

CONCERTED ACTION/WORK STOPPAGE

The Governing Board 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 prevents disruption to school operations and minimizes impact on student achievement. The Board recognizes that advance planning is necessary to ensure that, in the event of a work stoppage, strike, or other concerted employee activity, students continue to receive educational services to which they are entitled. 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.

The Governing Board believes that strikes, walkouts or other strategies involving the withholding of services are clearly harmful to the public interest because they are intended to achieve material gains for employees by depriving students of the education to which they are entitled.

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

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, other district employees, parents/guardians, students, law enforcement, the media, and others as appropriate.

(cf. 4119.25/4219.25/4319.25 - Political Activities for information about permissible and prohibited political activities of employees and employee organizations)

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.

However, the district shall not discontinue or threaten to discontinue employer contributions for health care or other medical coverage for any employee or their enrolled dependents for the duration of the employee's participation in an authorized strike, as defined in Government Code 3141 and specified in the accompanying administrative regulation.

CONCERTED ACTION/WORK STOPPAGE (continued)**Maintenance of District Operations**

During any work stoppage, strike, or other concerted employee activity, the Superintendent or designee shall take measures to minimize disruption to district operations and student learning. 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.

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, and the ability to maintain essential services and 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 and paying for the services of and communicating with temporary or substitute employees
6. Status of district-paid benefits, including health care, insurance, vacation and sick leave benefits
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

CONCERTED ACTION/WORK STOPPAGE (continued)

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; 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 any district property, including but not limited to student attendance and grading records, lesson plans, keys, equipment and supplies.

CONCERTED ACTION/WORK STOPPAGE (continued)

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.

(cf. 6144 - Controversial Issues)

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.

Throughout the duration of any enrolled employee's participation in an authorized strike, the district shall not fail or refuse to maintain and pay for the employee's continued health care or other medical coverage or the coverage of their enrolled dependents, nor shall the district fail to collect and remit the employee's contributions to any such coverage. The district shall maintain the coverage at the same level and under the same conditions that the coverage would have been provided if the employee had continued to work in the employee's position for the duration of the strike. Health care or other medical coverage for this purpose includes coverage for medical, dental, vision, behavioral health, disability, accidental death and dismemberment, life, and supplemental health insurance benefits.

(Government Code 3141-3142)

"Authorized strike" means a strike sanctioned by the central labor council or the membership of an employee organization that represents the striking employees, or one that is engaged in by unrepresented employees.

(Government Code 3141)

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, the employee shall be entitled to continued payment as long as the employee remains ill or disabled and is otherwise eligible according to Board policy and collective bargaining agreements.

CONCERTED ACTION/WORK STOPPAGE (continued)

The Superintendent or designee may determine that credit shall not be applied toward probationary service, salary schedule advancement, permanent status, vacation earnings, retirement credit or sick leave accrual during the period of time that employees withhold services.

Legal Reference:

EDUCATION CODE

35204 *Contract with attorney in private practice*

35205 *Contract for legal services*

37200-37202 *Instructional days*

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>

Policy
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revised: October 1, 2007
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VISALIA UNIFIED SCHOOL DISTRICT
Visalia, California

CONCERTED ACTION/WORK STOPPAGE

The Superintendent or designee may implement the following procedures when he/she determines that a threat or actual withholding of employee services exists.

Withholding of Services

1. Withholding of services is defined as nonperformance of assigned duties and responsibilities because of collective or individual refusal to provide service, unauthorized use of sick leave, unauthorized use of other leave benefits, nonattendance at required meetings or failure to perform supervisory functions at school-sponsored activities.
2. An employee is deemed to have withdrawn services when and wherever the employee is absent from prescribed duties.
3. From the first day of withholding of services, no warrant shall be drawn in favor of any employee who has not faithfully performed all of his/her prescribed duties.
4. If a no-strike clause is included in the collective bargaining agreement or the court determines that such a clause is implied, the withdrawal of services may constitute a breach of contract and a violation of Board policies and administrative regulations which may result in the initiation of dismissal procedures or other appropriate disciplinary action. In such cases, employees will receive a formal notification of their breach of contract and violation of Board policy and administrative regulations. A copy of this notification will be placed in the employee's file.

Leaves of Absence

1. All employee absences must be verified by written proof of the need for leave.
2. Employees requesting pay for sick leave must provide a statement from a physician, chiropractor or practitioner (in case of religious requirement) verifying the cause and condition of illness, injury or quarantine. If an employee fails to provide such a statement, his/her absence will be considered a withholding of services.
3. Employees requesting personal necessity leave must do so in advance, in writing, and must receive approval to take the leave from the Superintendent or designee. In the event of an emergency when advance notice cannot be obtained, the employee may be required to sign an affidavit with written documentation of the personal necessity.
4. Permission to take other leaves must be received in advance of the leave.

CONCERTED ACTION/WORK STOPPAGE (continued)

Substitute Employees

The Superintendent or designee may hire substitute employees as needed. Substitutes shall be paid at the rate the Superintendent or designee deems necessary in order to obtain qualified personnel.

Temporary Employees

The Superintendent or designee may hire temporary employees for the duration of the withholding of service at the rate now in effect for regular employees.

Assignment of Personnel

At the discretion of the Superintendent or designee, employees reporting for duty may be temporarily assigned to duties other than those regularly prescribed. Nonteaching certificated personnel may be assigned by the principal to classroom service. Failure to accept or serve in such an assignment will be considered a violation of Board rules/regulations and therefore may result in disciplinary action.

Loss of Fringe Benefits and Payroll Deductions

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

Maintenance of School Calendar

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

Possession of District Property

During a period of actual or threatened withholding of services, no employee shall remove from district premises or retain in his/her possession any district property, including student attendance and grading records and lesson plans, without prior specific approval of the principal. Violation of this policy may result in the initiation of dismissal procedures or other appropriate disciplinary action.

Legal Services

Pursuant to Education Code 35204 and 35205, the Superintendent or designee may employ a private attorney to advise the Governing Board on matters relating to the threatened or actual withholding of services.

CONCERTED ACTION/WORK STOPPAGE (continued)

Operations of School Facilities

The Superintendent or designee may adjust school instructional times or close any school or district facility. A facility shall be closed when the Superintendent or designee determines that deleterious conditions exist for children or staff.

Regulation
approved: June 24, 1997
reviewed: August 6, 2021

VISALIA UNIFIED SCHOOL DISTRICT
Visalia, California