



MEMBER ALERT

Important Guidelines and Requirements for Interactions with Students, Parents and Others

School sites, classrooms, and district-sponsored meetings and events often bring together educators, volunteers, parents, students, and members of the public whose views on educational, economic, religious, social, and political issues might differ, even so far as to trigger negative emotional responses. Individuals, particularly those facing financial, job, health, and/or mental health challenges, may also communicate in an angry or aggressive manner. Such regrettable exchanges cannot always be avoided, but district employees are reminded that important laws, regulations, and adopted policies and procedures govern their actions and responses to these situations. This Member Alert provides a brief summary of certain obligations and the potential ramifications if an employee's conduct or response departs from these requirements.

Introduction

Every employee faces the potential that a student, parent, or other individual will make an offensive statement to them or undertake an inappropriate action. It is important, however, that employees remember that as professional educators and staff, they are bound by important restrictions on how they may respond. This Member Alert provides a brief summary of certain obligations and the potential ramifications if the employee's conduct or response departs from these requirements in three specific areas: confidential information, physical interactions, and "free speech" rights.

Legal Considerations – Confidential Information

All District employees must maintain the confidentiality of personally identifiable student information¹ and confidential employee information (names, addresses, health/disability, or other private issues). Employees failing to fulfill this obligation may face disciplinary proceedings, termination, and/or criminal proceedings. Under the California Code of Regulations, certificated employees may also lose their credential. All employees must remember that exceptions to the confidentiality requirements only apply to disclosure rights and obligations of the district; there is no law, regulation, or district policy allowing an employee to independently disclose confidential information regarding any student or employee.

This same rule applies to Incident Reports. Employees must prepare Incident Reports whenever any individual suffers a noteworthy physical injury or there is a significant adverse interaction that causes the employee to believe the incident may trigger a future disciplinary proceeding or the potential involvement by the police or the courts (i.e., the need for a restraining order, which is a matter to be addressed by the District and its legal counsel with respect to school-site issues, or the likelihood of a civil claim). Because memories can quickly fade, Incident Reports need to be timely and thoroughly completed and provided to appropriate district representatives. Because Incident Reports are not student records, and are created for the protection of the district, neither the Incident Reports nor their contents should ever be disclosed to

¹ "Personally identifiable information" that must remain confidential includes, but is not limited to, the student's name, the name of the student's parent or other family member, the address of the student or student's family, a personal identifier such as the student's social security number or student number, a list of personal characteristics or other information that would make the student's identity easily traceable. (34 CFR 99.3)

parents or anyone other than district administrators, legal counsel, and the district's liability coverage providers. Failure to abide by this requirement may place the district at legal risk.

Legal Considerations – Physical Interactions

District employees involved in an aggressive situation (physically threatening or materially disruptive) should immediately attempt to contact site administrators to seek guidance and direction. The employee should take all reasonable steps to disengage the individual and to protect the physical safety of the employees and students in the immediate vicinity.

Unless a physically aggressive individual creates an immediate need for self protection or the protection of district students, confrontational physical contact with another individual is always prohibited. This prohibition extends to physical fights (shoving, hitting, etc.), as well as the grabbing of arms, shoulders, or other parts of an individual's body or personal effects (books, clothes, etc.). Such actions could lead to civil and criminal consequences, with several recent articles being published regarding the arrest of teachers for what most of us would consider trivial matters. (Teacher arrested in 2010 for a "small flick" in the back of a student's head.) Even a small physical contact could be considered a criminal assault.

Additional information regarding appropriate responses to emergency situations is available from the District's emergency response coordinator.

Legal Considerations – Personal Viewpoints and Protections

District employees' "free speech" rights and obligations are dependent upon issues of "timing" and "location." When an employee is not performing services for the district (personal time), the employee has a right to share his/her opinions on issues important to the public, as long as they do not share confidential information learned through their district employment. Employees should recognize that in such circumstances they are personally liable for claims alleging libel, slander, or invasion of privacy. Because the employee would not be acting for the benefit of the district in such circumstances, and would be outside of the course and scope of his/her employment, the employee's personal assets and/or insurance coverage would be implicated in any resulting claim.

It may be tempting for employees to share with other employees, parents, members of the public, or the media views regarding on-campus events. The sharing of information regarding a student's disability, academic, or health/mental health issues is never appropriate, and may result in disciplinary proceedings to the extent such disclosures involve confidential information. Equally inappropriate would be the sharing of information regarding an employee's health or other personal circumstances.

Conclusion

This Member Alert is too brief to address many circumstances that employees may face. It is simply intended to remind employees about certain important limitations on their potential responses to circumstances. We therefore encourage employees to contact their site administrator or the District's emergency response coordinators for further guidance.