

# CSBA Sample Board Policy

Certificated and Classified Personnel

BP 4141(a)  
4241

## COLLECTIVE BARGAINING AGREEMENT

Note: The following **optional** policy addresses the implementation of the collective bargaining agreement adopted by the Governing Board following a process of negotiations with the exclusive representatives of employees. See BP 4143/4243 - Negotiations/Consultation for information about the bargaining process.

The Governing Board recognizes that collective bargaining agreements are legally binding, bilateral agreements with the exclusive representatives of employees pertaining to terms and conditions of employment. The Board is committed to carrying out the provisions of each agreement and expects the agreements to be consistently and uniformly administered.

*(cf. 4140/4240/4340 - Bargaining Units)*

*(cf. 4143/4243 - Negotiations/Consultation)*

Note: Districts should consider deleting policies and administrative regulations on topics covered in collective bargaining agreements or retaining them only after determining that the provisions in the policy or regulation are consistent with the adopted agreements. Some policies or regulations may also need to be retained and/or modified when they pertain to unrepresented employees. Should a contract and a policy conflict, the district may be required to grant the benefits in both documents, even if the district believed that the contract was intended to supersede the policy. See BB 9310 - Board Policies.

If the district has adopted a merit system pursuant to Education Code 45220-45320, then its classified employees are subject to the rules prescribed by the district's personnel commission, except when the subject matter is within the scope of representation and is included in a negotiated agreement. Such districts may revise the following paragraph to clarify that the negotiated agreement supersedes any conflicting rules of the personnel commission.

**In United Teachers of Los Angeles v. Los Angeles Unified School District, the California Supreme Court held that a provision in a collective bargaining agreement that directly conflicts with the Education Code cannot be enforced.**

~~Education Code 35036 prohibits the Board from entering into a collective bargaining agreement that, after April 15 prior to the school year that a teacher's transfer would become effective, assigns priority to a teacher who requests to be transferred to another school over other qualified teachers who have applied for positions requiring certification qualifications at that school. See BP 4114 - Transfers.~~

Following adoption of the collective bargaining agreement, the Superintendent or designee shall review related Board policies and recommend to the Board any action needed to maintain consistency with the agreement. Whenever a Board policy conflicts with a provision in the collective bargaining agreement, the agreement shall be binding for those employees covered by the terms of the agreement. **Whenever a law conflicts with a provision in the collective bargaining agreement, the law will prevail as to those employees for whom the law applies.**

*(cf. 9310 - Board Policies)*

## COLLECTIVE BARGAINING AGREEMENT (continued)

Upon request by the Public Employment Relations Board, the Superintendent or designee shall provide, within 15 days of the request, a copy of the written agreement and any amendments. (8 CCR 32120)

### *Legal Reference:*

#### EDUCATION CODE

35035 *Additional powers and duties of superintendent, transfer authority*

35036 *Voluntary transfers*

35160 *Authority of governing boards*

35160.1 *Broad authority of school districts*

45220-45320 *Merit system, classified employees*

#### GOVERNMENT CODE

3540-3549.3 *Educational Employment Relations Act*

#### CODE OF REGULATIONS, TITLE 8

31001-32997 *Regulations of employee relations boards*

#### **COURT DECISIONS**

**Janus v. American Federation of State, County and Municipal Employees, Council 31 (2018) 138 S.Ct. 2448**

**United Teachers of Los Angeles v. Los Angeles Unified School District (2012) 54 Cal. 4th 504**

**Round Valley Teachers Association (1996) 13 Cal. 4th 269**

### *Management Resources:*

#### WEB SITES

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

California Public Employee Relations: <http://cper.berkeley.edu>

Center for Collaborative Solutions: <http://www.cscenter.org>

Public Employment Relations Board: <http://www.perb.ca.gov>

State Mediation and Conciliation Service (SMCS): <http://www.dir.ca.gov/csmcs/smcs.html>

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