

# CVUSD Board Policy

BP 4140, 4240

## Personnel

### Bargaining Units

\*\*\*Note: Pursuant to Government Code 3544, an employee organization may become the employees' exclusive representative for negotiations by filing a request with the district providing proof that a majority of the employees in an appropriate unit wish to be represented by that organization. Notice of such request must be immediately posted conspicuously on all employee bulletin boards in each district facility in which members of the unit are employed. Government Code 3544.1 requires the district to grant the request for recognition unless either (1) the district doubts the appropriateness of the unit; (2) another employee organization files with the district a challenge to the appropriateness of the unit or submits a competing claim of representation within 15 work days of the posting of notice of the written request; or (3) the district currently has a lawful written agreement with another employee organization representing the same employees.

Education Code 3543, as amended by AB 1194 (Ch. 21, Statutes of 2007), provides that public school employees have the right to represent themselves individually in their employment relations with the district except that, once an exclusive representative has been recognized, an employee in that unit is prohibited from meeting and negotiating with the district.\*\*\*

The Governing Board recognizes the right of public school employees to form bargaining units, select an employee organization as the exclusive representative of their unit, and be represented by that organization in their 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.

(cf. 4141/4241 - Collective Bargaining Agreement)  
(cf. 4143/4243 - Negotiations/Consultation)

The Board shall negotiate only with the exclusive representative of each bargaining unit.  
(Government Code 3543.3)

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)

Neither the district nor the employee organization shall 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, 3543.6)

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

## Management and Supervisory Employees

\*\*\*Note: The Public Employment Relations Board ultimately determines, based upon the duties of the position, which positions qualify as "management" or "confidential" and thus are excluded from bargaining, as detailed below. \*\*\*

Employees serving in a management, senior management, or confidential position 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, but that organization shall not meet and negotiate with the district. (Government Code 3543.4)

Management, supervisory, and confidential positions shall be classified as follows:  
(Government Code 3540.1)

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. 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.

(cf. 4301 - Administrative Staff Organization)

3. 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.

### Legal Reference:

#### EDUCATION CODE

45060-45061.5 Deduction of fees from salary or wage payment, certificated employees

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

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

Management Resources:

CSBA PUBLICATIONS

Collective Bargaining DVD-ROM

Maximizing School Board Governance: Collective Bargaining  
Before the Strike: Planning Ahead in Difficult Negotiations, 1996

WEB SITES

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

CSBA: (9/88 10/95) 3/07

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