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MEMORANDUM

ATTORNEY-CLIENT PRIVILEGED & CONFIDENTIAL

Via Electronic Mail

TO: Lori Kolacek
Santa Rosa City Schools

FROM: James K. Ayden

DATE: October 21, 2019

RE: Board Policy Nos. 4140/4240/4340

We write in response to the Santa Rosa City Schools' ("District") inquiry regarding CSBA's assertion that its sample Board Policy Nos. 4140/4240/4340 was taken directly from the Government Code. We have been asked to review the below portion of the Board Policy and confirm CSBA's assertion:

However, the Superintendent or designee shall not disclose the home address and any phone numbers or personal emails on file for employees performing law enforcement-related functions, nor shall he/she disclose the home address, home or personal cell phone number(s), or personal email address(es) of any employee who is a participant in the Safe at Home address confidentiality program pursuant to Government Code 6207 or any employee who provides written request that the information not be disclosed for this purpose. Following receipt of a written request, the district shall remove the employee's home address, home and personal cell phone numbers, and personal email address from any mailing list maintained by the district unless the list is only used by the district to contact the employee. (Government Code 3558, 6207, 6254.3)

Please note that CSBA is correct in that it followed the exact language provided under Government Code section 6254.3. Specifically, section 6254.3 prohibits sharing home phone numbers, personal cell numbers, and birth dates except that it can be shared with employee organizations (unions), other than home addresses and any phone numbers on file with the employer of employees performing law enforcement-related functions, and the birth date of any employee, shall not be disclosed.

Or in other words, the law does not prohibit sharing personal email addresses with employee organizations (unions) for employees performing law enforcement-related functions. Hypothetically speaking, there may be a scenario where the employee organizations asks for the personal email addresses of employees performing law enforcement-related functions, and while it is not prohibited under the law, it would be prohibited under Board Policy. The unions may then try to file a complaint with PERB to force the District to release this information. Please note that personal email addresses are generally required to be disclosed to employee organizations pursuant to Government Code section 3558. Specifically, Government Code section 3558 provides, in relevant parts:

Subject to the exceptions provided here, the public employer shall provide the exclusive representative with the name, job title, department, work location, work, home, and personal cellular telephone numbers, personal email addresses on file with the employer, and home address of any newly hired employee within 30 days of the date of hire or by the first pay period of the month following hire, and the public employer shall also provide the exclusive representative with a list of that information for all employees in the bargaining unit at least every 120 days unless more frequent or more detailed lists are required by an agreement with the exclusive representative.

Accordingly, by prohibiting the release of personal email addresses for employees performing law enforcement-related functions, the District may be increasing its risk liability. Ideally, for the purposes of liability, the District should have the ability to determine whether or not to release personal email addresses of employees performing law enforcement-related functions on a situation by situation basis, rather than being prohibited by Board Policy.

We hope you find this information helpful. Please feel free to contact us with any additional questions.