

Concerted Action/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, the ability to maintain the quality of the educational program and other essential services, and the ability 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, paying and communicating with temporary or substitute employees

6. Status of district-paid benefits, including health care, insurance, vacation and sick leave benefits

(cf. 4154/4254/4354 - Health and Welfare Benefits)

(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)

(cf. 4161.2/4261.2/4361.3 - Personal Leaves)

(cf. 4261.1 - Personal Illness/Injury Leave)

7. Communications with parents/guardians, the media, business partners, public officials and other community members that identify key messages, strategies and district spokespersons

(cf. 1100 - Communications with the Public)

(cf. 1112 - Media Relations)

(cf. 4143.1/4243.1 - Public Notice - Personnel Negotiations)

8. Equipment and supply needs

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

(cf. 6145 - Extracurricular and Cocurricular Activities)

10. Contingency plans for transportation

(cf. 3541 - Transportation Routes and Services)

11. Contingency plans for the provision of food services

(cf. 3550 - Food Service/Child Nutrition Program)

12. Identification of outside resources who may be called upon to help with school operations

13. Coordination with law enforcement and other agencies

(cf. 1020 - Youth Services)

(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)

(cf. 1700 - Relations Between Private Industry and the Schools)

14. Appropriate safeguards for the safety of students, working employees, substitutes, volunteers, parent/guardians and Board members

(cf. 0450 - Comprehensive Safety Plan)

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

(cf. 4143/4243 - Negotiations/Consultation)

19. Plans for resuming normal district operations, rebuilding relations and disciplining employees if necessary after the 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. The withdrawal of services constitutes 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.
4. 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. Employees withholding services shall not receive unemployment.
5. 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.

Leaves of Absence

1. All employee absences must be verified by written proof of the need for leave.
2. If an employee is on a paid sick or disability leave when the work stoppage begins, he/she shall be entitled to continued payment as long as he/she remains ill or disabled and is otherwise eligible according to Board policy and collective bargaining agreements.
3. 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.
4. 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.
5. Permission to take other leaves must be received in advance of the leave.
6. Employees whose vacation leave has been authorized prior to the work stoppage shall receive vacation pay for the authorized period.

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. Non-teaching certificated personnel may be assigned by the principal to classroom service. Failure to accept or serve in such an assignment will be considered a breach of contract and a violation of Board rules/ regulations and therefore may result in disciplinary action.

(cf. 4113 - Assignment)

(cf. 4121 - Temporary/Substitute Personnel)

Loss of Fringe Benefits and Payroll Deductions

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

The district may not pay contributions to health care benefits if employees fail to work the minimum number of hours per month as specified in the collective bargaining agreement, Board policy or administrative regulations. However, the district shall offer employees the option of paying their own coverage under COBRA. (29 USC 1161-1169)

If the district determines that it will withhold its contributions to employees' life and disability insurance, employees shall be offered an opportunity to retain these coverages by paying the contributions themselves. (Insurance Code 10116)

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.

(cf. 6111 - School Calendar)

Breach of Contract

Employees who withhold services 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.

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 in his/her possession any district property, including but not limited to student attendance and grading records, lesson plans, keys, equipment and supplies. Violation of this policy may result in the initiation of dismissal procedures or other appropriate disciplinary procedures consistent with collective bargaining agreements.

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)

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 Board on matters relating to the threatened or actual withholding of services.

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.

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