

POLICY SERVICES ADVISORY

Volume 25, Number 5

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Policy Advisory No. 493 BCB — Board Member Conflict of Interest

Policy Advisory No. 494 CBI — Evaluation of Superintendent

Policy Advisory No. 495 DJE — Bidding/Purchasing Procedures

Policy Advisory No. 496 JICH — Drug and Alcohol Use by Students

Policy Advisory Discussion

Policy Advisory No. 493. Policy BCB — Board Member Conflict of Interest.
See the discussion under Policy Advisory No. 495 (DJE).

Policy Advisory No. 494. Policy CBI — Evaluation of Superintendent. The language conflict pertaining to the issuance of a contract to a superintendent who has a multi-year contract is eliminated.

Policy Advisory No. 495. Policy DJE – Bidding/Purchasing Procedures. Policy DJE has been updated due to the adoption by the State Board of Education on October 28, 2013, of the proposed rule for R7-2-1002, regarding the school district procurement bid threshold which is now one hundred thousand (\$100,000) dollars. (This is following the statutory change brought by Laws 2013, Chapter 190 (HB2599).) The Auditor General has also released new ranges for oral and written price quotations for purchases below the one hundred thousand (\$100,000) dollars threshold. (Three written quotes for \$50,000 to \$100,000; three oral quotes for \$10,000 to \$50,000, and; no competitive bidding below \$10,000.) The new ranges have been placed in the Uniform System of Financial Records (USFR, VI-G-9 and 10) and the Uniform System of Financial Records – Charter Schools (USFR-CS, VI-G-1 and VI-G-6 and 7).

Policy Advisory No. 496. Policy JICH — Drug and Alcohol Use by Students. Policy JICH is adjusted to eliminate the phrase ‘to a person under eighteen (18) years of age’ in order to avoid inconsistencies or confusion in interpretation and the possible application of disciplinary consequences.

Note: This material is written for informational purposes only, and not as legal advice. You may wish to consult an attorney for further explanation.

If you have any questions, call Policy Services at (602) 254-1100. Ask for Chris Thomas, Director of Legal/Policy Services; Dr. Terry Rowles, Assistant Director; Steve Highlen, Senior Policy Consultant; or Nick Buzan, Policy Consultant. Our E-mail addresses are, respectively, [cthomas@azsba.org], [trowles@azsba.org], [shighlen@azsba.org] and [nbuzan@azsba.org]. You may also fax information to (602) 254-1177.

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Policy Advisory Discussion

Policy Advisory No. 493. Policy BCB — Board Member Conflict of Interest.
See the discussion under Policy Advisory No. 495 (DJE).

B-0800

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BCB

BOARD MEMBER CONFLICT OF INTEREST

Voting Restrictions

Notwithstanding any other provision of law, a Governing Board member shall be eligible to vote on any budgetary, personnel, or other question that comes before the Board, except that it shall be unlawful for a member to vote on a specific item that concerns the appointment, employment, or remuneration of such member or any person related to such member as a dependent as defined in A.R.S. 43-1001. [LEGAL REF.: A.R.S. 15-323]

Employment Limitation

No dependent, as defined in Section 43-1001, of a Governing Board member may be employed in the District, except by consent of the Board. [LEGAL REF.: A.R.S. 15-502]

No employee of the District or the spouse of such employee may hold membership on the Governing Board of the District. [LEGAL REF.: A.R.S. 15-421]

Conflict of Interest

Any Board member or employee of the District who has, or whose relative has, a substantial interest in any contract, sale, purchase, or service to the District shall make known that interest in the official records of the District and shall refrain from voting upon or otherwise participating in any manner as a Board member or employee in such contract, sale, or purchase. [LEGAL REF.: A.R.S. 38-503]

Any Board member or employee who has, or whose relative has, a substantial interest in any decision of the District shall make known such interest in the official records of the District and shall refrain from participating in any manner as a Board member or employee in such a decision. [LEGAL REF.: A.R.S. 38-503]

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Purchases from Governing Board Members for Districts with 3,000 or More Students

School district procurement rules are required for all purchases of service from Governing Board members, regardless of the dollar amount. Purchases of supplies, materials, and equipment from Board members are subject to the following:

- Purchases for goods or services are limited to three hundred dollars (\$300) per transaction;
- Total purchases within any twelve (12) month period are limited to one thousand dollars (\$1,000);
- The purchases comply with the Uniform System of Financial Records (USFR) guidelines for oral and written quotations.
- The Board has, by majority vote, adopted or reconfirmed a policy authorizing such purchases within the preceding twelve (12) month period.

[LEGAL REF.: A.R.S. 38-503; 15-323; A.G.O. I84-012; I06-002]

Purchases from Governing Board Members for Districts with Fewer than 3,000 Students

School district procurement rules are required for all purchases of service from Governing Board members, regardless of the dollar amount. Purchases of supplies, materials, and equipment from Board members are subject to the following:

- Purchases less than ~~fifty~~ one hundred thousand dollars (\$~~5~~100,000) comply with the USFR guidelines for oral and written quotations;
- Purchases of ~~fifty~~ one hundred thousand dollars (\$~~5~~100,000) and above comply with the school district procurement rules for public competitive bidding;
- Each purchase is approved by the Governing Board;
- The amount of the purchase is included in the Board's meeting minutes.

[LEGAL REF.: A.R.S. 15-323; A.G.O. I06-002]

Filing of Disclosures

The District shall maintain for public inspection in a special file all documents necessary to memorialize all disclosures of substantial interest made known pursuant to the statutory conflict-of-interest provisions. [LEGAL REF.: A.R.S. 38-509]

Adopted: date of Manual adoption

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LEGAL REF.: A.R.S. 15-213
15-323
15-421
15-502
38-481
38-503
38-509
43-1001
A.G.O. I84-012
I88-013
I06-002

CROSS REF.: BBBA - Board Member Qualifications
DJE - Bidding/Purchasing Procedures

Policy Advisory Discussion

Policy Advisory No. 494. Policy CBI — Evaluation of Superintendent. The language conflict pertaining to the issuance of a contract to a superintendent who has a multi-year contract is eliminated.

C-0600

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CBI

EVALUATION OF SUPERINTENDENT

The Governing Board shall evaluate the Superintendent at least once each year.

The evaluation(s) shall relate to the Superintendent's duties, responsibilities, and progress toward established goals.

The Superintendent shall provide each member of the Board a copy of the evaluation instrument not later than November 10. The Board President shall schedule a meeting not later than December 18, when the Board will devote an executive session to the evaluation of the Superintendent's performance, to discuss working relationships between the Superintendent and the Board, and to review the Superintendent's contract (with the Superintendent present). If the Superintendent's contract is in its first year, this initial evaluation will not be a comprehensive evaluation, but will be used to allow the Board to communicate its perspective on the Superintendent's performance to date and to allow the Board and the Superintendent to communicate on performance matters. Additional first-year evaluations may be completed by the Board at the Board's discretion or upon invitation by the Superintendent; however, the first fully comprehensive evaluation will be that which occurs in November of the Superintendent's second year.

Any meetings of the Board to compile evaluations, or meetings to discuss the evaluations with the Superintendent, shall be held in executive session unless the Superintendent requests that any such meeting be held in open session. Board members shall have the opportunity to discuss with the Superintendent any item(s) on which the Board member fails to achieve consensus.

A copy of any written evaluation shall be given to the Superintendent. If in disagreement with such evaluation, the Superintendent may respond in writing to the Governing Board.

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Upon the conclusion of the evaluation, the Governing Board may determine whether any changes in the compensation and benefits or contract term of the Superintendent are warranted, subject to the following:

If the Superintendent's contract with the School District is for multiple years, the School District shall not offer to extend or renegotiate the contract until ~~May of the year preceding the final year~~ no earlier than fifteen (15) months before the expiration of the contract.

~~If the Superintendent's contract with the School District is for more than one (1) year, but not exceeding three (3) years, no earlier than fifteen (15) months before the expiration of the contract, the Board shall offer a contract for the next school year to the Superintendent unless on or before April 15 the Board gives notice to the Superintendent of the Board's intention not to offer a new administrative contract.~~

If the Superintendent's contract with the School District is for a single year, on or before May 15 of each year the Board shall offer a contract for the next school year to the Superintendent unless on or before April 15 the Board gives notice to the Superintendent of the Board's intention not to offer a new administrative contract; this contract may or may not be for the position of Superintendent.

The evaluation and any comments by the Superintendent shall become a part of the Superintendent's personnel file.

Adopted: date of Manual adoption

LEGAL REF.: A.R.S. 15-503

CROSS REF.: CBA - Qualifications and Duties of Superintendent

Policy Advisory Discussion

Policy Advisory No. 495. Policy DJE – Bidding/Purchasing Procedures.

Policy DJE has been updated due to the adoption by the State Board of Education on October 28, 2013, of the proposed rule for R7-2-1002, regarding the school district procurement bid threshold which is now one hundred thousand (\$100,000) dollars. (This is following the statutory change brought by Laws 2013, Chapter 190 (HB2599).) The Auditor General has also released new ranges for oral and written price quotations for purchases below the one hundred thousand (\$100,000) dollars threshold. (Three written quotes for \$50,000 to \$100,000; three oral quotes for \$10,000 to \$50,000, and; no competitive bidding below \$10,000.) The new ranges have been placed in the Uniform System of Financial Records (USFR, VI-G-9 and 10) and the Uniform System of Financial Records – Charter Schools (USFR-CS, VI-G-1 and VI-G-6 and 7).

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DJE

BIDDING / PURCHASING PROCEDURES

The Superintendent shall be responsible for all purchasing, contracting, competitive bidding, and receiving and processing of all bid protests, in accordance with the Arizona school district procurement rules, including A.A.C. R7-2-1141 *et seq.* A contract shall not be awarded to an entity that does not verify employment eligibility of each employee through the E-verify program in compliance with A.R.S. 23-214 subsection A. Each contract shall contain the warranties required by A.R.S. 41-4401 relative to the E-verify requirements.

The Superintendent shall prepare regulations to assure the District conforms to proper procedures and practices.

Purchases Not Requiring Bidding

Purchases of ~~five~~ less than ten thousand dollars (~~\$5~~ 10,000) ~~or less~~ may be made at the discretion of the Superintendent. Such procurements are not subject to competitive purchasing requirements, however reasonable judgment should be used to ensure the purchases are advantageous to the District.

Verbal price quotations will be requested from at least three (3) vendors for a transactions ~~in excess of at least five~~ ten thousand dollars (~~\$5~~ 10,000) but less than ~~twenty-five~~ fifty thousand dollars (~~\$25~~ 50,000). The price quotations should be shown on, or attached to, the related requisition form. If three (3) verbal quotations cannot be obtained, documentation showing the vendors contacted that did not offer price quotations, or explaining why price quotations were not obtained, shall be maintained on file in the District office.

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Written price quotations will be requested from at least three (3) vendors for transactions of at least ~~twenty-five~~ fifty thousand dollars (\$~~25~~ 50,000) but not more than one hundred thousand dollars (\$100,000). If three (3) written price quotations cannot be obtained, documentation showing the vendors contacted that did not offer written price quotations, or explaining why written price quotations were not obtained, shall be maintained on file in the District office.

The District is not required to engage in competitive bidding in order to place a student in a private school that provides special education services if such placement is prescribed in the student's individualized education program and the private school has been approved by the Department of Education Division of Special Education pursuant to A.R.S. 15-765. The placement is not subject to rules adopted by the State Board of Education before November 24, 2009 pursuant to A.R.S. 15-213.

The District may, without competitive bidding, purchase or contract for any products, materials and services directly from Arizona Industries for the Blind, certified nonprofit agencies that serve individuals with disabilities and Arizona Correctional Industries if the delivery and quality of the goods, materials or services meet the District's reasonable requirements.

Intergovernmental agreements and contracts between school districts or between the District and other governing bodies as provided in A.R.S. 11-952 are exempt from competitive bidding under the procurement rules adopted by the State Board of Education pursuant to A.R.S. 15-213.

The District is not required to engage in competitive bidding to make a decision to participate in insurance programs authorized by A.R.S. 15-382.

The District is not required to obtain bid security for the construction-manager-at-risk method of project delivery.

Unless otherwise provided by law, contracts for materials or services and contracts for job-order-contracting construction services may be entered into if the duration of the contract and the conditions of renewal or extension, if any, are included in the invitation for bids or the request for proposals and if monies are available for the first fiscal period at the time the contract is executed. The duration of contracts for materials or services and contracts for job-order-contracting construction services shall be limited to no more than five (5) years unless the Board determines that a contract of longer duration would be advantageous to the District. Once determined, the decision should be memorialized in meeting minutes and in the contract/bid file. Payment and performance obligations for succeeding fiscal periods are subject to the availability and appropriation of monies. The maximum dollar amount of an individual job order for a job-order-contracting construction service shall be one million dollars (\$1,000,000) or as determined by the Board.

Online Bidding

Until such time as the State Board of Education adopts rules for the procurement of goods and information services by school districts and charter schools using electronic, online bidding, the District may procure goods and information services pursuant to A.R.S. 41-2671 through 2673 using the rules adopted by the Department of Administration in implementing 41-2671 through 2673.

Purchases Requiring Bidding

Sealed bids and proposals shall be requested for transactions to purchase construction, materials, or services costing more than one hundred thousand dollars (\$100,000). All transactions must comply with the requirements of the Arizona Administrative Code and the Uniform System of Financial Records.

Registered Sex Offender Prohibition

All purchase orders, agreements to purchase, and contracts for services to be provided by personnel other than District employees must include the following statement on the document:

Registered Sex Offender Restriction. Pursuant to this order, the named vendor agrees by acceptance of this order that no employee of the vendor or a subcontractor of the vendor, who has been adjudicated to be a registered sex offender, will perform work on District premises or equipment at any time when District students are, or are reasonably expected to be, present. The vendor further agrees by acceptance of this order that a violation of this condition shall be considered a material breach and may result in a cancellation of the order at the District's discretion.

Adopted: date of Manual adoption

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| LEGAL REF.: | A.R.S. 11-952 | 15-382 | 38-503 |
| | 15-213 | 15-765 | 38-511 |
| | 15-213.01 | 15-910.02 | 39-121 |
| | 15-213.02 | 23-214 | 41-2632 |
| | 15-239 | 34-101 <i>et seq.</i> | 41-2636 |
| | 15-323 | 35-391 <i>et seq.</i> | 41-4401 |
| | 15-342 | 35-393 <i>et seq.</i> | |
| | A.G.O. I83-136 | I87-035 | I06-002 |
| | A.A.C. R7-2-1001 <i>et seq.</i> | | |
| | USFR VI-G-8 <i>et seq.</i> | | |

CROSS REF.: BCB - Board Member Conflict of Interest
DJG - Vendor/Contractor Relations
GBEAA - Staff Conflict of Interest
JLIF - Sex Offender Notification

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Policy Advisory Discussion

Policy Advisory No. 496. Policy JICH — Drug and Alcohol Use by Students. Policy JICH is adjusted to eliminate the phrase “to a person under eighteen (18) years of age” in order to avoid inconsistencies or confusion in interpretation and the possible application of disciplinary consequences.

J-3050

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JICH

DRUG AND ALCOHOL USE BY STUDENTS

Students on school property or at school events shall not knowingly breathe, inhale or drink a vapor-releasing substance containing a toxic substance, nor shall a student sell, transfer or offer to sell or transfer a vapor-releasing substance containing a toxic substance ~~to a person under eighteen (18) years of age~~.

The nonmedical use, possession, distribution or sale of

- alcohol,
- drugs,
- synthetic drugs,
- counterfeit drugs, or
- imitation drugs,

on school property or at school events is prohibited. *Nonmedical* is defined as "a purpose other than the prevention, treatment, or cure of an illness or disabling condition" consistent with accepted practices of the medical profession.

Students in violation of the provisions of the above paragraph shall be subject to removal from school property and shall be subject to prosecution in accordance with the provisions of the law.

Students attending school in the District who are in violation of the provisions of this policy shall be subject to disciplinary actions in accordance with the provisions of school rules and/or regulations.

For purposes of this policy, "drugs" shall include, but not be limited to:

- All dangerous controlled substances prohibited by law.
- All alcoholic beverages.

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- Any prescription or over-the-counter drug, except those for which permission to use in school has been granted pursuant to Board policy.
- Hallucinogenic substances.
- Inhalants.
- Synthetic, counterfeit or imitation drugs.
 - A compound or substance, regardless of its contents, compound or substance, that produces in the user an experience, effect and/or display of effects that mimic the experience, effect and/or display of effects produced by substances controlled or prohibited by law, or that is represented as producing in the user such experiences or effects.

Medical Marijuana

The conditions which follow are applicable to a District student who holds an identification as a medical marijuana cardholder issued by the Arizona Department of Health Services for the medical use of marijuana as set out in the Arizona Revised Statutes (A.R.S.).

The District will not refuse to enroll a student or otherwise penalize a student for being a medical marijuana cardholder unless failure to do so would cause the school to lose a monetary or licensing benefit under federal law or regulations.

A student medical marijuana cardholder shall not possess or engage in the use of marijuana on District property, in a District vehicle, or at a District-sponsored event.

A student medical marijuana cardholder is subject to, without bias, the same code of conduct and disciplinary standards applicable to all District students.

If District officials have a reasonable belief a student may be under the influence, in possession of or distributing medical marijuana in a manner not authorized by the medical marijuana statutes law enforcement authorities will be informed.

Adopted: date of Manual adoption

LEGAL REF.: A.R.S. 4-101
 4-241
 4-244
 13-3401 through 13-3461
 15-345
 36-2801 *et seq.*, Arizona Medical Marijuana Act
 20 U.S.C. 7101 *et seq.*, Safe and Drug-Free Schools and
 Communities Act

CROSS REF.: JLC - Student Health Services and Requirements
 JLCD - Administering Medicines to Students

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