services, and the ability to ensure the safety of students and staff
3. Maintenance of the educational program, including availability of lesson plans and instructional materials, alternatives for handling special education and other programs as appropriate
4. Internal communications among district staff and the Board during a work stoppage
5. Plans for obtaining, paying and communicating with temporary or substitute employees
6. Status of district-paid benefits, including health care, insurance, vacation and sick leave benefits

CONCERTED ACTION/WORK STOPPAGE (continued)

7. Communications with parents/guardians, the media, business partners, public officials and other community members that identify key messages, strategies and district spokespersons
8. Equipment and supply needs
9. Desirability and feasibility of conducting extracurricular activities during a work stoppage including an analysis of the number of events and activities that would be affected, the availability of staffing, the degree of student and/or community participation and the ability to provide adequate security at events
10. Contingency plans for transportation
11. Contingency plans for the provision of food services
12. Identification of outside resources who may be called upon to help with school operations
13. Coordination with law enforcement and other agencies
14. Appropriate safeguards for the safety of students, working employees, substitutes, volunteers, parent/guardians and Board members
15. Provisions for safe, effective board meetings
16. Cost estimates for the various strategies to be implemented during a work stoppage
17. Legal remedies available to enjoin the work stoppage if possible or to file unfair labor practice charges against the employee organization
18. Continuation of negotiations during a work stoppage
19. Plans for resuming normal district operations, rebuilding relations and disciplining employees if necessary after the work stoppage

Activities of Employees

The district shall not impose or threaten to impose reprisals, discriminate or threaten to discriminate, or otherwise interfere with, restrain or coerce employees for the exercise of their rights. (Government Code 3543.5-3543.6)

Employees engaging in a work stoppage shall not prevent access to school facilities by other employees, substitutes or students; use or threaten physical violence or bodily injury; trespass;

CONCERTED ACTION/WORK STOPPAGE (continued)

distribute malicious or defamatory leaflets or materials; or otherwise coerce or intimidate individuals in the conduct of school business.

During an actual or threatened work stoppage, an employee shall not retain in his/her possession any district property, including but not limited to student attendance and grading records, lesson plans, keys, equipment and supplies.

Employees shall not use students to distribute messages that promote or explain the position of any employee organization that is contemplating or engaged in a work stoppage. In addition, employees shall not use classroom or other duty time to promote an employee organization's position in negotiations or in a work stoppage.

When students raise questions related to a work stoppage, teachers shall approach the subject in accordance with the district's policy on controversial issues and shall not allow such discussions to interfere with their regular teaching responsibilities.

Salary and Benefits

Employees withholding services shall not receive salary or unemployment benefits during the period of the work stoppage.

Any employee withholding services may be subject to the loss of payroll deduction privileges.

The district may not pay contributions to health care benefits if employees fail to work the minimum number of hours per month as specified in the collective bargaining agreement, Board policy or administrative regulation. However, the district shall offer employees the option of paying their own coverage under COBRA. (29 USC 1161-1169)

If the district determines that it will withhold its contributions to employees' life and disability insurance, employees shall be offered an opportunity to retain these coverages by paying the contributions themselves. (Insurance Code 10116)

Employees whose vacation leave has been authorized prior to the work stoppage shall receive vacation pay for the authorized period.

If an employee is on a paid sick or disability leave when the work stoppage begins, he/she shall be entitled to continued payment as long as he/she remains ill or disabled and is otherwise eligible according to Board policy and collective bargaining agreements.

The Superintendent or designee may determine that credit shall not be applied toward probationary service, salary schedule advancement, permanent status, vacation earnings,

CONCERTED ACTION/WORK STOPPAGE (continued)

retirement credit or sick leave accrual during the period of time that employees withhold services.

- (cf. 4113 - Assignment)
- (cf. 4121 - Temporary/Substitute Personnel)
- (cf. 6111 - School Calendar)
- (cf. 4154/4254/4354 - Health and Welfare Benefits)
- (cf. 4161.1/4361.1 - Personal Illness/Injury Leave)
- (cf. 4161.2/4261.2/4361.3 - Personal Leaves)
- (cf. 4261.1 - Personal Illness/Injury Leave)
- (cf. 1100 - Communications with the Public)
- (cf. 1112 - Media Relations)
- (cf. 4143.1/4243.1 - Public Notice - Personnel Negotiations)
- (cf. 6145 - Extracurricular and Cocurricular Activities)
- (cf. 3541 - Transportation Routes and Services)
- (cf. 3550 - Food Service/Child Nutrition Program)
- (cf. 1020 - Youth Services)
- (cf. 1400 - Relations Between Other Governmental Agencies and the Schools)
- (cf. 1700 - Relations Between Private Industry and the Schools)
- (cf. 0450 - Comprehensive Safety Plan)
- (cf. 4143/4243 - Negotiations/Consultation)
- (cf. 3512 - Equipment)
- (cf. 6144 - Controversial Issues)