

## Personnel

### BARGAINING UNITS

The Governing Board recognizes the right of district employees to form bargaining units, select an employee organization as the exclusive representative to represent the employees in the employees' employment relationship with the district. The Board is committed to negotiating in good faith with the employee organizations and respecting the rights of employees and employee organizations.

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)

#### Formation of Bargaining Units

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

The district supervisory employees may be recognized if the bargaining unit includes all supervisory employees and is not represented by an employee organization that represents district employees who are supervised by the supervisory employees. (Government Code 3545)

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, lay off, 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 a management, senior management, or confidential position shall not be represented by an exclusive representative. In the employment relationship with the district, such employees may represent themselves or be represented by an employee organization whose membership is composed entirely of employees designated as holding those positions. An employee organization representing management or confidential employees shall not be permitted to meet and negotiate with the district on behalf of the employees. (Government Code 3543.4)

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. (Government Code 3540.1)
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. (Government Code 3540.1)

## **Personnel**

### **BARGAINING UNITS**

#### **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)

The Superintendent or designee may communicate with district employees regarding their rights under the law. Such communications shall be factual and accurate, and may not promise a benefit, threaten a reprisal, or in any way deter or discourage employees from joining an employee organization or paying dues.

However, before disseminating to multiple employees any mass communication concerning employees' right to join or support an employee organization or to refrain from joining or supporting an employee organization, such as a written document or script for oral or recorded presentation or message, the Superintendent or designee shall meet and confer with the employees' exclusive representative regarding the content of the communication. If the district and exclusive representative do not come to agreement on the content of the mass communication, the Superintendent or designee may disseminate the district's mass communication provided that, at the same time, copies of the exclusive representative's communication, which shall be of reasonable length, are also distributed. (Government Code 3553)

#### **Access to Employee Orientations and Contact Information**

The district shall permit employee organizations access to new employee orientations where newly hired employees are advised, whether in person, online, or through other means or mediums, of their employment status, rights, benefits, duties, responsibilities, or any other employment-related matters. The district shall provide employee organizations at least 10 days' notice in advance of an orientation. However, in any specific instance where an unforeseeable, urgent need critical to the district's operation prevents the required 10 days' notice, a shorter notice may be provided. (Government Code 3555.5, 3556)

Following a request to negotiate by either party, the structure, time, and manner of access to new employee orientations shall be determined by mutual agreement of the district and the exclusive representative. If the district and exclusive representative fail to reach an agreement, matters related to the access to new employee orientation shall be subject to compulsory interest arbitration. The district and employee organization may mutually agree to submit any dispute to compulsory interest arbitration at any time. In addition, if any dispute arises during negotiations and is not resolved within 45 days after the first meeting or within 60 days after the initial request to negotiate, whichever is

## **Personnel**

### **BARGAINING UNITS**

earlier, either party may make a demand for compulsory interest arbitration. When any such dispute arises during the summer when the district's administrative office is closed, the timeline shall commence on the first day the administrative office reopens. The decision of the arbitrator shall be final and binding on the parties. (Government Code 3556, 3557)

The date, time, and place of the orientation shall not be disclosed to anyone other than employees, the exclusive representative, or a vendor that is contracted to provide a service for purposes of the orientation. (Government Code 3556)

1. When an inperson new employee orientation has not been conducted within 30 days of hiring any new employee who is working in person, the Superintendent or designee shall permit the exclusive representative to schedule an inperson meeting which newly hired employees shall have an opportunity to attend, at the employee's worksite and during employment hours. Each newly hired employee within the bargaining unit shall be provided at least 30 minutes of paid time to attend the meeting.

Upon the request of an exclusive representative scheduling such an inperson meeting, the Superintendent or designee shall provide an appropriate on-site meeting space within seven days of receiving the exclusive representative's request.

2. When, by reason of a state or local public health order limiting the size of gatherings, the district is prohibited from organizing a new employee orientation, an exclusive representative may schedule multiple meetings to ensure that newly hired employees have an opportunity to attend without exceeding the maximum allowable number of people.

#### **Access to Employee Contact Information**

The Superintendent or designee shall provide an exclusive representative with the name, job title, department, work location, telephone numbers (work, home, and personal cell phone), personal email address(es) on file with the district, and home address of any newly hired employee in the bargaining unit, within 30 days of hire or by the first pay period of the month following hire. In addition, the Superintendent or designee shall provide the same information in regard to all employees in the bargaining unit to an exclusive representative at least every 120 days, unless more frequent or detailed lists are required by agreement with the exclusive representative. (Government Code 3558, 6254.3)

However, the Superintendent or designee shall not disclose the home address and any phone numbers on file for employees performing law enforcement-related functions, nor shall he/she disclose the home address, home or personal cell phone number(s), or personal email address(es) of any employee who is a participant in the Safe at Home address confidentiality program pursuant to Government

BP 4140 (d)  
BP 4240  
BP 4340

## **Personnel**

### **BARGAINING UNITS**

Code 6207 or any employee who provides written request that the information not be disclosed for this purpose. Following receipt of a written request, the district shall remove the employee's home address, home and personal cell phone numbers, and personal email address from any mailing list maintained by the district unless the list is only used by the district to contact the employee. (Government Code 3558, 6207, 6254.3)

Within 20 calendar days after an exclusive representative notifies the Superintendent or designee that a list of employees provided by the district is inaccurate or incomplete, the Superintendent or designee shall take steps to correct the list and provide a new list of employees to the exclusive representative. (Government Code 3558)

At least, at the beginning of each school year, the Superintendent or designee shall review the list of district employees to ensure that the list is complete and contains accurate information.

#### Communication with Employees

Employee organizations may have access at reasonable times to areas in which employees work and may use district facilities at reasonable times for the purpose of meetings. Subject to reasonable regulation, employee organizations may also use designated bulletin boards, mailboxes, and other means of communication to communicate with employees. (Government Code 3543.1)

#### 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 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

**Personnel**

**BARGAINING UNITS**

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)

*State*

8 CCR 33015-33490: Recognition of exclusive representative; proceedings

8 CCR 33700-33710: Severance of established unit

8 CCR 34020: Petition to rescind organizational security arrangement

8 CCR 34055: Reinstatement of organizational security arrangement

Ed. Code 45060-45061.5: Deduction of fees from salary or wage payment; certificated employees

Ed. Code 45100.5: Senior classified management positions

Ed. Code 45104.5: Abolishment of senior classified management positions

Ed. Code 45108.5: Definition of senior classified management employees

Ed. Code 45108.7: Waiver of provisions of 45108.5

Ed. Code 45168: Deduction of fees from salary or wage payment; classified employees

Ed. Code 45220-45320: Merit system; classified employees

Gov. Code 3540-3549.3: Educational Employment Relations Act

Gov. Code 3540.1: Public employment; definitions

Gov. Code 3543.4: Management position; representation

Gov. Code 3545: Appropriateness of unit; basis

Gov. Code 3550-3552: Prohibition on public employers deterring or discouraging union membership

Gov. Code 3555-3559: Public employee communication, information and orientation

Gov. Code 53260-53264: Employment contracts

Gov. Code 6205-6210: Confidentiality of addresses for victims of domestic violence, sexual assault or stalking

Gov. Code 6254.3: Disclosure of employee contact information to employee organization

Gov. Code 6503.5: Joint powers agencies

*Federal*

8 CFR 33015-33490: Recognition of exclusive representative; proceedings

8 CFR 33700-33710: Severance of established unit

8 CFR 34020: Petition to rescind organizational security arrangement

BP 4140 (f)  
BP 4240  
BP 4340

**Personnel**

**BARGAINING UNITS**

8 CFR 34055: Reinstatement of organizational security arrangement

*Management Resources*

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

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

Court Decision: Janus v. American Federation of State, County and Municipal Employees, Council 31, (2018) 138 S.Ct. 2448

Public Employment Relations Board Ruling: East Whittier School District, (2004) PERB Dec. No. 1727

Public Employment Relations Board Ruling: City of Sacramento, (2019) PERB Dec. No. 2702m

Website: CSBA District and County Office of Education Legal Services

Website: California Federation of Teachers

Website: California Public Employment Relations Board

Website: California School Employees Association

Website: California Teachers Association

Website: Association of California School Administrators

Website: CSBA

Policy Adopted: 12/14/22

ORCUTT UNION SCHOOL DISTRICT  
Orcutt, California