MIDDLETOWN UNIFIED SCHOOL DISTRICT

Policy 4319.1: Civil And Legal Rights

Original Adopted Date: 1/17/2024

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 performance of the employee's 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.

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 dismissed, suspended, disciplined, reassigned, transferred, or otherwise 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.

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, the 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, the employee 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 1102.7, 1102.8)

No employee shall use or attempt to use official authority status or influence to intimidate, threaten, coerce, or command, or attempt 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)

An employee who has disclosed improper governmental activity and believes that acts or attempted acts of reprisal have subsequently occurred 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 the employee, in accordance with Education Code 44114.

Protection Against Liability

No employee shall be liable for harm caused by the employee's act or omission when acting within the scope of employment or district responsibilities, the employee's act or omission is in conformity with federal, state, and local laws, district policy, or administrative regulation, and 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. (20 USC 7946)

The protection against liability shall not apply when: (20 USC 7946)

- 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.
- 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.

Policy Reference Disclaimer:

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State CA Constitution Article 1, Section 1	Description Inalienable rights
Ed. Code 200-262.4	<u>Prohibition of discrimination</u>
Ed. Code 44040	<u>Discrimination based on employee's appearance before</u> <u>certain boards or committees</u>
Ed. Code 44110-44114	Reporting by school employees of improper governmental activity
Ed. Code 48907	Exercise of free expression; time, place and manner rules and regulations

Ed. Code 48950 Speech and other communication

Ed. Code 49091.24 <u>Teacher rights to refuse evaluation/survey of personal life</u>

Ed. Code 7050-7058 Political activities of school officers and employees

Gov. Code 12650-12656 False claims actions

Gov. Code 12940-12953 <u>Discrimination prohibited; unlawful practices</u>

Gov. Code 3540.1 Public employment; definitions

Gov. Code 3543.5 Interference with employee's rights prohibited

Gov. Code 815.3 <u>Intentional torts</u>

Gov. Code 820-823 <u>Tort claims act</u>

Gov. Code 825.6 Indemnification of public entity

Lab. Code 1102.5-1106 Whistleblower protections

Federal Description

18 USC 16 Crime of violence; definition

20 USC 1681-1688 Title IX of the Education Amendments of 1972; discrimination

based on sex

20 USC 7941-7948 Teacher liability protection

42 USC 12101-12213 Americans with Disabilities Act

42 USC 2000d-2000d-7 Title VI, Civil Rights Act of 1964

42 USC 2000e-2000e-17 Title VII, Civil Rights Act of 1964, as amended

U.S. Constitution

Amendment 1; Free exercise, free speech, and establishment

<u>clauses</u>

Management Resources Description

Court Decision Kennedy v. Bremerton (2022) 142 S.Ct. 2407

Court Decision New Jersey v. T.L.O. (1985) 469 U.S. 325

Court Decision Garcetti v. Ceballos (2006) 547 U.S. 410

Court Decision Hartnett v. Crosier (2012) 205 Cal.App.4th 685

Court Decision Johnson v. Poway Unified School District (2011) 658 F.3d 954

Court Decision O'Conner v. Ortega (1987) 480 U.S. 709

Court Decision Ohton v. CSU San Diego (2007) 56 Cal. Rptr.3d 111

Website CSBA District and County Office of Education Legal Services

Website <u>California Office of the Attorney General</u>

Cross References

Code Description

1312.1 <u>Complaints Concerning District Employees</u>

1312.1	Complaints Concerning District Employees
1312.3	<u>Uniform Complaint Procedures</u>
1312.3	<u>Uniform Complaint Procedures</u>
1312.3-E(1)	<u>Uniform Complaint Procedures</u>
1312.3-E(2)	<u>Uniform Complaint Procedures</u>
3320	Claims And Actions Against The District
3320	Claims And Actions Against The District
3400	Management Of District Assets/Accounts
3400	Management Of District Assets/Accounts
3515	<u>Campus Security</u>
3515	<u>Campus Security</u>
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4040	Employee Use Of Technology
4040-E(1)	Employee Use Of Technology
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.21	<u>Professional Standards</u>
4119.21-E(1)	<u>Professional Standards</u>
4119.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4119.25	Political Activities Of Employees
4119.25	Political Activities Of Employees
4132	Publication Or Creation Of Materials
4136	Nonschool Employment
4140	Bargaining Units
4144	Complaints
4144	Complaints
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4218.1	<u>Dismissal/Suspension/Disciplinary Action (Merit System)</u>
4219.21	<u>Professional Standards</u>
4219.21-E(1)	<u>Professional Standards</u>
4219.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>

4219.25	Political Activities Of Employees
4219.25	Political Activities Of Employees
4232	Publication Or Creation Of Materials
4236	Nonschool Employment
4240	Bargaining Units
4244	Complaints
4244	Complaints
4319.21	<u>Professional Standards</u>
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4319.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
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4332	Publication Or Creation Of Materials
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Legal Protection

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