



## ACE Newsletter: Jan 26, 2022

---

### What is going on with the policy about personal items?

In October, the CUSD School Board changed the policy regarding the teaching of controversial topics to include language restricting teachers from displaying personal items in the classroom. Such personal items would be those that convey teachers' personal views about controversial topics related to "politics, religion, social movements, and personal ethics."

In November, the Board then added a similar "personal items" section to a separate [policy on political activities](#), but applied it to *all* employee workspaces and removed the concept of "controversial topics." The new "personal items" policy states: *District staff shall not display personal items reflecting politics, religion, social movements, and/or personal ethics, except in a district staff's personal space that is not in plain view of other individuals. The display of any items in workspaces is considered district speech and may be regulated in accordance with this board policy.*

In our December 1st newsletter, we updated the Clovis Unified community about the policy changes, and included the letter that we had sent to Superintendent O'Brien, which pointed out that **the new policy violated the law in two key ways:**



#### 1. The policy is overly broad and vague when it restricts employees' speech.

Certainly the District has a right to reasonably restrict some speech related to political issues, but here the policy would forbid speech that is protected by the law.



#### 2. The policy was not bargained with the ACE School Psychs and MHSPs, who are now a recognized bargaining unit certified by PERB.

Policies that would change the School Psychologists' and MHSPs' working conditions and/or could lead to discipline would need to be brought to the ACE bargaining team through a "Meet and Confer" process.

**READ:** [December 1st newsletter](#) and [letter to Superintendent O'Brien](#)

**Shortly thereafter, during one of our regular meetings with the District,** ACE explained our position as stated in the letter to Superintendent O'Brien and asked to bring the policies to the bargaining table with the School Psychologists and MHSPs. **The District agreed,** and in the following bargaining session, the ACE bargaining team proposed versions of both the "[Personal Item](#)" policy and the "[Controversial Topics](#)" policy that would not result in a violation of the law. **In our communications during and after these meetings we asked the District to not create further violations by enforcing their new policies.** They responded that the District administration had no

intention of enforcing the policies. Hopeful of finding common ground and a reasonable solution to put the issue behind us, we went about our business.

**Then, in January of 2023, site administration at Clovis East High approached several teachers and stated that the new board policy would require that they remove their LGBTQ+ items from classroom walls.** While other items were included, it was clear that the Administration was targeting rainbow pride flags and related items. We also heard of other incidents at other sites. [ACE promptly drafted a second letter to the District](#) to make it clear that this type of enforcement would create new liabilities for the District, violate the legal duty to create a safe learning environment for all students, and, specifically, would violate laws requiring the inclusion and protection of LGBTQ+ students and staff. That letter was sent today to Superintendent O'Brien and the full CUSD Executive Board.

**ACE remains a politically non-partisan organization and seeks to include all educators of every background and perspective.** We do not, however, believe that expecting our employer to comply with the law is a politically partisan issue. We also do not believe that creating a safe and inclusive learning environment for LGBTQ+ students is inherently political or controversial. As we wrote in our December 1st newsletter, the most recent case law that expanded the rights of educators' free speech was "this [past] summer with the Supreme Court ruling [Kennedy v. Bremerton School District, 597 U.S. \(2022\)](#). **This was the case about the public school football coach who was praying on the field after the game.** The Court held that, despite the fact that the coach was on duty at the time of his speech activity (in this case, saying a prayer), 'Treating everything teachers and coaches say in the workplace as government speech subject to government control' impermissibly restrains freedom of speech.'"

**Our current assessment is that District Administration has provided unclear and unhelpful guidance to Site Administrators that is leading to unlawful demands to remove personal items that display protected speech.** Unfortunately, we see this issue getting worse before it gets better unless the District Administration sends out clear instructions to not enforce the new policy until it goes through a thorough discussion with employees and employee organizations.



**What should I do if I'm asked to remove personal items from my workspace?**

**Most importantly, you should know that if you refuse to comply with a direct order from your employer you can be subject to disciplinary action. We recommend that you comply with any direct order from an administrator, but that you immediately make a record of the incident in writing.**

**If you are approached and asked to remove materials, ask:**

- **What policy is being enforced?**
- **Where the directive is coming from?**
- **What are the consequences of not complying?**

**Reach out to us at your earliest opportunity and share the information.** We will **not** take any action without your consent and will protect the confidentiality of any information you share with us if you so request. We are confident that as adults and as professional educators, we can come to a reasonable solution that supports a healthy and inclusive learning environment without violating the law.

# A BRIEF TIMELINE OF THE CUSD PERSONAL ITEMS POLICY CHANGES

## 2022

### JUNE

*Kennedy v. Bremerton School District*

Joseph Kennedy lost his job as a high school football coach in the Bremerton School District after he knelt at midfield after games to offer a quiet personal prayer.

Mr. Kennedy sued in federal court, alleging that the District's actions violated the First Amendment's Free Speech and Free Exercise Clauses.

The Supreme Court agreed, saying, "Treating everything teachers and coaches say in the workplace as government speech subject to government control" impermissibly restrains freedom of speech.

**OCT** The CUSD School Board changed the policy regarding the teaching of controversial topics to include language restricting teachers from displaying personal items in the classroom that might convey beliefs about controversial topics related to "politics, religion, social movements, and personal ethics."

**NOV** The Board added a similar, "personal items," section to a separate policy on political activities, but applied it to all employee workspaces and removed the concept of "controversial topics."

**DEC** ACE sent a letter to Superintendent O'Brien pointing out that the new policy violated the law.

During a regular meeting with the District, ACE asked to bring the policies to the bargaining table. The district agreed.

In the following bargaining session, the ACE bargaining team proposed versions of both the "Personal Item" policy and the "Controversial Topics" policy. The District responded that they had no intention of enforcing the policies.

## 2023

**JAN** Site admin at Clovis East High approached several teachers and stated that the new Board policy required removing LGBTQ+ items from classroom walls. There were further similar incidents at other sites.

ACE sent a letter to the District to make it clear that this type of enforcement would create new liabilities for the District, violate the legal duty to create a safe learning environment for all students, and, specifically, would violate laws requiring the inclusion and protection of LGBTQ+ students and staff.

## A NOTE OF GRATITUDE

*After 26 years in our District, I have never felt more strongly that Clovis Unified is not about any single leader or individual, instead it is about the collective achievement that can be accomplished by a group of people working together, holding high standards, and keeping students at the center of every decision.*

- Superintendent Dr. O'Brien



**ACE would like to take a moment to thank Dr O'Brien for her 26 years of service to the students, educators, and community of Clovis Unified.**

We know that the job of a superintendent isn't easy. We truly appreciate that she brought her energy, intelligence, and commitment to public education to Clovis. Family is deeply rooted in Clovis values, and **we firmly support and respect her decision** to step into her next role as "as a daughter...caring for my aging parent." That takes courage.

We look forward to working with the next Superintendent to make Clovis the best school district for our students, educators, and the community.

WATCH: [Dr. O'Brien's video message](#)

## TRAINING

We've had numerous opportunities to learn about topics such as how a union functions and how to understand school finances. We have a few upcoming training as well, **RSVP by clicking here:** [February 15th Zoom SPED Training on the rights of SPED teachers in advocating for students](#)

# Did You Know?



**Educators have a statutorily protected right** to help parents/guardians of students with IEPs get services and support.



Want to learn more about your rights?



You're invited to attend:

**IEP RIGHTS & RESPONSIBILITIES TRAINING**

**FEB 15, 4-5 PM, ZOOM**



**Scan to RSVP**

## SURVEYS

A core value of ACE is to empower the voices of educators, parents, students, and the community. Only by building consensus around the issues can we work towards solutions.

If you have any questions or ideas, reach out to us at [ace@cloviseducators.org](mailto:ace@cloviseducators.org). You can also take our surveys on specific topics:

**CLASS SIZE SURVEY**

**SPED SURVEY**

**FACILITIES SURVEY**

**COMMUNITY SUPPORT SURVEY**

# CALENDAR

## JAN - FEB. 2023

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
22	23	24	25	26	27	28
	Psychs MHSPs Bargaining				Psychs MHSPs Bargaining	
29	30	31	1	2	3	4
			CUSD Board Meeting			
5	6	7	8	9	10	11
12	13	14	15	16	17	18
	Lincoln's Birthday	Valentine's Day	CUSD Board Meeting			
19	20	21	22	23	24	25
	President's Day					

### CONTACT & FOLLOW



[ace@cloviseducators.org](mailto:ace@cloviseducators.org)  
[Get involved](#)  
[Facebook](#)  
[Twitter](#)  
[Instagram](#)  
[YouTube](#)  
[Tiktok](#)  
[ACE Podcast](#)

### SHINY ACE STUFF!

[Get your ACE logos, zoom backgrounds, phone wallpapers, and other printables here!](#)

