

## **All Personnel**

BP 4119.1(a)

4219.1

## **CIVIL AND LEGAL RIGHTS**

4319.1

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.

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.

*(cf. 4030 - Nondiscrimination in Employment)*

*(cf. 4119.21/4219.21/4319.21 - Professional Standards)*

*(cf. 4119.25/4219.25/4319.25 - Political Activities of Employees)*

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 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 - Campus 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 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 of 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 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 1102.8)

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

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No employee shall use or attempt to use his/her 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)

*(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, 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 him/her, in accordance with Education Code 44114.

*(cf. 1312.1 - Complaints Concerning District Employees)*

*(cf. 1312.3 - Uniform Complaint Procedures)*

*(cf. 4144/4244/4344 - 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)*

The protection against liability shall not apply when:

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.

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

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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.

### **Rights in Legal Proceedings**

Any employee has 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 his/her 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
5. Consult with his/her own attorney or an attorney employed by the district or bargaining unit
6. Be represented at any interview either by his/her own attorney or an attorney employed by the district

*Legal Reference: (see next page)*

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

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### *Legal Reference:*

#### **EDUCATION CODE**

200-262.4 *Prohibition of discrimination*

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*

48907 *Student freedom of expression; employee's protection of student rights*

48950 *Speech and other communication*

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*

12650-12656 *False claims actions*

12940-12951 *Discrimination prohibited; unlawful practices*

#### **LABOR CODE**

1102.5-1106 *Whistleblower protections*

#### **UNITED STATES CODE, TITLE 18**

16 *Crime 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**

*Hartnett v. Crosier*, (2012) 205 Cal.App.4<sup>th</sup> 685

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

*Ohton v. CSU San Diego*, (2007) 56 Cal.Rptr.3d 111

*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://www.oag.ca.gov>*

### **Policy**

adopted: June 24, 1997

revised: August 7, 2001

revised: December 16, 2003

revised: November 13, 2012

revised: March 28, 2023

## **VISALIA UNIFIED SCHOOL DISTRICT**

Visalia, California