

**AREAS OF CONCERN
CHECKLIST**

A. SEEK ADVICE FROM HUMAN RESOURCES/LEGAL COUNSEL IF CONTEMPLATING THE FOLLOWING EMPLOYMENT ACTIONS:

1. Disciplining an employee for something he/she communicated.
2. An employee being disciplined has communicated matters which may be of public concern (i.e., whistleblowing)
3. An employee being disciplined has communicated concerns about unlawful harassment or discrimination (race, gender, religion, ethnicity, etc.).
4. An employee being disciplined has been active in any employee organization activities.
5. An employee being disciplined has sustained a work injury or reported a work injury recently or has a pending claim.
6. An employee being disciplined has not been properly evaluated.
7. An employee being disciplined for performance or conduct has no adverse information in his or her personnel file.
8. An employee being disciplined has put the District on notice of a disability.
9. An employee being disciplined has required or has used Family Medical Care Leave within the prior year.
10. An employee is being disciplined for conduct which occurred off the job.
11. A disciplinary action against an employee would not be consistent with disciplinary actions imposed against other employees similarly situated.

B. SEEK ADVICE FROM HUMAN RESOURCES/LEGAL COUNSEL IF THE FOLLOWING LABOR/UNION EVENTS OCCUR:

1. **Transfer of Bargaining Work:**
 - a. The district wishes to assign work previously conducted exclusively by one bargaining unit to an employee outside of that bargaining unit who has never performed that work.
 - b. The district wishes to completely stop assigning work to employees of a bargaining unit who have previously performed the work, yet continue to assign the work to employees outside of that bargaining unit who also have previously performed the work.
 - c. The district wishes to contract out to a private party work typically performed by union employees.

2. **Unilateral Change:**
 - a. The district wishes to make any changes in operations, procedures, or practices that may directly or indirectly have an impact on a bargaining unit member without first negotiating the change with the appropriate bargaining unit.
 - b. The district is contemplating a reduction in workforce or a reduction in the hours of a bargaining unit employee.

3. Interference/Retaliation

- a. Employees begin discussing or asking questions about changing unions or certifying a new bargaining unit.
- b. The District threatens, reprimands or wishes to take disciplinary action against any employee (or applicant) who has recently (i.e., within the past 2-3 years) been active or vocally involved in union matters, filed or been a participant or witness to a recent grievance or unfair practice charge, or otherwise exercised rights guaranteed under the EERA.
- c. A union threatens or retaliates against its own employees or employees of another bargaining unit because of union related matters (i.e., refusing to support a union position)
- d. The district is considering assisting or interfering with the formation or administration of an employee organization, contributing financial or other support to it, or in any way encouraging employees to join one organization in preference to another.

4. Litigation

- a. A union or unit member initiates the grievance process beyond the informal meeting with his/her supervisor
- b. A union or unit member threatens to file an unfair practice charge against the District.

5. During Collective Bargaining

- a. The District has any questions about what are mandatory, permissive, and prohibited subjects of bargaining.
- b. The District considers refusing a request to meet with a union.
- c. The District considers refusing a request to discuss an issue or proposal.
- d. The union refuses to meet with the District upon request.
- e. The union refuses to discuss an issue or proposal requested by the District.
- f. The District cannot immediately provide information that is requested by the union (i.e., within 3-4 days).
- g. The District does not wish to provide information requested by the union.
- h. The District is uncertain as to the absolute accuracy of financial information it provides to the union.
- i. The District believes a union is stalling, undermining, or otherwise failing to negotiate in good faith on a mandatory subject of bargaining.
- j. The District is considering stalling, undermining, or otherwise failing to negotiate in good faith on a mandatory subject of bargaining.
- k. A union demands to negotiate a permissive subject of bargaining (e.g., management prerogatives).
- l. A union proposes a contract clause during negotiation of a collective bargaining agreement that would replace, set aside or annul a provision of the Education Code (i.e., a prohibited subject of bargaining).

- m. A union attempts to cause or attempt to cause the District to commit an unfair labor practice (e.g., attempting to negotiate issues which interfere with the rights of other bargaining units).
- n. The district wishes to back out of a previously-reached tentative agreement during the negotiation of a collective bargaining agreement.
- o. The district and union have reached impasse on a mandatory subject of negotiation.
- p. The district wishes to implement its last, best, final offer following the statutory impasse procedure.