

## **All Personnel**

### **BARGAINING UNITS**

The Governing Board recognizes the right of district employees to form a bargaining unit, select an employee organization as their exclusive representative, and be represented by that organization in their employment relationship with the district. The Board is committed to negotiating in good faith with recognized employee organizations and respecting the rights of employees and employee organizations.

(cf. 4141/4241 – Collective Bargaining Agreement)  
(cf. 4143/4243 – Negotiations/Consultation)  
(cf. 9000 - Role of the Board)

The district shall not dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it. (Government Code 3543.5)

(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)

### **Formation of Bargaining Units**

Certificated and classified employees shall not be included in the same bargaining unit. (Government Code 3545)

The district may recognize a bargaining unit of supervisory employees if: (Government Code 3545)

1. The bargaining unit includes all supervisory employees.
2. The supervisors are not represented by the same organization that represents employees whom the supervisory employees supervise.

(cf. 4300 - Administrative and Supervisory Personnel)  
(cf. 4301 - Administrative Staff Organization)  
(cf. 4312.1 - Contracts)

For this purpose, supervisory employee means any employee, regardless of job description, having the authority, in the interest of the district, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, discipline, assign work, direct, adjust grievance of other employees, or effectively recommend that action. The exercise of this authority shall not be merely routine or clerical in nature, but shall require the use of independent judgment. (Government Code 3540.1)

Employees serving in management, senior management, or confidential positions shall not be represented by an exclusive representative. Such employees may represent themselves individually or may be represented by an employee organization whose membership is composed entirely of employees designated as holding those positions. When represented by an employee organization, that organization shall not meet and negotiate with the district. For this purpose: (Government Code 3540.1, 3543.4)

**BARGAINING UNITS (continued)**

1. Management employee means any employee who has significant responsibilities for formulating district policies or administering district programs, and whose position is designated as a management position by the Board.
2. Confidential employee means any employee who is required to develop or present management positions with respect to employer-employee relations or whose duties normally require access to confidential information that is used to contribute significantly to the development of management positions.

**Membership**

The district shall not deter or discourage employees or job applicants from becoming or remaining members of an employee organization, authorizing representation by an employee organization, or authorizing dues or fee deductions to an employee organization. In addition, the district shall not impose or threaten to impose reprisals on employees, discriminate or threaten to discriminate against employees, or otherwise interfere with, restrain, or coerce employees because of their membership or nonmembership in an employee organization. (Government Code 3543.5, 3550)

**Access to Employee Orientations and Contact Information**

The district shall permit employee organizations access to new employee orientations in accordance with Government Code sections 3555.5 and 3556 or the collectively bargained agreement between the district and the employee organization.

The Superintendent or designee shall provide an exclusive representative with information in accordance with Government Code sections 3558 and 6254.3 or the collectively bargained agreement between the district and the employee organization.

(cf. 1340 - Access to District Records)

**Membership Dues or Other Payments to an Employee Organization**

When drawing an order for the salary or wage payment of a bargaining unit employee of an employee organization, the district shall deduct any amount which has been requested by the employee in a revocable written authorization for the purpose of paying dues or other payments for any service, program, or committee provided or sponsored by the employee organization. (Education Code 45060, 45168)

An employee organization that certifies that it has and will maintain individual employee authorizations shall handle and process employee written authorizations for payroll deductions. When an employee organization provides such a certification to the district, the district shall rely on information from the employee organization regarding the amounts of such payroll deductions and from which employees. The employee organization shall not be required to submit to the district a copy of the written authorization in order for the payroll deductions to be effective. However, when there is a dispute about the existence or terms of the written authorization, a copy of the employee's written authorization shall be submitted to the district. The employee

**BARGAINING UNITS (continued)**

organization shall indemnify the district for any employee claims regarding payroll deductions made by the district in reliance on notification from the employee organization. (Education Code 45060, 45168)

When an employee organization which has declined to certify that it will handle and process employee written authorizations makes a request for payroll deductions, the district shall request a copy of the employee's written authorization before making the payroll deductions. (Education Code 45060, 45168)

A written authorization shall remain in effect until expressly revoked in writing by the employee and pursuant to the terms of the written authorization. Employee requests to cancel or change authorizations for payroll deductions for employee organizations shall be directed to the employee organization rather than the district. The employee organization shall be responsible for processing these requests. The district shall rely on the information provided by the employee organization regarding whether deductions for an employee organization were properly canceled or changed. The employee organization shall be required to indemnify the district for any claims made by an employee for deductions made by the district in reliance on information from the employee organization. (Education Code 45060, 45168)

Legal Reference:

EDUCATION CODE

- 45060-45061.5 Deduction of fees from salary or wage payment, certificated employees
- 45100.5 Senior management positions
- 45104.5 Abolishment of senior classified management positions
- 45108.5 Definition of senior classified management employees
- 45108.7 Waiver of provisions of 45108.5
- 45168 Deduction of fees from salary or wage payment, classified employees
- 45220-45320 Merit system, classified employees

GOVERNMENT CODE

- 3540-3549.3 Educational Employment Relations Act, especially:
  - 3540.1 Definitions
  - 3543.4 Management position; representation
  - 3545 Appropriateness of unit; basis
- 3550-3552 Prohibition on public employers deterring or discouraging union membership
- 3555-3559 Public employee communication, information and orientation
- 6205-6210 Confidentiality of addresses for victims of domestic violence, sexual assault or stalking
- 6254.3 Disclosure of employee contact information to employee organization
- 6503.5 Joint powers agencies
- 53260-53264 Employment contracts

CODE OF REGULATIONS, TITLE 8

- 33015-33490 Recognition of exclusive representative; proceedings
- 33700-33710 Severance of established unit
- 34020 Petition to rescind organizational security arrangement
- 34055 Reinstatement of organizational security arrangement

Legal Reference Continued: (see next page)

**BARGAINING UNITS (continued)**

Legal Reference Continued:

COURT DECISIONS

Janus v. American Federation of State, County and Municipal Employees, Council 31, (2018) 138 S.Ct.

2448 Friedrichs v. California Teachers Association, et al., (2016) 136 S. Ct. 1083

County of Los Angeles v. Service Employees International Union, Local 721, (2013) 56 Cal. 4th 905

Management Resources:

WEB SITES

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

Association of California School Administrators: <http://www.acsa.org>

California Federation of Teachers: <http://www.cft.org>

California School Employees Association: <http://www.csea.com>

California Teachers Association: <http://www.cta.org>

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

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1/12  
2/13/18  
10/10/18